

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Administrative Law Court
The Honorable G. Thomas Cooper, Jr., Judge

Appellate Case No. 2016-000422

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SC Court of Appeals

Clifford Pasley, Claimant/Appellant,

v.

TransAgri, Inc./Leonard Enterprises, Employer,

And

South Carolina Uninsured Employer's Fund, Insurer,
Respondents.

CORRECTED RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Clifford Pasley,

Claimant-Appellant,

vs.

TransAgri, Inc./ Leonard Enterprises,

Employer,

And

South Carolina Uninsured Employer's Fund,

Insurer,

Defendants-Respondents.

IN THE COURT OF COMMON PLEAS

Case No. 2014-CP-40-4622

**ORDER DENYING CLAIMANT-
APPELLANT'S MOTION FOR
NEW HEARING AND
AMENDMENT OF ORDER**

2016 JAN 14 AM 11:23
JEANETTE W. MCBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

This matter comes before the Court by way of Defendant's Motion For New Hearing and Amendment of Order. Specifically, Claimant-Appellant asks this Court to reconsider its Order filed December 17, 2014, which affirmed the ruling of the Order of the Appellate Panel of the South Carolina Workers' Compensation Commission.

This Court has now had the opportunity to review the Decision and Order of the South Carolina Workers' Compensation Commissioner dated January 4, 2012, and the Appellate Panel Decision and Order of the South Carolina Workers' Compensation Commission served on all parties on December 3, 2013. After careful consideration of these Orders, this Court finds, as it did in its Order of December 10, 2014, that there is substantial evidence to support the findings of the Appellate Panel and finds no error of law or facts not appropriately considered.

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Accordingly, this Court hereby **DENIES** Claimant-Appellant's Motion for New Hearing and Amendment of Order under Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider this Court's Order filed December 17, 2014.

IT IS SO ORDERED.

Columbia, South Carolina

January 14, 2016


G. Thomas Cooper, Jr., Judge
Fifth Judicial Circuit

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
2014-CP-40-04622

Clifford Pasley,

Claimant,

v.

TransAgri, Inc./Leonard Enterprises,

Employer,

and

South Carolina Uninsured Employer's
Fund,

ORDER

RICHLAND COUNTY
FILED
2014 DEC 17 AM 9:29
JENNIFER W. GOSWAMI
CLERK C.O.P. & C.S.

This matter came before the court on an appeal from an order from the Worker's Compensation Commission dated July 15, 2013. Appellant appeals the Full Commission ruling that the alleging that the Full Commission erred in finding that Claimant did not suffer a permanent disability to his back and that the Full Commission erred in relying on the Veteran's Administration 30% disability rating.

STANDARD OF REVIEW

In a workers' compensation appeal, no court can substitute its judgment from that of the Commission. The court may reverse or modify the decision of the Commission only if the claimant's substantial rights have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative and substantial evidence. Substantial evidence is not a mere scintilla of evidence nor evidence viewed from one side, but such evidence, when the whole record is

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considered, as would allow reasonable minds to reach the conclusion reached by the Full Commission. Jane Doe v. Department of Disabilities and Special Needs, 364 S.C. 411, 613 SE 2nd 785, (Ct. App. 2005).

In a workers' compensation case, the Full Commission is the ultimate fact finder. DeBruhl v. Kershaw County Sheriff's Dept., 397 S.E.2d 782 (Ct. App. 1990); Rogers v. Kunja Knitting Mills, 440 S.E.2d 401 (Ct. App. 1994). The Full Commission, sitting as a finder of fact, can consider all of the evidence and reach its own findings of fact and conclusions of law. The scope of review of the Full Commission is not limited. Lowe v. Am-Can Transport Services, 324 S.E.2d 87 (Ct. App. 1984); Green v. Raybestos-Manhattan, Inc., 156 S.E.2d 318 (1967). "The Commission's decision must be affirmed if the factual findings are supported by substantial evidence in the record. Substantial evidence is that evidence which, in considering the record as a whole, would allow reasonable minds to reach the conclusion the Commission reached. The possibility of drawing two inconsistent conclusions from the evidence does not prevent the Commission's finding from being supported by substantial evidence. Where there is a conflict in the evidence, the Commission's findings of fact are conclusive. The final determination of witness credibility and the weight to be accorded evidence is reserved to the Commission and it is not the task of the court to weigh the evidence as found by the Commission." Sharpe v. Case Produce, Inc., 336 S.C. 154, 519 S.E.2d 102 (1999).

After reviewing the briefs submitted and listening to arguments of counsel, the Court finds that the order of the Full Commission should be affirmed in its entirety. The Court finds that there is substantial evidence to support the findings of the Full

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Commission. As discussed at length in the order of the Single Commissioner, there is documentation supporting the finding that the Claimant did not suffer any permanent impairment and only had a temporary injury. The order states that:

Mr. Pasley admitted that he recalled giving a recorded statement, but did not recall saying that he had never injured his back previously. (Tr., p. 87) He admitted, at the hearing, that he actually been to sick bay in the military for his back and was receiving thirty (30%) percent disability from the military for his back, which included some of the pain from this injury. (Tr., p. 88) In fact, he testified that he believed that his disability was paying for some of the injury in this case. (Tr., p. 88) Further, the Claimant admitted that he continued to work after his accident in this case from 2003 to 2010, or for approximately seven (7) years, and that he has made as much as \$27,000 in 2004, driving as a truck driver. (Tr., p. 90) He also admitted that Dr. Neal released him to work by January 2003. The Claimant testified that he is aware that he has the condition of spondylolisthesis and degenerative disk disease, and that his MRI in 2007 was essentially the same as the one in 2002. (Tr., p. 95)

The issue is not whether there is substantial evidence to support the Appellant's position but whether there is substantial evidence to support the Commission's order and the Court finds that there is substantial evidence to support the findings of the Commission.

There is also substantial evidence to support Findings of Fact #'s 8 & 9 and Conclusion of Law #5. Finding of Fact #8 states "[i]n 2009, the Claimant was assigned a thirty (30%) percent disability from the VA to his back, for military service preceding the January 17, 2002 injury. Finding of Fact #9 states "[b]ecause military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002, reimbursement for medical treatment and care after January 1, 2004, is denied." Conclusion of Law #5 states: Under § 42-9-30, the Claimant has failed to meet his burden of proving that he sustained any loss of use or disability to his back, as



a result of this accident, but, instead only a temporary aggravation of a pre-existing condition, for which he is receiving a 30% disability."

As pointed out in the order of the Single Commissioner, Claimant admitted at the hearing that he actually been to sick bay in the military for his back and was receiving thirty (30%) percent disability from the military for his back, which included some of the pain from this injury. (Tr. p. 88) In fact, he testified that he believed that his disability was paying for some of the injury in this case. (Tr. p. 88). Mr. Pasley testified that he was paid thirty (30%) percent disability of his back by the VA after the time he filed the claim in this case for the last three of four years. (Tr. p. 104). Clearly, there is substantial evidence to support the findings of the Full Commission.

Therefore, for all of the foregoing reasons, the order is Affirmed.

It is so ordered



The Honorable G. Thomas Cooper

Columbia, South Carolina

December 10, 2014

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
2014-CP-40-04622

Clifford Pasley,)

Claimant-Appellant,)

v.)

TransAgri, Inc./Leonard Enterprises,)

Employer,)

And)

South Carolina Uninsured)

Employer's Fund,)

Insurer,)

Defendants-Respondents.)

**CLAIMANT-APPELLANT'S MOTION
FOR NEW HEARING and
AMENDMENT OF ORDER**

TO: THE DEFENDANT'S AND THEIR ATTORNEY:

YOU WILL PLEASE TAKE NOTICE the Appellant Clifford Pasley will and
hereby does move for an Order of the Court:

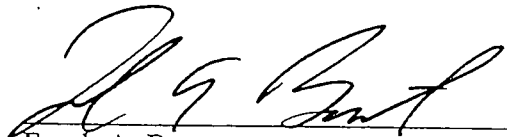
1. Appellant would respectfully request a new hearing in this matter on the grounds the South Carolina Workers' Compensation Commission did not provide a proper record to the Circuit Court. The attorneys for both parties only learned the record before the Commission had not been provided to the Court in the middle of arguments on the appeal. Without the proper record the Court was unable to fully review the matter for a decision on the appeal. In the alternative, Appellant would request he be allowed to supplement the record by providing any and all necessary parts of the Commissions' file to be filed with the Circuit Court.

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2. Appellant would respectfully request the Court to reconsider and amend its decision in this matter to determine Claimant was entitled to workers' compensation benefits for his permanent back injury. Appellant respectfully submits the Commission wrongfully relied upon evidence of the Claimant attended sick bay for back problems during his military service. These visits occurred back in 1982, approximately twenty years prior to this Workers' Compensation accident. Furthermore, there was absolutely no medical evidence of any nature provided by the Employer to in any manner indicate the back problems suffered in 1982 were permanent, or that those back problems were in any manner related to the back problems he suffered as a result of this 2002 Workers' Compensation accident.

Respectfully submitted,

West Columbia, South Carolina
January 2, 2015



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Attorney for the Claimant-Appellant

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

W.C.C. No. 0202022

~~W.C.C.~~ Clifford Pasley

Appellant,

v.

Leonard Enterprises, Inc./Trans Agri, Inc.
and SC Uninsured Employers' Fund

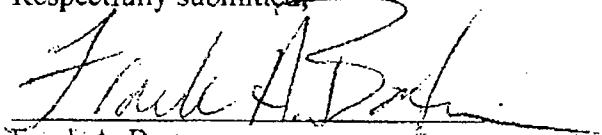
Respondents

NOTICE OF APPEAL

Clifford Pasley appeals the decision of the South Carolina Workers' Compensation Commission dated December 3, 2013, upon the attached grounds which are incorporated by reference.

Other Counsel of Record for the SCUEF are: Margaret Urbanik, 126 Seven Farms Drive, Suite 200, Charleston, SC 29492, 843-619-0366 and Lisa C. Glover, P.O. Box 210039 Columbia, SC 29221, 803-896-5898.

Respectfully submitted,



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December 31, 2013

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JAN 13 2014

SC Court of Appeals

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RICHLAND COUNTY
FILED
2014 JUL 24 PM 3:20
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

Grounds for Appeal

1. The Commission erred as a matter of law and fact in failing to find that Claimant sustained permanent disability to his back and legs as a result of the admitted work accident which took place on January 17, 2002.
2. The Commission erred as a matter of law and fact in failing to award benefits for the disabling result of the work accident's aggravating to the point of disability a pre-existing, but previously quiescent and not disabling back condition.
3. The Commission erred as a matter of fact and law in concluding that Claimant's pre-existing, service related, sore back which was diagnosed only as chronic back pain in 1982 and which required no treatment beyond pain medicine and exercise was actually, even before the work accident in 2002, a pre-existing condition of spondylolisthesis, where this conclusion was wholly contradicted by the evidence submitted, including the medical reports indicating instead that Claimant's original service-related complaint of a sore back with no history of back injury had improved with only medication and exercise and where there was no diagnosis or indication of spondylolisthesis or other severe or disabling back condition over the next twenty years prior to the work accident on January 17, 2002.
4. The Commission erred as a matter of fact and law in failing to recognize from the overwhelming evidence submitted that Claimant's pre-existing, service related sore back was previously quiescent and not disabling as he completed his military service and then performed strenuous manual labor up to the time of the January 17, 2002, work accident after which, for the first time, spondylosis along with disc narrowing at L5-S1 was observed and diagnosed.
5. The Commission erred as a matter of law and fact in denying benefits for the disabled condition of Claimant's back and legs on the basis that Claimant was receiving benefits for disability to the same body parts from the Veteran's Administration, a collateral source, where the medical records establish that the VA found service related disability as the result of the 2002 work accident's aggravating the previous complaint of service-related back pain to the point of disability.
6. The Commission erred as a matter of law and fact in denying benefits for the disabling injuries to Claimant's back and legs where the aggravation of a pre-existing, but previously not disabling condition is compensable under the Act.
7. The Commission erred in failing to find Claimant totally and permanently disabled as the result of the Commission's failing to apply the accepted definition of total and permanent disability that there is not a reasonable market for the Claimant's services, and as the result of the Commission's failing to recognize that total disability does not require complete helplessness, but that the inability to perform common labor is total disability for one who is not qualified by training or experience for any other employment.

8. The Commission erred in failing to award benefits for total and permanent disability or in the alternative, benefits for permanent partial disability or, in the alternative, benefits for substantial permanent partial disability, greater than 50% loss of use to the back under Section 42-9-30 (21) and substantial permanent partial disability to the legs under Section 42-9-30(16) where entitlement to such benefits was well established by the evidence submitted.
9. The Commission erred as a matter of law and fact in concluding only that Claimant was able to continue to work from 2003 forward where, in fact, as the result of his back and leg pain, Claimant was forced over the years to cut back on his truck driving work until he was finally forced to take light-duty job for drastically lower wages at the VA.
10. The Commission erred in failing to interpret the Workers' Compensation Act in a manner favorable to the injured worker and for his support as required by the nature and scope of the Act.
11. The Commission erred as a matter of law and fact in failing to find that Claimant sustained injuries and permanent disability to his back and legs as a result of the admitted work accident on January 17, 2002;
12. The Commission erred as a matter of law and fact in erroneously finding that the admitted work accident on January 17, 2002, had resulted only in a temporary aggravation of a pre-existing, military-service-related injury to Claimant's back where the evidence as well as the chain of events reasonably and logically supports only a finding that the admitted January 17, 2002, work accident aggravated and worsened a previously quiescent and not previously disabling pre-existing condition of Claimant's back.
13. The Commission erred as a matter of law and fact in failing to award permanent disability benefits for the injuries to Claimant's back and legs, where such decision is not supported but contradicted by the evidence submitted.
14. The Commission erred as a matter of law and fact in not distinguishing between impairment and disability and in not finding that the Claimant had sustained substantial disability as the result of the work injuries affecting his back and legs.
15. The Commission erred as a matter of law and fact in not interpreting the Workers' Compensation Act in a manner favorable to the Claimant as required by the nature and scope of the Act.
16. The Commission erred as a matter of law and fact in finding that the admitted injury to Claimant's back did not cause or contribute to his disabling back condition where such finding is against the greater weight and preponderance of the evidence.
17. The Commission erred as a matter of law and fact in finding that the admitted injury to Claimant's back did not cause or contribute to his disabling bilateral leg condition where such finding is against the greater weight and preponderance of the evidence.

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18. The Commission erred as a matter of law and fact in concluding that Claimant would not have been awarded benefits for disability to his back and legs if the resulting disability was actually due to a later work accident's aggravating and worsening a complaint of back pain from 1982, which was originally related to military service, upon erroneously supposing that military disability is "assigned for service related injuries" only, unaffected by later injuries not related to military service.

19. The Commission erred as a matter of law and fact in finding that it was reasonable to conclude that the injuries to Claimant's back resulting from the work accident, including spondylolisthesis, had resolved where such conclusion is contradicted by the medical records showing that injuries to Claimant's back and the disabling effect on his legs continue and where there is no medical evidence establishing that Claimant's injuries have ever resolved.

20. The Commission erred in concluding that there was any lack of medical evidence causally connecting Claimant's admitted work accident to his immediately and dramatically worsened back condition given the objective test results which Claimant obtained on his own when the Employer failed to provide medical evaluation or care despite admitting the accident and despite the Employer's obligation to provide care under the Act.

21. The Commission erred as a matter of law and fact in not taking into consideration or awarding benefits for the disability to or loss of use of the Claimant's legs.

22. The Commission erred as a matter of law and fact in not awarding continued medical benefits for treatment of Claimant's back and legs.

23. The Commission erred as a matter of law and fact in failing to award benefits for the disability to Claimant's back and legs given that the medical evidence establishes that Claimant's work accident and injury to his back had negatively affected his use of his back and his use of his legs to perform work.

24. The Commission erred as a matter of law and fact in not finding Claimant permanently disabled, totally or partially, as the compensable result of the admitted work accident.

25. The Commission erred as a matter of law and fact in not considering the effects of Claimant's injuries on his ability to work and earn wages where the effect of his injuries clearly interferes with Claimant's ability to work manual labor given that, at the time of the admitted work accident, Claimant was able to perform the strenuous work of a long distance truck driver but after and as a result of the work accident he was forced to cut down the duration, length, and exertion of his road trips and eventually to stop driving long-distance trucks altogether.

26. The Commission erred as a matter of law and fact in placing a date limit on the Order that Defendants be responsible for Claimant's "causally related medical care" where Defendants should be held responsible for all causally related medical care under the Act.

27. The Commission erred in failing to find Defendants responsible for the entire cost of Claimant's medical care which was causally related to the admitted work accident.

28. The Commission erred in failing to find Defendants responsible for the entire cost of Claimant's out of pocket expenses incurred in relation to his work injuries.
29. The Commission erred as a matter of law and fact in ruling that Claimant was not entitled to medical treatment and care or reimbursement for medical treatment and care causally related to the admitted work accident after January 1, 2004.
30. The Commission erred as a matter of law and fact in ruling that Claimant was not entitled to further medical care where this finding is unsupported by the medical evidence submitted and inconsistent with the Act.
31. The Commission erred as a matter of law and fact in assuming that Claimant's objectively established injuries resulting from the admitted work accident did not result from the work accident where such assumption was contradicted by and inconsistent with the evidence submitted.
32. The Commission erred as a matter of law and fact in interpreting the evidence in a manner favorable to the Defendants and not in a manner favorable to the injured worker.

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
2014-CP-4004622

Clifford Pasley,
Claimant-Appellant,

v.
TransAgri, Inc., et al
Employer,
and

Traveler's Insurance and
SCUEF,
Insurer,
Defendants.

BRIEF OF CLAIMANT APPELLANT

ISSUES ON APPEAL

- I. The Commission erred as a matter of law and fact in failing to find a causal connection and, therefore, refusing to award benefits for Claimant's permanent disability and/or loss of use to his back and leg.
- II. The Commission erred in refusing to award disability and medical benefits for Claimant's compensable permanent injuries.
- III. The Commission erred in relying on the V.A.'s 30% disability rating and payment of disability benefits as a basis to deny disability and medical benefits to which Claimant was entitled under the Act, in violation of the collateral source rule.

STATEMENT OF THE CASE

Clifford Pasley (Claimant) was injured on January 17, 2002; he was tying down a load of steel on the 18-wheel truck he was driving for Leonard Enterprises, when he felt a pull and sudden pain in his lower back. Claimant managed to make it back home where he reported the injury to his employer. Claimant believed that he was insured for work injuries because \$30 had been deducted regularly from his pay by Leonard Enterprises to be forwarded to TransAgri in order to pay for workers' compensation insurance. However, when Claimant requested medical evaluation and treatment after the January 17, 2002, work accident, his claim and request for treatment were denied. Claimant eventually learned that no workers' compensation coverage had been obtained with the money deducted from his pay.

Claimant proceeded to obtain what medical evaluation and treatment he could afford on his own, through the V.A. and from Dr. Neal; however, Defendants provided no medical care. At that point, right after his work accident and before his reserves were consumed by disability-induced-unemployment,

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Claimant had the savings and resources to take care of himself. Therefore, after he was badly hurt but found that the money deducted from his pay had not been used to obtain workers' compensation insurance coverage, Claimant paid out-of-pocket for his own medical care, including an MRI of his spine.

Claimant was first seen by Dr. Stephen Suits on January 23, 2002, six days after the work accident. Dr. Suits reported that Claimant first started feeling pain as he was stepping down from the trailer of his tractor trailer on 1/17/2002. Dr. Suits noted that Claimant's resulting pain was burning, throbbing, and rated at an 8 on a scale of 10. Dr. Suits noted that Claimant pain woke him during the night, that he woke with morning stiffness, and that his pain was aggravated by movement. Dr. Suits noted that Claimant had some tingling in his right leg with weakness in his right foot. Dr. Suits observed that Claimant was tender over the right gluteal area with decreased ROM of the lumbo-thoracic spine and that he was not able to heel walk with his right foot having a foot drop. (APA p. 66). On February 14, 2002, Dr. Suits noted his opinion that Claimant's symptoms were consistent with a herniated disc accompanied by either a peroneal nerve or a fibular nerve palsy with foot drop. Dr. Suits noted that, although he had tried to have an MRI performed to confirm his diagnosis, that testing was denied by the workers' compensation carrier. (APA p. 64).

In March of 2002, Claimant was seen at the Lexington Memorial Hospital where he paid out-of-pocket for a lumbar MRI. The results of the MRI showed: "... Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left." On March 25, 2002, Dr. John Haynes noted "Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left." (APA p.63).

On April 15, 2002, Dr. Brett Gunter noted that Claimant complained of a right-sided foot drop that had presented after an accident at work in January 2002. Dr. Gunter noted, "... Mr. Clifford Pasley is

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a 40 year old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain. Dr. Gunter noted his opinion that Claimant had a foot drop along with L5 nerve root compression from what appeared to be spondylolisthesis at L5-S1. (APA p. 60).

On October 12, 2005, a repeat lumbar MRI showed at the L5-S1 disc level discogenic changes with loss of height and signal along with a broad-based posterior disc protrusion, some Grade I spondylolisthesis of L5 on S1. The radiologist, Dr. Silvestre noted that the right and left L5-S1 neural foramina were narrowed bilaterally and that there appeared to be flattening of the right and left L5 nerve roots as they extended through the neural foramina bilaterally. (APA p. 57).

By his Form 50, Claimant sought a Commission Order of medical treatment; benefits for temporary total and partial disability, benefits for permanent and total disability, permanent partial disability, and/or loss of use to his back and legs. An evidentiary hearing was held on June 27, 2012, before Commissioner Gene McCaskill. On January 4, 2012, Commissioner McCaskill issued his order finding that the January 17, 2002, work accident was stipulated to be compensable; that Claimant was entitled to temporary total disability benefits for the period he was out of work immediately after the accident; and that Claimant was entitled to be reimbursed for his out-of-pocket medical expenses, but only for those medical costs incurred prior to January 31, 2004. The Commissioner denied benefits for permanent disability and/or loss of use; denied benefits for causally related medical care after January 31, 2004; and set the average weekly wage (AWW) for this full-time, long-distance, 18-wheel truck driver at \$ 183.54.

On appeal, the Full Commission's Appellate Panel amended the AWW finding to properly set Claimant's AWW at \$781.25. However, the Full Commission maintained the erroneous refusal to find Claimant's permanent injuries compensable and the erroneous refusal to award benefits or medical care for Claimant's permanent injuries under the Act. This appeal follows.

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STANDARD OF REVIEW

The circuit court may reverse or modify a decision of the Workers' Compensation Commission if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Lark v. Bi-Lo Inc., 276 S.C. 130, 276 S.E.2d 304 (1981); Camp v. Spartan Mills, 302 S.C. 348, 396 S.E.2d 121 (Ct. App. 1990). Where the findings of the Commission are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, the Court should reverse the erroneous findings of the Commission. Brown v. Ryder Truck Rental, 300 S.C. 530, 389 S.E.2d 161 (Ct. App. 1990).

"Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action." Adams v. Texfi Industries, 341 S.C. 401, 404, 535 S.E.2d 124, 125 (2000).

ARGUMENT

- I. The Commission erred as a matter of law and fact in failing to find a causal connection and in, therefore, refusing to award benefits for Claimant's permanent disability and/or loss of use to his back and leg.

In 1982, while Claimant was in the Army, he went to sick call "maybe twice" for a sore back. Claimant indicated, "It was nothing major. I guess just, you know march and carrying those rucksacks." Claimant explained that he never thought of the sore back in 1982 as an "injury," indicating instead, "I

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thought it was just maybe just a sore back because they gave me a little medication... It wasn't an injection or physical therapy or anything like that." (Tr.p. 106). Claimant testified that, despite having had a sore back in 1982, he was thereafter able to complete his time in the regular army with no problems and then to serve in the reserves and in Desert Storm, all with no special duty, no complaint of back pain, and no further treatment of any back pain. Claimant indicated, "So, I was able to go through the whole seven years without any, - - you know, without any issues with my back. Just a sore back at the time I went to sick hall."

Claimant was honorably discharged in 1983, at which point he started driving long haul trucks. Claimant drove long-haul, 18-wheel trucks for the next almost twenty years, until the work accident in 2002, without incident or lost time from work related to his sore back complaint from 1982. In contrast, after the admittedly compensable work accident on January 17, 2002, Claimant immediately complained of severe back pain radiating into his right hip and leg. The medical reports consistently relate the cause of Claimant's injured back condition to the January 17, 2002, work accident. Objective testing which followed directly after the work accident revealed bulging discs, a disk herniation, spondylosis, spondylosthesis, stenosis, flattened nerve roots, encroachment on the neural foramen at L5-S1, with radiation to the legs and right foot, and a right foot drop. Claimant was immediately taken out of work and advised not to drive long distances. Recent objective testing in 2008 and 2010, revealed that the back injury observed only after the work accident in 2002, continues presently with the same results showing disc bulging, disc herniation, spondylosis, spondylosthesis, stenosis, flattened nerve roots, encroachment on the neural foramen at L5-S1, with radiation to the legs and right foot, and leg weakness and numbness.

Thus, the undisputed evidence established that, after Claimant reported having a sore back in 1982, he was able to go through his entire military career without any special consideration or medical treatment for any back condition and he was then able to perform the heavy manual labor of a long haul truck driver for almost twenty years without complaint or treatment for his back. It was only after the admitted work accident on January 17, 2002, that objective testing showed injuries to Claimant's spine which continue to cause disabling back pain and it was only after the admitted work accident on January

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17, 2002, that Claimant required medical treatment and was unable to work due to his back injuries. This is a textbook example of a compensable aggravation of a worker's pre-existing, but previously not disabling, condition. Claimant's pre-existing back condition was certainly worsened and aggravated by the subsequent work injury; therefore, he was entitled to benefits for the resulting disability. § 42-9-35; Burnette v. City of Greenville, 401 S.C. 417, 737 S.E.2d 200 (Ct.App. 2012).

"It is no defense that the accident, standing alone, would not have caused the claimant's condition, because the employer takes the employee as he finds him." Likewise, a showing that the accident resulted only in the exacerbation of existing problems does not preclude recovery. In Anderson v. Baptist Medical Center 343 S.C. 487, 541 S.E.2d 526 (2001), the Supreme Court reversed the denial of compensability for an aggravation of Anderson's pre-existing condition. The Court ruled, "Although Anderson was receiving treatment for depression prior to this accident, the only substantial evidence in the record clearly shows her condition was aggravated by the work-related fall." Likewise, here, the only substantial evidence in the record clearly showed that Claimant's pre-existing back condition, for which he had received only medication in 1982 some twenty years prior to the work accident, was aggravated and exacerbated by the admittedly compensable work injury on January 17, 2002.

The causal connection establishing compensability for the aggravation of Claimant's pre-existing condition was supported by the testimony, medical reports, objective test results, and the circumstantial evidence of the sequence of events. "The causal sequence ... may be more indirect or complex, but **as long as the causal connection is in fact present the compensability of the subsequent condition is beyond question.**" Mullinax v. Winn Dixie, 318 S.C. 431, 458 S.E.2d 76 (Ct. App. 1996)(emphasis added). Here, the testimony, the medical records, and the expert medical opinion along with the chain of circumstances reasonably supported only a finding that Claimant's back injury with radiation to his legs was the compensable result of an aggravation of a pre-existing, but previously not disabling, back condition and, therefore, the compensability of his back condition is beyond question.

"A condition is compensable unless it is due solely to the natural progression of a pre-existing condition." Brown v. R.L. Jordan Oil Co., 291 S.C. 272, 275, 353 S.E.2d 280, 282 (1987). Here, there is

no medical evidence or even a reasonable theory suggesting that Claimant's back condition after the 2002 work accident was due solely to the natural progression of a twenty-year-old sore back complaint with no acute injury or diagnosed defect in 1982. The Commission erred in refusing to award benefits for Claimant's permanent disability where the evidence overwhelmingly established that what was previously a sore back which resolved with medication in 1982, was then aggravated to the point of disability by the compensable work accident. The Commission erred in speculating that the injured condition of Claimant's back after the 2002 work accident, including the diagnosed and objectively observed bulging discs, spondylosis, spondylosthesis, stenosis, with radiation to the legs, had not been affected by the admitted work accident, but was solely due to the fact that, twenty years earlier, Claimant's back was sore on a couple of occasions during his military service.

Claimant clearly and repeatedly testified that he did not recall any particular injury that caused his back to be sore while he was in the Army; he supposed that his achy back was due to the walking and carrying rucksacks he was required to do as a soldier. However, regardless of what caused Claimant's back to ache in 1982, twenty years later, on January 17, 2002, it was the work accident which transformed a pre-existing soreness in Claimant's back into an objectively determined back injury causing pain so severe that Claimant could hardly stand up, such that he was immediately taken out of work for the next almost two years. Dr. Gunter, Dr. Silvestre, Dr. Haynes, and Dr. Suits all reported the January 2, 2002, work accident as being causally related to the extreme back injury they observed and diagnosed through objective testing. The doctors who initially treated Claimant after his work accident indicated that that accident caused Claimant's injured back condition with radiation to the right hip, leg, and foot. The Commission's contrary conclusion that there was no substantial evidence supporting a causal connection between Claimant's back condition and the admittedly compensable work accident on January 17, 2002, is overwhelmingly contradicted by the medical reports and opinion submitted.

In contrast, there is no evidentiary support whatsoever for the Commission's finding that Claimant sustained only a *temporary* worsening of a prior military "injury" to his back as the result of the work accident in 2002. Instead, the Commission's ruling that Claimant sustained only a temporary

worsening of the sore back he reported during sick call in 1982 is the result of pure surmise, conjecture, and speculation. The objective testing performed directly after the work accident showed substantially the same back injuries that presently remain, as shown by the updated MRI's performed in 2005 and 2008. Thus, the Commission's finding that the worsened condition of Claimant's back, first noted and diagnosed by Dr. Suits directly after the work accident, was only temporary is thoroughly contradicted by the expert medical opinion and the objective medical evidence.

The overwhelming evidence supported only a finding that the pre-existing but previously not disabling back condition was worsened to the point of lasting disability by the admittedly compensable work accident on January 17, 2002. In contrast, there is no evidence to support the notion that Claimant's original sore back condition was only temporarily worsened by the work accident so that spondylolisthesis, spondylosis, disc herniation, disc bulging, and flattened nerve roots with encroachment on the neural foramen were all objectively observed and diagnosed after the work accident, but the worsening was supposedly only temporary. Where these conditions persist as shown by the medical evidence, testimony, and objective testing, the Commission's finding that the exacerbation of Claimant's pre-existing condition was only temporary and not deserving of an award of benefits for permanent disability must be reversed as plain error.

The objective medical evidence of the continued disabling injury to Claimant's back, which radiates to his legs, is undisputed. However, the Commission found as fact, "It is reasonable to conclude that whatever injury or aggravation of his pre-existing spondylolisthesis that the Claimant suffered on January 17, 2002, has resolved." (Finding of Fact #7). To the contrary, this is far from a reasonable conclusion in light of Claimant's continuing injuries and disability. The notion that Claimant might already have been suffering from the bulging and herniated discs, spondylolisthesis, spondylosis, encroachment on the neural foramen at L5-S1 with radiation to his right leg and foot and a right foot drop when he reported only a "sore back" during sick call in 1982, but that this supposed injury was ignored by the military doctors and that he somehow managed to maintain his regular duties for the remainder of his military career and then to successfully undertake and perform the strenuous work of a long distance truck

driver, tying down loads and hauling steel for a period of some twenty years without treatment, complaint, or time out of work, is a fantastical theory unsupported by reason or by the substantial evidence.

The substantial evidence submitted established that Claimant had a pre-existing back condition limited at the time to soreness which required medication in 1982 and which resulted in no disability or lost time from work for a period of twenty years, but which was then worsened and aggravated as the result of an admitted work accident in 2002. The substantial evidence supported only an award under the Act of benefits for the compensable injury and aggravation of the pre-existing condition to Claimant's back with radiation to his legs. Therefore, the Commission Order erroneously denying entitlement to benefits under the Act for the compensable injury and aggravation of the pre-existing condition of Claimant's back should be reversed.

II. The Commission erred in refusing to award disability and medical benefits for Claimant's compensable permanent injuries.

The Act must be interpreted in favor of supporting the injured worker and in favor of requiring that he be provided adequate medical care and evaluation for the injuries he sustained as a direct result of an admitted work accident. The Workers' Compensation Act is remedial legislation which is entitled to liberal construction in favor of the injured worker and for his protection and support. Vespers v. Springs Mills Inc., 276 S.C. 94, 275 S.E.2d 882 (1981); Hines v. Hendricks Canning, 263 S.C. 399, 211 S.E.2d 220 (1975); Carter v. Penney Tire & Recapping Co., 261 S.C. 341, 349, 200 S.E.2d 64, 67 (1973); Case v. Hermitage Cotton Mills, 236 S.C. 515, 125 S.E.2d 57 (1960). Under the Worker's Compensation Act, a claimant may proceed under § 42-9-10 or § 42-9-20 to prove a general disability; alternatively, he or she may proceed under § 42-9-30 to prove a loss or loss of use of, a member, organ, or part of the body for which specific awards are listed in the statute. "The term 'disability' means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment."); S.C.Code Ann. § 42-9-10 (Supp.1994).

Employees who because of a work-related injury can perform only limited tasks for which no reasonably stable market exists are considered totally disabled notwithstanding their nominal earning capacity. 1 C Larson, supra, § 57.51(a), at 10-286 (1995); Coleman v. Quality Concrete Prods., 245 S.C. 625, 142 S.E.2d 43 (1965) (total disability is “inability to perform services other than those that are so limited in quality, dependability, or quantity that no reasonably stable market for them exists.”) In Stephenson v. Rice Services, 323 S.C. 113, 473 S.E.2d 699 (1996), the Supreme Court ruled that Stephenson was totally and permanently disabled because he was unable to perform services other than those that were so limited in quality, quantity, and dependability, that no reasonable market for them existed, despite the fact that Stephenson was employed, working, and earning wages at the time.

This claimant has always been willing to work hard and even to work in pain in order to support himself. After the work accident in January 2002, when he could no longer drive long hauls because of the condition of his back, Claimant found work driving local jobs. When his pain was getting so bad that he had to give up truck-driving altogether, Claimant found light custodial work at the V.A. Hospital. However, with each job change, *prompted by his work injury and resulting disability*, even as the physical demands on his back and leg lessened, so did his pay. At the time of the hearing, Claimant was bringing home some \$ 635 every two weeks from his work at the V.A. Hospital. Therefore, Claimant is now, as a disabled veteran working at the V.A., able to earn less than half what he was able to earn as a long-distance truck driver. These financial reverses are a direct result of the injuries resulting from Claimant's compensable work accident in 2002.

Under these circumstances, the Commission's refusal to award benefits for Claimant's permanent injuries to his back and legs must be reversed and the matter remanded to the Commission for an award of benefits for Claimant's permanent injuries pursuant either to S.C. Code Ann. § 42-9-10, § 42-9-20, or § 42-9-30.

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III. The Commission erred in relying on the V.A.'s 30% rating and payment of disability benefits as a basis to deny disability and medical benefits to which Claimant was entitled under the Act in violation of the collateral source rule.

Claimant submitted a disability claim with the V.A. on July 30, 2008. The V.A. records note that in March of 1982, Claimant had complained of lower back pain without a history of back injury. When the V.A. evaluated the condition of Claimant's back in 2008, the V.A. estimated from the objective evidence that Claimant had a 30% permanent rating to his back contributed to by diagnosed lumbar radiculopathy, right lower extremity, related to his lumbar spondylosis and degenerative disk disease. The V.A. further assigned an evaluation of ten percent for lumbar radiculopathy, right lower extremity and an evaluation of ten percent was assigned for "incomplete paralysis below the knee." These are the same injuries which were first observed on MRI after Claimant's compensable work accident in 2002.

However, rather than taking into evidentiary account the VA's assignment of a 30% disability rating as a reasonable prediction of Claimant's permanent disability resulting from the compensable work accident, the Commission ignored the plain evidence and chain of circumstances to find instead that Claimant had actually sustained no permanent disability to his back as the result of the admitted work accident in 2002. The Commission assumed that, because the 30% V.A. rating to Claimant's back was shown by objective evidence and related to military service by the V.A. in 2008, Claimant's 2002 diagnosed injuries resulting from the work accident must have actually been due solely to Claimant's military-related back condition. The Commission found with absolutely no evidentiary support that benefits for Claimant's back injury were properly denied because, "military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002." (Finding of Fact No. 9).

The Commission apparently believed that the V.A. would not have awarded military disability unless it had found that the injured soldier's disability was due strictly and solely to a military injury. However, the Commission misjudges the V.A.; where Claimant's pre-existing military-related condition was subsequently worsened and aggravated as the result of a civilian work accident, the V.A. nevertheless traced through Claimant's medical records, found an almost thirty-year-old service-related back

complaint, and deemed the aggravated and worsened condition of Claimant's back to be a military related disability. The Commission was certainly wrong to deny workers' compensation benefits under the faulty premise that Claimant's back condition was solely the result of his prior achiness while in the Army which the Commission supposed and speculated must always have been due to disabling spondylosis, spondylolisthesis, and a disc herniation present in 1982, and continuing to the present, so that his current condition could be found to be due solely to the back ache from 1982 and wholly unrelated to the admittedly compensable work accident in January 2002.

The Commission's speculation that the V.A. must not have been aware that Claimant's condition was seriously aggravated by a work accident or they would not have found a military-related disability is wholly disproven by the records. The VA's medical records fully discuss the cause of the worsening of Claimant's prior back problem, indicating that the worsening was due to a work accident in 2002. In fact, the VA's medical report dated July 16, 2002, indicates that Claimant was injured "while working loading and tying down steel on his truck. While pushing down loading bar. Noticed as got up and down from the trailer that hurt more and more with pain in tingling in right leg. The first 2.5 to 3 months post injury his back hurt so much that had to bend forward. Had an MRI done at Lexington Medical Center which revealed a herniated disc pinching one of his lumbar nerves, as per patient report...Has sporadic tingling and weakness in right anterior tibialis, lateral right foot and big toe..." The V.A.'s Dr. Ufford described Claimant's symptoms as including: tingling, pain, weakness, decreased right quad strength, and right decreased function. Dr. Ufford assessed Claimant with lumbar radiculopathy and concluded that his condition was one of "dysfunction" and "derangement." (APA pp. 52-56).

Plainly, the V.A. was and is fully aware that Claimant's pre-existing back condition was significantly worsened and aggravated by a civilian work accident and injury on January 17, 2002. The V.A. has noted that Claimant worked as a truck driver, but that he had not been able to work since January 2002. The V.A. reports that, in July, 2002, Claimant was off work because of the 2002, work accident and injury. The V.A. concludes that Claimant's back condition with radiculopathy had been present since January of 2002, when Claimant sustained a work-related injury. Thus, the medical records,

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including those from the V.A., fully support only the fact that the 2002 work injury significantly worsened and aggravated to the point of disability the pre-existing condition of Claimant's back.

The Commission clearly erred as a matter of law and fact in finding, contrary to the evidence submitted, the chain of circumstances, and common sense, that Claimant sustained a military injury in 1982 which resulted in permanent and severe injuries to his back yet, he was somehow able to finish his military service without further medical attention or special duty and then able to successfully work as a long-distance truck driver for twenty years. This preposterous conclusion is purely speculative - - there being no evidence whatsoever that Claimant sustained a serious back injury in the military and no evidence that he had any loss of use to his back whatsoever, prior to the work accident in 2002. Under these circumstances, where the Commission's Order denying benefits for permanent partial disability and denying that Claimant was entitled to causally related medical care is speculative and without evidentiary support, it must be reversed. Regardless of Claimant's receipt of benefits from the V.A. and regardless of the V.A.'s assignment of a rating for Claimant's back and legs, the Commission was bound by the Act and by the evidence presented to find Claimant's disabling injuries compensable, to award past and continuing medical care, and to award benefits for permanent disability.

The Commission erred in relying on the V.A.'s 30% disability rating to Claimant's back to deny permanent disability and medical benefits to which Claimant was entitled under the Act. The Commission erroneously ruled that Claimant had proven "only a temporary aggravation of a pre-existing condition, for which he is receiving a 30% disability." (Conclusion of Law No. 5). The Commission concluded that Claimant was not entitled to an award of permanent disability benefits or medical care - - explicitly and particularly noting that this conclusion was reached because Claimant was already receiving medical treatment and benefits for a 30% disability from the V.A. The Commission's denial of disability and medical benefits because Claimant was already receiving treatment and benefits from the V.A., was error as a matter of law in violation of the collateral source rule.

The collateral source rule prevents a tortfeasor from receiving a reduction in damages due to payments or compensation received by the injured person from a source wholly independent of the

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tortfeasor. Johnston v. Aiken Auto Parts, 311 S.C. 285, 428 S.E.2d 737 (Ct.App.1993). Under the collateral source rule, the tortfeasor cannot take advantage of the contracts and obligations between the injured party and third persons. Dixon v. Besco Engineering, Inc. 320 S.C. 174, 463 S.E.2d 636 (Ct.App.1995). In McLeod v. South Carolina Ins. Co. 272 S.C. 254, 251 S.E.2d 193 (1979), the South Carolina Supreme Court held that an employer is not entitled to take a credit for benefits paid to a claimant from a collateral source, such as the unemployment compensation fund.

The McLeod Court explained that it would not be appropriate or equitable to allow the defendant carrier to derive a windfall benefit by taking credit against any sums received from other sources or to permit the carrier not to make payments under the Workmen's Compensation laws of the State, merely because of money received by the worker from other sources during the same period of time. The Court in McLeod explained that there is no authority in Title 42 which would authorize the Worker's Compensation Commission to allow an employer or its workmen's compensation carrier not to pay benefits or to offset payments of workmen's compensation benefits, either for temporary total disability or for a specific permanent disability, due to the fact that sums were received from a collateral source such as the unemployment compensation fund.

Here, the Commission's denial of medical and disability benefits in order to avoid double recovery for the injured worker is in direct conflict with the McLeod holding and accordingly constituted error as a matter of law. The decision to deny Claimant benefits for his permanent disability and medical treatment should be reversed.

CONCLUSION

The Commission's Order refusing to award permanent disability benefits and medical care for Claimant's compensable work injuries should be reversed and the matter remanded to the Commission for an award of permanent disability benefits and medical care for the injuries resulting from the admittedly compensable work accident on January 17, 2002.

November 5, 2014

Respectfully submitted,



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COUNSEL FOR CLAIMANT

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
2014-CP-40-04622

Clifford Pasley,

Claimant,

v.

TransAgri, Inc./Leonard Enterprises,

Employer,

and

South Carolina Uninsured Employer's
Fund,

RESPONDENT'S BRIEF

This case arises out of an accident that occurred on January 17, 2002. A hearing on the merits was not held until June 27, 2012. Claimant was released from his doctor on February 18, 2003. There is nothing in the record to explain why there was such a lengthy delay in between the date of injury and a hearing on the merits. As a result of a hearing, Claimant was found to have sustained a temporary injury to his back with no resulting permanent injury.

In a workers' compensation appeal, no court can substitute its judgment from that of the Commission. The court may reverse or modify the decision of the Commission only if the claimant's substantial rights have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative and substantial evidence. Substantial evidence is not a mere scintilla of evidence nor evidence viewed from one side, but such evidence, when the whole record is

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considered, as would allow reasonable minds to reach the conclusion reached by the Full Commission. Jane Doe v. Department of Disabilities and Special Needs, 364 S.C. 411, 613 SE 2nd 785, (Ct. App. 2005).

In a workers' compensation case, the Full Commission is the ultimate fact finder. DeBruhl v. Kershaw County Sheriff's Dept., 397 S.E.2d 782 (Ct. App. 1990); Rogers v. Kunja Knitting Mills, 440 S.E.2d 401 (Ct. App. 1994). The Full Commission, sitting as a finder of fact, can consider all of the evidence and reach its own findings of fact and conclusions of law. The scope of review of the Full Commission is not limited. Lowe v. Am-Can Transport Services, 324 S.E.2d 87 (Ct. App. 1984); Green v. Raybestos-Manhattan, Inc., 156 S.E.2d 318 (1967). "The Commission's decision must be affirmed if the factual findings are supported by substantial evidence in the record. Substantial evidence is that evidence which, in considering the record as a whole, would allow reasonable minds to reach the conclusion the Commission reached. The possibility of drawing two inconsistent conclusions from the evidence does not prevent the Commission's finding from being supported by substantial evidence. Where there is a conflict in the evidence, the Commission's findings of fact are conclusive. The final determination of witness credibility and the weight to be accorded evidence is reserved to the Commission and it is not the task of the court to weigh the evidence as found by the Commission." Sharpe v. Case Produce, Inc., 336 S.C. 154, 519 S.E.2d 102 (1999).

Appellant contends that the Commission erred as matter of law in finding that the Claimant suffered a temporary injury and did not award permanent benefits. There is no error of law and there is substantial evidence supporting the Commission's decision.

The Appellant incorrectly argues in his brief that the only evidence in the record is that the Appellant sustained compensable permanent injuries and/or loss of earning capacity to his back and right leg on January 17, 2002. The records indicate the Appellant's pre-existing spondylolisthesis existed from the time of the Appellant's military service and it remains in the same condition as the recent MRIs revealed. (See H. Tr. 95). After reviewing and weighing all of the evidence in the record along with the testimony presented, the Commission correctly determined that while the Appellant sustained a compensable injury to his back on July 17, 2002, the injury was temporary in nature with no resulting permanency. Ballenger v. Southern Worsted Corporation, 209 S.C. 463 (1946) and Hargrove v. Carolina Orthopaedic Surgery Associates, P.A., 389 S.C. 119 (Ct. App. 2010) stand for the proposition that while medical evidence is given great respect, the fact finder can disregard it or assign it less weight if there is other competent evidence in the record. Further, there was language in these cases that provided "medical testimony should not be held conclusive irrespective of other evidence." *Id.*

Appellant argues that he suffered an aggravation of his prior injury and would be entitled to benefits under 42-9-35. As this is a 2002 claim, 42-9-35 would not apply.

Other evidence controverting Appellant's claim that the Commission could only reach one conclusion, is exemplified by the testimony of the Appellant at the hearing. The Appellant admitted he gave a recorded statement two weeks after the January 17, 2002 accident and denied any prior injuries to his back (H. Tr. 87). The Appellant admitted under cross-examination that he did in fact go to the sick bay for back issues

during his military tenure and that at the time of the hearing he was receiving 30% disability from the military due to his back condition. The Appellant was also forced to admit at the hearing that he continued working about seven years after the 2002 accident and that the only medication he was taking was Ibuprofen. Also during this seven-year period, the Claimant admitted at the hearing that he did file for unemployment certifying that he was willing and able to work. (H. Tr. 94). Finally, Appellant admitted he continued to pass his CDL physicals since the 2002 accident and that he has not been housebound or unable to drive since 2002. Claimant also admitted in this deposition taken in 2007 that his back had gotten better. (Tr. p. 98). In 2009, Claimant was awarded a 30% disability from the military.

Appellant's brief is replete with references that the Commission's failure to find in his favor is contrary to the purpose of the Act. It is a well settled rule of law that the burden of proof is upon the Claimant to prove such facts as will render an injury compensable under the provisions of the Worker's Compensation Act, and that no award may be based on surmise, conjecture or speculation. Cf. Walker v. City Motor Car, 232 S.C. 392, 102 S.E. 2d 373 (1958); Packer v. Corbett Canning Co., 238 S.C. 431, 120 S.E. 2d 398; Gosnell v. Bryant, 240 S.C. 215, 125 S.E. 2d 405 (1962). Further, it has been held that the difficulty in proving a fact in a worker's compensation case does not relieve a party on whom the burden rests of proving it nor does it shift the burden to the other party. Cf. Herndon v. Morgan Mills, Inc., 246 S.C. 201, 143 S.E. 2d 376 (1965). The same requirement to establish compensability logically extends to a Claimant's burden of establishing a greater weight of the competent evidence in the record establishes the Claimant sustained a degree of permanency. Simply put, the

Hearing Commissioner in exercising his discretion reviewed the evidence in the record as a whole and appropriately determined that the Appellant did not sustain a compensable degree of permanency. Taken further, it is well established that a Commissioner has discretion under Section 42-15-60 to award what is decided to be causally related medical care and the Commission was correct in not awarding future medical benefits. The Commission did order reimbursement for out of pocket expenses from January 17, 2002 until December 31, 2003.

It appears the issue on appeal to the Circuit Court, is not whether the Commission's Order was supported by the greater weight of and the substantial evidence in the record, but rather whether there was some evidence supporting the claims made by Appellant and therefore findings should be made in the Appellant's favor. Again, the Appellant would lead the Court to believe the Commission was in essence required to assign greater weight to the opinion evidence of Appellant's doctors who didn't work for the Veteran's Administration. Further, the Appellant worked fairly regularly after the 2002 accident, which coupled with the pre-existing condition and a review of the Veteran Administration's file, makes it more likely the accident was only a temporarily aggravation.

Other evidence controverting Appellant's claim that the Commission could only reach one conclusion, is exemplified by the testimony of the Appellant at the hearing. The Appellant admitted he gave a recorded statement two weeks after the January 17, 2002 accident and denied any prior injuries to his back (H. Tr. 87). The Appellant admitted under cross-examination that he did in fact go to the sick bay for back issues

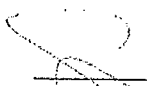
during his military tenure and that at the time of the hearing he was receiving 30% disability from the military due to his back condition. The Appellant was also forced to admit at the hearing that he continued working about seven years after the 2002 accident and that the only medication he was taking was Ibuprofen. Also during this seven-year period, the Claimant admitted at the hearing that he did file for unemployment certifying that he was willing and able to work. (H. Tr. 94). Finally, Appellant admitted he continued to pass his CDL physicals since the 2002 accident and that he has not been housebound or unable to drive since 2002.

Appellant contends the Commission's reliance on the 30% disability rating from the VA is in violation of the collateral source rule. This issue was never raised before and therefore has not been properly preserved on appeal. (Claimant's Form 30). Appellant cannot suddenly raise an issue for the first time on appeal. *Creighton v. Coligny Plaza Ltd. Pshp.*, 334 S.C. 96, 512 S.E.2d 510 (Ct. App. 1998).

Furthermore, there is no reference by the Hearing Commissioner in the lengthy hearing transcript or the Decision and Order that he solely relied on the Appellant's receipt of V.A. disability benefits as the reason he denied the Appellant's requests for disability compensation and medical care. In fact, Finding of Fact #9 states that there is no definitive medical evidence in the case causally connecting the Claimant's continuing back issues to the January 17, 2002 accident. It is well within the Commission's discretion to consider all evidence, and determine the appropriate weight to give particular testimony or evidence.

Therefore, for all of the foregoing reasons the order of the Commission should be upheld.

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Charleston, SC

November 10 2014

State of South Carolina)
County Of Richland)

In the Court of Common Pleas
Fifth Judicial Circuit
2014-CP-40-4622

Clifford Pasley,)
Claimant,)
Vs.)
Leonard Enterprises,)
Employer,)
South Carolina Underinsured)
Employers' Fund,)
Carrier.)

Transcript of Record

January 12, 2016
Columbia, South Carolina

B E F O R E:

The Honorable G. Thomas Cooper, Judge

A P P E A R A N C E S:

Frank A. Barton, Esquire
Attorney for Applicant

Mary Margaret Urbanic, Esquire
Attorney for Employer/Carrier

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

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I N D E X

<u>Witness/description</u>	<u>Page No.</u>
Certificate Page	17

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>

No Exhibits Introduced.

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1 THE COURT: All right, we're back on Clifford Pasley.

2 MR. BARTON: Yes, sir.

3 THE COURT: How about you bring me up to date, Mr.
4 Barton.

5 MR. BARTON: All right, Your Honor. You heard, you
6 heard this case approximately a year ago.

7 THE COURT: I know. There was some ---

8 MR. BARTON: Order was issued.

9 THE COURT: There was a question as to whether the
10 file was here or not ---

11 MR. BARTON: Yes.

12 THE COURT: --- here.

13 MR. BARTON: Well, this was one of the last cases
14 we'll ever see, I think, where you're having an appeal for
15 Workers' Comp to, to the circuit court. This is a case I
16 took over from, from Beau Mullis after he passed away.
17 It's my understanding you had, you had ruled. We did a
18 motion for reconsideration and request to, to supplement
19 the record.

20 THE COURT: You did that motion?

21 MR. BARTON: Yes, sir, and I think you agreed to that,
22 to allow us to do that. It's my understanding you were
23 going to hear this kind of as a rehearing and not on a
24 motion for reconsideration, but I can proceed either way.
25 There was a -- give me just a second to pull this up, and

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1 I, I'm not going to take much time arguing. Give me just a
2 chance to pull this up.

3 (A PAUSE.)

4 MS. URBANIC: Your Honor, if I, I ---

5 THE COURT: Ms. Urbanic.

6 MS. URBANIC: Yes. Yes, sir, Your Honor. My
7 understanding was we argued this about a year ago, and then
8 I think a realization came during that hearing that you did
9 not have the complete file for the Workers' Comp
10 Commission. They had stopped sending those over to circuit
11 court.

12 THE COURT: Right.

13 MS. URBANIC: You allowed Mr. Barton and myself to
14 supplement the record. I think Mr. Barton presented all
15 the forms that had been filed with the Workers' Comp
16 Commission. My office sent in all the prehearing briefs,
17 which is the medical records.

18 THE COURT: Sent in what?

19 MS. URBANIC: We sent in -- we both -- between the two
20 of us, it looks like you have a big file now.

21 THE COURT: Yeah.

22 MS. URBANIC: We sent in all the stuff that had been
23 submitted to the full commission.

24 THE COURT: Right.

25 MS. URBANIC: And my understanding was, you know,

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1 basically -- I'm not quite sure. I don't think we're here
2 to reargue it necessarily, but you were allowing us to do
3 that.

4 THE COURT: Well.

5 MR. BARTON: This, this is an email that was sent on
6 November 4th. I'll let you see the email if you want to
7 from Lauren Patterson.

8 MS. URBANIC: Okay. That's fine.

9 MR. BARTON: It's saying it's a rehearing. I can do
10 it either way, Judge. The issue ---

11 THE COURT: Well, let's, let's, just for the record --
12 on December 10, 2014, I affirmed the commission.

13 MR. BARTON: Yes, sir.

14 THE COURT: And on the basis that there was
15 substantial evidence to support the findings of the full
16 commission, and that deals with your client's military
17 disability, which apparently was considered by the single
18 commissioner in making her recommendation to the full
19 commission. So, that's where we are.

20 And you filed on January 2, 2015, a motion for new
21 hearing and amendment of the order on the basis that the
22 commission did not provide a proper record, saying without
23 the proper record, the court was unable to fully review the
24 matter for a decision on appeal. Right?

25 MR. BARTON: Yes, sir.

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1 THE COURT: That's where we are.

2 MR. BARTON: And, and there was -- there were emails
3 after that saying you would allow me to supplement the
4 record, so we did that.

5 THE COURT: All right.

6 MR. BARTON: And at this point, we can proceed either
7 on the motion for reconsideration or a new hearing, however
8 you desire. It's going to be pretty much the same
9 argument.

10 THE COURT: Well, you're the lawyer.

11 MR. BARTON: I'd prefer the total rehearing. I would
12 assume that opposing counsel ---

13 THE COURT: I understand, but tell me why I should do
14 that other than ---

15 MR. BARTON: Because ---

16 THE COURT: --- the fact that you say the full record
17 was not in front of the court ---

18 MR. BARTON: Yes, sir.

19 THE COURT: --- at that time.

20 MR. BARTON: It was, it just my understanding that you
21 preferred to do it that way, and I think it would be
22 helpful in view of the fact that the record wasn't produced
23 at the time we had the last hearing.

24 THE COURT: All right. Well, then you'd better point
25 out in this record what you want me to look at if you -- if

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1 that's the ---

2 MR. BARTON: Yes, sir.

3 THE COURT: --- road that you're going down.

4 MR. BARTON: Yes, sir.

5 THE COURT: Go ahead.

6 MR. BARTON: All right. Your Honor, this accident
7 happened -- this was a truck driver that had an accident in
8 2002. I believe it was January 2002. He injured his back.

9 THE COURT: Is he still getting ---

10 MR. BARTON: Sir?

11 THE COURT: Is he still getting compensation?

12 MR. BARTON: He didn't get any compensation.

13 THE COURT: Didn't get any?

14 MR. BARTON: No, sir. What happened was that the
15 initial hearing in this thing didn't take place until
16 approximately 2010 because there were underlying issues of
17 whether or not the employer -- first, whether or not he was
18 covered by Workers' Comp, and then it turned out he didn't
19 have insurance. So, I believe the uninsured fund has it
20 now. But there were, there were a bunch of problems
21 getting medical treatment. Now, he was, he was able to go
22 to the VA, so he did have treatment there.

23 All right, now, in the record at the time of the
24 hearing, it came out that he was out of work for about
25 thirteen months. Then he needed to go back to work, so he

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1 went back to work against doctor's orders, and a lot of
2 this is detailed in the brief that we filed in this case.
3 So, I'm not going to belabor all of that stuff. I'm just
4 going to point out the reasons why I think the commission
5 was wrong.

6 THE COURT: The brief you filed ---

7 MR. BARTON: Yes, sir.

8 THE COURT: --- back in December of '14?

9 MR. BARTON: Yes, sir.

10 THE COURT: Okay. Go ahead. There's been no recent
11 findings?

12 MR. BARTON: No, sir, there's no -- no, sir.
13 Nothing's really changed.

14 Now, there -- at that time there were medical records
15 from Dr. Green B. Neal, Dr. Don Johnson, Dr. Brett Gunner,
16 all detailing the problems he was having with his back. He
17 was having problems with his back radiating down into his
18 legs, and I believe he had a disc protrusion at L1 -- I
19 guess it would be L5, S1. Anyway, it's, it's documented in
20 the records and in the, and in the -- all of a sudden I've
21 forgot what they call the thing where they did the
22 electromagnetic imaging. It's the magnetic imagine of his
23 back.

24 Any -- in any event, he had been in the Army back in
25 1982. While he was in the Army, he reported to sick bay

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1 for back problems. Now, there's no medical records of
2 this; he just testified to this. He reported to medical,
3 to sick bay while he was in the Army for back problems.
4 Said he never, never really had any injury but it was
5 bothering him, so he went to sick bay twice in 1982. He
6 finished out. I think he had three years in the Army and
7 three years in the Reserve. Finished that out no problems.
8 There is no other medical treatment for his back at all.

9 And in front of the hearing commissioner, the defense
10 took the position that the problems he was having now were
11 solely related to what he had back in 1982 twenty years --
12 it's twenty years before this accident in 2002. And the
13 commission seized upon that and decided no, this is just
14 his -- this is just what he had back in 1982. Now, there's
15 also a VA finding in about 2008. They gave him a 30
16 percent disability to his back.

17 But I think -- this is the problem I've got with the
18 whole thing. This is obviously -- and the medical records
19 document it. This is obviously a clear situation. If it
20 was pre-existing, it's an aggravation of a pre-existing
21 condition. There is no medical treatment from 1982 up
22 until he had this accident, no medical treatment at all for
23 his back. The doctors' records that we presented after
24 this accident showed that, that he was having problems with
25 his back and it was radiating down into his legs, and

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1 there's no indication back in 1982 he had any problems
2 radiating into his legs.

3 The commission found that this was a temporary
4 aggravation of a pre-existing condition. I don't, I don't
5 know that I've seen anything in the case law about any
6 temporary aggravation. If it's an aggravation, it's an
7 aggravation. Plus, there is no medical evidence at all, no
8 medical evidence that shows what he's suffering from after
9 this accident was the same thing he was suffering from back
10 in 1982 because there's no records from the VA at all.

11 So, that being the case, since we had documentation
12 that he did suffer an injury to his back and it was
13 radiating, radiating into his leg, and there's no,
14 absolutely no medical, no medical evidence from the other
15 side to controvert that or contradict it, and we're talking
16 about something that he hadn't had medical treatment for
17 since 1982, twenty years prior to this accident, I just
18 don't believe there's any substantial evidence for the
19 commission to base its award on saying that this is a
20 temporary, temporary aggravation. They don't even know
21 what the problem was back in 1982 to say this was an
22 aggravation of that injury. And we request that it be
23 remanded to the commission for a determination of what
24 medical treatment he needs for his back and legs, and that
25 they determine what kind of temporary total disability or

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1 permanent disability ability benefits he's entitled to.
2 And I'll be glad to answer anything else that you've got,
3 any questions you've got.

4 THE COURT: Well, I was looking for the single
5 commissioner's report and I assume it's in here, but
6 you ---

7 MR. BARTON: Your Honor.

8 MS. URBANIC: I, I have a copy of it, Your Honor, if
9 you need it.

10 MR. BARTON: And the single ---

11 THE COURT: Yeah, I ---

12 MR. BARTON: The single commissioner's report is, is
13 incorporated into the full commission's report, and I've
14 got no problem with, with opposing counsel handing, handing
15 it up.

16 THE COURT: It's apparently in the file, but it's...

17 MR. BARTON: Yes, sir. In order to make sure we
18 didn't miss anything, I ordered the entire commission file.

19 THE COURT: Okay, Ms. Urbanic.

20 MS. URBANIC: Your Honor, the standard of review of
21 the circuit court is whether there's substantial evidence
22 to support the findings of the full commission, and in this
23 case there -- clearly there is. I was not a part of this
24 originally. As Mr. Barton said, Beau Mullis passed away;
25 the original defense attorney has retired. That's how long

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1 this case has been going. It's a 2002 accident. Why it
2 took until 2010 go to an initial hearing, I have no good
3 explanation for.

4 I think when you look at all the medical evidence
5 submitted, it kind of -- it deals with all that. In 2002
6 he claims an injury to his back while moving something on
7 the back of his truck. He gets some additional treatment,
8 upon the recommendation of his attorney, by Dr. Neal, and
9 in 2003 Dr. Green Neal or Neal Green released him, in fact,
10 at that time, and there is a record from 2005 with the
11 doctor. He returned to the doctor. The doctor said you
12 have arthritis in your back, and the records are replelent
13 [sic] of numerous mentions of him having arthritis, which
14 is, unfortunately, what happens to all of us as we get
15 older. The MRIs between 2002 and, I think, one taken in
16 2007 are exactly the same. In fact, there's years of not a
17 lot of treatment here.

18 During all of this between 2002 and 2010, he continues
19 to work as a truck driver, and at the time of the hearing,
20 he was working at housekeeping in the VA, which is a
21 physical type job. And during the pendency between 2002 to
22 2010, the claimant goes out and applies for disability
23 through the VA and is awarded 30 percent to his back. Now,
24 there's no information in the record as to how the VA comes
25 up with that. I don't know if they even give that out,

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1 quite frankly. But, you know, I think common sense tells
2 us it's not because of his Workers' Compensation injury the
3 VA is awarding 30 percent to the back. It's because of
4 what happened to him in the military, and all that's going
5 on with this.

6 In addition, and I would note that the single
7 commissioner or the full commission did not make any
8 findings regarding credibility. There were some issues
9 with the claimant initially denying prior back problems
10 when an initial recorded statement was taken by one of the
11 insurance carriers with regards to this. So, when the
12 single commission's hearing rolled around in 2010, all this
13 was in front of him. And he found, based on the
14 information in front of him, looking at the 500 pages of
15 medical records, that there was no permanent disability
16 with regards to his back, and the back was the only
17 compensable body part in this case, and did not award him
18 any permanent disability.

19 And I think the record truly documents that that is
20 the correct ruling in this case for numerous reasons
21 throughout all the, the various -- the single commissioner
22 -- I only brought one copy. I apologize, but the order
23 details a lot of the medical treatment in there. The EMG
24 findings were normal. You know, there just isn't the claim
25 that they're claiming from this injury that occurred back

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1 in 2002.

2 The full commission, when they had the file and looked
3 at it -- and they took a hard look at it because they
4 actually reversed and awarded TT for about a year that the
5 UEF had to go back and pay. So, he has received benefits
6 with regards to this, and they actually changed his
7 compensation rate as well.

8 So, you know, I believe the evidence is there, and I
9 think it's appropriate when there is substantial evidence
10 to support the findings of the commission that the circuit
11 court has to uphold that. It is not your position to
12 reweigh the evidence and to make new findings of fact. You
13 just merely are in the role of an appellate court at this
14 point and with the standard, I believe you have to uphold
15 the findings of the commission. And, in fact, your prior
16 order -- I don't remember if it was signed in 2014 or 2015,
17 but your prior order, that had previously found that there
18 was substantial evidence.

19 THE COURT: All right.

20 MR. BARTON: Your Honor, very quickly? There is a
21 medical record, I just referred to one of them, that's in
22 the record and was in the record at the time of the
23 hearing, Don Johnson, who's with Southeastern Spine
24 Institute and he treats a lot of Workers' Comp,
25 Compensation patients. His recommendations -- or he agreed

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1 with Dr. Neal, who'd been treating -- Green Neal, who'd
2 been treating the claimant from early on, that he -- that
3 claimant needs an EMG and conduction study. That's the
4 next thing, next thing he needs.

5 Now, opposing counsel just admitted that they have no
6 idea why the VA awarded him a disability, and -- but then
7 she says it's reasonable to conclude it's because of this,
8 and I'm sorry. It just, it just doesn't work that way.
9 There's no showing it's -- it's could be a completely
10 different part of the back.

11 And the commission seized on the fact that he got a VA
12 award, but that has no effect on whether or not he's
13 entitled to Workers' Compensation benefits. Just like, you
14 know, if he'd applied for Social Security disability
15 benefits and won them, that doesn't mean he's not entitled
16 to Workers' Compensation benefits.

17 They mention the fact that he says in an initial
18 interview that he doesn't -- didn't have a back injury.
19 Well, there's no proof he had a back injury in 1982. He
20 was having back problems which he reported to sick bay
21 twice. No further treatment, and at the hearing I believe
22 he said it could have been just from carrying around a
23 rucksack on the hikes they do and that sort of thing.

24 The commission did find he suffered an injury, but
25 they said it was only a temporary aggravation. Now,

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1 there's absolutely no proof in the record whatsoever that
2 he suffered some medical issues from this accident and then
3 those resolved, that they were only temporary, because he
4 never got the medical treatment he needed. Basically he's
5 having problems and he's having problems with this case
6 because you got a, you've got an employer that didn't have
7 Workers' Compensation coverage. So, he never could get,
8 never could get the treatment he needed.

9 I, I just, I think the commission was wrong on this
10 one, and I'll be glad to answer any other questions you
11 might have, and I appreciate you letting us supplement the
12 record.

13 THE COURT: All right, I have now the -- at this point
14 I'm not sure. I don't remember whether I had access to the
15 single commissioner's report and the -- your notice of
16 appeal, and the findings of fact from the full commission.
17 I have it all in front of me at this time and I will review
18 it, and I will let you know.

19 MR. BARTON: Yes, sir. Thank you..

20 MS. URBANIC: Thank you, Your Honor.

21 THE COURT: Thank you very much.

22 --- END OF TRANSCRIPT OF RECORD ---

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STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2014-CP-40-04622
)
)
)
)
Clifford Pasley))
)
vs.) TRANSCRIPT OF RECORD
)
Leonard Enterprises))
)
DEFENDANT) November 13, 2014
Columbia, South Carolina

B E F O R E:

THE HONORABLE G. THOMAS COOPER, JUDGE.

A P P E A R A N C E S:

FRANK A. BARTON, ESQ.
Attorney for the Plaintiff

MARGARET M. URBANIC, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

(WHEREUPON, there were no witnesses.)

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1 THE COURT: All right, Mr. Barton.

2 MR. BARTON: Judge, this is one of Beau
3 Munford's (sic) last Workers' Comp cases he tried back in
4 June of 2012. Now, this is an accident occurred in
5 January of 2002. The claimant was a long distance truck
6 driver and he hurt his back tying down a load of steel I
7 believe or anyway, I know it's a load. He might have been
8 using a steel chain. And the Workers' Compensation
9 Commission found that it was a compensable accident.

10 THE COURT: It was?

11 MR. BARTON: Yes, sir.

12 THE COURT: He's an employee?

13 MR. BARTON: Yes, sir. Now, part of the reason
14 it took so long, I believe, is that there questions as to
15 whether or not the employer had four employees in the
16 State. And also there's an issue of whether or not there
17 was any insurance coverage for even one of them because it
18 was -- you know, there two different employer's, that's
19 how they grouped them together before. But, I think,
20 that's why it took so long for it to be heard. And the
21 hearing commissioner found that this long distance truck
22 driver had a compensation where it just over \$100 a week.
23 And that there was -- even though there was a compensable
24 injury to the back, there was no -- it was just temporary
25 because he received a VA disability rating of 30 percent.

1 And they ordered that he was -- he said that he was
2 entitled to temporary total for about a year and that
3 essentially it was appealed to the Commission. Full
4 Commission changed the comp rate to about -- to just over
5 500 a week I believe. It is a compensable accident, but
6 they still relied on the commissioner's finding that there
7 was a 30 percent disability rating received from the VA
8 kind of saying, okay, there's nothing wrong with his back,
9 it was just temporary.

10 So based on what you got is you got a claim
11 that -- that was denied. It was a denied claim that
12 subsequently was found to be compensable. He didn't
13 receive medical treatment as he should have received from
14 the employer and it wasn't any hearing until 2012. Now,
15 he was seen by a doctor -- and he was seen by a few
16 doctors. And I'll get into that in just a second, but I'm
17 not going to take prolonging this because the -- my
18 arguments are fairly simple. He was seen by a doctor
19 initially in -- I might as well do this now. He was seen
20 by a doctor approximately six days or so after the
21 accident. This is in the APA submissions page 60 and that
22 document that he had excuse me -- the document that he had
23 suffered an injury excuse me -- it wasn't page 60. This
24 is page 64. He was seen at the Lexington Medical Center
25 in Irmo. It documented the injury. He was subsequently

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1 seen by a number of doctors and you got reports from a Dr.
2 Gunner who's a neurosurgeon. You got reports from Don
3 Johnson, who is a well known orthopaedist down in
4 Charleston. You got reports from a Dr. Neil. They all
5 say he suffered a back injury as a result of this accident
6 and they all say he needs additional medical treatment.

7 Now, the only -- my only understanding of what
8 the Commissioner did and then the Full Commission affirmed
9 it is this man was in the Army back in 1982. He went to
10 Sick Call twice for some lower back pain, that's in 1982.
11 He got the Army -- he continued to serve in the Army
12 including serving three or four months in Desert Storm. I
13 think he got out in '84. He still served about three
14 years in the National Guard. He started driving a truck
15 in 1985 and no problems with his back until this accident.

16 Now, in the hearing or as his case was
17 progressing, accident's in 2002. In 2009, the VA granted
18 him a 30 percent disability to his back. Now, that's all
19 the information we have about that. There's no indication
20 of why they gave him a 30 percent disability to his back.
21 I don't know if they really should have done that or not.
22 I'm wondering if it wasn't because they felt sorry for
23 him, but that has absolutely nothing to do with his
24 Workers' Comp case. It certainly doesn't have anything to
25 do with his Workers' Comp case if there's no showing that

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1 the rating he received from the VA was for the exact
2 problems he was having as a result of this accident. So
3 what we're requesting -- and I'll be glad to answer any
4 questions you got. I know these things get voluminous and
5 I could take two hours arguing this thing, but I don't
6 think there's any reason to. But we're requesting that it
7 be remanded back to the Commission for determination of
8 what medical treatment he currently needs. And if he's
9 determined to be at maximum medical improvement as of now,
10 that they give him a rating to his back, to his back and
11 any other related injuries because he's having radiated
12 pain into his legs.

13 THE COURT: All right. So he's got a 30 percent
14 disability rating from the VA?

15 MR. BARTON: Yes, sir.

16 THE COURT: He has no permanent rating from the
17 Commission?

18 MR. BARTON: Correct.

19 THE COURT: And that's your -- that's the issue?

20 MR. BARTON: They use the VA rating to totally
21 just disregard his back problems from this accident in
22 2002, even though there's like three or four doctors that
23 say he needs treatment. Now, one of the arguments from
24 the other side is that Dr. Neil let him return to work in
25 2003 and Dr. Neil who is a doctor that Mr. Mullus used a

1 lot of the times send claimants to who didn't have anybody
2 else to go to and he went for pain.

3 Dr. Neil released him to go back to work, but he
4 told him to take, you know, short haul jobs and that sort
5 of thing. I think, he did that for like five or six
6 years. Finally, he couldn't do it any more. He ended
7 up -- at the time of this hearing, he was working for the
8 VA doing maintenance work. So the VA's really trying to
9 help him out, but Dr. Neil even though he let him go back
10 to work then, Dr. Neil continued to treatment. Dr. Neil
11 never said he didn't need any more treatment. He did give
12 him an impairment rating at the time that he let him go
13 that time, he said, you know, rating him now he's like at
14 15 percent to the back and 15 percent to his right leg,
15 but he got worse. And now they're saying that he needs, I
16 believe, an EMG and I believe an MRI to determine whether
17 now he needs surgery to his back.

18 Again, the Commission relied on something that
19 happened back in 1982, two trips to Sick Call for his back
20 to say, okay, everything he's got now is related that
21 something happened in 1982 in the Army, even though he
22 served in Desert Storm and two or three more years in the
23 Army, three more years in the reserve. And he worked as a
24 truck driver from 1985 to 2002 with no problem.

25 THE COURT: So they based it on preexisting?

1 MR. BARTON: I don't know because, Judge, he was
2 given -- the evidence at the hearing is basically he was
3 given in 2009 the VA gave him a 30 percent impairment
4 rating supposedly to his back. There is no evidence
5 whatsoever, no reports from the VA, no decision from the
6 VA. All they got is there was a 30 percent impairment
7 disability, I should say receive from the VA. There's no
8 action showing of what that was actually for.

9 THE COURT: And the Full Commission report does
10 not tell you?

11 MR. BARTON: The Full Commission adopts the
12 hearing Commissioner's findings on that particular ---

13 THE COURT: Well, then the hearing
14 Commissioner's report doesn't tell you?

15 MR. BARTON: Yes, sir. And there's just no
16 documents from the VA whatsoever showing what the
17 disability rating was for.

18 THE COURT: All right. Ms. Urbanic.

19 MS. URBANIC: Thank you, Your Honor. As you
20 know this level of Workers' Comp appeal process, the
21 issue's whether or not there's substantial evidence to
22 support findings of the full commission. And I don't know
23 Your Honor if you have copies of the Single Commissioner's
24 order and Full Commission's order in the file or not.

25 THE COURT: Well, let me see because, you know,

1 they stopped sending the files over here.

2 MS. URBANIC: Do you need us to supplement the
3 record after the hearing?

4 THE COURT: Sorry.

5 MS. URBANIC: Do you need us to supplement the
6 record?

7 THE COURT: I don't know.

8 MR. BARTON: I didn't realize they didn't do
9 that anymore.

10 THE COURT: No more. They stopped and they
11 never got them back.

12 MR. BARTON: If there's anything you do need
13 from us, then please let us know. I apologize for that.

14 THE COURT: Let me just -- that's not your...
15 It does not look like a single -- wait a minute.

16 MR. BARTON: The Full Commission order will have
17 the Single Commission order recited in it.

18 MS. URBANIC: Well, it doesn't have all the --
19 what I'll hand up to Your Honor both of them if you like
20 the ---

21 MR. BARTON: I got no objection to that.

22 MS. URBANIC: And the reason I hand up the
23 Single Commissioner's order there is a lengthy discussion
24 about the claimants medical history, medical treatment
25 with regards to that if you -- which would probably be

1 easier for you to read that and me stand here and read it
2 to you.

3 THE COURT: No, we don't need that. I got the
4 full commission's order signed by Andrea Roache.

5 MS. URBANIC: Okay. Let me give this to you.
6 And as you heard, Your Honor, this is a 2002 injury.
7 There actually is no explanation why it took so long for
8 this to come to a hearing in 2012, but the fact there was
9 an issue of coverage doesn't prevent a claimant from
10 filing the evidence presented at the hearing in 2012
11 because he actually retained Mr. Mullis in 2002, which is
12 how he went to Dr. Neil. Mr. Mullis referred to it. So
13 why there was a 10-year delay in getting this case to the
14 hearing on the merits I don't know. I was not the
15 attorney. My office handling the case at that time, that
16 attorney since retired. But with regards to that, in the
17 transcript which you may not have a copy of either. I'm
18 happy to give you a copy of that as well, but it's rather
19 lengthy and thick, is that there was a lot of evidence
20 that came out with regards to inconsistencies and
21 testimony of the claimant. Initially, he gave a recorded
22 statement to Traveler's Insurance company who was thought
23 to have insurance coverage denying some information about
24 his back, prior back injuries.

25 His deposition was taken in 2007. Again, I

1 don't know why his deposition was taken in '07 and it took
2 five more years to get this to a hearing. I wasn't part
3 of that. Mr. Barton wasn't part of it either. And in his
4 deposition the claimant testified he was feeling better
5 only taking Ibuprofen for the back. And then in 2009 for
6 whatever reason at that time he goes to the VA, gets his
7 30 percent disability rating from the VA. There's no
8 information as to how the VA came up to that. Both the
9 claimant's attorney and the defense put in records from
10 the VA in the APA submissions, so there was both sides
11 putting that in. And the claimant testified at the
12 hearing he felt like the 30 percent also perhaps maybe
13 included this injury as well. We don't know because there
14 is no report. They had their chance.

15 They had 10 years to get that evidence, at least
16 three years between 2009 and 2012 and they didn't put that
17 evidence into the record. What the Commission found was
18 that the injury or aggravation was to a preexisting back
19 condition and the record is full of evidence he has
20 spondylolisthesis, which is a degenerative change
21 arthritis in his back. And that the aggravation that he
22 suffered in January 17th 2012 has resolved. And the
23 reason I gave you the Single Commissioner's order is
24 there's a lengthy discussion about all the medical
25 evidence in there. He's gone to doctor's continuously at

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1 the VA. His attorney sent him to additional doctors.
2 There's a lot of inconsistencies in that evidence in
3 there. The Commission does not have to accept all
4 evidence as the fact finder. It's like a jury. It can
5 weigh the evidence, decide what's appropriate and what is
6 not appropriate. And as recited in the Single
7 Commissioner's order, there's evidence to support the
8 findings. It was just an aggravation to a preexisting
9 condition and the fact there was no permanency to his back
10 as a result of this injury.

11 The findings of fact were in 2009. Claimants
12 assign a 30 percent disability from the VA for his
13 military service. And finding of fact number nine,
14 there's no definitive medical evidence in this case
15 causally connecting the claimant's continuing back issues
16 to the injury of January 17th 2002. And, again, I would
17 point to you the Single Commission's order that is
18 supported by the substantial evidence in the case. Not to
19 say they can't argue evidence to their advantage, but just
20 because there's two different sides to argue from a
21 standard is -- if there's evidence to support the
22 findings, you're not a fact finder. There's no errors of
23 law. There was some mention in the claimant's brief about
24 the VA being the collateral source. Mr. Barton didn't
25 address that in his first go around with you, but what I

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1 point out is that issue never been raised previously. It
2 was not raised to the full commission. It cannot be
3 raised at this point. It had to have been raised
4 previously. Therefore, I think the full commission's
5 order is supported by the evidence in the case. And if
6 you need us to submit APA's hearing transcript, I'm more
7 than happy to do that for Your Honor's review. Thank you.

8 THE COURT: Well, let me see if I can sort it
9 out.

10 MR. BARTON: I am not here arguing that it's a
11 collateral source. I'm arguing it's completely
12 irrelevant, the VA thing because there's actually no
13 evidence showing that there are any current medical
14 problems related to the sore back that happened back in
15 1982. There's no evidence of that. And a finding -- if
16 you look eight and nine ---

17 THE COURT: Eight and nine of what?

18 MR. BARTON: Of the -- this is actually in the
19 Full Commission's decisions that adopts the hearing
20 commission. In eight, it points out that in 2009 the
21 claimant was assigned a 30 percent disability from the VA
22 to his back. Well, military service preceding
23 January 17th of 2002 injury because military disability is
24 assign for service related injuries and there's no
25 definitive medical evidence in this case causally

1 connecting the claimants continuing back issues to the
2 injury January 17th 2002. Reimbursement for medical
3 treatment care after January 1st 2004 is denied.

4 All right. The truth of the matter is there is
5 no evidence in the record showing that the VA disability
6 rating which was given in 2009 for problems that occurred
7 back 1982, there's no showing they involve the same
8 problems he's having as a result of this accident. And to
9 the make that finding to state that there's no evidence to
10 show that these problems are related to his accident, this
11 Workers' Comp accident you have to totally ignore the
12 reports of Dr. Neil, Dr. Johnson, Dr. Gunner, and Dr.
13 Westercam (sic). All of those doctors say it's related to
14 the 2002 injury. There's absolutely no -- you know,
15 normally, you'll have a doctor that the defendant's hire
16 that will come in and say he didn't suffer any injury from
17 this accident and there's no continuing problems as a
18 result of the accident. And we don't even have that in
19 this case, which is normal in Workers' Comp cases. And
20 insofar as inconsistencies are concerned, he was asked in
21 a -- by an insurance adjuster given an insurance
22 statement, had you had any prior injuries to your back and
23 he said, no. He hadn't had any prior injuries to his
24 back. He reported to Sick Call in 1982 because his back
25 was hurting. He said probably twice and his explanation

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1 was he said, I guess my back just hurting from carrying
2 the backpacks around and everything. There's no testimony
3 whatsoever that there was an accident back in 1982. What
4 the VA did in 2009 without any explanation of it and there
5 isn't. There's no documentation of why the VA gave them
6 the disability rating, you can't just make the leap and
7 say, okay, since he got that, there's no injury from 2002.

8 THE COURT: I understand.

9 MR. BARTON: Unless, you got any other
10 questions, that's pretty much it.

11 THE COURT: All right. Proposed orders.

12 MR. BARTON: Sir?

13 THE COURT: Will you prepare proposed orders
14 within ten days?

15 MR. BARTON: Yes, sir.

16 MS. URBANIC: You want both of us doing that?

17 THE COURT: Yes.

18 MS. URBANIC: I didn't quite hear you, I'm
19 sorry.

20 END OF REQUESTED TRANSCRIPT
21
22
23
24
25

APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

CLIFFORD PASLEY,
EMPLOYEE, CLAIMANT
RESPONDENT-APPELLANT

v.

LEONARD ENTERPRISES, INC., TRANS AGRI, INC.,

EMPLOYERS

and

S.C. UNINSURED EMPLOYERS' FUND,

APPELLANTS-RESPONDENTS

WCC FILE NO. 0202022

Appellate Panel Review held in Columbia,
South Carolina on July 15, 2013, per notices
timely and properly served upon all parties.

APPEARANCES: Claimant Represented by Frank A. Barton, Esquire and the Mullis Law
Firm, Columbia, South Carolina

Defendant, Uninsured Employers' Fund represented by Natalie Byars
Fisher, Clawson & Staubes, LLC, Charleston, South Carolina.

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STATEMENT OF THE CASE

The parties were heard by Commissioner Gene McCaskill on June 27, 2012, in Columbia, South Carolina. On January 4, 2013, Commissioner McCaskill issued his Order with the following specific Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- "1. The Claimant sustained an injury to his back arising out of and in the course of his employment on January 17, 2002.
2. The Claimant was employed by Leonard Enterprises at the time of his injury. Leonard Enterprises was a down-stream employer or subcontractor for Trans Agri, Inc.
3. Leonard Enterprises and Trans Agri are bound to and subject to the South Carolina Workers' Compensation Act, by regularly employing four or more employees.
4. Based upon his tax returns as the best evidence, the Claimant's average weekly wages were One Hundred Eighty-three and 54/100 (\$183.54) Dollars, resulting in a compensation rate of One Hundred Twenty-two and 42/100 (\$122.42).
5. As a result of the injury, the Claimant did not work for the remainder of 2002, nor for all of 2003.
6. The Claimant returned to work in 2004, earning substantially more in 2004 than he did in 2001, and has continued to work since that time.
7. It is reasonable to conclude that whatever injury or aggravation of his pre-existing spondylolisthesis that the Claimant suffered on January 17, 2002, has resolved.

8. In 2009, the Claimant was assigned a thirty (30%) percent disability from the VA to his back, for military service preceding the January 17, 2002 injury.
9. Because military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002, reimbursement for medical treatment and care after January 1, 2004, is denied.
10. The Claimant is not entitled to any future medical care and treatment under the Act.
11. The Claimant was temporarily totally disabled from January 17, 2002, until December 31, 2003.
12. The Claimant is entitled to reimbursement for any out-of-pocket medical expenses incurred from January 17, 2002, until December 31, 2003, for which documentation can be provided.
13. As Travelers Insurance did not provide coverage for Trans Agri, Inc. in South Carolina at the time of this accident, they are dismissed from the case.

CONCLUSIONS OF LAW

1. Under §42-1-60, the Claimant sustained an injury to his back arising out of and in the course of his employment.
2. Under §42-1-40, the Claimant's average weekly wages were One Hundred Eighty-three and 54/100 (\$183.54) Dollars, resulting in a compensation rate of One Hundred Twenty-two and 42/100 (\$122.42) Dollars.

3. Under §42-1-150, Leonard Brown d/b/a Leonard Enterprises and Trans Agri, Inc., both regularly employed four or more employees and were subject to the Act.
4. Under §42-9-10, the Claimant was temporarily totally disabled from January 17, 2002 until December 31, 2003.
5. Under §42-9-30, the Claimant has failed to met his burden of proving that he sustained any loss of use or disability to his back, as a result of this accident, but, instead only a temporary aggravation of a pre-existing condition, for which he is receiving a 30% disability.
6. Under §42-15-60 and §42-15-80, the Claimant is entitled to causally related medical treatment only until January 1, 2004.
7. Under §42-9-10, 42-9-20 and 42-9-30, or any other provisions of the Act, the Claimant is not entitled to any further benefits."

Within the statutory period for review, counsel for both Claimant and Defendants filed an application for review setting forth their grounds for review, copies of which were furnished to all interested parties, prior to oral argument before the Appellate Panel on July 15, 2013.

DISCUSSION

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and have since been under study and consideration. In an appellate review, the Appellate Panel shall, pursuant to S.C. Code Ann. Section 42-17-50 (1989), review the award, weigh the evidence as

presented at the initial hearing, and, if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent with or inconsistent with those of the Hearing Commissioner.

After considering all of the evidence in the record and the arguments presented, the Appellate Panel, by unanimous vote, affirms the Order of the Hearing Commissioner with amendments. Accordingly, the following Findings of Fact and Conclusions of Law shall become, and hereby are, the law of the case:

FINDINGS OF FACT

1. The Claimant sustained an injury to his back arising out of and in the course of his employment on January 17, 2002.
2. The Claimant was employed by Leonard Enterprises at the time of his injury. Leonard Enterprises was a down-stream employer or subcontractor for Trans Agri, Inc.
3. Leonard Enterprises and Trans Agri are bound to and subject to the South Carolina Workers' Compensation Act, by regularly employing four or more employees.
4. Claimant's Average Weekly Wage and Compensation Rate are amended based on his actual earnings to be \$ 781.25 and \$ 520.86.
5. As a result of the injury, the Claimant did not work for the remainder of 2002, or for the majority of the first two months of 2003.
6. The Claimant returned to work in February of 2003, and he has continued to work since that time.
7. It is reasonable to conclude that whatever injury or aggravation of his pre-existing spondylolisthesis that the Claimant suffered on January 17, 2002, has resolved.

8. In 2009, the Claimant was assigned a thirty (30%) percent disability from the VA to his back, for military service preceding the January 17, 2002 injury.
9. Because military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002, reimbursement for medical treatment and care after January 1, 2004, is denied.
10. The Claimant is not entitled to any future medical care and treatment under the Act.
11. The Claimant was temporarily totally disabled from January 17, 2002, until February 18, 2003.
12. The Claimant is entitled to reimbursement for any out-of-pocket medical expenses incurred from January 17, 2002, until December 31, 2003, for which documentation can be provided.
13. As Travelers Insurance did not provide coverage for Trans Agri, Inc. in South Carolina at the time of this accident, they are dismissed from the case.

CONCLUSIONS OF LAW

1. Under §42-1-60, the Claimant sustained an injury to his back arising out of and in the course of his employment.
2. Under §42-1-40, the Claimant's average weekly wages were \$ 781.25 with a corresponding compensation rate of Five Hundred Twenty and 86/100 Dollars (\$ 520.86).
3. Under §42-1-150, Leonard Brown d/b/a Leonard Enterprises and Trans Agri, Inc., both regularly employed four or more employees and were subject to the Act.

4. Under §42-9-10, the Claimant was temporarily totally disabled from January 17, 2002 until February 18, 2003.
5. Under §42-9-30, the Claimant has failed to met his burden of proving that he sustained any loss of use or disability to his back, as a result of this accident, but, instead only a temporary aggravation of a pre-existing condition, for which he is receiving a 30% disability.
6. Under §42-15-60 and §42-15-80, the Claimant is entitled to causally related medical treatment only until January 1, 2004.
7. Under §42-9-10, 42-9-20 and 42-9-30, or any other provisions of the Act, the Claimant is not entitled to any further benefits.

ORDER

IT IS, THEREFORE, ORDERED that the Employers, Leonard Enterprises and Trans Agri, Inc., shall pay to the Claimant temporary total disability compensation for the period of January 17, 2002, until February 18, 2003.

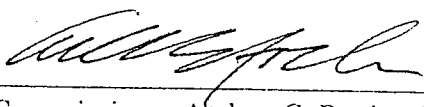
IT IS, FURTHER, ORDERED that the Employers, Leonard Enterprises and Trans Agri, shall pay all causally related medical expenses, including the Claimant's out-of-pocket expenses until January 31, 2004.

IT IS, FURTHER, ORDERED that should the Employers, Leonard and Trans Agri,, be unable to or not make payments per this Order, that the South Carolina Uninsured Employer's Fund shall do so with the full right of recovery as provided in the Act.

IT IS, FURTHER, ORDERED that the Claimant is not entitled to additional benefits under the Act.

AND IT IS SO ORDERED.

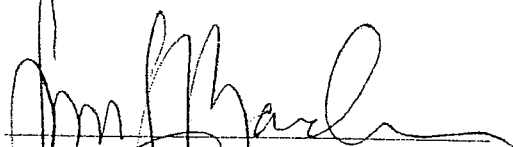
South Carolina Workers' Compensation Commission

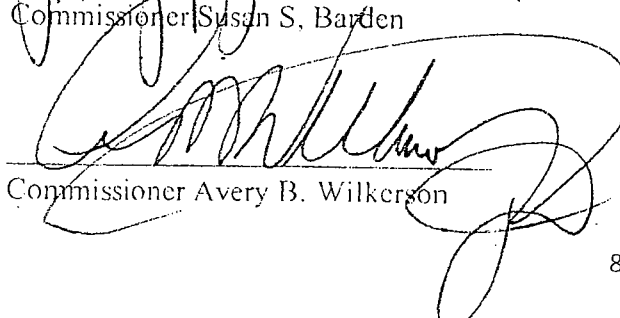
By: 

Commissioner Andrea C. Roche, Chair
South Carolina Workers' Compensation Commission

AFFIRMATION WITH AMENDMENT

CONCUR:


Commissioner Susan S. Barden


Commissioner Avery B. Wilkerson

DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. NO.: 0202022

STATE OF SOUTH CAROLINA	)
	)
COUNTY OF BERKELEY	)
	)
Clifford Pasley,	)
Claimant,	)
vs.	)
Trans Agri, Inc./Leonard Enterprises,	)
Employer,	)
and	)
Travelers Insurance Company,	)
Carrier.	)
_____	)

HEARING: Held on June 27, 2012, in Columbia, SC, per notices timely and properly served upon all parties of interest.

APPEARANCES: The Claimant was represented by J. Marvin Mullis, Jr., Esquire of the Mullis Law Firm, Columbia, South Carolina (now deceased)

The alleged Carrier for Trans Agri, Inc., Travelers Insurance Company was represented by Richard Daniel Addison, Jr., of Hedrick Gardner Kincheloe & Garofalo, LLP, Columbia, South Carolina.

The South Carolina Uninsured Employer's Fund was represented by Terri J. Morrill, of Clawson & Staubes, LLC, Charleston, South Carolina.

No one appeared on behalf of Trans Agri, Inc.

PURPOSE OF HEARING: To determine issues as set forth on Forms 50 and 51.

DECISION AND ORDER: By Commissioner Gene McCaskill

DATE OF DECISION: January 4, 2012

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APA SUBMISSIONS

The Claimant, Clifford Pasley, submitted into evidence, the following:

1.	J. Adger Brown, MA	12/30/11	1-5
2.	Dr. W. Randall Westerkam Rehabilitation & Geriatrics	11/22/10	6-7
3.	Dr. Green B. Neal	3/18/11-8/13/02	7(a)-33
4.	Dr. Donald Johnson South Eastern Spine Institute	6/22/10	34-35
5.	Veteran's Administration	12/1/11-7/16/02	36-56
6.	Dr. T. Daniel Sylvester InMed	10/12/05	57-59
7.	Dr. Brett C. Gunter Columbia Neurosurgical	4/15/02	60-62
8.	Dr. John W. Haynes Lexington Medical Center Radiology	3/26/02	63
9.	Dr. G. Steven Suits	1/23/02-2/14/02	64-67
10.	Guides to the Evaluation of Permanent Impairment		69-82
	EXHIBITS		
11.	1. Affidavit of Leonard Brown	7/11/02	83-84
	2. Letter of SCWCC Compliance Division Director Garry Smith	8/8/07	85-96
	Addendum 1-8		

The South Carolina Uninsured Employer's Fund ("hereinafter referred to as "SCUEF"), submitted into evidence, the following:

	EXHIBITS	DATE	PAGE NOS.

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1.	Subpoena: Leonard Enterprises	4/28/11	1-2
2.	SSN Wage Record Inquiry	2004-2010	3-8
3.	Employment Security Commission Records	1/24/10 10/15/2006-1/15/2010	9-11
4.	Employment Security Commission Last Date Worked	1/17/10	12
5.	Coverage and Compliance letter to Claimant's attorney	8/2/02	13-14
6.	Travelers' Summary	1/28/02	15-36
7.	U.S. Treasury Department (Claimant's Tax returns)	2001, 2004-2008	37-48
	PROVIDER	REPORT DATE	PAGE NOS.
8.	Veteran's Administration Hospital	2/8/11-9/22/11	49-59
9.	Occupational Health	4/27/09	60
10.	In Med	6/11/07, 10/12/05	61-63
11.	Dr. Green B. Neal	8/13/02-10/5/05	64-74
12.	Dr. Brett C. Gunter	4/15/02	76-76
13.	Lexington Medical Center	1/23/02 and 3/26/02	77-79

The Travelers' Insurance Company submitted into evidence, the following:

	EXHIBITS	DATE	PAGE NOS.
1.	Letters from Garry Smith	6/27/02, 8/2/02, and 8/8/07	1-18
2.	Declaration sheet for Trans Agri, Inc., Workers' Compensation Policy		19-20
3.	Affidavit of Leonard Brown		21-22

Following the hearing, the undersigned Commissioner accepted briefs upon the issue

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of average weekly wages and compensation rate. A brief on behalf of the Claimant was duly filed and served on July 11, 2011, while a brief on behalf of the South Carolina Uninsured Employer's Fund was filed and served on July 17, 2012.

STIPULATIONS

The parties stipulated at the hearing, as follows:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter.
2. Venue was properly set in Richland County, South Carolina, per agreement of the parties.
3. The Claimant sustained a compensable injury to his back on January 17, 2002.
4. This hearing was held to determine issues as set forth on Forms 50 and 51.

STATEMENT OF CASE

This matter came before the South Carolina Workers' Compensation Commission upon the issues raised by the Claimant's filing of a Form 50, Employee's Request for Hearing. The Claimant, in his Form 50, and at the hearing, alleged that he was employed by a trucking company, Trans Agri, who leased trucks from or subcontracted Leonard Enterprises, owned by Leonard Brown. He, further, asserted that he had workers' compensation coverage because money was withheld from his pay for coverage. The Claimant requested the payment of all medical bills, temporary

disability compensation, and an award of permanency. He also contended that his average weekly wages were Six Hundred Thirty-Six and 18/100 (\$636.18) Dollars, resulting in a compensation rate of Four Hundred Twenty-four and 12/100 (\$424.12) Dollars.

The Uninsured Employers' Fund took the position that the Claimant was employed by Leonard Brown d/b/a Leonard Enterprises; and that the company regularly employed only three employees and, therefore, was not subject to the Act. They, further, asserted, that, if the Commission found jurisdiction, the records reflect that the Claimant has worked regularly since late 2002. Further, they asserted that the Claimant had pre-existing spondylolisthesis, and that this injury was only a temporary aggravation of that condition, as the Claimant was released to full duty by December 12, 2002, and from treatment by Dr. Green B. Neal by February 18, 2003. The SCUEF also asserted that any treatment, after that time, was the result of Claimant working for other employers, including in 2005 when he reported pain after getting into the cab of a truck. Additionally, the SCUEF asserted that the Claimant was receiving a 30% disability for his lower back from the Veterans Administration, due to a prior back injury in service, which was for the same area of the back for which he was complaining of pain in this case.

Travelers Insurance for EBI/Royal and Sun Alliance asserted that there is no coverage in the State of South Carolina for a policy issued to Trans Agri, Inc., as an employer in the State of North Carolina, because it was insured only through the assigned risk system in North Carolina. They, further asserted, that there is no

evidence that there was ever a policy issued in the State of South Carolina for Trans Agri. They submitted that the only competent evidence to determine the Claimant's average weekly wages and compensation rate were his tax returns for the year 2001, showing a gross income of Ten Thousand Two Hundred Seventy and no/100 (\$10,270.00) Dollars. As this injury occurred in January 2002, the tax, would operate as a full year prior to the injury, and would give average weekly wages of One Hundred Ninety Seven and 50/100 (\$197.50) Dollars with a compensation rate of One Hundred Thirty-one and 67/100 (\$131.67) Dollars.

EVIDENCE OF CASE

Mr. Leonard Brown, the alleged Employer, testified on his own behalf at the hearing. It was his testimony that he owned a trucking business in 2002, transporting freight. He owned only three trucks with three people driving for him. (Tr., p 25) Mr. Brown owned the corporation, but was a train engineer. He believed Trans Agri, to whom he leased his trucks, had other leased operations in South Carolina. (Tr., p. 26) Mr. Brown was an officer of his corporation and believed he was paying Trans Agri for workers compensation coverage (Tr., p. 37).

Mr. Brown also testified that he was an officer of his corporation and checked on his drivers. He agreed that if he was included as an employee, then there were four employees. (Tr., p.48)

On cross-examination by counsel for the Uninsured Employers Fund, Mr. Brown admitted that he only had three drivers working for him and that he, personally, worked as a locomotive engineer. (Tr., p. 32) He also admitted that Trans Agri did not have a

location in South Carolina but, was located only in North Carolina. (Tr., p.34) When questioned about the Claimant's tax returns, Mr. Brown stated that he would not dispute those. (Tr., p. 35)

On cross-examination by counsel for the Travelers, Mr. Brown admitted that he was never provided any type of documentation that he had coverage from Trans Agri nor from Travelers Insurance. (Tr., p. 37) Upon further questioning, he also testified that he would only drive one of his trucks on the rare occasion that one of his drivers was not available.

Upon questioning from the undersigned Commissioner, Mr. Brown also testified that he had only three drivers for his corporation and that he worked for and was paid by CSX Railroad. (Tr., p. 46)

Mr. Garry Smith, an employee of the South Carolina Workers Compensation Commission at the time of the hearing, also testified. Mr. Smith was the Director of Compliance at that time. One of his duties was to conduct an investigation to determine whether or not there was coverage under the South Carolina Workers' Compensation Act. As part of that investigation, he had interviewed Leonard Brown, as well as a representative of Trans Agri, in 2002. (Tr., p. 50) He testified that there is a provision in the S.C. Code in Section 33-7-410, but not in the Workers Compensation Act, stating that "employees" include officers of a corporation, but not a director unless the director accepts duties making him an employee. (Tr., p. 51) It was Mr. Smith's opinion that there was no coverage for Travelers in South Carolina because it provided only an assigned risk policy in North Carolina. (Tr., p. 54) He stated that the question of

whether or not there were four or more employees would be subject to interpretation by the Commission. (Tr., p. 54)

On cross-examination by the SCUEF, Mr. Smith admitted that he was not giving an opinion that Leonard Brown was an employer who regularly employed four or more employees. (Tr., p. 56) Upon cross-examination by counsel for the Travelers, Mr. Smith affirmed that it was his opinion that there was not coverage in the state of South Carolina. (Tr., p. 61)

On further questioning by counsel for the Claimant, Mr. Smith reiterated that whether or not Leonard Brown would be considered an employee would be considered a

conclusion of law. (Tr., p. 54) Mr. Smith also admitted, on further questioning, that Leonard Brown did not personally take out a premium. (Tr., p. 67)

The Claimant, Clifford Pasley also testified at the hearing. At that time, he was living in Gaston, South Carolina, where he had resided for about two and one-half (2½) years, prior to which he resided in Columbia. (Tr., p. 70) He was injured when he was tying down a load of steel on a flatbed truck and felt a pinch in back running into his right leg. (Tr., pp. 70 and 71) He was seen by Dr. Green B. Neal and by the VA Hospital, but could not afford to pay Dr. Neal. (Tr., p. 71) He believes he was out of work twelve or thirteen months, and that he was released to work by Dr. Neal, at which time he went back. (Tr., p. 71) Dr. Neal prescribed him medications and the VA Hospital gave him physical therapy and medication. (Tr., p. 72) After his injury the

Claimant had three or four different truck driving jobs. (Tr., p. 73) He also was working, at the time of the hearing, doing housekeeping at the VA Hospital. (Tr., p. 74) He admitted that the reason he quit one of his jobs was because the owner sold his truck, but claimed that driving a commercial truck put a lot of stress on his back. He was taking medication at the time of the hearing although working for the V.A. Hospital full-time. (Tr., p. 74) It was Mr. Pasley's personal opinion that he had some loss of use of his back from this incident. He testified that he had previously had an injury from Desert Storm, but claimed that he was able to work without issues from his back other than some pain. (Tr., p. 75) He also admitted he was receiving disability from the VA. (Tr., p. 76) Mr. Pasley believed he was diagnosed with a herniated disk after his accident, but admitted that he had never had surgery. He took only Ibuprofen at the time of the hearing. (Tr., p. 79) He also complained of some pain into his foot. (Tr., p. 79) The Claimant testified that he was working for Leonard Brown at the time of his injury driving a truck and that Mr. Brown, supervised loads. (Tr., p. 83) He also turned log books into Mr. Brown but did not know what he did with those. (Tr., p. 85)

On cross-examination by counsel for the SCUEF, Mr. Pasley admitted that he recalled giving a recorded statement, but did not recall saying that he had never injured his back previously. (Tr., p. 87) He admitted, at the hearing, that he actually been to sick bay in the military for his back and was receiving thirty (30%) percent disability from the military for his back, which included some of the pain from this injury. (Tr., p. 88) In fact, he testified that he believed that his disability was paying for some of the injury in this case. (Tr., p. 88) Further, the Claimant admitted that he continued to work after

his accident in this case from 2003 to 2010, or for approximately seven (7) years, and that he has made as much as \$27,000 in 2004, driving as a truck driver. (Tr., p. 90) He also admitted that Dr. Neal released him to work by January 2003. (Tr., p. 92) Additionally, he testified that he is a high school graduate and has served both in the active military and reserve receiving an honorable discharge. (Tr., p. 94) He also admitted that there were periods after his injury that he drew unemployment certifying to the Employment Security Commission that he was willing and able to work. (Tr., p. 94) The Claimant testified that he is aware that he has the condition of spondylolisthesis and degenerative disk disease, and that his MRI in 2007 was essentially the same as the one in 2002. (Tr., p. 95)

On cross-examination by counsel for the Travelers, the Claimant admitted that the reason he was seen by Dr. Green because he was sent there by his attorney. (Tr., p. 99) He admitted that no one at Travelers ever told him that they were going to accept his case but that he believed that the owner of Trans Agri was going to pay the medical insurance. (Tr., pp. 100 and 101)

Upon further questioning from his attorney, Mr. Pasley testified that he was paid thirty (30%) percent disability of his back by the VA after the time he filed the claim in this case for the last three of four years. (Tr., p. 104)

Mr. Leon Darryl Surjiner also testified for the Claimant, who he knew personally. (Tr., p. 107) He noticed him moving slowly at church in 2002, and had helped him mow his grass. (Tr., p. 108) Subsequently, he observed him still moving slowly, but getting around better. (Tr., p. 108)

On cross-examination by the SCUEF, Mr. Surjiner admitted that he was, at the time of the hearing, aware that the Claimant was receiving a 30% disability from the military.

The Claimant also presented the testimony of Mr. William Davis, a truck driver, who knew Mr. Pasley and observed him moving slowly and stiffly. (Tr., p. 111) . He personally did not believe that Mr. Pasley could do heavy to medium manual labor. (Tr., pp. 111 and 112) Upon cross-examination Mr. Davis admitted that he was aware that the Claimant was working for the VA Hospital and that he was receiving disability from them for his back. (Tr., p. 113)

In addition to the testimony at the hearing, voluminous records were submitted into evidence under the Administrative Procedures Act. The Claimant submitted into evidence a Vocational Evaluation Report from J. Adger Brown, Jr. That report indicated that he was referred by his attorney. Mr. Brown conducted a review of the Claimant's medical history and educational background, as well as his work history. It was his conclusion that the Claimant had made an effort to return to work, and remained employed. He stated that it was difficult to demonstrate that there was a loss of earnings compared to his prior employment, however, he believed that, should Mr. Pasley lose his job, he would have an extreme deficit in returning to work.

The Claimant also submitted a ream of medical evidence and reports. These included EMG studies from November 22, 2010, which consisted of a normal study showing no evidence of a lumbosacral radiculopathy, although a physical examination was consistent with a sensory loss.

Also submitted were numerous handwritten reports of Dr. Green B. Neal. Dr. Neal's report of March 18, 2011, noted that the Claimant was having radiculopathy with stenosis., and that he hoped the Commission would order orthopaedic surgery.

Additionally submitted was a report from Dr. Donald R. Johnson of Southeastern Spine dated June 22, 2010. That report noted only the history of the Claimant's injury on January 17, 2002, and not a military injury. Dr. Johnson agreed with the recommendation for EMG and nerve conduction studies, as well as spinal injection and lumbar stabilization exercises. He did not believe that the Claimant was at maximum medical improvement.

Numerous medical records from the VA hospital were also submitted. These reflect that, on December 2, 2011, the Claimant had a history of a herniated disk, but noted that taking Flexeril helped.

Also submitted was an MRI from InMed dated October 12, 2005. The finding on that MRI was of grade I spondylolisthesis with degenerative changes at L5 and a disk osteo formation and protrusion. Another MRI of the same date of the thoracic spine only showed mild degenerative changes of the thoracic spine.

A neurosurgical report of Dr. Brett C. Gunter of April 15, 2002, was also submitted into evidence. That report found that the Claimant had a foot drop and nerve root compression from spondylolisthesis at L5-S1. Dr. Gunter noted, however, that Mr. Pasley was making significant improvement without therapy, and did not require surgical intervention.

An MRI dated March 26, 2002, showed Grade IL5-S1 spondylolisthesis with degenerative disk space narrowing, and a disk bulge without a frank disk herniation, while records from Lexington Medical Center, Irmo, of February 14, 2002, reflected that the Claimant had a herniated disk with foot drop, and that he was going to try to obtain an MRI.

Counsel for the Claimant also submitted portions of the Guides to the Evaluation of Permanent Impairment and an Affidavit of Leonard Brown along with a summary of the investigation completed by Garry Smith. Both of these individuals also testified at the hearing.

Counsel for The Travelers offered into evidence letters from Garry Smith of June 27, 2002, August 2, 2002 and August 8, 2007. Additionally, they submitted a Declarations Sheet for Trans Agri, Inc's workers compensation policy and the Affidavit of Leonard Brown, also submitted by the Claimant.

The South Carolina Uninsured Employers' Fund submitted a recorded statement of Clifford Pasley reflecting that he drove a truck for Leonard Enterprises. They also submitted a portion of the deposition of the Claimant showing that he had testified that Leonard Brown only owned three trucks. Additionally, they submitted into evidence, the Social Security Wage Records for the Claimant showing his earnings from 2004 through 2010; and records showing his receipt of unemployment compensation in 2010. They also submitted other records from the Employment Security Commission showing that the Claimant had applied for benefits.

The SCUEF also submitted a copy of a letter of August 2, 2002, to the Claimant's

attorney from Garry Smith at which time he advised counsel for the Claimant that it would be necessary for him to prove that either Leonard Enterprises or Trans Agri were subject to the South Carolina Workers Compensation Act by regularly employing four or more employees.

The SCUEF also submitted numerous medical records into evidence. This included records from Lexington Medical Center of March 26, 2002, showing the Claimant to have a diagnosis of spondylolithesis, without disk herniation. They also submitted the report of Dr. Bret C. Gunter dated April 15, 2002, showing spondylolithesis with significant improvement, and no need for surgical intervention. Additionally, they submitted the reports of Green B. Neal including on August 25, 2002, when he felt the Claimant had only a nerve impingement. On October 23, 2002, he released him to return to work as a truck driver doing local runs. On December 2, 2002, he released him to short runs to progress to full duty work and on February 18, 2003, Dr. Neal gave a rating, which included the cervical spine and upper extremity. On September 8, 2005, Dr. Neal noted that he had previously released the Claimant on February 18, 2003. On October 5, 2005, he noted that Mr. Pasley had returned to work driving trucks and that5. he suffered from pain climbing out of a cab of truck.

The SCUEF also submitted an MRI of June 11, 2007, which should only early osteoarthritic changes to the right hip and an MRI of the lumbar and thoracic spine of October 12, 2005, showing spondylosis and degenerative changes. They submitted a record from Occupational Health dated April 27, 2009, showing that the Claimant had passed the physical examination for his CDL. Additionally, they submitted into evidence

records from the VA Hospital showing that on March 3, 2011, the Claimant was asking for an updated MRI. On March 7, 2011, he had bilateral foot pain after working twelve hour shifts. On April 11, 2011, he had chest pain and stress about an upcoming wedding, but was working in the housekeeping department. On May 27, 2011, he had been working the 3:30 p.m. to midnight shift. Finally, on September 22, 2011, it was noted that the Claimant was appealing his workers' compensation claim.

The undersigned Commissioner has had an opportunity to observe the witnesses at the hearing and consider their testimony, as well as review the evidence submitted into the record under the Administrative Procedures Act. Based upon my review of the testimony of the witnesses and evidence, I make the following:

FINDINGS OF FACT

1. The Claimant sustained an injury to his back arising out of and in the course of his employment on January 17, 2002.
2. The Claimant was employed by Leonard Enterprises at the time of his injury. Leonard Enterprises was a down-stream employer or subcontractor for Trans Agri, Inc.
3. Leonard Enterprises and Trans Agri are bound to and subject to the South Carolina Workers' Compensation Act, by regularly employing four or more employees.
4. Based upon his tax returns as the best evidence, the Claimant's average weekly wages were One Hundred Eighty-three and 54/100 (\$183.54) Dollars, resulting in a compensation rate of One Hundred Twenty-two and 42/100 (\$122.42).

5. As a result of the injury, the Claimant did not work for the remainder of 2002, nor for all of 2003.
6. The Claimant returned to work in 2004, earning substantially more in 2004 than he did in 2001, and has continued to work since that time.
7. It is reasonable to conclude that whatever injury or aggravation of his pre-existing spondylolisthesis that the Claimant suffered on January 17, 2002, has resolved.
8. In 2009, the Claimant was assigned a thirty (30%) percent disability from the VA to his back, for military service preceding the January 17, 2002 injury.
9. Because military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002, reimbursement for medical treatment and care after January 1, 2004, is denied.
10. The Claimant is not entitled to any future medical care and treatment under the Act.
11. The Claimant was temporarily totally disabled from January 17, 2002, until December 31, 2003.
12. The Claimant is entitled to reimbursement for any out-of-pocket medical expenses incurred from January 17, 2002, until December 31, 2003, for which documentation can be provided.
13. As Travelers Insurance did not provide coverage for Trans Agri, Inc. in South Carolina at the time of this accident, they are dismissed from the case.

CONCLUSIONS OF LAW

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1. Under §42-1-60, the Claimant sustained an injury to his back arising out of and in the course of his employment.
2. Under §42-1-40, the Claimant's average weekly wages were One Hundred Eighty-three and 54/100 (\$183.54) Dollars, resulting in a compensation rate of One Hundred Twenty-two and 42/100 (\$122.42) Dollars.
3. Under §42-1-150, Leonard Brown d/b/a Leonard Enterprises and Trans Agri, Inc., both regularly employed four or more employees and were subject to the Act.
4. Under §42-9-10, the Claimant was temporarily totally disabled from January 17, 2002 until December 31, 2003.
5. Under §42-9-30, the Claimant has failed to met his burden of proving that he sustained any loss of use or disability to his back, as a result of this accident, but, instead only a temporary aggravation of a pre-existing condition, for which he is receiving a 30% disability.
6. Under §42-15-60 and §42-15-80, the Claimant is entitled to causally related medical treatment only until January 1, 2004.
7. Under §42-9-10, 42-9-20 and 42-9-30, or any other provisions of the Act, the Claimant is not entitled to any further benefits.

ORDER

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IT IS, THEREFORE, ORDERED that the Employers, Leonard Enterprises and Trans Agri, Inc., shall pay to the Claimant temporary total disability compensation for the period of January 17, 2002, until December 31, 2003.

IT IS, FURTHER, ORDERED that the Employers, Leonard Enterprises and Trans Agri, Inc., shall pay all causally related medical expenses, including the Claimant's out-of-pocket expenses until January 31, 2004.

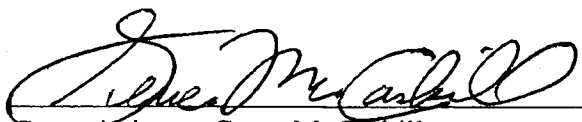
IT IS, FURTHER, ORDERED that should the Employers, Leonard Enterprises and Trans Agri, Inc., be unable to or do not make payments per this Order, that the South Carolina Uninsured Employer's Fund shall do so with the full right of recovery as provided in the Act.

IT IS, FURTHER, ORDERED that the Claimant is not entitled to additional benefits under the Act.

IT IS SO ORDERED.

No hearing costs are assessed in this instance.

Columbia, South Carolina


Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

January 4, 2013

By: Kellie Lindler, Administrative Assistant to Commissioner McCaskill

000092

South Carolina Workers' Compensation Commission
P.O. Box 1715 · 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 757-5700

WCC File # 0202022
Carrier File #
Carrier Code #
Employer FEIN

Clifford Pasley
Claimant's Name

SSN

Trans Agri, Inc./Leo-Dor Enterprises, Inc.
Employer's Name

7400 Huntclub #48 Columbia, SC 29223
Address City State Zip

371 W Hill Street Goldsboro, NC 27534
Address City State Zip

()
Home Phone #

()
Work Phone #

Travelers' Insurance and SCUEF
Insurance Carrier

Pamela R. Mullis
Preparer's Name

((803)) 799-9577
Phone #

Request for Commission Review by ☒ claimant ☐ employer (check one)

Date of injury: 1/17/2002

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

See Attached

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

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Terri J. Morrill
Clawson & Staubes, LLC, Charleston, SC and Richard Daniel Addison of Hedrick Borer, Kincheloe
Garofalo, LLP, Columbia SC

on the 17th day of January, 2013 by ☐ first class mail; ☐ personal service; ☒ certified mail.

Pamela R. Mullis

Attorney
Title

1/17/2013
Date

Check this box if you are not represented by an attorney. ☐

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701 B. Otherwise, file the original and 4 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

GROUND FOR APPEAL

1. The Hearing Commissioner erred as a matter of law and fact in setting Claimant's average weekly wage (AWW) and corresponding compensation rate at a figure which bears no relation to the actual amount Claimant was earning at the time of the accident;
2. The Hearing Commissioner erred as a matter of law and fact in failing to set Claimant's AWW at a figure which would most nearly approximate the amount which he would be earning were it not for the injury.
3. The Hearing Commissioner erred as a matter of law and fact in setting Claimant's AWW based solely on figures taken from the Schedule C reflecting Claimant's earnings as a self-employed driver in his 2001 tax return, which did not reflect his actual earnings for the employer due to the short time he was employed by the employer prior to his accident.
4. The Hearing Commissioner erred as a matter of law and fact in setting Claimant's average weekly wage without reference to the testimony and documentary evidence which established that, at the time of his injury, Claimant was working as a long-distance truck driver for the employer and he was paid 35 percent of the pay from the load, earning far more than was indicated on his 2001 tax returns which reflected a period of self-employment prior to his starting work for the employer.
5. The Hearing Commissioner erred as a matter of law and fact in calculating Claimant's average weekly wage without considering or including the documentary evidence submitted which established that Claimant was paid 35% of the pay from loads.
6. The Hearing Commissioner erred as a matter of law and fact in calculating Claimant's average weekly wage without taking into consideration the testimony submitted which indicated that Claimant was self employed for the first part of 2001 and he was only employed by this employer for the last five or six months of 2001, prior to the admitted accident.
7. The Hearing Commissioner erred as a matter of law and fact in setting Claimant's average weekly wage at \$183.54, a figure much lower than his actual earnings where the figure chosen is unreasonably low and manifestly unfair to Claimant.
8. The Hearing Commissioner erred as a matter of law and fact in reaching the improbable, unrealistic conclusion that Claimant worked as a long-haul truck driver, driving long distance, multi-state loads, for which he was paid only approximately \$183.54 per week.

9. The Hearing Commissioner erred as a matter of law and fact in finding and concluding that Claimant worked as a long-haul truck driver, driving long distance, multi-state loads, and that he was paid for his efforts only approximately \$183.54 per week which would lead to the ludicrous conclusion that Claimant was performing the arduous, difficult, and sometimes dangerous work of a long haul trucker for less than five dollars an hour, i.e., less than minimum wage.
10. The Hearing Commissioner erred as a matter of law and fact in reaching the unlikely conclusion that Claimant worked as a long-haul truck driver, driving long distance, multi-state loads, and that he was paid for his efforts only approximately \$183.54 per week, from which figure he had consented to have the employer deduct \$30 a week for the cost of workers' compensation insurance; Under the estimation of Claimant's AWW put forward by the defense and accepted by the Hearing Commissioner, Claimant supposedly worked full time performing the arduous, difficult, and sometimes dangerous work of a long haul trucker, but his pay was supposedly only about \$184.54 a week, before taxes.
- 11/ The Hearing Commissioner erred as a matter of law and fact in setting Claimant's average weekly wage based on a tax return which reflected his self-employment earnings before he started work for the employer without considering the records and testimony reflecting Claimant's actual earnings for the employer.
12. The Hearing Commissioner erred as a matter of law and fact in allowing Defendants to challenge the average weekly wage asserted by Claimant where no Form 20 had been filed with the Commission or provided to Claimant despite the fact that the Defendants were in possession of the pay records and driver settlement sheets necessary to perform a precise and accurate calculation of Claimant's average weekly wage.
13. The Hearing Commissioner erred as a matter of law and fact in failing to find Claimant sustained permanent disability to his back and legs as a result of the admitted work accident on January 17, 2002.
14. The Hearing Commissioner erred as a matter of law and fact in erroneously finding that Claimant's January 17, 2002, accident resulted only in a temporary aggravation of a pre-existing, military-service-related-injury to his back where the evidence and the chain of events reasonably and logically support a finding that the January 17, 2002, work accident aggravated and worsened the previously quiescent and not disabling military-related injury to Claimant's back.
15. The Hearing Commissioner erred as a matter of law and fact in failing to award permanent disability benefits for the injuries to Claimant's back and legs, where such decision is not supported but contradicted by the evidence submitted.

16. The Hearing Commissioner erred as a matter of law and fact in not distinguishing between impairment and disability and in not finding the Claimant had sustained substantial disability in light of the injuries to his back and legs.
17. The Commissioner erred as a matter of law and fact in not interpreting the Workers' Compensation Act in a manner favorable to the Claimant as required by the nature and scope of the Act.
18. The Hearing Commissioner erred as a matter of law and fact in not taking into consideration or awarding benefits for the disability or "loss of use" to the Claimant's leg(s).
19. The Commissioner erred as a matter of law and fact in not finding or awarding benefits for the disability to claimant's back.
20. The Commissioner erred as a matter of law and fact in failing to award benefits for the disability to Claimant's back and legs given that the medical evidence establishes without question that Claimant's back injury has negatively affected his use of his back and his use of his legs to perform work.
21. The Commissioner erred as a matter of law and fact (assuming the claimant is not totally and permanently disabled) in not paying the claimant for permanent partial disability.
22. The Commissioner erred as a matter of law and fact in not considering the effects of Claimant's injuries on his ability to work and earn wages where the effect of his injuries clearly interferes with his ability to work manual labor; at the time of the admitted accident, Claimant was able to perform the strenuous work of a long-haul truck driver; since the work accident, Claimant has tried to work as a truck driver, but he eventually took on light work as a custodian at the V.A.
23. The Commissioner erred as a matter of law and fact in not interpreting the Act in favor of the employee.
24. The Commission erred as a matter of law and fact in the finding that the admitted injury to Claimant's back did not cause or contribute to his disabling back condition where that finding is against the greater weight and preponderance of the evidence.
25. The Commission erred as a matter of law and fact in the finding that the admitted injury to Claimant's back did not cause or contribute to his disabling bilateral leg condition where that finding is against the greater weight and preponderance of the evidence.

26. The Hearing Commissioner erred as a matter of law and fact in placing a date limit on his Order that Defendants pay the cost of Claimant's "causally related medical care."
27. The Hearing Commissioner erred as a matter of law and fact in failing to hold Defendants responsible for the entire cost of Claimant's "causally related" medical care.
28. The Hearing Commissioner erred as a matter of law and fact in failing to hold Defendants responsible for the entire cost of Claimant's out-of-pocket expenses incurred in relation to his work injuries.
29. The Hearing Commissioner erred as a matter of law and fact in ruling that Claimant was not entitled to medical treatment and care or reimbursement for medical treatment and care after January 1, 2004.
30. The Hearing Commissioner erred as a matter of law and fact in ruling that Claimant is not entitled to any further medical care under the Act, where this finding is unsupported by the medical evidence submitted.
31. The Hearing Commissioner erred as a matter of law and fact in assuming that Claimant's objectively established injured condition after the admitted work accident was not the result of the work accident, where this assumption was contradicted and not supported by the evidence submitted.
32. The Commissioner erred as a matter of law and fact in interpreting the evidence in a manner favorable to the Defendants and not in a manner favorable to the Claimant.

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 0202022**

Clifford Pasley,
Employee/Claimant,

v.
TransAgri, Inc., et al
Employer,
and

Traveler's Insurance and
SCUEF,
Insurer,
Defendants.

BRIEF OF CLAIMANT APPELLANT

ISSUES ON APPEAL

- I. The Hearing Commissioner erred as a matter of law in failing to employ an alternative method of calculation which was fair to both parties where Claimant's was employed by this employer for less than a year and further erred in setting Claimant's AWW at a figure which is unrealistically low, unfair to Claimant in that it represents only a small fraction of his earnings at the time of the accident, and in that it is unsupported by the relevant and substantial evidence submitted.
- II. The Hearing Commissioner erred as a matter of law and fact in failing to find a causal connection and, therefore, refusing to award benefits for Claimant's permanent disability and/or loss of use to his back and leg.
- III. The Hearing Commissioner erred in refusing to award disability and medical benefits for Claimant's compensable permanent injuries.
- IV. The Hearing Commissioner erred in relying on the V.A.'s 30% rating and payment of disability benefits as a basis to deny disability and medical benefits to which Claimant was entitled under the Act.

STATEMENT OF THE CASE

Clifford Pasley (Claimant) was injured on January 17, 2002; he was tying down a load of steel on the 18-wheel truck he was driving for Leonard Enterprises, when he felt a pull and sudden pain in his lower back. Claimant managed to make it back home where he reported the injury to his employer. Claimant believed that he was insured for work injuries because \$30 had been deducted regularly from his pay by Leonard Enterprises to be forwarded to TransAgri in order to pay for workers' compensation insurance. However, when Claimant requested medical evaluation and treatment after the work accident,

his claim and his request for treatment were denied. Claimant eventually learned that no workers' compensation coverage had been obtained with the money deducted from his pay. Claimant proceeded to obtain what medical evaluation and treatment he could afford on his own.

By Form 50, Claimant sought medical treatment, benefits for temporary total and partial benefits, benefits for permanent and total disability, permanent partial disability, and/or loss of use to his back and legs. An evidentiary hearing was held on June 27, 2012, before Commissioner Gene McCaskill. On January 4, 2012, Commissioner McCaskill issued his order finding that the January 17, 2002, work accident was stipulated to be compensable; that Claimant was entitled to temporary total disability benefits for the period he was out of work immediately after the accident; and that Claimant was entitled to be reimbursed for his out of pocket medical expenses, but only for those medical costs incurred prior to January 31, 2004. The Hearing Commissioner denied benefits for permanent disability and/or loss of use; denied benefits for causally related medical care after January 31, 2004; and set the average weekly wage (AWW) for this full-time, long-distance, 18-wheel truck driver at \$ 183.54. This appeal follows.

STANDARD OF REVIEW

When reviewing evidence in the award of a Single Commissioner, the Appellate Panel makes its own Findings of Fact and reaches its own Conclusions of Law either consistent or inconsistent with those of the Single Commissioner. S.C. Code Ann. § 42-17-50 (1985); Lowe v. Am-Can Trans Servs., Inc.; 283 SC 534, 324 SE 2d 87 (Ct. App. 1984). The final determination of witness credibility and the weight to be accorded evidence is reserved to the Appellate Panel. Shealy v. Aiken County, 341 SC 448, 535 SE 2d 438 (2000).

ARGUMENT

- I. **The Hearing Commissioner erred as a matter of law in failing to employ an alternative method of calculation which was fair to both parties where Claimant's was employed by this employer for less than a year and further erred in setting Claimant's AWW at a figure which is unrealistically low, unfair to Claimant in that it represents only a small fraction of his earnings at the time of the accident, and in that it is unsupported by the relevant and substantial evidence submitted.**

The Workers' Compensation Act defines "average weekly wage" for the purposes of computing compensation and sets forth primary and alternative methods of calculation. S.C.Code Ann. § 42-1-40 (Supp.2011). The objective of wage calculation is to arrive at a fair approximation of the claimant's probable future earning capacity." Bennett v. Gary Smith Builders, 271 S.C. 94, 98-99, 245 S.E.2d 129, 131 (1978). "The statute provides an elasticity or flexibility with a view toward always achieving the ultimate objective of reflecting fairly a claimant's probable future earning loss." Sellers v. Pinedale Residential Ctr., 350 S.C. 183, 191, 564 S.E.2d 694, 698 (Ct.App.2002)."

In Pugh v. Piedmont Mechanical, 396 S.C. 31, 38, 719 S.E.2d 676, 680 (Ct.App.2011), the court explained that the primary method for calculating AWW by taking the total wages over the last four quarters and dividing by the number of weeks paid, was not appropriate because Pugh had not worked for Piedmont for fifty-two weeks at the time of the accident. Likewise, here, the primary method for calculating AWW by dividing wages paid by number of weeks worked would be inappropriate where Claimant had not worked for Leonard Enterprises for fifty-two weeks at the time of the accident. Therefore, the Commissioner was required to resort to an alternate method by which to calculate an AWW which would be fair to both parties and which would most nearly approximate the amount Claimant would be able to earn were it not for the injury.

The Court in Pugh held that, upon determining that an alternative method should be employed, the Commission was required to consider which of the alternative methods would be most appropriate based on the facts of the particular case. Here, Claimant had only been employed by Leonard Enterprises for the last few months of 2001, before he was injured on January 17, 2002. For the majority of 2001, Claimant was self-employed, as he owned and drove his own truck, operating his own trucking company,

Clifford Pasley Trucking. Thus, Claimant attached a Schedule C to his 2001 tax return to show his profits from self employment operating Clifford Pasley Trucking.

At the hearing, Defendants argued that, because a Schedule C was used by Claimant in 2001 to report his self-employment profits from running his own trucking company prior to his starting work for Leonard Enterprises, his AWW for the accident sustained while working as an employee for Leonard Enterprises should be calculated on the basis of his net profits from self employment, as reported by Schedule C for the 2001 tax year. For this dubious proposition, Defendants relied on Stephen v. Avins Const. Co., 324 S.C. 334, 478 S.E.2d 74 (Ct. App. 1996).

The Court in Stephen held that the Workers' Compensation Commission was correct in calculating Stephen's AWW based on his net earnings as a self-employed subcontractor. The Court indicated, "In our view, the statutory language, "earnings of the injured employee," means the actual sum paid to the employee as his wages, not the totality of payments including reimbursements." However, the Stephen case was specifically limited to its particular facts, i.e., a self-employed, subcontracting truck driver. Thus, the Stephen approach whereby a self-employed subcontracting truck driver's AWW should be calculated on the basis of his gross rather than net profits from self-employment, was inapplicable to this case given that Claimant was working as an employee earning wages and given that he was not self-employed or earning profits at the time of the work accident.

The Hearing Commissioner should have rejected as completely inconsistent with the ultimate goal of the Act the Defense argument that he should ignore the evidence of Claimant's earnings from employment and instead estimate AWW on the basis of a wholly irrelevant tax filing which showed no earnings from his employment with Leonard Enterprises, but instead reported Claimant's profits from self-employment *prior to* his going to work for Leonard Enterprises, two or three months before his work accident. Plainly, Claimant's profits from self-employment bore little if any relevance to his earnings from employment. However, this is the only evidence even considered or referenced by the Hearing Commissioner regarding the calculation of AWW.

The Hearing Commissioner observed that Defendants had "submitted that the only competent evidence to determine the Claimant's average weekly wages and compensation rate were his tax returns for the year 2001." Defendants' argument that Claimant's AWW could only be calculated by reference to his 2001 tax return was incorrect where there was credible evidence and testimony submitted showing Claimant's earnings and further incorrect where the Defendants' suggestion for calculating AWW paid no heed to the statutory requirement that the AWW figure be fair and just to both parties and also ignored the Act's stated goal of reaching a figure which most closely represented the worker's earning capacity if not for the work injury.

Because Claimant was employed by Leonard Enterprises for less than a year, only two or three months, at the time of the work accident, the Hearing Commissioner erred in failing to employ an alternate calculation in order to reach a figure for AWW which would be fair and which would most closely approximate Claimant's earning capacity if not for the work injury. It was plainly extremely unfair to Claimant to base his AWW on a Schedule C reporting self-employment profits gained during the first three quarters of 2001 prior to Claimant's going to work for Leonard Enterprises. Therefore, Defendant's suggestion that AWW should be calculated based on Claimant's net profits from Clifford Pasley Trucking, as reported to the I.R.S. for self-employment purposes in 2001, should have been rejected as conflicting with the mandate and purpose of the Act's wage calculation provision.

S.C. Code Ann. § 42-1-40 provides that, where the employment, prior to the injury, extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, as long as results fair and just to both parties will be obtained. However, where, by reason of a shortness of time during which the employee has been in the employment of his employer, it is impracticable to compute the average weekly wages as defined in this section, regard is to be had to the average weekly amount which during the fifty-two weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

Here, because of the shortness of time during which Claimant was employed by Leonard Enterprises at the time of the accident and because Defendants had filed no Form 20 and submitted no pay records or even the Driver Settlement Sheets in their possession from which precise wage calculations could easily have been made, the Commissioner could have determined that it was impractical to compute Claimant's AWW on the basis of the actual number of weeks worked and the actual pay received.

Some eleven days after the accident, on January 28, 2002, Claimant gave a Recorded Claims Statement. During the recorded statement, Claimant was asked what wages he earned driving a truck for Leonard Enterprises. Claimant responded, "I get paid a percentage of what the truck gross... I get thirty-five percent of what the truck gross. It varies each week anywhere from twenty-two to about maybe twenty four fifty each week." (UEF APA p. 21). Claimant clarified that, while working for Leonard Enterprises, each week he was paid 35% of what the truck grossed, "anywhere from two thousand one hundred to two thousand four hundred dollars per week." "Then I get thirty-five percent of that." (UEF APA p. 22). Claimant indicated that his pay varied because the amount the truck grossed varied from week to week. Thus, according to Claimant's recollection shortly after the work accident, his pay while working for Leonard Enterprises ranged from \$ 700 to \$ 840 a week as his share of the loads. Claimant testified similarly during his deposition on September 6, 2005, that when he worked for Leonard Enterprises, he was paid weekly a percentage of the load, i.e., "Six hundred per week.... it was percentage." (9-6-2005 Depo. p. 24, line 21-p. 25, line 1).

At the hearing, Claimant submitted as exhibits two TransAgri, Inc. Driver Settlement Sheets dated 12-26-2001 and 1-15-2002. These exhibits were entered to show that \$30 was deducted from Claimant's checks by Leonard Enterprises and paid to TransAgri for workers' compensation insurance on behalf of Claimant. However, the Settlement Sheets also show the amount Leonard Enterprises was paid for the loads Claimant drove and the Leonard Enterprises Statement of Earnings and Deductions Forms submitted showed that Claimant was paid 35% of the Pay from Loads. The deductions identified on the forms are for items such as a cash advance loan and for the workers' compensation insurance premium, neither of which would affect gross or net earnings or the AWW calculation.

Thus, for the period ending on 12-4-2001, the Driver Settlement Sheet dated 12-4-2001, shows that the Pay from Loads was \$1,881.34 and the Statement of Earnings and Deductions dated 12-4-2001 for Claimant shows that Claimant was paid 35% of the Pay from Loads, or \$658.46 for that week. Because the loads varied, so that the Pay from Loads figure varied, the Commissioner could have fairly estimated Claimant's AWW by looking to the average of Claimant's 35% of the Pay from Loads on the few Driver Settlement Sheets Claimant was able to submit:

12-4-2001 Pay from Loads \$ 1,881.34 x 35% = \$658.46

12-26-2001 Pay from Loads 1,273.00 x 35% = 445.55

1-15-2002 Pay from Loads 1,310.24 x 35% = 458.58

The average of these three figures, \$520.86, approaches but does not meet Claimant's estimation of his average earnings while working for Leonard Enterprises ranging from six to eight hundred dollars a week. However, this figure is well in line with Claimant's testimony and consistent filings indicating that he earned an average of \$ 636.18 a week while employed as a driver for Leonard Enterprises. This figure is also a reasonable, real-world, figure for a long-haul truck driver's AWW in the twenty-first century.

Therefore, in fairness, Claimant's average weekly wage should be set at no less than \$636.18. This figure to some extent approximates the actual sum paid to the employee as his wages, the standard approved by the Court in Stephen. However, assuming that the records and testimony submitted by Claimant were insufficient to allow the Commissioner to reach a fair or reasonable AWW, the Commissioner should have resorted to the average earnings of a person of the same grade and character employed in the same class of employment in the same community. Should the Panel determine that Claimant's AWW should be based on the average earnings of a similarly situated worker, the Panel may take judicial notice of the average earnings of a long haul truck driver in South Carolina.

The Hearing Commissioner plainly erred in setting Claimant's average weekly wage (AWW) at an unbelievably low, defense-directed figure which was contrary to the substantial evidence submitted and inconsistent with the Commissioner's duty to reach a figure which was fair to both parties and which

most closely approximated Claimant's earning capacity. Of course, the Hearing Commissioner should have been able to rely on a Form 20; however, none was ever submitted. Other filings, including the first report of injury and Claimant's Forms 58, estimated Claimant's earnings at \$ 636.18 a week. By their Form 51, submitted on January 19, 2012, Defendants conceded that Claimant claimed weekly earnings of \$735.00; however, Defendants asserted that this figure represented Claimant's "gross" earnings while employed by Leonard Enterprises. In fact, although Claimant was self-employed in 2001, as he operated his own trucking company under a lease agreement with TransAgri, it was only after he parked his truck and shut down his business that Claimant went to work as an employee of Leonard Enterprises. Notably, along with the driver settlement sheets from Leonard Enterprises, Claimant also submitted a driver settlement sheet reflecting that in the week of August 21, 2001, Claimant was still self-employed, driving his own truck for Clifford Pasley Trucking, prior to going to work for Leonard Enterprises. Ironically, in light of the Defense argument that AWW was properly based on Claimant's reported earnings while he was self-employed and leasing his truck to TransAgri in 2001, Defense Counsel objected to submission of driver settlement sheets from August 21, 2001, on the basis that the form was not relevant because it reflected only Claimant's profits from self-employment in 2001 when he was driving his own truck, leased to TransAgri, prior to his going to work for Leonard Enterprises. (Tr. p. 82).

While working for Leonard Enterprises, Claimant tied down and drove loads of steel from South Carolina for delivery in other States. Claimant's day started in the early morning and ended when he drove back home in the evening. By his Order, the Hearing Commissioner indicated that he actually found it credible, reasonable, and fair to estimate that Claimant performed the work of a full-time, long-haul, 18-wheel truck driver for *less than forty dollars a day*. The Hearing Commissioner plainly failed to comply with the requirement that he estimate Claimant's earnings at a figure which was fair to both parties and which most closely approximated Claimant's actual earnings and earning capacity at the time of the accident.

II. The Hearing Commissioner erred as a matter of law and fact in failing to find a causal connection and, therefore, refusing to award benefits for Claimant's permanent disability and/or loss of use to his back and leg.

In 1982, while Claimant was in the Army, he went to sick call "maybe twice" for a sore back. Claimant indicated, "It was nothing major. I guess just, you know march and carrying those rucksacks." Claimant explained that he never thought of the sore back in 1982 as an "injury," he explained, I thought it was just maybe just a sore back because they gave me a little medication... It wasn't an injection or physical therapy or anything like that." (Tr.p. 106). Claimant testified that despite the sore back in 1982, he was then able to complete his time in the regular army with no further problems and then to serve in the reserves and even in Desert Storm, all with no special duty, no complaint of back pain, and no further treatment of any back pain. Claimant indicated, "So, I was able to go through the whole seven years without any, - - you know, without any issues with my back. Just a sore back at the time I went to sick hall." When asked how he was able to distinguish between the military related disability and the injuries caused by the work accident, Claimant indicated that after he reported a sore back in 1982, he was "able to go through my military career, do other odd - - you know, drive a truck. And then after the injury that I received in '02, that's when they started treating me at the V.A." (Tr. p. 98).

Claimant recalled that he was honorably discharged in 1983, at which point he started driving long haul trucks. Claimant drove long-haul, 18-wheel trucks for the next almost twenty years, until the accident in 2002, without incident or lost time from work related to his sore back complaint in 1982. In contrast, after the compensable work accident on January 17, 2002, Claimant immediately complained of severe back pain radiating into his right hip and leg. The medical reports consistently relate the cause of Claimant's injured back condition to the January 17, 2002, work accident. Objective testing which followed directly after the work accident revealed bulging discs, a disk herniation, spondylosis, spondylosthesis, stenosis, flattened nerve roots, encroachment on the neural foramen at L5-S1, with radiation to the legs and right foot, and a right foot drop. Claimant was immediately taken out of work and advised not to drive long distances. Recent objective testing in 2008 and 2010, revealed that the back injury observed only after the work accident in 2002, remains, with the same results showing disc

bulging, disc herniation, spondylosis, spondylosthesis, stenosis, flattened nerve roots, encroachment on the neural foramen at L5-S1, with radiation to the legs and right foot, along with weakness and numbness in the legs.

This is a textbook example of a compensable aggravation of a worker's pre-existing, but previously not disabling, condition. Claimant's pre-existing back condition was certainly worsened and aggravated by the subsequent work injury; therefore, he was entitled to benefits for the resulting disability. § 42-9-35; Burnette v. City of Greenville, 401 S.C. 417, 737 S.E.2d 200 (Ct.App.,2012).

"It is no defense that the accident, standing alone, would not have caused the claimant's condition, because the employer takes the employee as he finds him." Likewise, a showing that the accident resulted only in the exacerbation of existing problems does not preclude recovery. In Anderson v. Baptist Medical Center 343 S.C. 487, 492-498, 541 S.E.2d 526,528 - 531 (2001), the Supreme Court reversed the denial of compensability for an aggravation of Anderson's pre-existing condition. The Court ruled, "Although Anderson was receiving treatment for depression prior to this accident, the only substantial evidence in the record clearly shows her condition was aggravated by the work-related fall." Likewise, here, the only substantial evidence in the record showed that Claimant's pre-existing back condition, for which he had received medication in 1982, some twenty years prior to the work accident, was aggravated and exacerbated by the compensable work injury on January 17, 2002.

The causal connection establishing compensability for the aggravation of Claimant's pre-existing condition was supported by the lay testimony, medical reports, objective test results, and the circumstantial evidence of the sequence of events. "The causal sequence ... may be more indirect or complex, but as long as the causal connection is in fact present the compensability of the subsequent condition is beyond question." Mullinax v. Winn Dixie, 318 S.C. 431, 458 S.E.2d 76 (Ct. App. 1996). Here, the credible lay testimony, the medical records, and the expert medical opinion along with the chain of circumstances reasonably supported only a finding that Claimant's back injury with radiation to his legs was the compensable result of an aggravation of a pre-existing, but previously not disabling back condition and, therefore, compensable.

"A condition is compensable unless it is due solely to the natural progression of a pre-existing condition." Brown v. R.L. Jordan Oil Co., 291 S.C. 272, 275, 353 S.E.2d 280, 282 (1987). Here, there is no medical evidence or even a reasonable theory suggesting that Claimant's back condition after the 2002 work accident was due solely to the natural progression of a twenty-year-old sore back complaint with no acute injury or diagnosed defect in 1982.

The Hearing Commissioner erred in refusing to award benefits for Claimant's permanent disability where the evidence overwhelmingly established that what was previously a sore back which resolved with medication in 1982, was then aggravated to the point of disability by the compensable work accident. The Commissioner erred in speculating that the injured condition of Claimant's back after the 2002 work accident, including the diagnosed and objectively observed bulging discs, spondylosis, spondylosthesis, stenosis, with radiation to the legs, was solely due to the fact that, twenty years earlier, Claimant's back was sore on a couple of occasions during his military service.

Claimant clearly and repeatedly testified that he did not recall any particular injury that caused his back to be sore while he was in the Army; he supposed that his achy back was due to the walking and carrying rucksacks he was required to do as a soldier. However, regardless of what caused Claimant's back to ache in 1982, twenty years later, on January 17, 2002, it was the work accident which transformed a pre-existing soreness in Claimant's back into pain so severe that Claimant could hardly stand up, such that he was immediately taken out of work for the next almost two years.

Claimant had done everything he was supposed to do to make sure that he would be taken care of if he was injured at work. When he was self-employed, driving the truck he owned, he paid for workers' compensation insurance through TransAgri. When he went to work for Leonard Enterprises, Inc., Claimant paid the weekly charge for workers' compensation insurance coverage as required by TransAgri and as collected by Leonard. However, despite the fact that the cost of workers' compensation insurance was regularly deducted from Claimant's pay, once he was injured in the compensable accident on January 17, 2002, no insurance coverage was available and no medical care was provided.

Claimant's supervising employer, Leonard Brown, testified that TransAgri had required him to deduct payments from his drivers' pay for workers' compensation insurance which TransAgri agreed to provide. However, when Mr. Brown inquired - - going so far as to drive to TransAgri's home office in North Carolina to find out what had happened to the workers' compensation insurance coverage for his drivers for which TransAgri had been paid, he was told that there was no coverage. In fact, as the Commission's Director of Compliance, Garry Smith, testified, TransAgri did not obtain workers' compensation insurance for Leonard Enterprise's drivers in South Carolina. Therefore, despite the fact that Claimant had receipts showing that he had paid for coverage, once he was badly injured while working, there was no coverage and no medical care provided.

Although he initially obtained all the care he could afford on his own, through the V.A., and from Dr. Neal, Claimant was provided with no medical care by the Defendants. At that point, right after his work accident and before his reserves were consumed by disability-induced-unemployment, Claimant had the savings and resources to take care of himself. Therefore, after he was badly hurt but found that the money deducted from his pay had not been used to obtain workers' compensation insurance coverage, Claimant paid for his own medical care, including an MRI, out of his own pocket.

Claimant was first seen by Dr. Stephen Suits on January 23, 2002, six days after the work accident. Dr. Suits reported that Claimant first started feeling pain as he was stepping down from the trailer of his tractor trailer on 1/17/2002. Dr. Suits noted that Claimant's resulting pain was burning, throbbing, and rated at an 8 on a scale of 10. Dr. Suits noted that Claimant pain woke him during the night, that he woke with morning stiffness, and that his pain was aggravated by movement. Dr. Suits noted that Claimant had some tingling in his right leg with weakness in his right foot. Dr. Suits observed that Claimant was tender over the right gluteal area with decreased ROM of the lumbo-thoracic spine. Dr. Suits further noted that Claimant was not able to heel walk with his right foot having a foot drop. (APA p. 66).

On February 14, 2002, Dr. Suits recalled that Claimant had initially been seen on January 23, 2002, complaining of a six-day history of pain in his right lower back, right gluteal area, with radiation to

the posterior aspect of his right thigh and some tingling in his right lower extremity to the top of his right foot. Dr. Suits noted that Claimant's back pain had come on when he was pulling down on a bar to tighten the straps on his truckload. Dr. Suits noted his opinion that Claimant's symptoms were consistent with a herniated disc accompanied by either a peroneal nerve or a fibular nerve palsy with foot drop. Dr. Suits noted that Claimant's back pain continued and that, although he had tried to have an MRI performed to confirm his diagnosis, that testing was denied by workers' compensation. (APA p. 64).

In March of 2002, Claimant was seen at the Lexington Memorial Hospital where he paid out of his pocket for a lumbar MRI. The results of the MRI showed: "... Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left." On March 25, 2002, Dr. John Haynes' impression was "Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left." (APA p.63).

On April 15, 2002, Dr. Brett Gunter noted that Claimant complained of a right-sided foot drop that had presented after an accident at work in January 2002. Dr. Gunter noted, "... Mr. Clifford Pasley is a 40 year old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain. Dr. Gunter noted his opinion that Claimant had a foot drop along with L5 nerve root compression from what appeared to be spondylolisthesis at L5-S1. (APA p. 60-61).

On October 12, 2005, a repeat lumbar MRI showed at the L5-S1 disc level discogenic changes with loss of height and signal along with a broad-based posterior disc protrusion, some Grade I spondylolisthesis of L5 on S1. The radiologist, Dr. Silvestre noted that the right and left L5-S1 neural

foramina were narrowed bilaterally and that there appeared to be flattening of the right and left L5 nerve roots as they extended through the neural foramina bilaterally. (APA p. 57).

Thus, Dr. Gunter, Dr. Silvestre, Dr. Haynes, and Dr. Suits all reported the January 2, 2002, work accident as being causally related to the extreme back injury they observed and diagnosed through objective testing. The doctors who initially treated Claimant after his work accident indicated that that accident was causally related to Claimant's injured back with radiation to the right hip, leg, and foot. The Hearing Commissioner's contrary conclusion that there was no substantial evidence supporting a causal connection between Claimant's back condition and the admittedly compensable work accident on January 17, 2002, is overwhelmingly contradicted by the medical reports and opinion submitted.

In contrast, there is no evidentiary support for the Commissioner's finding that Claimant sustained only a temporary worsening of a prior military "injury" to his back as the result of the work accident in 2002. Instead, the Commissioner's ruling that Claimant sustained only a temporary worsening of the sore back he reported during sick call in 1982 is the result of pure surmise, conjecture, and speculation. The objective testing performed directly after the work accident showed substantially the same back injuries that have since been shown by the updated MRI's performed in 2005 and 2008. Thus, the Commissioner's finding that the worsened condition of Claimant's back, first noted and diagnosed by Dr. Suits directly after the work accident in January 2002, was only temporary is thoroughly contradicted by the expert medical opinion and the objective medical evidence.

At the time of the hearing, Claimant still had not recovered from the exacerbation of his pre-existing, but previously not disabling back condition. It is as the result of that worsened back condition that Claimant is now forced to perform only light custodial work, given to him as a disabled veteran by the V.A. Hospital, rather than the difficult and strenuous, but financially rewarding work of a long-distance truck driver. Claimant testified that, after his work accident, he was taken out of work and advised not to drive long hauls. Claimant recalled that when the doctor released him to return to light work, he was instructed that he would not be able to do the same work he had been doing. Claimant was advised that he should not drive a truck. Therefore, Claimant indicated, the only thing he could do was to

just run local. He indicated that he tried to be home every night in order to soak his back and to lessen the stress on his back. However, Claimant indicated that he attempted to keep driving trucks, attempting three or four truck driving jobs after he finally requested his doctor to release him to go back to work because he had to have income. Claimant recalled that, when he tried to go back to driving, the only job he could find was driving long distance. However, Claimant testified that that job did not last very long because sitting in the seat for a long period of time was very uncomfortable, with a lot of pain in his back and in his right leg.

Claimant testified that he eventually went to work for A.R. Skipper doing "little odd jobs, local jobs, that I was able to do." (Tr. p. 90). However, Claimant testified that he was not really able to drive a long distance truck given the injured condition of his back and legs. Claimant recalled that even driving caused back pain and that mashing the clutch, the gas, and the brakes all caused back and leg pain. Claimant explained that there is a lot of pressure required to mash the pedals in these trucks. He indicated that he also had problems and pain from the continuous riding.

Claimant indicated that even after Dr. Neal eventually released him in 2003, he applied for several driving jobs but was not hired because he had to explain that he was out of work due to a back injury. He recalled that he eventually took a job driving only locally in order to cut down on the driving time and so that he could be home at night and able to soak his back and take medications. (Tr. p. 74). In 2007, Claimant was driving a container truck locally for AR Skipper. He explained that driving that type of truck required no loading or unloading. (February 22, 2010, Deposition of Claimant, p. 9; p. 50). However, Claimant eventually had to give up driving even locally because of problems with his back. (Tr. p. 91). The medical reports consistently indicate that Claimant reported pain from getting in and out of the truck and driving the truck.

Claimant testified that he does not believe that he will ever be able to go back to driving trucks. He explained that when he attempted to drive long distances, his lower back stiffens up; he gets radiation in the lower part of his right leg and foot with numbness. Claimant testified that the pain and numbness in his legs and his right foot limit his ability to use his legs. (Tr. p. 80). Claimant indicated that he is

unable to lift anything heavy. Claimant further testified that his back pain wakes him at night, that he sleeps with a pillow between his legs to relieve the pressure on his back, but that his back and leg pain wakes him in the night. Claimant indicated that the pain continues to radiate to his right foot. (Tr. p. 79). Claimant agreed that since the 2002 work accident, the condition of his back had improved just a little in that he was eventually able to get up and about, whereas, after the work accident, he could hardly walk. (Tr. p. 98).

The overwhelming evidence supported only a finding that the pre-existing but previously not disabling back condition was worsened to the point of lasting disability by the admittedly compensable work accident on January 17, 2002. In contrast, there is no evidence to support the notion that Claimant's original sore back condition was only temporarily worsened by the work accident so that spondylolisthesis, spondylosis, disc herniation, disc bulging, and flattened nerve roots with encroachment on the neural foramen were all objectively observed and diagnosed after the work accident, but the worsening was supposedly only temporary. Where these conditions persist as shown by the medical evidence, testimony, and objective testing, the Hearing Commissioner's finding that the exacerbation of Claimant's pre-existing condition was only temporary and not deserving of benefits for permanent disability must be reversed as plain error.

The objective medical evidence of the continued disabling injury to Claimant's back, which radiates to his legs, is undisputed. However, the Hearing Commissioner found as fact, "It is reasonable to conclude that whatever injury or aggravation of his pre-existing spondylolisthesis that the Claimant suffered on January 17, 2002, has resolved." (Finding of Fact #7). To the contrary, this is far from a reasonable conclusion in light of Claimant's continuing injuries and disability.

The notion that Claimant might already have been suffering from the bulging and herniated discs, spondylolisthesis, spondylosis, encroachment on the neural foramen at L5-S1 with radiation to his right leg and foot and a right foot drop when he reported only a "sore back" during sick call in 1982, but that he somehow managed to maintain his regular duties in for the remainder of his military career and then to successfully undertake and perform the strenuous work of a long distance truck driver, tying down loads

and hauling steel for a period of some twenty years without treatment, complaint, or time out of work is a fantastical theory unsupported by the evidence submitted.

In fact, the substantial evidence submitted established that Claimant had a pre-existing back condition limited at the time to soreness, which required nothing more than medication in 1982, and which resulted in no disability or lost time from work for a period of twenty years, but which was then worsened and aggravated as the result of a work accident in 2002. The Hearing Commissioner was required under the Act to award benefits for the compensable injuries and aggravation of the pre-existing condition to Claimant's back with radiation to his legs.

III. The Hearing Commissioner erred in refusing to award disability and medical benefits for Claimant's compensable permanent injuries.

The Act must be interpreted in favor of supporting the injured worker and in favor of requiring that he be provided adequate medical care and evaluation for the injuries he sustained as a direct result of an admitted work accident. The Workers' Compensation Act is remedial legislation which is entitled to liberal construction in favor of the injured worker and for his protection and support. Vespers v. Springs Mills Inc., 276 S.C. 94, 275 S.E.2d 882 (1981); Hines v. Hendricks Canning, 263 S.C. 399, 211 S.E.2d 220 (1975); Carter v. Penney Tire & Recapping Co., 261 S.C. 341, 349, 200 S.E.2d 64, 67 (1973); Case v. Hermitage Cotton Mills, 236 S.C. 515, 125 S.E.2d 57 (1960).

Under the Worker's Compensation Act, a claimant may proceed under § 42-9-10 or § 42-9-20 to prove a general disability; alternatively, he or she may proceed under § 42-9-30 to prove a loss or loss of use of, a member, organ, or part of the body for which specific awards are listed in the statute. "The term 'disability' means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment."; S.C.Code Ann. § 42-9-10 (Supp.1994).

Employees who because of a work-related injury can perform only limited tasks for which no reasonably stable market exists are considered totally disabled notwithstanding their nominal earning capacity. 1C Larson, supra, § 57.51(a), at 10-286 (1995); Coleman v. Quality Concrete Prods., 245 S.C. 625, 142 S.E.2d 43 (1965) (total disability is "inability to perform services other than those that are so

limited in quality, dependability, or quantity that no reasonably stable market for them exists.”) In Stephenson v. Rice Services, 323 S.C. 113, 473 S.E.2d 699 (1996), the Supreme Court found that Stephenson was totally and permanently disabled because he was unable to perform services other than those that were so limited in quality, quantity, and dependability, that no reasonable market for them existed, despite the undisputed fact that Stephenson was employed, working, and earning wages at the time.

This claimant has always been willing to work hard and even to work in pain in order to support himself. When he could no longer drive long hauls because of the condition of his back, Claimant found work driving local jobs. When his pain was getting so bad that he had to give up truck driving altogether, Claimant found light custodial work at the V.A. Hospital. However, with each job change, prompted by his work injury and resulting disability, even as the physical demands on his back and leg lessened, so did his pay. At the time of the hearing, Claimant was bringing home some \$ 635 every two weeks from his work at the V.A. Hospital. Therefore, Claimant is now, as a disabled veteran working at the V.A., able to earn less than half what he was able to earn as a long-distance truck driver.

These financial reverses are a direct result of the injuries resulting from Claimant’s compensable work accident in 2002. Under these circumstances, the Hearing Commissioner’s refusal to award benefits for Claimant’s permanent injuries to his back and legs must be reversed. Where a worker is entitled to pursue benefits under either S.C. Code Ann. § 42-9-10, § 42-9-20, or § 42-9-30, the Commission is required to apply whichever statute provides the greatest benefits for the Claimant. Therefore, the Appellate Panel should award benefits for total and permanent disability pursuant to S.C. Code Ann. § 42-9-10; permanent partial disability pursuant to S.C. Code Ann. 42-9-20; or, in the alternative, benefits for the loss of use to his back and right leg pursuant to S.C. Code Ann. § 42-9-30.

The general disability statute, § 42-9-10, provides for benefits based on “incapacity for work.” The disability is to be measured by the employee’s capacity or incapacity to earn the wages which he was receiving at the time of his injury. Under the Act “total disability” does not require complete, abject helplessness. Rather it is an inability to perform services other than those that are so limited in quality,

dependability, or quantity that no reasonably stable market exists for them. Coleman v. Quality Concrete Products, Inc., 245 S.C. 625, 142 S.E.2d 43 (1965); McCollum v. Singer Co., 300 S.C. 103, 107, 386 S.E.2d 471, 474 (Ct.App.1989). An injured worker is properly found totally disabled where he is "disabled to perform common labor and could not obtain employment as such, and he was not qualified by training or experience for any other." Colvin v. E.I. Dupont De Nemours, 227 S.C. 465, 88 S.E.2d 581 (1955).

At this point, as the result of the back injury which affects his legs, the work Claimant is now capable of performing is so limited in quality, dependability, or quantity that no reasonably stable market exists for his skills. Claimant is qualified by experience and training only to drive trucks; however, his compensable work injury has left Claimant unable to earn wages through truck driving and he is unqualified to earn wages in any other employment. The inability to perform common labor is total disability for one who is not qualified by training or experience for any other employment. Wynn v. Peoples Natural Gas Co. 238 SC 1, 118 SE 2d 812 (1961). Thus, Claimant was entitled to permanent and total disability pursuant to Section 42-9-10, as the result of his loss of earning capacity. Certainly, Claimant had, of necessity, found work to support himself; however, the only work he is now able to reliably perform is light custodial work with no heavy lifting. This job was provided to Claimant only because he is a disabled veteran; therefore, the fact that Claimant performs such work should not cast doubt on the fact that he is permanently and totally disabled to earn the wages he was earning at the time of the injury.

Given the extreme back injury with radiation to his legs, the Panel may also determine that Claimant should be deemed totally and permanently disabled pursuant to Section 42-9-10 as the result of his loss of greater than 50% of the use of his back. The medical opinion provided supports a finding that Claimant has lost well over 50% of the use of his back to earn wages by driving trucks as he did prior to the work accident. Dr. Neal opined that Claimant had a 55% permanent medical impairment to the lumbar spine; and 15% permanent impairment to his right leg. Therefore, the Panel should find that Claimant is deemed totally and permanently disabled pursuant to Section 42-9-30 (21).

In the alternative, the Appellate Panel should award benefits for Claimant's permanent partial disability on the basis of his permanent and total inability to earn the wages he was earning at the time of the work accident. Claimant has established a total loss of earning capacity and he is therefore entitled to benefits for permanent disability under Section 42-9-10 or 42-9-20. The evidence submitted also supports an award for permanent partial disability pursuant to Section 42-9-20. In the alternative, the Appellate Panel may award benefits for the substantial loss of use, at least 50% to Claimant's back and 50% to his legs.

IV. The Hearing Commissioner erred in relying on the V.A.'s 30% rating and payment of disability benefits as a basis to deny disability and medical benefits to which Claimant was entitled under the Act.

The Hearing Commissioner erred in relying on the V.A.'s 30% rating to deny permanent disability and medical benefits to which Claimant was entitled under the Act. In Stephenson v. Rice Services, Inc. 323 S.C. 113, 119-121, 473 S.E.2d 699 (1996), the Supreme Court held that it was error for the Commission to rely on a Veteran's Administration rating. The Stevenson Court noted that the Commission had "improperly" relied on Stevenson's V.A. rating. The Court analogized the Commission's reliance on a V.A. rating to improper reliance on a Social Security disability rating. See Solomon v. W.B. Easton, Inc., 307 S.C. 518, 415 S.E.2d 841 (Ct.App.1992)("[A]wards and records of the Social Security Administration ordinarily cannot be relied upon to support or deny a workers' compensation claim.")

Here, the Hearing Commissioner ruled that Claimant was not entitled to an award of permanent disability benefits, noting that Claimant was already receiving medical treatment and benefits for his permanent disability from the V.A. The Hearing Commissioner further found that Claimant was not entitled to any future medical care and treatment for his compensable work injuries. To the extent the Commissioner's ruling was based on his conclusion that, awarding Claimant workers' compensation benefits under the Act would improperly allow a double recovery for Claimant, the ruling was error. Further, given that, at the time of the hearing, Claimant was receiving medical treatment and disability benefits from the V.A., to the extent that the Commissioner's denial of an award of disability and medical

benefits under the Act was issued for the purpose of preventing a double recovery for the injured worker, the Commissioner erred as a matter of law. Where the Hearing Commissioner denied disability and medical benefits on the grounds that Claimant was already receiving treatment and benefits from the VA, that ruling was error as a matter of law as established by the collateral source rule.

The collateral source rule prevents a tortfeasor from receiving a reduction in damages due to payments or compensation received by the injured person from a source wholly independent of the tortfeasor. Johnston v. Aiken Auto Parts, 311 S.C. 285, 428 S.E.2d 737 (Ct.App.1993). Under the collateral source rule, the tortfeasor cannot take advantage of the contracts and obligations between the injured party and third persons. Dixon v. Besco Engineering, Inc. 320 S.C. 174, 463 S.E.2d 636 (Ct.App.1995). In McLeod v. South Carolina Ins. Co. 272 S.C. 254, 251 S.E.2d 193 (1979), the South Carolina Supreme Court held that an employer is not entitled to take a credit for benefits paid to a claimant from a collateral source, such as the unemployment compensation fund.

The McLeod Court explained that it would not be appropriate or equitable to allow the defendant carrier to derive a windfall benefit by taking credit against any sums received from other sources or to permit the carrier not to make payments which were admittedly due under the Workmen's Compensation laws of the State, merely because of money received by the worker from other sources during the same period of time. The Court in McLeod explained that there is no authority in Title 42 which would authorize the Worker's Compensation Commission to allow an employer or its workmen's compensation carrier not to pay benefits or to offset payments of workmen's compensation benefits, either for temporary total disability or for a specific permanent disability, due to the fact that sums were received from a collateral source such as the unemployment compensation fund.

Here, to the extent that the Hearing Commissioner's denial of medical and disability benefits was an effort to avoid double recovery for the injured worker, the ruling was in direct conflict with the McLeod holding and accordingly constituted error as a matter of law. The Appellate Panel should properly reverse the Hearing Commissioner's decision to deny Claimant benefits for his permanent disability and medical treatment.

Claimant started driving a truck when he was in high school. Immediately after graduating high school, Claimant enrolled in the Army, where he, again, drove trucks. Claimant was in the regular Army for three years before his honorable discharge and he was then in the reserves and served in Desert Storm. In 1982, after Claimant went to sick call complaining of a back ache, he was treated with medication, but he continued to perform his regular military duties. Claimant recalled that no one at the V.A. told him in 1982 that he had an acute or lasting injury to his back. Claimant's compensable 2002 back injury aggravated and worsened the previously quiescent and not previously disabling back condition to the point of disability.

After his discharge from the Army, Claimant drove a delivery truck for Columbia Lumber for three or four years. Claimant left Columbia Lumber in order to start driving a long distance truck, tractor trailer, for Senn Trucking. Claimant eventually went to work driving long distance for his cousin, and then he bought his own tractor and trailer and started his own trucking business. In 2001, Claimant's trucking business was pulling a flatbed for TransAgri; he next started working, driving long hauls for Leonard Enterprises at the end of 2001. (September 23, 2003, Deposition of Claimant, pp. 10-17).

As indicated, objective testing in March 2002, showed a Grade L5-S1 spondylolisthesis producing some compression of the L5 nerve root. On April 15, 2002, Dr. Brett C. Gunter reported that Claimant presented with pain in his lower back and right leg, along with a right-sided foot drop, all resulting from a work accident in January, 2002. Dr. Gunter noted that the foot drop had lasted for a month or more and that Claimant then developed "severe right hip and leg pain." Dr. Gunter noted that Claimant's strength had continued to improve, but that he still walked with a limp and that he was in "some consistent persistent pain." Dr. Gunter diagnosed Claimant as having sustained a lumbar disc herniation for which he prescribed physical therapy and NSAID medications. Dr. Gunter noted the effects on Claimant's lower extremities: the strength in Claimant's right extensor hallucis longus was noted to be "reduced and graded 4/5 while the tibialis anticus was also graded 4/5. It was this worsened, now disabling, back condition with radiation to his legs which kept Claimant out of work for almost two years after the work accident.

In the face of Defendants' refusal to provide medical benefits or temporary support, this unfortunate worker was forced to rely on the Veteran's Administration for his medical care and support. In light of his unquestionable medical impairment and resulting physical disability, in 2010, the V.A. found Claimant work performing light custodial duties at the V.A. Hospital.

In 2008, Claimant was evaluated by the V.A. for the condition of his back. The V.A. estimated from the objective evidence that Claimant had a 30% permanent rating to his back contributed to by diagnosed lumbar radiculopathy, right lower extremity, related to his lumbar spondylosis and degenerative disk disease. The V.A. further assigned an evaluation of ten percent for lumbar radiculopathy, right lower extremity and an evaluation of ten percent was assigned for "incomplete paralysis below the knee." These are the same injuries which were first observed on MRI after Claimant's compensable work accident in 2002, but which have largely gone untreated. However, rather than taking into account the VA's assignment of a 30% rating as a reasonable prediction of Claimant's permanent disability resulting from the compensable work accident, the Hearing Commissioner ignored the plain evidence and chain of circumstances to find instead that Claimant had actually sustained no permanent disability to his back as the result of the work accident in 2002. The Commissioner assumed that, because the 30% VA rating to Claimant's back was shown by objective evidence and related to military service by the V.A. in 2008, Claimant's 2002 diagnosed injuries resulting from the work accident must have actually been solely due to Claimant's military-related back condition.

The V.A. records indicate that Claimant submitted a claim with the V.A. on July 30, 2008. The V.A. records further report that it was in March of 1982 that Claimant complained of lower back pain without a history of back injury. In response to Claimant's report of a sore back, he was diagnosed with chronic lower back pain, instructed in back exercises, and prescribed medication for pain.

However, the Commissioner stated with absolutely no evidentiary support for his speculation that he was denying benefits for Claimant's back injury because, "military disability is assigned for service related injuries and there is no definitive medical evidence in this case causally connecting the Claimant's continuing back issues to the injury of January 17, 2002." The Commissioner apparently believed that

the VA would not have awarded military disability unless it had found that the injured soldier's disability was strictly and solely a military injury. However, the Commissioner misjudges the V.A.; where Claimant's pre-existing military-related condition was subsequently worsened and aggravated as the result of his compensable work accident, the VA nevertheless traced through Claimant's medical records, found an almost thirty-year-old service related back complaint, and nevertheless deemed the aggravated and worsened condition a military related disability.

The Hearing Commissioner was certainly wrong to deny workers' compensation benefits under the faulty premise that Claimant's back condition was solely the result of his prior achiness while in the Army which the Hearing Commissioner supposed and speculated must always have been due to disabling spondylosis, spondylolisthesis, and a disc herniation present in 1982, and continuing to the present, so that his current condition could be found to be due solely to the back ache from 1982 and wholly unrelated to the compensable work accident in January 2002.

The Hearing Commissioner's apparent speculation that the VA must not have been aware that Claimant's condition was seriously aggravated by a work accident or they would not have found a military related disability is wholly disproven by the records. The VA's medical records fully discuss the cause of the worsening of Claimant's prior back problem, indicating that the worsening was due to a work accident in 2002. In fact, the VA's medical report dated July 16, 2002, indicates that Claimant was injured "while working loading and tying down steel on his truck. While pushing down loading bar. Noticed as got up and down from the trailer that hurt more and more with pain in tingling in right leg. The first 2.5 to 3 months post injury his back hurt so much that had to bend forward. Had an MRI done at Lexington Medical Center which revealed a herniated disc pinching one of his lumbar nerves, as per patient report...Has sporadic tingling and weakness in right anterior tibialis, lateral right foot and big toe..." The V.A. report notes that Claimant worked as a truck driver, but that he had not been able to work since January 2002. The V.A. report indicates that, in July, 2002, Claimant was off work because of the 2002, work accident and injury. The V.A. report further described Claimant's "relevant symptoms" to include tingling right anterior tibialis, lateral aspect right foot, and right big toe. The report indicated that

Claimant's lower right leg becomes weak when ambulated 10 minutes or greater. The V.A. report concludes that Claimant's back condition with radiculopathy had been present since January of 2002, when Claimant sustained a work-related injury. Thus, the medical records, including those from the V.A. fully support the claim that the 2002 work injury significantly worsened and aggravated to the point of disability the pre-existing condition of Claimant's back.

The V.A.'s Dr. Michael Ufford described Claimant's symptoms as including: tingling, pain, weakness...decreased right quad strength, and right decreased function. Dr. Ufford assessed Claimant with lumbar radiculopathy and concluded that his condition was one of "dysfunction" and "derangement." (APA pp. 52-56). Plainly, the VA was and is fully aware that Claimant's pre-existing back condition had been significantly worsened and aggravated by his civilian work accident and injury.

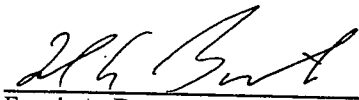
The Hearing Commissioner thus plainly erred as a matter of law and fact in finding, contrary to the evidence submitted, the chain of circumstances, and common sense, that Claimant sustained a military injury in 1982 which objectively established permanent and severe injuries to his back yet he was somehow able to finish his military service without further medical attention or special duty and then to successfully undertake work as a long-distance truck driver for twenty years. This finding is purely speculative - - there being no evidence whatsoever that Claimant sustained a serious back injury in the military and no evidence that he had any loss of use to his back whatsoever prior to the work accident in 2002. Under these circumstances, where the Hearing Commissioner's Order denying benefits for PPD and denying that Claimant was entitled to causally related medical care is speculative and without evidentiary support, it must be reversed. Regardless of Claimant's receipt of benefits from the V.A. and regardless of the V.A.'s assignment of a rating for Claimant's back and legs, the Hearing Commissioner was bound by the Act and by the evidence presented to find Claimant's disabling injuries compensable, to award past and continuing medical care, and to award benefits for disability.

CONCLUSION

The Hearing Commissioner's plain error in setting AWW must be reversed and corrected. The Panel should set Claimant's AWW at a figure no lower than \$ 636.28, where this figure is supported by the evidence submitted. The Hearing Commissioner's Order failing to award disability benefits or medical care for Claimant's compensable work injuries should be reversed. The Panel should find that Claimant has sustained greater than 50% loss of use to his back such that he should be deemed totally and permanently disabled pursuant to Section 42-9-10. In the alternative, the Panel may also find from the evidence presented that Claimant is entitled to an award of benefits for total and permanent disability, based on the evidence establishing that he is permanently and totally disabled to earn the wages he was earning at the time of the injury and that the work he is capable of performing is so limited in . The Panel should find that Claimant is totally and permanently disabled pursuant to § 42-9-10 or partially disabled pursuant to § 42-9-20, as the result of the injuries to her back and leg. In the alternative, the Panel should award substantial permanent partial disability, i.e., greater than 50% loss of use under § 42-9-30 (21) for the compensable back injury as well as an award of substantial permanent partial disability to Claimant's legs.

Respectfully submitted,

April 12, 2013



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(803) 799-9577
COUNSEL FOR CLAIMANT



AMENDS

PRE-HEARING BRIEF

WCC File No: 0202022

Claimant's Name: Clifford Pasley

Address: 107 Broken Hill Road

City: Columbia State: SC Zip: 29212

Home Phone: (803) 737-5739 Work Phone: (803) 737-5739

Preparer's Name: J. Marvin Mullis, Jr.

Employer's Name: Trans Agri, Inc./Leo-Dor Enterprises, Inc.

Address: 371 W Hill Street

City: Goldsboro State: NC Zip: 27534

Carrier: Travelers Insurance

Preparer's Phone #: (803) 799-9577

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: 424.12 2. AWW: \$636.18 Date of Injury: January 17, 2001
3. Type of injury and body part(s): See 1 in Addendum
4. Facts in controversy: See 2 in Addendum

5. Legal issues involved: See 3 in Addendum
6. Unusual aspects: None other than noted above and in #11 below.
7. Witnesses (designate if expert):* See 4 in Addendum

8. Exhibits: See 5 in Addendum

9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See 6 in Addendum

10. Name, address, and specialty, if any, of the treating physician: See 7 in Addendum

11. Impairment rating(s); body part(s); physician and date of opinion: _____

12. I am amending my Form 50/51 in the following manner: _____

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

Signature: J. Marvin Mullis, Jr.

Date of hearing: 06/27/12

Email: @Sales@jvmullis.com

Time needed for hearing: 2 hours

On behalf of ☒ Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
Commissioners reserve the right to admit expert witnesses at hearings.

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1. back, right leg, right foot, left leg, nervous condition and any and all other areas of the body directly/indirectly effected.
2. Claimant requests temporary total benefits, medical benefits, and any and all other benefits applicable under the Act. We believe the Claimant has permanency but we are not requesting permanency unless by the time of the hearing that any and all physicians treating him have released him and state he is at maximum medical improvement.
Claimant also requests penalties, interest, and attorney fees for the carrier's failing to pay benefits, as delaying payment demonstrates bad faith where the insurance carrier had sufficient information and evidence of Claimant's undisputed accident and injuries and, having regularly collected premiums from Claimant's paycheck for workers' compensation insurance coverage, the carrier was well aware that the accident was compensable and that they were the responsible insurer. Request lump sum payment as per Section 42-9-10 and Section 42-9-20 of the 1976 Code of Laws of South Carolina as interpreted by the Supreme Court decision of Utica Mohawk Mills v Orr, 277 S.C. 226, 87 SE 2d 589; Sciarotta v. Bowen, 837 F2d 135.
3. By letter dated August 8, 2007, the Director of the SCWCC Compliance Division indicated, "Accordingly, for the purpose of coverage for this claim, Travelers and EBI/Royal & Sunalliance are one and the same. Travelers, as part of its duties as the assigned-risk carrier, is stepping into the shoes of EBI/Royal & Sunalliance to defend the claim. Technically EBI/Royal & Sunalliance is the correct carrier, as per the insurance records of the North Carolina Industrial Commission. But since Travelers is providing a defense before the COMmission, Travelers is designated in the claim as the carrier of record to prevent confusion." Mr. Smith further indicated that the employees of Leo Dore Enterprises, Inc. were the statutory employees of TransAgri, Inc. Further the July 11, 2002, affidavit of Mr. Leonard Brown, owner, operator, and employee of Leo-Dore Enterprises, Inc., indicates that he employed three other drivers and that it was his established mode and plan of operations to work as the regular fill-in driver for the company. Thus, both Leo-Dore Enterprises, Inc. and Trans-Agri, Inc. regularly had four or more employees in South Carolina and both were subject of eh Act pursuant to S.C. Code Ann. Section 42-1-360(1976). Mr. Brown has further indicated by affidavit that his trucks were leased to TransAgri and that he had originally offered to have his own insurance company cover the drivers for Leo-Dore, but that TransAgri required that it collect for and pay for the cost of workers' compensation insurance for the company's drivers. Mr. Brown indicates that all Leo-Dore, Inc. drivers, including Claimant, had approximately \$30 taken from their weekly pay by TransAgri to cover the cost of the workers' compensation insurance provided by TransAgri.
4. Garry Smith, Director Compliance, SCWCC; Claimant, Marcus Danford, Quintin Felder, William Davis, Leon Surginer, Wesley Keller, Leonard Brown and other lay witnesses may be named as well as any witnesses listed by the Defendant/Carrier.
Reports and/or updated reports of Adger Brown to be submitted and/or Mr. Brown to testify at the hearing and/or his deposition to be taken and submitted as soon as received.
Reports and/or updated reports of Dr. W. Randall Westerkam to be submitted and/or Dr.

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Westerkam to testify at the hearing and/or his deposition to be taken and submitted as soon as received. Reports and/or updated reports of Dr. Green B. Neal to be submitted and/or Dr. Neal to testify at the hearing and/or his deposition to be taken and submitted as soon as received. Reports and/or updated reports of Lexington Medical Center and/or Dr. G. Steven Suits to be submitted and/or Dr. Suits to testify at the hearing and/or his deposition to be taken and submitted as soon as received. Reports and/or updated reports of Southeastern Spine Institute and/or Dr. Don Johnson to be submitted and/or Dr. Johnson to testify at the hearing and/or his deposition to be taken and submitted as soon as received. Reports and/or updated reports of the treating physicians at the Veterans Administration to be submitted and/or the treating physicians to testify at the hearing and/or their depositions to be taken and submitted as soon as received.

5. Medical Reports. Guides to the Evaluation of Permanent Impairment. Affidavit of Leonard Brown. Pay records showing deductions for workers' compensation insurance by TransAgri. We also reserve the right to submit evidence in response to evidence submitted by the Defendant/Carrier. See also #7 below.
6. See Below:

a) "... From a medical standpoint, Dr. Donald Johnson in June of 2002 states that this man is not at maximum medical improvement, may need surgical intervention, and is suffering from not only low back and right leg pain but spondylolisthesis at L5-S1 with foraminal stenosis and crowding. The most recent progress note I have from Dr. Green B. Neal, the long-term treating physician, is dated March 18, 2011 and notes continued complaints of radiculopathy on the right side with low back pain..." by J. Adger Brown, MA, Certified Disability Management Specialist, on 12/30/11 (p. 4);

b) "...Quite significant is Dr. Neal's statement that "hopefully W-C will order surgery," noting that he went back to work against medical advice in order to save his personal property, including his house. From a vocational standpoint, it is my opinion, within a reasonable degree of vocational certainty, that Mr. Pasley has made a valiant effort to return to work and remain employed. Although Dr. Neal is of the opinion that this man should not be performing this type of employment, the record shows that he has been successfully employed doing housekeeping work since February of 2011. Based on the medical information, mostly from Dr. Neal and Dr. Johnson, it looks like Mr. Pasley has not seen the end of the road as far as treatment or the possibility of improvement. Although it is difficult to demonstrate that there has been a loss of earnings comparing his prior employment to his post-injury truck driving to his present work at the VA, the fact remains that it looks like his condition is continuing to deteriorate, making his ability to work into the future problematic..." by J. Adger Brown, MA, Certified Disability Management Specialist, on 12/30/11 (pp. 4-5);

c) "...It is believed that should Mr. Pasley lose his job for any reason, whether it be physical incapacity, the deteriorating medical condition, a subsequent injury, downsizing, or layoff, he will be at extreme deficit in returning to employment. An individual such as

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Mr. Pasley, with his history of injuries and long-term treatment, is simply not going to be able to compete successfully for employment against other, less physically impaired individuals..." by J. Adger Brown, MA, Certified Disability Management Specialist, on 12/30/11 (p. 5);

d) "...Mr. Pasley is a pleasant 48-year-old AAM with a 8 year history of lower back pain and right lower extremity dysesthesias. He reports injuring himself at work... by W. Randall Westerkam, M.D, on 11/22/10 (p. 6);

e) "...The physical exam is consistent with a chronic right L5 radiculopathy with sensory loss in the L5 dermatome..." by W. Randall Westerkam, M.D, on 11/22/10 (p.7);

f) "...Pt. having radicular pain in Rt leg with Rt back and hip pains. Gets really bad on standing. Can only stand still 5-10 min then gets so severe he has to walk or sit down. If walks can get 1 mile before having to sit because of pain. Pain has greatly progressed over last 2 weeks and he has not changed his activity....Exam: hypersensitive over L5-S1 with paraspinal muscle spasm in L-5 area... L5-S1 impingement of nerve root..." by Dr. Green B. Neal on August 13, 2011, p. 7 (a);

g) "...Still has pain in L-S area with radiation into Rt leg....still has not gotten any injections. Pt. has spondylosis L5-S1, spondylolisthesis (arthritis & slippage) & HNP with impingement on nerve root. (MRI at VA hospital showed this in 3/11. VA note...He needs nerve root injections as suggested by Dr. Johnson..." by Dr. Green B. Neal on May 14, 2011, p. 7(b);

h) "...Patient still has L5 radiculopathy on right...calf and lower back pain. Patient needs surgery with tight stenosis. He is set up with Dr. Johnson in Mt. Pleasant. Hopefully W/C will provide surgery. Patient was in a tough financial hole and went back to work against medical advice in order to save personal property (car, home/appt). Will start Tylenol #3 as necessary and gabapentin 300 mg TDD later..." by Dr. Green B. Neal, on 03/18/11 (p. 8);

i) "...MRI scan of the lumbar spine: Sagittal and axial images made on 03/14/11 show grade I anterior spondylolisthesis of L5 upon S1 due to spondylolysis at the L5 vertebra. This results in high-grade narrowing at both of the L5-S1 intervertebral nerve root canals. Annular bulging minimally compresses the anterior surface of the thecal sac at this same level..." by MRI ordered by Dr. Green B. Neal, Radiologist Richard A. Killingsworth, on 03/14/11 (p. 10);

j) "...still have pain over Rt. Hip to lower leg. (Radiculopathy S1, S2, L5). Have had no improvement and probably worse now than ever...still unable to work...trying to go to school..." by Dr. Green B. Neal, on 02/28/10 (p. 16);

k) "...lot of pain in the right hip. I'm referring him to USC Orthopaedics... We've been trying to get him an EMG/NCS..." by Dr. Green B. Neal, on 06/16/07 (p. 18);

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l) "...He's seen today for follow-up. Is still having a lot of pain out of his lower back. At this point he's really not improving any He has grade 1 spondylosis at L5 on S1 related to L5 pars defect and a facet degenerative change at L5 with associated bilateral narrowing of the L5-S1 neuroforamin and apparent flattening of the nerve root as it extends through this region. There is a broad base posterior bulge and far posterior lateral disc osteophyte formation and disc protrusion of L5-S1 disc, which also contributes to stenosis of the right and left neuroforamin. He also has a mild desiccation and degenerative changes of the thoracic spine seen only at a few levels, T1-2, T2-3 and T3-4 disc levels... He has a very mild posterior disc osteophyte formation with mild generalized decrease in spinal canal dimensions at C7-T1. At this point, I don't think he's going to improve any time soon...He needs to have an EMG/NCS done. If they are positive then he may have to have injections of the nerve root... He still has spasms in the lower back and LS area, pains radiating down into the legs..." by Dr. Green B. Neal, on 05/06/06 (p. 21);

m) "...Right now he has an impairment rating to the LS area of 55%. He has a 15% impairment rating involving the leg on the basis of chronic pain and degenerative disc disease. He has a permanent physical impairment rating to the thoracic spine of 3%... At this point we need EMG/NCS still..." by Dr. Green B. Neal, on 05/06/06 (p. 21);

n) "...I believe his high blood pressure is directly related to the level of pain he has. He has a sequela of chronic pain from his accident. He's been on Ibuprofen 100 mg bid prn for pain... He has a permanent physical impairment rating to the cardiovascular system on the basis of his hypertension of 20%. This letter is to confirm that Mr. Pasley is impaired as a result of his injury, and has really had no further involvement from a neurological standpoint. He really needs to be assessed at that particular time again with new MRIs of the back and EMG/NCS..." by Dr. Green B. Neal, on 09/08/05 (p. 25);

o) "...This patient is a 48-year old from Gadsden, SC... status post a work injury while tying down a load of steel on a truck that he was driving. This occurred 1/17/02... He has complaints of low back pain with radiation down his right leg. He tells me that this intermittently has continued to be his problem. He was seen through the VA Hospital and prescribed some physical therapy... He brought with him an MRI of the lumbar spine from '02. I personally reviewed this study. This shows a disc space collapse at L5-S1 with a Grade I spondylolisthesis. There is significant disc bulging with more foraminal narrowing and compression in the area of the L-5 nerve root on his right....He takes 800mg ibuprofen. His pain is made worse by sitting long periods of time while driving the truck or doing some yard work. REVIEW OF SYSTEMS: Positive for change of sensation and some weakness in the right leg. He sees that his symptoms are consistently on the right side... He has worked as a truck driver for some 25-years..." by Dr. Donald R. Johnson, M.D., on 6/22/10 (p. 34);

p) "...past medical records from Dr. Green Neal that I have reviewed. These outline

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consistent problems with the patient's right leg and outline Dr. Neal's recommendations for treatment including an EMG and nerve conduction study. There are notes from Dr. Neal that date back to 2002 and consistent notes from '05 requesting a neurologic workup to include an MRI as well as an EMG and nerve conduction study. It appears that he has not been able to have an EMG and nerve conduction study done although this was requested on multiple occasions by Dr. Neal. PHYSICAL EXAMINATION: ... Standing he has a palpable step off of his posterior spinous processes. He is tender in the right sciatic notch. Straight leg raising is provocative on the right. He has some pain that extends down his leg in an L5-S1 distribution... His gait may be slightly antalgic on the right. IMPRESSION: 1. Low back right leg pain. 2. Spondylolisthesis L5-S1 with foraminal stenosis and crowding L-5 nerve root right. RECOMMENDATIONS: I agree with Dr. Neal the patient should have an EMG and nerve conduction study. At this long period of time after his injury, he continues to be symptomatic. The symptoms he has today are consistent with the complaints that he has voiced to Dr. Neal over the years...." by Dr. Donald R. Johnson, M.D., on 6/22/10 (p. 35);

q) "...I would suggest that he have an EMG and nerve conduction study to be followed by a selective spinal injection of the L-5 nerve root and core lumbar stabilization exercises. If these are not successful he may require surgical intervention. I don't think he is at maximum medical improvement..." by Dr. Donald R. Johnson, M.D., on 6/22/10 (p. 35);

r) "...49 y/o male with hx of herniated disc. Pt states the ibuprofen helps. He was having spasms today while at work. He is requesting flexeril as it has helped in the past... low back pain. Flexeril, heat, continue ibuprofen. Return as needed." by Dr. Jaswinder Chauhan, Veterans' Administration on 12/01/11 (p. 36);

s) "...Patient presents today c/o lower back pain/spasms for the last 3 days. Patient states the pain is radiating down the right leg. He states that he has a history of a herniated disc... Pain is present. Pain intensity: 6 = Hurts a lot, can't ignore for any length of time... Location of pain: back. Character of pain: sharp, shooting. Frequency: constant..." by RN Wesley Zissett, Veterans' Administration on 12/01/11 (p. 37);

t) "...PASLEY, 49 yo, MALE, BLACK OR AFRICAN AMERICAN, who presents to the clinic for routine follow up. Today Mr. Pasley tells me that he went to the ER due to worsening of the low back pain radiated to his left leg. States doing better but reports having on/off pain radiated to the left leg. He was evaluated by a NS and he is being f/u by a pain specialist at Charleston...Assessment/Plan: 1. LBP/Lumbar radiculopathy: Stable; Continue ibuprofen 800mg po prn... MRI of the lumbar spine done on 3/2011 showed: spondylolisthesis of L5 upon S1 due to spondylolysis at the L5 vertebra. This results in high-grade narrowing at both of the L5-S1 intervatebral nerve root canals. Annular bulging minimally compresses the anterior surface of the thecal sac at this same level. Will provide a back brace." by Dr. Jacqueline Pineda, Veterans' Administration on 9/22/11 (pp. 39-40);

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- u) "...Spondylolysis is suggested on this study, and there is minimal anterolisthesis of L5 with respect to S1. Advanced degenerative disk disease is evident at the level of L5-S1... IMPRESSION: BILATERAL PARS DEFECTS AT THE LEVEL OF L5 ARE ASSOCIATED WITH GRADE 1 ANTEROLISTHESIS OF L5 WITH RESPECT TO S1 AND ADVANCED DEGENERATIVE DISK DISEASE AT THIS LEVEL..." by Dr. Jason Beland, Veterans' Administration on 08/31/11 (p. 41);
- v) "...Pain level: 4. The patient has a pain problem. Pain assessment/plan as follows: PAIN ASSESSMENT: Current Vital Measurement: Pain level: 4. Pain intensity: 4= Uncomfortable, impacts on work. Location of pain: lower back. Description of pain: sharp, radiates to right leg. Frequency/Duration: constant...." by Dr. Robert Kneece, Veterans' Administration on 02/23/09 (p. 42);
- w) "...Pain level: 3. Patient is comfortable with current pain level/management and understands to notify staff if uncomfortable. Pain location: rt hip pain..." by RN Karen Covington, Veterans' Administration on 10/29/07 (p. 44);
- x) "...LBP – no co as long as he doesn't sit or stand too long..." by Dr. Jennifer McFaddin, Veterans' Administration on 09/26/05 (p. 45);
- y) "...LBP – no co as long as he doesn't sit or stand too long... Pain assessment: Pain level: 5... The patient is being treated for a pain problem and understands to notify staff if treatment is desired. The patient has pain problem. Pain assessment and plan addressed in today's note..." by Dr. Jennifer McFaddin, Veterans' Administration on 10/24/04 (p. 48);
- z) "...CLIFFORD PASLEY is a 41 year old MALE who presents to the clinic for eval of clbp – some lately and wants renewal of muscle relaxer and motrin... clbp – encourage rom and stretching while driving. Renewed motrin and robaxin... Pain assessment: Pain level: 4..." by RN Mary Grass, Veterans' Administration on 10/16/03 (p. 50-51);
- aa) "SUBJECTIVE FINDINGS: Injured while working loading and tying down steel on his truck. While pushing down loading bar. Noticed as got up and down from the trailer that hurt more and more with pain in tingling in right leg. The first 2.5 to 3 months post injury his back hurt so much that had to bend forward. Had an MRI done at Lexington Medical Center which revealed a herniated disc pinching one of his lumbar nerves, as per patient report...Has sporadic tingling and weakness in right anterior tibialis, lateral right foot and big toe... OCCUPATION: Truck driver, however has not worked since January. OFF WORK BECAUSE OF CURRENT EPISODE: Yes... DESCRIBE RELEVANT SYMPTOMS: Tingling right anterior tibialis, lateral aspect right foot, and right big toe. Lower right leg becomes weak when ambulated 10 minutes or greater. PRESENT SINCE: January 02... COMMENCED AS A RESULT OF: Work related injury... INTERMITTENT SYMPTOMS: Tingling, pain, weakness... NEUROLOGICAL: Motor Deficits: Slight decrease in right quad strength, and right DF... ASSESSMENT: Lumbar radiculopathy.

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Addendum 7/8
Clifford Pasley WCC 0202022

CONCLUSION: Dysfunction, derangement..." by Michael Jon Ufford, Veterans' Administration on 07/16/02 (page 52-56);

bb) "...The L5-S1 disc level shows discogenic degenerative change with loss of height and loss of T2 signal. There is also broad-based posterior disc protrusion. There is some Grade I spondylolisthesis of L5 on S1, which is related to bilateral L5 pars defects and facet degenerative changes. The axial images through the L5-S1 level do not show any significant spinal canal stenosis and there is no evidence of any nerve root impingement. Note is made that the right and left L5-S1 neural foramina are narrowed bilaterally and there appears to be flattening of the right and left L5 nerve roots as they extend through the neural foramina bilaterally..." by Dr. T. Daniel Sylvester, M.D. on 10/12/05 (p. 57);

cc) "...Mr. Clifford Pasley is a 40 year old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain... ASSESSMENT: The patient has had a foot drop and L5 nerve root compression from what appears to be spondylolisthesis at L5-S1..." by Dr. Brett Gunter on 04/15/02 (p. 60-61);

dd) "...Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left. IMPRESSION: Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left. No frank disc herniation and no signs of spinal stenosis...." by Dr. John W. Haynes, M.D., on 3/25/02 (p.63);

ee) "...The patient is a 40-year-old black male initially seen here for this problem on 01/23/02. At that time, he gave a 6-day history of pain in his right lower back, right gluteal area radiating down the posterior aspect of his thigh, some tingling in his right lower extremity. He had some tingling down on top of his right foot... His initial episode of pain was onset when he was pulling down on a bar to tighten up the straps on his load...The meeting last time was consistent with a herniated disc with either a peroneal nerve or a fibular nerve palsy with foot drop. I tried to get him set up for an MRI. This was denied by Workers' Comp. He is back now with continued pain..." by Dr. G. Steven Suits, M.D. on 02/14/02 (p. 64);

ff) "...He said he first started feeling this when he was stepping down from the trailer of his tractor trailer on 01/17/02... He recalls the onset of the pain stepping down from the trailer. The patient states that his pain is intermittent. It is burning and throbbing. He rates it an 8

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Addendum 8/8
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on a scale of 10. He states that his pain hurts him during the night. He sleeps on his back. He awakes with morning stiffness. His pain is aggravated by coughing and movement. He has some tingling in his right leg... After the exam, when I asked him if he had noticed any weakness in any particular area, he said his right foot... BACK: ... Tender over right gluteal area. Decreased ROM of lumbo-thoracic spine in all directions, but most marked in right lateral flexion and extension as well as right rotation... He is not able to heel walk with the right foot having a foot drop on the right..." by Dr. G. Steven Suits, M.D. on 01/23/02 (p. 66).

7. Michael Jon Ufford, RN Mary Grass, Dr. Jennifer McFaddin, RN Karen Covington, Dr. Jacqueline Pineda, Dr. Robert Kneece, Dr. Jason Beland, RN Wesley Zissett, Dr. Jaswinder Chauhan, Dr. G. Steven Suits, Dr. John W. Haynes, Dr. Green B. Neal, Dr. T. Daniel Sylvester, Dr. Donald R. Johnson, W. Randal Westerkam, Dr. Richard A. Killingsworth,

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 0202022

Clifford Pasley,
Employee/Claimant,

v.

TransAgri, Inc., et. al.,

Employer,

and

Traveler's Insurance Co. and
S.C.U.E.F.,

Carrier,

Defendants.

AMENDED NOTICE OF WITNESSES AND
WRITTEN REPORT(S)/ PHYSICIANS
AND/OR OTHER EVIDENCE TO BE
INTRODUCED ON BEHALF OF
CLAIMANT

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION and DANIEL ADDISON,
TERRI MORRELL, and LISA GLOVER, FOR EMPLOYER/INSURER

YOU ARE HEREBY NOTIFIED THAT THE Claimant, pursuant to the provisions of the South
Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330 (1976, as amended)
herewith submit(s) the following report(s)/physician or other evidence on behalf of the Claimant, to wit:

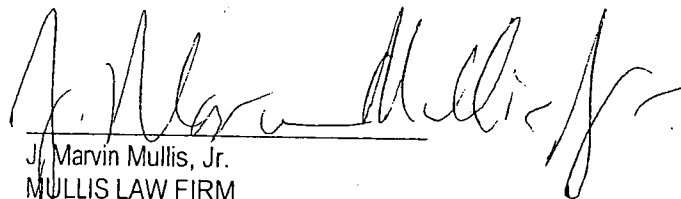
APA#	DOCTOR	PRACTICE	DATES	PAGES
1	J. Adger Brown, MA		12/30/2011	1-5
2	Dr. W. Randall Westerkam	Rehabilitation & Geriatrics	11/22/2010	6-7
3	Dr. Green B. Neal		3/18/2011-8/13/2002	7(a)-33
4	Dr. Donald R. Johnson	SE Spine	6/22/2010	34-35
5	Veteran's Administration		12/01/2011-7/16/2002	36-56
6	Dr. T. Daniel Sylvester	InMed	10/12/2005	57-59
7	Dr. Brett C. Gunter	Columbia Neurosurgical	4/15/2002	60-62
8.	Dr. John W. Haynes	Lexington Medical Center Radiology	3/26/2002	63

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9.	Dr. G. Steven Suits	Lexington Medical Center	1/23/02-2/14/02	64-67
10.	Guides to the Evaluation of Permanent Impairment			69-82
11.	Exhibits:			
1.	Affidavit of Leonard Brown 7/11/2002			83-84
2.	Letter of S.C.W.C.C Compliance Division Director Garry Smith 8/8/2007			85-96

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s), whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred herein, or photocopies received from said physician/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Claimant.



J. Marvin Mullis, Jr.
MULLIS LAW FIRM
P.O. Box 7757
Columbia, SC 29202
(803) 799-9577

June 12, 2012

Columbia, South Carolina

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J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consulting

Tel: (803) 738-0347

Fax: (803) 787-8662

4705 Crystal Drive
Columbia, SC 29206

December 30, 2011

TRANSMITTED VIA E-MAIL

RE: Claimant :Clifford Pasley
Employer :Trans Agri Inc./Leonard Enterprises
DOA :1/17/02
SSN :xxx-xx-2272
Date of Interview :12/30/11
Our File No. :11-1292

VOCATIONAL EVALUATION REPORT

INTRODUCTION:

Cliff Pasley is a fifty-year-old man who is referred to me by his attorney for a vocational evaluation in connection with a work-related injury. Mr. Pasley was employed as an over-the-road truck driver who, on January 17, 2002, sustained an injury to his lower back while tying down a load of steel on a flatbed truck. Since that time, Mr. Pasley has received intermittent medical care, has returned to work in subsequent positions, and is currently employed. This evaluation, however, is being sought to discuss the vocational impact of Mr. Pasley's injury on his ability to engage in substantial work.

The report that follows derives not only from my clinical interview with Mr. Pasley but also from a review of medical records, including those of Dr. Brett C. Gunter, M.D., Dr. Green B. Neal, M.D., Dr. Donald R. Johnson, M.D., Dr. Steven Suits, M.D., and on copious records from the Bryan Dorn VA Medical Center.

MEDICAL HISTORY:

By way of background, Mr. Pasley advises me that at the time of his accident he was not under medical care for any continuing medical problems, but did have a long history of intermittent work-related and non-work-related back injuries requiring periodic care. He states that since the current accident he has been diagnosed with high blood pressure and cholesterol but has not been involved in any subsequent accidents. Otherwise, his history is negative for any prior work-related injuries, significant motor vehicle accidents, or any serious personal injuries.

As relates to the current matter, the medical records available for my review show that Mr. Pasley

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Clifford Pasley
December 30, 2011
Page 2

has been seen intermittently by Dr. Green B. Neal who, in August of 2003, concurred that this man had a herniated disc and might be a surgical candidate. At that point, he was given very sedentary restrictions. Throughout this time, the bulk of Mr. Pasley's care was being handled at the VA. Eventually, however, Mr. Pasley was able to return to employment.

Records also indicate that Mr. Pasley was seen at the Lexington Medical Center for his back problems, radicular symptoms, and foot-drop. In April of 2002, this man was also seen by Dr. Brett Gunter, who diagnosed a Grade V-L1 spondylolisthesis which might produce compression of the L5 nerve root. He also noted dropped foot and L5 nerve root compression, recommending physical therapy and anti-inflammatory medications.

As noted above, the bulk of this man's medical care came from the VA, whose copious records, while difficult to decipher, speak to intermittent problems of varying degrees with his back complaints.

Mr. Pasley is a right-hand dominant individual who is five feet eleven inches tall and now weighs 160 pounds, having neither gained nor lost any significant amount of weight over the years. He continues to get his primary care from the VA, whom he sees periodically, and also from Dr. Green B. Neal on a more intermittent basis. Presently, he is taking Ibuprofen, 800mg three times a day; HZTC, 25mg once a day for high blood pressure, and 20mg Zocor for his cholesterol. He also uses intermittent hot showers, baths, and heating pads for the further relief of discomfort. He states he has also been given a back brace which he uses daily while working.

EDUCATIONAL BACKGROUND:

Mr. Pasley advises me that he graduated from the twelfth grade at C.E. Murray High School in Greeleyville, South Carolina, in 1980. He states that his reading and riding is "fine", an opinion supported by his educational background and work history.

Mr. Pasley was a member of the United States Army between 1980 and 1983, being honorably discharge at the rank of E5. While in the Army, he served as a bridge specialist. He then joined the Army National Guard, serving between 1989 and 1991, again as a Sergeant E5, this time as a truck driver. While in the military, he states he had some problems with his back, with documents from the VA indicating a 20% rating for the back and an additional 10% for lower extremity radicular symptoms.

Mr. Pasley has been a lifelong career truck driver. He states that his CDL was last renewed three years ago. An inspection of his CDL shows that it is valid through December of 2014. He passed his last DOT physical in late April of 2010, having his certificate renewed for one year because of his hypertension. Mr. Pasley advises me that when his certificate expired in 2011, he simply did not go back to have it renewed.

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WORK HISTORY:

At the time of Mr. Pasley's injury, he was employed as an over-the-road tractor-trailer driver for Trans Agri Inc. He recalls beginning this work in 2001, worked for approximately a year until January of 2002 when he had his injury, and did not return to work with them afterwards. He states that he was being compensated at a rate of approximately \$500.00 per week. In his job, he would haul steel from the Charleston, South Carolina, area throughout the southeast, including North Carolina, South Carolina, Georgia, Florida, and occasionally into Tennessee. Mr. Pasley drove a flatbed truck, did not have to load or unload the steel but was responsible for chaining it down and tarping it as needed. This type of work is semiskilled work normally performed at the medium level of physical exertion.

Mr. Pasley was not able to give me much information regarding his prior employment, but led me to believe that he had been driving for quite some time, certainly for the last ten years or more prior to the date of accident. After the current accident, Mr. Pasley states he was out of work for approximately fifteen months while under medical care. He then went to work with R.L. Briggs Trucking, working with them from November of 2003 for approximately a year or so until late 2004. In his job, he was again working as a tractor-trailer driver, hauling chickens but not having to load or unload. Following his work with R.L. Briggs, he worked for Commodity Express for seven months in late 2004 and 2005, again as an over-the-road truck driver, and after that with Keystone Truck Lines between 2005 and 2006. In this job, Mr. Pasley hauled containers, again performing work which was semiskilled and medium in its physical demands for which he states he was being paid approximately \$600.00 a week.

Mr. Pasley then went to work with A.R. Skipper, working with him between 2006 and 2009, again hauling containers and driving throughout the southeast. Again, he was being paid about \$600.00 a week, and continued in this employment until his truck was sold out from under him by his employer, leaving him out of work. It was at this point that Mr. Pasley then applied for unemployment and, after initially being denied, started receiving benefits which lasted for about seven months.

During this period of unemployment, Mr. Pasley became involved with the Federal Department of Vocational Rehabilitation operated through the Veterans Administration. Through their intercession, he was able to get a position at the Employment Service One Stop where he worked from August of 2010 until February of 2011, receiving a salary of \$550.00 per month under a supplemented employment program. Programs such as these are usually used by rehabilitation agencies to assist individuals with acclimating to a return-to-work program and are paid significantly less than the market rate. After this period of vocational training, Mr. Pasley then went to work with the VA Hospital in Columbia, beginning work in February of 2011 in the housekeeping department. Mr. Pasley is still employed in this position. For his efforts, he is being paid about \$500.00 per week, performing work which is medium in its physical demands and is unskilled.

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Mr. Pasley was clear that this present work was not modified in any way and that he is performing the full range of duties given him by his supervisors. In his job, he is emptying the trash, cleaning the clinic areas, doing some mopping, but mostly cleaning toilets, bathrooms, sinks, and dust mopping. Mr. Pasley advises me that he periodically has flare-ups of back trouble and has been seen at the ER at the VA on occasion, but is continuing to handle this employment apparently without too much difficulty.

OBSERVATIONS:

Mr. Pasley arrived on time for his scheduled appointment with me. His presentation was that of a very neatly dressed and groomed individual appearing his stated age. He has an easy, friendly manner about him, smiles easily, and entered fully into the evaluation process. As noted above, Mr. Pasley is a fairly poor historian when it comes to his work history and history of treatment; however, it is believed that the information he gave me was largely consistent with the information in the medical records available for my review.

Mr. Pasley's greatest concern is one of what he sees as a slowly and steadily deteriorating medical condition. He states that after his accident and his initial treatment, he was able to get back to work as a truck driver and do that for a number of years. He states that even though it was the sale of the truck that he was using that precipitated his leaving driving, he had found himself already getting to the point that he could not handle his sustained sitting duties and being bounced over roads for up to ten hours a day. He states that the job he has at present, while being fairly demanding, does allow changes of position from standing to walking and keeps him from having to sit for long periods of time, which he finds quite uncomfortable.

CONCLUSIONS:

Cliff Pasley is a fifty-year-old individual who, for employment purposes, is now closely approaching advanced employment age. He has a long work history of a truck driver, being injured in this type of employment in January of 2002. After initial healing, he returned to work as a truck driver, working until 2009. At that point, he was out of work, but eventually got himself back into employment and is now working in the housekeeping department at the VA, again performing medium work at a salary roughly equivalent to what he was making at the time of his injury.

From a medical standpoint, Dr. Donald Johnson in June of 2002 states that this man is not at maximum medical improvement, may need surgical intervention, and is suffering from not only low back and right leg pain but spondylolisthesis at L5-S1 with foraminal stenosis and crowding. The most recent progress note I have from Dr. Green B. Neal, the long-term treating physician, is dated March 18, 2011, and notes continued complaints of radiculopathy on the right side with low back pain. Quite significant is Dr. Neal's statement that "hopefully W-C will order surgery," noting that

Clifford Pasley
December 30, 2011
Page 5

he went back to work against medical advice in order to save his personal property, including his house.

From a vocational standpoint, it is my opinion, within a reasonable degree of vocational certainty, that Mr. Pasley has made a valiant effort to return to work and remain employed. Although Dr. Neal is of the opinion that this man should not be performing this type of employment, the record shows that he has been successfully employed doing housekeeping work since February of 2011. Based on the medical information, mostly from Dr. Neal and Dr. Johnson, it looks like Mr. Pasley has not seen the end of the road as far as treatment or the possibility of improvement. Although it is difficult to demonstrate that there has been a loss of earnings comparing his prior employment to his post-injury truck driving to his present work at the VA, the fact remains that it looks like his condition is continuing to deteriorate, making his ability to work into the future problematic.

It is believed that should Mr. Pasley lose his job for any reason, whether it be physical incapacity, a deteriorating medical condition, a subsequent injury, downsizing or layoff, he will be at extreme deficit in returning to employment. An individual such as Mr. Pasley, with his history of injuries and long-term treatment, is simply not going to be able to compete successfully for employment against other younger, less physically impaired individuals.

J. Adger Brown, Jr.

J. Adger Brown, Jr., MA, CDMS
Rehabilitation Consultant

JAB:gl

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W. Randal Westerkam, M.D.



W. Daniel Westerkam, M.D.

Electrodiagnostic and Rehabilitation Specialists

FIXED
11/24/10

PATIENT NAME: Clifford Pasley

DATE: 11/22/10

REFERRING PHYSICIAN: Dr. Neal

DOB: 61

REASON FOR EVALUATION: LBP and RLE numbness/ tingling

HISTORY OF PRESENT ILLNESS: Mr. Pasley is a pleasant 48-year-old AAM with a 8 year history of LBP and RLE dysesthesias. He reports injuring himself at work. He subsequently had several MRI scans and was treated with Physical Therapy.

PAST MEDICAL HISTORY: negative for DM

PHYSICAL EXAM:

negative for arthritic changes, neg for edema, sensation altered in the right lateral LE and dorsal aspect of the foot in the first web space., no atrophy in the calf muscles, DTR's 2+ patella and 1+ ankle, negative for clonus, muscle tone is normal, motor strength 5/5 including ADF, APF, eversion, inversion, toe ext, gait normal

NERVE CONDUCTION STUDIES:

NERVE	DISTANCE	DISTAL LATENCY	AMPLITUDE	CONDUCTION VELOCITY
Right superficial peroneal (sensory)	10cm	2.8msec; nl ≤ 3.6	15mcV	
Right sural (sensory)	14cm	4.1msec; nl ≤ 4.7	8.6mcV	
Right peroneal stim at the ankle (motor)	8cm	msec; nl ≤ 6.2	mV	NR
Right peroneal stim at the knee (motor)	40cm	14.9msec	3.2mV	m/s; nl ≥ 39 m/s
Right tibial stim at the ankle (motor)	8cm	6.3msec; nl ≤ 6.6	2.4mV	
Right H-reflex		30.00msec		
Left H-reflex		30.00msec		

NEEDLE ELECTROMYOGRAPHIC EXAMINATION: Using a sterile disposable monopolar needle the following muscles were examined.

MUSCLE	Insertional Activity	PSW	Fibs	MUR	Morph
Right Tibialis Anterior	normal	none	none	normal	normal
Right Peroneous Longus	normal	none	none	normal	normal
Right Medial Gastroc	normal	none	none	normal	normal
Right Tibialis Posterior	normal	none	none	normal	normal

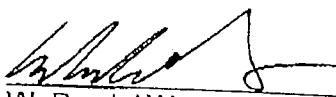
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Right SHBF	normal	none	none	normal	normal
Right EHL	normal	none	none	normal	normal

IMPRESSION / SUMMARY:

1. Normal Study.
2. The electrodiagnostic exam shows no evidence of a lumbo-sacral radiculopathy or radiculitis as there are no denervation potentials and motor unit morphology and recruitment were normal. Additionally, there is no evidence of a mononeuropathy or peripheral neuropathy. The physical exam is consistent with a chronic right L5 radiculopathy with sensory loss in the L5 dermatome.

I would like to thank Dr. Neal for the referral and the opportunity to assist in this pleasant patient's care. If I can be of further assistance please do not hesitate to contact me.


 W. Randal Westerkam, M.D.
 Physical Medicine and Rehabilitation

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GREEN B. NEAL, M.D.

1415 Barnwell Street

Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name	Pasley, Clifford	Date	3.18.11
Allergies	NKA	DOB	[REDACTED]
HT 5'8"	WT 165	BP 120/79	TEMP 97.9
Blood Sugar		SPO-2	
		PLA R 18	BMI

Tobacco:	☒ Never	☐ Former	☐ Current	Alcohol:	☒ No	☐ Yes	Drugs:	☒ No	☐ Yes
Chief Complaint:	Pt - Still have to take Gabapentin. on Rt. 2 calf & LBP: Pt - needs urgent C-tight Gastro. He is set up to Dr. Johnson								
HPI:	in int. pleasant. Hopedelly w/c will order surgery. Pt - was in a tough financial hole & went back to work against med. adv. - in order to save personal property (car, home/appt.). will start physical #3 & 7 0000-00 33; needs add Gabapentin 300mg TID Taper.								
History Obtained by:	☐ Patient	☒ Caregiver	☐ Translator	☐ Other					

GENERAL:	Overall health; Usual weight; Rent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN:	Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD:	Headache; trauma; tenderness; hair loss
EYES:	Vision; redness; itching; discharge
EARS:	Pain; discharge; hearing; tinnitus; vertigo
NASAL:	Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT:	Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK:	Lumps; glands; swelling
CARDIO:	Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM:	Cough; SOB; wheezing; hemoptysis; sputum
GI:	Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU:	Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN:	Contraception; menstrual problems; LMP
MUSCULO SKELETAL:	Weakness; joint pains; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO PSYCH:	Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis/paresis; insomnia; anxiety; depression
ENDOCRINE:	heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

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Name:	Proley, Christopher	Date:	3-18-11
DOB:	12-27-61	Phone:	361-765861

GENERAL APPEARANCE		Exudates	Wheezes	PSYCH
WD/WN	/	Erythema	Rhonchi	Alert and oriented X3
NAD	/	Gums nl	A to E changes	Mood/affect
OBESSE		NECK		Anxious
THIN	/	Symmetrical	Barrow Chest	Depressed
FRAIL		Bruit	GI	Agitated
EYES		Thyroid Enlargement	Soft	Confused
PERLA	/	Lymphadenopathy	Bowel sounds	MUSC
EOMI	/	RESP	Masses	NI
Conjunctivae		CTA	HSM	Joint tenderness
Injected		Rhonchi	Bruit	Joint effusion
Discharge		Wheezes	Stool/heme	ROM
Sclera icterus		Rales	GU	Tone
ENT		Chest Percussion	Scrotal masses	Gait normal
TM(R) nl	/	Breath Sounds	Tenderness	Strength
Perforation		CV	Prostate nl	EXT
Bulging		S1/S2 nl	Prostate enlargement	Clubbing
Redness		Murmur	Vaginal external nl	Cyanosis LE edema
Cerumen		Irregular rhythm	Lesion	Calf tenderness
Hearing		S3/S4 heard	Mass	Pulses
TM (L) nl	/	Thrill	Valut discharge	Deformities
Perforation		Apical Imp displaced	Adnexa nl	NEURO
Bulging		Pulses Equal	Mass	CNS grossly intact
Redness		Tachycardia	Tenderness	Reflexes grossly intact
Cerumen		Bradycardia	Uterus nl	Sensory grossly intact
Hearing		BREAST	Retroverted	SKIN
Nares nl	/	NI	Areverted	NI
Exudates		Masses	Cervix nl	Rashes
Tonsils nl	/	Lumps	Discharge	Lesions
Swollen		Discharge	LYMPH	Ulcerations
Erythema		Tenderness	Lymphadenopathy	Induration
Exudate		CHEST	Axillary	Color
Pharynx nl	/	Symmetrical	Groin	
			Cervical	

Other significant findings:

Dr. - 8 am
Lp: 8 am

ASSESSMENT/PLANS:

FOLLOW UP:

PHSICIAN SIGNATURE

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9

Radiology Reports

Printed On Mar 16, 2011

MRI, LUMBAR SPINE

Exm Date: MAR 14, 2011@07:20

Req Phys: PINEDA, JACQUELINE Y

Pat Loc: WJB PC RED TEAM 3 (Req'g Loc)

Img Loc: MRI

Service: Unknown

(Case 72 COMPLETE) MRI, LUMBAR SPINE

(MRI Detailed) CPT:72148

Reason for Study: chronic back pain

Clinical History:

pt repost injury back in 2002; pt reports pain radiated to the r leg; please r/o radiculopathy

PLEASE SCHEDULE IN THE MORNING

Report Status: Verified

Date Reported: MAR 14, 2011

Date Verified: MAR 14, 2011

Verifier E-Sig:/ES/RICHARD A KILLINGSWORTH

Report:

MRI scan of the lumbar spine: Sagittal and axial images made on 03/14/11 show grade I anterior spondylolisthesis of L5 upon S1 due to spondylolysis at the L5 vertebra. This results in high-grade narrowing at both of the L5-S1 intervertebral nerve root canals. Annular bulging minimally compresses the anterior surface of the thecal sac at this same level.

No other abnormalities are at the lumbar spine. The conus appears normal and ends at the L1 level.

Impression:

See above report.

Primary Interpreting Staff:

RICHARD A KILLINGSWORTH, Radiologist (Verifier)
/RAK

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052
249312272

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000144



GREEN B. NEAL, M.D.

1415 Barnwell Street

Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name	Pasley, Clifford			Date	1-22-11		
Allergies	None			DOB	[REDACTED]		
HT	5'8"	WT	165	BP	129/73	TEMP	98.2
Blood Sugar				SPO-2	P 22	R 8	BMI

Tobacco:	☒ Never	☐ Former	☐ Current	Alcohol:	☒ No	☐ Yes	Drugs:	☒ No	☐ Yes

Chief Complaint: Pt. still has LBP. Results of test not in chart will get a copy on Monday. The cold weather is aggravating his symptoms.

HPI: The patient has ED on Urinal leakage.

History Obtained by:	☒ Patient	☐ Caregiver	☐ Translator	☐ Other

GENERAL:	Overall health; Usual weight; Recent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN:	Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD:	Headache; trauma; tenderness; hair loss
EYES:	Vision; redness; itching; discharge
EARS:	Pain; discharge; hearing; tinnitus; vertigo
NASAL:	Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT:	Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK:	Lumps; glands; swelling
CARDIO:	Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM:	Cough; SOB; wheezing; hemoptysis; sputum
GI:	Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU:	Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN:	Contraception; menstrual problems; LMP
MUSCULO SKELETAL:	Weakness; joint pains; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO/PSYCH:	Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis; paresthesia; insomnia; anxiety; depression
ENDOCRINE:	heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

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GREEN B. NEAL, M.D.

1415 Barnwell Street
Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name	Pasley, Clifford			Date	11-20-16		
Allergies	NKA			DOB	[REDACTED]		
HT	5'8"	WT	163	BP	122/84	TEMP	96.7
Blood Sugar				SPO-2	P 59	R 30	BMI

Tobacco:	☒ Never	☐ Former	☐ Current	Alcohol:	☒ No	☐ Yes	Drugs:	☒ No	☐ Yes

Chief Complaint: Pt. seen for follow. Still have LBP → R hip → leg to knee.
Pt. need EMLA + NCS. Saw Dr. D. Johnson

HPI: He was told the same. Pt may benefit from nerve root blocks.

History Obtained by:	Patient	☒ Caregiver	☐ Translator	☐ Other

GENERAL:	Overall health; Usual weight; Rent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN:	Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD:	Headache; trauma; tenderness; hair loss
EYES:	Vision; redness; itching; discharge
EARS:	Pain; discharge; hearing; tinnitus; vertigo
NASAL:	Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT:	Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK:	Lumps; glands; swelling
CARDIO:	Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM:	Cough; SOB; wheezing; hemoptysis; sputum
GI:	Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU:	Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN:	Contraception; menstrual problems; LMP
MUSCULO SKELETAL:	Weakness; joint pains; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO/ PSYCH:	Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis/paresis; Insomnia; anxiety; depression
ENDOCRINE:	heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

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GREEN B. NEAL, M.D.

1415 Barnwell Street

Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name	Pasley, Clifford	Date	9-18-16
Allergies	WKA	DOB	[REDACTED]
HT	5'8"	WT	163
BP	113/76	TEMP	97
Blood Sugar		SPO-2	
		P66	R18
		BMI	

Tobacco:	☒ Never	Former	Current	Alcohol:	☒ No	Yes	Drugs:	☒ No	Yes
Chief Complaint:	Pt. recently seen at VA, low back Exam. Pt. has 30% Disability. Pt. injured back while in service US Army '80-83' & some trauma during that time.								
HPI:	Pt. still has pain in LB, knees, calf & foot. Pt. saw Dr. Johnson in mt. Pleasant & he recommended spinal injections but have not been cleared by INS - Col. yet. Dr. Johnson wanted a more current MRI of Back. (last in 2005). Pt. still on Mt. Vernon 800 mg, Pravachol 40 mg qhs, HCTZ 25 mg, 1/2 tab. q.d.								
History Obtained by:	Patient	☒	Caregiver	Translator	Other				

GENERAL	Overall health; Usual weight; Rent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN:	Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD:	Headache; trauma; tenderness; hair loss
EYES:	Vision; redness; itching; discharge
EARS:	Pain; discharge; hearing; tinnitus; vertigo
NASAL:	Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT:	Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK:	Lumps; glands; swelling
CARDIO:	Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM:	Cough; SOB; wheezing; hemoptysis; sputum
GI:	Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU:	Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN:	Contraception; menstrual problems; LMP
MUSCULO SKELETAL	Weakness, joint pains, myalgias, swelling, stiffness, muscles cramps, back pain
NEURO/ PSYCH:	Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis/paresis; insomnia; anxiety; depression
ENDOCRINE:	heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

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GREEN B. NEAL, M.D.

1415 Barnwell Street

Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name: Pasley, Clifford Date: 2-10-10 361-1658(CS)
Allergies: NKA DOB: [REDACTED] Phone: 853-0530(H)
HT: 5'8" WT: 168 BP: 126/88 TEMP: 97.2 P: 60 R: 20 BMI:
Blood Sugar: SPO-2

Tobacco: ☒ Never ☐ Former ☐ Current Alcohol: ☒ No ☐ Yes Drugs: ☒ No ☐ Yes

Chief Complaint: pt. saw Dr. Don Johnson in chest on
has 4-5-01 Reticulo-pale
He will start on inject. iron

HPI:

History Obtained by: ☐ Patient ☒ Caregiver ☐ Translator ☐ Other

GENERAL: Overall health; Usual weight; Rent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN: Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD: Headache; trauma; tenderness; hair loss
EYES: Vision; redness; itching; discharge
EARS: Pain; discharge; hearing; tinnitus; vertigo
NASAL: Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT: Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK: Lumps; glands; swelling
CARDIO: Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM: Cough; SOB; wheezing; hemoptysis; sputum
GI: Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU: Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN: Contraception; menstrual problems; LMP
MUSCULO SKELETAL: Weakness; joint pains; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO PSYCH: Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis/paresis; insomnia; anxiety; depression
ENDOCRINE: heat/cold Intolerance; polyuria; nocturia; hypoglycemic symptoms

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GREEN B. NEAL, M.D.

1415 Barnwell Street
Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

Name: Pauley, Clifford Date: 4-28-10
Allergies: NKA DOB: [REDACTED] Phone: 861-1658(R)
HT: 5'8" WT: 161 BP: 137/90 TEMP: 98.1 P: 07 R: 18 BMI: 35.3 O: 55 (H)
Blood Sugar: SPO-2

Tobacco: ☐ Never ☐ Former ☐ Current Alcohol: ☐ No ☐ Yes Drugs: ☐ No ☐ Yes

Chief Complaint: Chronic pain in L5/S1 area -> Rt. Hip -> leg -> Foreleg L5/S1
Pain today is 8/10 on pain scale. Have had no improvement
It is actually worse.
HPI:

History Obtained by: ☐ Patient ☒ Caregiver ☐ Translator ☐ Other

GENERAL: Overall health; Usual weight; Rent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN: Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD: Headache; trauma; tenderness; hair loss
EYES: Vision; redness; itching; discharge
EARS: Pain; discharge; hearing; tinnitus; vertigo
NASAL: Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT: Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK: Lumps; glands; swelling
CARDIO: Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
RLM: Cough; SOB; wheezing; hemoptysis; sputum
GI: Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU: Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYNI: Contraception; menstrual problems; LMP
MUSCULO SKELETAL: Weakness; joint pains; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO/ PSYCH: Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis; paresis; insomnia; anxiety; depression
ENDOCRINE: heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

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15



New
As seen
1074 Kingville Rd.
Cadesden SC
29052

GREEN B. NEAL, M.D.

1415 Barnwell Street
Columbia, SC 29201

Phone: (803) 661-1004 Fax: (803) 779-6623

MEDICAL PROGRESS NOTES

803-361-1658 (U)
803-353-0550 (H)

Name: Pastley, Clifford Date: 2-28-10
Allergies: NKA DOB: [REDACTED] 61 Phone: [REDACTED]
HT: 5'8" WT: 162 BP: 125/76 TEMP: 98.2 P: 74 R: 16 BMI: [REDACTED]
Blood Sugar: [REDACTED] SPO-2: [REDACTED]

Tobacco: ☒ Never ☐ Former ☐ Current Alcohol: ☐ No ☐ Yes Drugs: ☐ No ☐ Yes

Chief Complaint: still have pain over Rt. Hip to Low back
(Painful when - 5, - 5, - 4, - 5) Have had no improvement
and probably worse now) than ever.
HPI: need current test's or CT A's & contrast
Pt. still unable to walk. Pt. trying to go to school.
Have broken truck some time last year.

History Obtained by: ☒ Patient ☒ Caregiver ☐ Translator ☐ Other

GENERAL:	Overall health; Usual weight; Recent weight change; fever/chills; night sweats; sleeping habits; appetite; fatigue/malaises
SKIN:	Rashes; pruritis; color changes; nodules; moisture; pigmentation/ulcers
HEAD:	Headache; trauma; tenderness; hair loss
EYES:	Vision; redness; itching; discharge
EARS:	Pain; discharge; hearing; tinnitus; vertigo
NASAL:	Sense of smell; sinus pain; sneezing; stuffiness; rhinitis
THROAT:	Sore throat; dental pain; tender pain; mouth odor; dysphasia
NECK:	Lumps; glands; swelling
CARDIO:	Chest pain; dyspnea; palpitation; orthopnea; edema; syncope
PULM:	Cough; SOB; wheezing; hemoptysis; sputum
GI:	Nausea; vomiting; abdominal pain; constipation; diarrhea; heartburn; melena; rectal bleeding; hematemesis; flatulence; change in bowel habits
GU:	Dysuria; frequency; urgency; hesitancy; dribbling; weak stream; nocturia; hematuria; libido; discharge; sexual problems; dyspareunia; bleeding; STD
GYN:	Contraception; menstrual problems; LMP
MUSCULO SKELETAL:	Weakness; joint pain; myalgias; swelling; stiffness; muscles cramps; back pain
NEURO/ PSYCH:	Headache; dizziness; seizures; numbness; tingling; falls; confusion; speech disturbances; mental changes; memory; paralysis/paresis; insomnia; anxiety; depression
ENDOCRINE:	heat/cold intolerance; polyuria; nocturia; hypoglycemic symptoms

000150

16

RETURN OFFICE VISIT

Cliff Paisley
(803) 556-0204

8100 Bayfield Road, #3J
Columbia, SC 29223

Chart No.:
DOB:

DOS: 6/16/07

VITAL SIGNS:

Temperature:	99.6.2
Pulse:	65
Respiration:	18
Blood Pressure:	124/88
Weight:	166
Blood Sugar:	mg %
SPO2:	

Subject: He's seen today still with a lot of pain in the right hip. I'm referring him to Dr Jeffrey Guy at USC Orthopaedics. His exam really has not changed any. His MRI shows arthritis. We'll see where we go from there. We've been trying to get him an EMG/NCS. No changes in any of his meds. I'd like to see him back in 4 weeks.

Return in 4 weeks.

Green B. Neal, M.D.

GBN: rpd 25(27)

000151

RETURN OFFICE VISIT

Cliff Paisley
(803) 556-0504

Chart No.:
DOB:

DOS: 11/11/06

VITAL SIGNS:

Temperature:	96
Pulse:	80
Respiration:	18
Blood Pressure:	129/72
Weight:	
Blood Sugar:	mg %
SPO2:	

Subject: He's having a lot of pain in his right leg over L5-S1. He needs an EMG/NCS done but he's not been able to get them yet. We'll get those scheduled as soon as possible. He's stable with no new changes.

Green B. Neal, M.D.

GBN: rpd 23(94)

000152

RETURN OFFICE VISIT

Clifford Paisley

(803) 556-0204

new address: 8100 Bayfield Road, #3J
Columbia, SC 29223

Chart No.: 6700

DOB:

DOS: 10/7/06

VITAL SIGNS:

Temperature:	96.2
Pulse:	76
Respiration:	18
Blood Pressure:	110/60
Weight:	170
Blood Sugar:	mg %
SPO2:	

Subject: He's still having pains that radiate down his right leg. He has a tired weak feeling in his low back that occurs 2 to 3 times per month with no pattern related to date or activity. We want to get an EMG rating on him. We sent him an appointment slip to get this done but he had moved. We'll reschedule this and see how he does. No other changes at this point. I'll see him back in 4 weeks.

Physical Exam: Has not changed any. Heart and lungs are clear. Heart has a RSR. Still has the neurological deficit in the lower extremities.

Return in 4 weeks.

Green B. Neal, M.D.

GBN:rpj 23(83)

000153

RETURN OFFICE VISIT

Clifford Pasley
(803) 731-5320

New Phone: (803) 556-0204

New Address: 10 Dunoon Court
Columbia, SC 29229

Chart No.: 6700

DOB: [REDACTED] /61

DOS: [REDACTED] 5/6/06

VITAL SIGNS:

Temperature:	97.6
Pulse:	79
Respiration:	18
Blood Pressure:	125/81
Weight:	176
Blood Sugar:	mg %
SPO2:	

Subject: He's seen today for follow up. Is still having a lot of pain out of his lower back. At this point he's really not improving any. He has grade 1 spondylosis at L5 on S1 related to L5 pars defect and a facet degenerative change at L5 with associated bilateral narrowing of the L5-S1 neuroforamin and apparent flattening of the nerve root as it extends through this region. There is a broad base posterior bulge and far posterior lateral disc osteophyte formation and disc protrusion of L5-S1 disc, which also contributes to stenosis of the right and left neuroforamin. He also has a mild desiccation and degenerative changes of the thoracic spine seen only at a few levels, T1-2, T2-3 and T3-4 disc levels but no significant posterior disc protrusion and no spinal canal or neuroforaminal stenosis. He has a very mild posterior disc osteophyte formation with mild generalized decrease in spinal canal dimensions at C7-T1. At this point I don't think he's going to improve any time soon, He's in a stable state. He needs to have an EMG/NCS done. If they are positive then he may have to have injections of the nerve root. Workmen Comp needs to be petitioned to see if they will pay for this. His lungs are clear. Heart has a RSR. He still has spasms in the lower back and LS area, pains radiating down into the legs. His blood pressure is fairly well controlled today. I'm not changing his meds. Right now he has an impairment rating to the LS area of 55%. He has a 15% impairment rating involving the leg on the basis of chronic pain and degenerative disc disease. He has a permanent physical impairment rating to the thoracic spine of 3% and none to the cervical neck. At this point we need EMG/NCS still. I'll see him back in 4 weeks.

Medications:

1. Skelaxin 800mg 2 tid pc
2. Aleve 2 tablets every morning pc with food.

Return in 4 weeks.

Green B. Neal, M.D.

GBN: rpd 22a(90)

000154

File

GREEN B. NEAL M.D.
INTERNAL MEDICINE AND CARDIOLOGY
1415 BARNWELL STREET
COLUMBIA SC 29201-3511
TELEPHONE 803-256-7985
FAX 805-256-4919

November 16, 2005

J. Marvin Mullis, Jr.
Attorney At Law
Mullis Law Firm
1229 Elmwood Avenue
The Halthiwanger House
Columbia, SC 29201

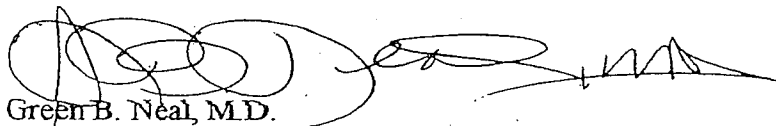
Re: Clifford Pasley, Chart No.: 6700, (803) 447-1968, DOB: [REDACTED]/61; SSN: [REDACTED]
[REDACTED]

Dear Attorney Mullis:

I've seen Mr. Pasley for you and have been following him for a while. I recently got a MRI which is enclosed with this letter. It shows his spine disease is much worst than we thought he has quite a bit of impingement in the LS area. He needs an EMG/NCS and needs to be referred to a neurosurgeon. I'm writing this letter asking for your aid in getting him to see this done.

Should you require any further information, please feel free to write or call.

Sincerely,



Green B. Neal, M.D.
GBN: rpd 22a(12)

Mailed 11-22-05

000155

RETURN OFFICE VISIT

Clifford Pasley
(803) 731-5320

Chart No.: 6700
DOB: [REDACTED]/61

DOS: 11/16/05

VITAL SIGNS:

Temperature:	97.1
Pulse:	74
Respiration:	18
Blood Pressure:	122/81
Weight:	166 ½
Blood Sugar:	mg %
SPO2:	

Subject: Attorney J. Marvin Mullis, Jr. originally referred Mr. Pasley to me for comprehensive exam and permanent rating. I've gone through everything and have obtained a MRI of the lumbar and thoracic spine. The lumbar spine shows a grade 1 spondylothesis of L5-S1 related to bilateral L5 pars defect and facet degenerative changes of L5 with associated bilateral narrowing of the L5-S1 neuroforamina and apparent flattening of the nerve roots as they exist through this region. There's a broad base posterior and far posterior lateral disc osteophyte formation and disc protrusion of L5-S1 disc, which also constitutes to stenosis of the right and left neuroforamina. This explains the pains in his back particularly with any repetitive activity. The second MRI done was of the thoracic spine. It showed mild desiccation and degenerative changes of the thoracic spine seen only at a few levels at T1-2, T2-3, and T3-4 but no significant posterior disc protrusion seen and no spinal canal or neuroforaminal stenosis seen. At T-11-12 there is some desiccation and some very mild posterior disc osteophyte formation but no significant associated spinal canal or neuroforaminal stenosis. All of his symptoms therefore are coming from the L5-S1 nerve root area. This explains why he continues to be symptomatic at this point. I originally gave him an impairment rating of 15% involving the right leg on the basis of chronic pain, degenerative disc disease and disc protrusion with exerting fraction on the L5 nerve root causing pain into her legs. With the new MRI we now that there's even more disease present at this point including bilateral narrowing of the L5-S1 neuroforamina and apparent flattening of the nerve root as they exit in this region secondary to a bilateral L5 pars defect and facet degenerative changes. There's also noted a broad base posterior and far left posterior lateral disc osteophyte formation and disc protrusion of L5-S1 disc which also causes stenosis of the right and left neuroforamina. Because of this he continues to have pain. His impairment to the LS area for now is 55% to both lower extremities. This rating may improve if he has surgery. He actually needs an EMG/NCS study at this point to see how bad it is and he needs a referral to a neurosurgeon. I will let his attorney know and see if he can arrange for him to be seen by a neurosurgeon. I'm not making any other changes at this point. He's currently on Skelaxin 800 mg 2 tid pc and Aleve 2 qam pc.

This was Green B. Neal, M.D.

GBN: rpd 22a(12)

000156

RETURN OFFICE VISIT

Clifford Pasley
(803) 447-1968

Chart No.: 6700

DOB: [REDACTED] /61

DOS: 10/5/05

VITAL SIGNS:

Temperature:	97
Pulse:	73
Respiration:	18
Blood Pressure:	122/75
Weight:	170
Blood Sugar:	mg %
Waist:	inches
SPO2:	

Subject: He's seen today doing fairly well at this particular point but has pain in his low back for the last week. Does not remember doing anything. It sounds like its degenerative arthritis at this point. His blood pressure is really doing well. *He has a pressure today of 122/75. I'm very,* very pleased with that. He's returned to work driving trucks. He has some pain on climbing in and out of the cab. He's currently on HCTZ 25 mg ½ tablet qd, Zocor 40 ½ tablet qd, and Foltx 1 qd. He's been using ibuprofen in the past for his back but I'm switching him to Aleve now. I want him to take 2 tablets qd. His rating for his cardiovascular system really hasn't changed any at all. I talked about doing another MRI of his back and another EMG/NCS if it was positive. I'm *following through with a neurosurgical consult.* I think I'll set him up for the MRI of the lower back at this point. I'll see him back in 4 weeks.

Return in 4 weeks.

Green B. Neal, M.D.

GBN: rpd 21(1)

000157

RETURN PHYSICAL EXAM

Cliff Pasley
107 Broken Hill Road
Columbia, SC 29212
(803) 447-1968

Chart No.: 6700

DOB: [REDACTED] /61

DOS: 9/8/05

VITAL SIGNS:

Temperature:	97
Pulse:	59
Respiration:	18
Blood Pressure:	131/90
Weight:	170 ½
Blood Sugar:	99 mg %
Waist:	36 inches
SPO2:	

Subject: His blood pressure is a little up but he did not get to take his HCTZ this morning and that's probably the reason it's a little up. I initially saw him for an accident that happened on 1/702 and followed him through 2/18/03 when I released him. He complained of having low back pain at that particular time with pain that radiated to both feet. When I released him he tried to go back to work but was unable at that particular point and really didn't return to work until August '03. He was subsequently seen by Dr. McFadden at the VA Hospital, and was given physical therapy by the VA. He was continued on his high blood pressure at that point. He gradually got better at that point and was able to return to work. He's currently on HCTZ 25 mg ½ tablet qd, Zocor 40 mg ½ tablet qd. He still has the pain in the LS area of the back with radiation down the entire right leg. He also is on Foltx 1 qd for Homocysteine. He's had a colonoscopy, which was negative. I believe his high blood pressure is directly related to the level of pain he has. *He has a sequela of chronic pain from his accident. He's been on Ibuprofen 100 mg bid prn for pain.* It does give him pretty good relief. He has a rating to the LS back of 15%. This is due to the fact he has chronic spasm and pain in this area. He has a L5 nerve root radiculopathy as noted to the clinical to the right leg. He has a permanent physical impairment rating to the cardiovascular system on the basis of his hypertension of 20%.

This letter is to confirm that Mr. Pasley is impaired as a result of his injury, and has really had no further involvement from a neurological standpoint. He really needs to be assessed at that particular time again with new MRIs of the back and EMG/NCS. If they are positive, then we need to follow through with a neurosurgical consult. If they are negative, he just has to live with it.

Return in 8 weeks.

000158

RETURN OFFICE VISIT

Cliff Pasley
107 Brocken Hill Road
Columbia, SC 29202

Chart No.: 6700

DOB: [REDACTED] /61

DOS: 2/18/03

VITAL SIGNS:

Temperature:	97.6
Pulse:	78
Respiration:	18
Blood Pressure:	122/94
Weight:	160
Blood Sugar:	

Subject: Mr. Pasley at this particular point is seen today and is doing about as well as can be expected at this point. I gave him permission to try to find some type of work on the previous visit. He is still having some tingling in the right arm, some pain in the right extremity, in the LS area of the back and in the shoulder area. I think at this particular point he's reached maximum medical improvement. He is going to be stick with some residual problem. He has a permanent physical impairment rating to the cervical neck and right upper extremity. In the cervical neck he has a 10% physical permanent physical impairment rating; to the right upper extremity he has a permanent physical rating of 10% as well. This is on the basis of traumatic *fibromyositis and* degenerative arthritis of the cervical spine. He has a permanent physical impairment rating of the LS area of the back and right extremity. The rating to the LS area of the back is 15% and involvement to the right leg is also 15%. This is basis of chronic pain. He degenerative disc disease; he has a disc protrusion which is exerting traction on the L5 nerve ^{root} group which is causing pain into the leg. It is not to the point where surgery is indicated at this point. He will have to stay on *muscle relaxants and non-steroidal Motrin and Zanaflex*. He does have a cholesterol problem that is not related to his current problem that is the accident. He does have hypertension and the hypertension is accident related because of the degree of pain that he has, the hypertension has manifested itself on this basis. Treatment of that now becomes a compensable cause related to the pain that he is in. He is treated with ~~4~~ ACTZ 25 mgs ½ tablets Monday, Wednesday, and Friday. I noticed that his blood pressure is up today and we may have to look at this and re-evaluate it. My next step would be to place him on Diovan 160-12.5 1 qd, but I am having him monitor his pressure and see how he is doing. I am releasing from the accident as of today, but I will continue to follow his blood pressure problem and cholesterol problem if he wishes to continue seeing me.

Green B. Neal, M.D.

GBN:npd (1.4

000159

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700
DOB: [REDACTED] 61

DOS: 01/07/03

VITAL SIGNS:

Temperature: 97
Pulse: 78
Respiration: 18
Blood Pressure: 140/82
Weight: 164 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today for follow-up. I've allowed him to return to some type of work. He's not be able to get back to the driving yet. *Primarily because of the job slow down or truck problems or whatever with his employer.* He has tried some yard work. Has had some pain, some swelling, some tenderness in the right extremity of the LS area and shoulder. I'm going ahead at this particular time and let him continue his present medications. No changes. I'll see him back in eight weeks.. We'll release him on return.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.
GBN:mbt

000160

RETURN OFFICE VISIT

Mr. Clifford Parsley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700
DOB: [REDACTED] 61

DOS: 12/02/02

VITAL SIGNS:

Temperature: 98.1
Pulse: 82
Respiration: 18
Blood Pressure: 126/79
Weight: 168 lbs.
Blood Sugar: -

Subject: He's doing extremely well considering the amount of improvement he's done. I will allow him to go back to work on light duty. Short runs. Only around the Carolina's, Georgia, etc. And see how he does over the next weeks. And then progress him on to full work, if he does okay. I have some reservations about the clutches in the truck, but he thinks that he maybe able to do it. The other thing is when they disconnect trailers I've asked him to use a large pipe to extend to give him more leverage so he doesn't have to struggle as hard. Other than that I think he should do quite well. I'll see him back in four weeks. No change in his medications. He's still having the soreness and the pain in the LS area. I think that if he got back to work it'll act as a hardening conditioning and will help him a lot.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.

GBN:mbt

000161

RETURN OFFICE VISIT

Clifford Pasley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700

DOB: [REDACTED] 61

DOS: 10/23/02

Vital Signs:

Temperature: 96.7
Pulse: 74
Respiration: 18
Blood Pressure: 96/57/
Weight: 166 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today. He has improved a little, but he's still very cautious and protected of his injury site. *I'm going ahead at this particular point and hold him off for four more weeks, at that point I'll try and return him to work.* He's a truck driver, maybe he can do local runs and not wind up doing any long runs that'll keep him away. We'll see where we go from there. He can try some tricks such as using the extension pipe so that he don't have to pull as hard when cranking the landing gear, etc. Other than that he seems to be fairly stable. I think he is progressing well. He is on the ~~Folix~~ *one q.d.*, on the Zocor 20 mg., one half tablet q.d. He really needs to go up to a whole tablet, but since he got that from the VA I'll let them decide where to go. We'll probably wind up doing a VAP Panel on him before it's all over to see whether or not his distribution is okay. I'd like to see him back in four weeks.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mbi

000162

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29212

✓ Chart No.: 6700

DOB: [REDACTED] 61

DOS: 09/25/02

VITAL SIGNS:

Temperature: 97.5
Pulse: 60
Respiration: 18
Blood Pressure: 118/68
Weight: 162 ½ lbs.
Blood Sugar:

Subject: He's on Zocor 40 mgs. ½ tablet at the VA. On Foltrex one qd. On HCTZ 25 mgs. ½ tablet qd which I'm reducing to Monday, Wednesday and Fridays. He's on Soma 350 mgs. one qid prn. Motrin 800 mgs. tid pc. He's doing about as well as can be expected at this point. No changes. He has a lumbar sacral herniated nucleus pulposus with a foot drop on the right indicating perineal nerve palsy. We'll see how he does with this at this particular point. He had been on Zanaflex 20 mgs. when he was initially injured I think that's a better muscle relaxant than the Soma. But I'll see where we go from there. No other changes at this point. He's not to return to work at this particular point. He has a cellular inflammation. We'll try to get that under control with the Zocor, the Foltrex. He's had some impudence related to his medications. I'll reduce his blood pressure medicine to see if that's the culprit, but it maybe one of the others that's doing it. I'll see him back in four weeks.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.

GBN:mbi

000163

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RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700

DOB: [REDACTED] 51

DOS: 8/28/02

Vital Signs:

Temperature:

97.4

Pulse:

66

Respiration:

18

Blood Pressure:

115/66

Weight:

Blood Sugar: 165 65

Subject: He's seen today for follow-up. His laboratory work is back (See Lab Reports in file). He has a nerve impingement at the LS area with severe pains. He certainly has high blood pressure and hematuria. *At this particular point, I'm not making* any changes in any of his medications. He's feeling better at this particular point. He's going to physical therapy at the VA right now. We'll see how he does at this particular point. He's not working. Has not been the work since January 17, 2002. He's working at Leonard Brown/Transgri. He had been employed about a year. He was tying down a load of steel with the tie down straps and using an iron bar to pull the straps tight, when *he injured his back. I think that he is doing somewhat better today.* We need to continue his therapy. At this point he's on ~~ACTZ~~ 25 1/2 tablet, 25 mg. q.d. He's doing okay today. No changes in any of his medications. Like to see him back in probably four weeks. I want him to finish his therapy out and then we'll see where we go from then.

Family History: Non-contributory

Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mht

000164

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Mr. Clifford Palsey

08/13/02

Page Three

Past History: He has not been able to return to work since the injury to his back. His b/p was elevated also when he was seen at Urgent Care, 152/102.

Physical Exam: **Head:** Black. Head is clean shaven, but the mustache is black. **Ears:** Shows no discharge or tophi. The drums are pearly gray. Hearing is intact. **Nose:** Nasal turbinate congestion with hyperemia and seromucous discharge. There's no paranasal or frontal sinus tenderness. **Eyes:** Brown **Fundoscopy:** Grade II Afro-Scartic renopathy. Pupils are round, regular and equal and reactive to light and accommodation. EOM are intact. Sclera is clear. Conjunctiva is pink. There is no ptosis, nystagmus or exophthalmos. Don't see any hypertensive changes in the eye. **Mouth:** Lips show no tremor or atrophy. Size is normal. There is no gum disease or leadline. Chewing surface is adequate. **Pharynx:** No hyperemia. The uvula is midline. There is no posterior or pharyngeal discharge. **Neck/Back:** Trachea is midline. Thyroid is not enlarged. No bruits. No JVD. ROM is normal. There's spasm and rigidity in right para-sacral area of the back. Positive ileo-sacral punch. **Lymph nodes:** No supraclavicular, submental, axillary or inguinal nodes. No submandibular lymph adenopathy or tenderness. **Lungs:** The AP diameter of the chest is normal. Lungs are clear to percussion and auscultation. There are no wheezes, rhonchi or rales. **Breast:** Symmetrical without dimpling, retraction, discharge or masses. **Heart:** PMI is in the 5th Intercostal space, within the MCL, localized and not sustained. No murmurs, gallops, heaves, thrills, lifts, rubs or clicks. **Abdomen:** Soft. Bowel sounds are active. No organomegaly. No rebounds or guarding noted. **Extremities:** Straight leg raising is positive at 15 degrees on the right, 60 degrees on the left. Heel punch is positive. Ankle jerk is absent on the right. Decrease in vibratory sensation on the right. Decrease in pinprick sensation on the lateral surface of the foreleg on the right. No edema. All pulses are equal and strong. There is no grinding or clicking or popping noted. **Neurological:** Intact.

Impression: At this particular point I concur that he has a herniated nucleus pulposus. Whether it will resolve by physical therapy or not depends on the therapy received. It is very late for him to be receiving physical therapy, almost some eight months after the initial injury. Because of the delay in his receiving his treatment he will have a significantly more difficult time of getting rid of residual damage that could have been limited had he had earlier treatment.

At this particular point I concur that he should stay on physical therapy at this point. I concur that the muscle relaxant and anti-inflammatory agents should be continued. My choice would be a different one, but since he's progressing and seems to be improving we'll let him continue on the ones that he's on. The Motrin and the Robaxin. His high blood pressure needs to be treated. I think that his hypertension, that he has, is directed related to the severe pain that he's had in his back since the injury and has resulted in damage to his heart, that is presently seen on his EKG at this time. Whether or not this will resolve will take time at

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this particular point. If I had to rate him at this particular point I would have to say that he is totally disabled at this particular point until he is completely rehab.

- A. He may have to have disk decompressive laminectomy to the LS area of the back in order to alleviate this.
- B. A short course of steroids may benefit his improvement as well.
- C. Longer acting muscle relaxants may benefit him at this particular point.
 - 1. He has hematuria. Has a 1+ blood in the urine at this particular point. This needs to be investigated. The cause of this could be stone disease either in the kidney or urethra or the bladder that causes the irritation.
 - 2. He may have nephro-sclerosis that has damaged the kidney from his hypertension. This needs to be thoroughly investigated at this particular point. An additional study should be undertaken including:
 - A. A CT Scan of the abdomen
 - B. An ultra sound of the urinary system
 - C. Performance of a PSA to make sure there is no prostate cancer involved
 - D. An urine culture to make sure there's no urinary tract infection
 - E. A probable referral to an urologist to make sure for consideration for cystoscopy looking for bladder causes of hematuria (blood in the urine)
 - F. He may need a neuro-surgical referral at this point. I don't have enough information to tell. We'll gather all of his old records including his MRI, etc. and we'll go from there.

Green B. Neal, M.D.
GBN:mbr

SOUTHEASTERN SPINE INSTITUTE

PASLEY, CLIFFORD

Patient # 281670

June 22, 2010

This patient is a 48-year old from Gadsden, SC. He is referred by his attorney for an independent medical evaluation. He is apparently S/P a work injury while tying down a load of steel on a truck that he was driving. This occurred 1/17/02. It is unclear to me or the patient what has happened thereafter. Apparently there has been some contention with out of state or South Carolina workers compensation. He has complaints of low back pain with radiation down his right leg. He tells me that this intermittently has continued to be his problem. He was seen through the VA Hospital and prescribed some physical therapy. He apparently has had some MRI scanning done also. He has an MRI with him today that we opened from '07. This is an MRI of his hips, does not involve his low back. He brought with him an MRI of the lumbar spine from '02. I personally reviewed this study. This shows a disc space collapse at L5-S1 with a Grade I spondylolisthesis. There is significant disc bulging with more foraminal narrowing and compression in the area of the L-5 nerve root on the right. This scan is from 3/25/02. I have personally reviewed it with the radiologist's report.

I have the radiologist's report of a scan also done in Columbia on 10/12/05. The findings on this scan are very similar to the '02 scan per the radiologist's report. The patient did not have this scan with him for review.

The patient relates that he has seen Dr. Neal his primary care physician, apparently has not seen any specialist's however. He takes 800mg ibuprofen. His pain is made worse by sitting long periods of time while driving the truck or doing some yard work. He is otherwise healthy. He takes Hydrochlorothiazide for blood pressure. He has no chronic medical illnesses.

ALLERGIES: NKDA.

REVIEW OF SYSTEMS: Positive for change of sensation and some weakness in the right leg. He sees that his symptoms are consistently on the right side.

The patient states that he was working until January of this year. He is now drawing unemployment. He has worked as a truck driver for some 25-years. He is accompanied by past medical records from Dr. Green Neal that I have reviewed. These outline consistent problems with the patient's right leg and outline Dr. Neal's recommendations for treatment including an EMG and nerve conduction study. There are notes from Dr. Neal that date back to 2002 and consistent notes from '05 requesting a neurologic workup to include an MRI as well as an EMG and nerve conduction study. It appears that he has not been able to have an EMG and nerve conduction study done although this was requested on multiple occasions by Dr. Neal.

(Continued)

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SOUTHEASTERN SPINE INSTITUTE

PASLEY, CLIFFORD

Patient # 281670

June 22, 2010

Page 2

PHYSICAL EXAMINATION: The patient is alert and oriented x3. He is quite pleasant. He seems to be very straight forward. He is 5'8" 165 pounds. Standing he has a palpable step off of his posterior spinous processes. He is tender in the right sciatic notch. Straight leg raising is provocative on the right. He has some pain that extends down his leg in an L5-S1 distribution. He is grossly neurologically intact. He does not have a foot drop. He can toe and heel walk. Standing he has a level pelvis. His gait may be slightly antalgic on the right.

IMPRESSION:

1. Low back right leg pain.
2. Spondylolisthesis L5-S1 with foraminal stenosis and crowding L-5 nerve root right.

RECOMMENDATIONS: I agree with Dr. Neal the patient should have an EMG and nerve conduction study. At this long period of time after his injury, he continues to be symptomatic. The symptoms he has today are consistent with the complaints that he has voiced to Dr. Neal over the years. I would suggest that he have an EMG and nerve conduction study to be followed by a selective spinal injection of the L-5 nerve root and core lumbar stabilization exercises. If these are not successful he may require surgical intervention. I don't think he is at maximum medical improvement.

Donald R. Johnson, M.D.

DRJ/dam

T- 6/29/10

Cc: J. Marvin Mullis, Esquire

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Progress Notes

Printed On Dec 21, 2011

STANDARD TITLE: ADMINISTRATIVE NOTE

DATE OF NOTE: DEC 01, 2011@23:58

ENTRY DATE: DEC 01, 2011@23:58:16

AUTHOR: BRADHAM, TAMIE W

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

MEMORANDUM FOR WHOM IT MAY CONCERN:

Subject: Absentee form

REFERENCE: CLIFFORD PASLEY was seen on this date at the VA HOSPITAL at Columbia, SC.

The patient has been advised not to return to work until: Saturday 12/03/2011

REMARKS: Mr. Pasley was seen at the Dorn VA ER on Thursday 12/01/2011 by Dr. Chauhan. He is advised to not return to work until Saturday 12/03/2011.

/es/ TAMIE W BRADHAM

RN

Signed: 12/02/2011 00:01

LOCAL TITLE: EMERGENCY DEPT PHYSICIAN NOTE

STANDARD TITLE: PHYSICIAN EMERGENCY DEPARTMENT E & M NOTE

DATE OF NOTE: DEC 01, 2011@23:51

ENTRY DATE: DEC 01, 2011@23:51:30

AUTHOR: CHAUHAN, JASWINDER T

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

49 y/o male with hx of herniated disc. Pt states the ibuprofen helps. he was having spasms today while at work. he is requesting flexeril as it has helped in past. no urine or bowel incontinence

exam

wd wn male nad

ctab

rrr no mrg

neg SLR, no spine tenderness, no masses, pain in lumbar region and lower thoracic region.

low back pain

flexer, heat, continue ibuprofen. return as needed.

Patient educated about the following:

☒ Plan of Care/illness & condition

☐ Medications

☐ Pain Management

☐ Tests/procedures

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD.

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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Printed at COLUMBIA, SC VAMC

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Progress Notes

Printed On Dec 21, 2011

Follow up in Emergency Dept if condition acutely worsens., Follow up with Primary Care Provider.

TAP Line: 1-888-651-2683 Toll-Free and 803-647-5829 Local.

/es/ JASWINDER TONY CHAUHAN

ED PHYSICIAN

Signed: 12/01/2011 23:51

LOCAL TITLE: EMERGENCY DEPT TRIAGE/VS NURSING NOTE TL

STANDARD TITLE: NURSING EMERGENCY DEPARTMENT TRIAGE NOTE

DATE OF NOTE: DEC 01, 2011@22:11

ENTRY DATE: DEC 01, 2011@22:11:27

AUTHOR: ZISSETT, WESLEY W

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** EMERGENCY DEPT TRIAGE/VS NURSING NOTE TL Has ADDENDA ***

Initial Triage:

Age: 49 Sex: MALE

Vital Signs:

Temp:

96.9 F (36.1 C)

Pulse:

77

Respirations:

16

BP:

122/76

Pain Level:

6

(Note: IF Pulse Ox is needed, entered via VS on cover sheet)

Oxygen Saturation %:99 Room Air

COMPLAINT/ASSESSMENT: Patient presents today c/o lower back pain/spasms for the last 3 days. Patient states the pain is radiating down the right leg. He states that he has a history of a herniated disc.

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

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Progress Notes

Printed On Dec 21, 2011

SUICIDE RISK SCREEN:

Brief Suicide Screen:

In the PAST WEEK, have you felt hopeless about the present or future?
No

In the PAST WEEK, have you had thoughts of suicide?
No, Patient denies suicidal thoughts.

Suicide risk screen negative.

Educated pt/caregiver on the risk of suicide.

Emergency Dept Nursing Triage:

PAIN ASSESSMENT:

Pain is present.

Pain intensity: 6= Hurts a lot, can't ignore for any length of time

Source of pain intensity score: Stated Score

Location of pain: Back

Character of pain: Sharp, Shooting

Frequency: constant Duration:

Causes: Relief measures:

PATIENT/FAMILY EDUCATION: Discussed pain management, pain scale and the importance of reporting pain with patient/family

[X] Provided pain management information

[X] Pt verbalizes understanding to notify staff if uncomfortable

ALLERGIES/ADR: Patient has answered NKA

Is the above computer generated Allergy/ADR data reflective of an assessment that is current and accurate based on the patient/family information provided?

Yes

Patient arrived via: Ambulatory

Oriented:

Yes

Triage process explained to veteran/family with understanding voiced.

Plan:

Location of Veteran:

Veteran sent to ED bed immediately.

Emergency Severity Index (ESI):

Level 5 - Non-urgent.

Patient Aligned Care Team (PACT) will be notified of visit via Case Manager listed below:

RED TEAM: Pineda- Latundra Pryor-Swinton, RN

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA, 29052

VISTA Electronic Medical Documentation

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Printed at COLUMBIA, SC VAMC

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Progress Notes

Printed On Dec 21, 2011

Patient verbalizes understanding of the above material. A copy of the information was provided.

/es/ GENEVA B JACKSON

LPN

Signed: 09/22/2011 10:42

LOCAL TITLE: PC PHYSICIAN F/U NOTE

STANDARD TITLE: PRIMARY CARE PHYSICIAN NOTE

DATE OF NOTE: SEP 22, 2011@10:11

ENTRY DATE: SEP 22, 2011@10:11:46

AUTHOR: PINEDA, JACQUELINE Y EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

HPI: PASLEY, 49 yo, MALE, BLACK OR AFRICAN AMERICAN, who presents to the clinic for routine follow up. Today Mr. Pasley tells me that he went to the ER due to worsening of the low back pain radiated to his left leg. States doing better but reports having on/off pain radiated to the left leg.

He was evaluated by a NS and he is being f/u by a pain specialist at Charleston. Mr. Pasley is appealing for a work compensation case. Otherwise he is doing well

ROS: denies CP, SOB, LE edema, abdominal pain, nausea, vomiting, diarrhea, constipation

Past Medical History:

Computerized Problem List is the source for the following:

1. PRE-EMPLOYMENT EXAM	02/08/11	HANSFORD, BILLY
2. Impaired FASTING Glucose (ICD-9-CM 790.21)	06/09/08	COVINGTON, KAREN
3. Vitamin B 12 Deficiency	10/20/04	MCFADDIN, JENNIF
4. Anemia * (ICD-9-CM 285.9)	09/06/02	GRASS, MARY A
5. Hypertension * (ICD-9-CM 401.9)	09/06/02	GRASS, MARY A
6. Personal History of Surgery Coloscopy s/p polypectomy	06/04/02	PEL, DARAVUTH K
7. Lower Back Pain	06/04/02	PEL, DARAVUTH K
8. Hypercholesterolemia	06/04/02	PEL, DARAVUTH K

Physical exam :

Vitals: Weight 162 lb [73.6 kg] (09/22/2011 09:58)
BP 124/84 (09/22/2011 09:58)
Temperature 98.5 F [36.9 C] (09/22/2011 09:58)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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Printed at COLUMBIA, SC VAMC

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Progress Notes

Printed On Dec 21, 2011

Pulse 67 (09/22/2011 09:58)
Respiration 18 (09/22/2011 09:58)
Pain 6 (09/22/2011 09:59)
BMI: 24.6 (09/22/11)

General: Alert and oriented in no distress

Labs: reviewed

Assessment/Plan:

1. LBP/lumbar radiculopathy: Stable; Continue ibuprofen 800mg po prn. Mr. Pasley is appealing a work compensation. He was seen by a NS through his attorney.

MRI of the lumbar spine done on 3/2011 showed:

spondylolisthesis of L5 upon S1 due to spondylolysis at the L5 vertebra. This results in high-grade narrowing at both of the L5-S1 intervertebral nerve root canals. Annular bulging minimally compresses the anterior surface of the thecal sac at this same level.

Will provide a back brace

2. Hypercholesterolemia : LP at goal; continue with zocor 20 mg qhs.

3. Impaired fasting glucose: Hgbaic normal; fasting glucose normal. Encourage to continue with exercise keep weight down and low carb diet

4. HTN : BP Well controlled. Continue hctz 12.5mg po daily.

5. Health maintenance: due for colonoscopy; last colonoscopy in 2001. GI consult pending

RTC: 12 months

Allergies/ADR: Patient has answered NKA

Outpatient: Medication Reconciliation

Active Outpatient Medications (excluding Supplies):

Active Outpatient Medications	Status Refills	Issue Date Last Fill Expiration
1) CODEINE 30/ACETAMINOPHEN 300MG TAB Qty: 25 for 5 days Sig: TAKE 2 TABLETS BY MOUTH EVERY 6 HOURS AS NEEDED FOR PAIN	ACTIVE Refills: 0	Issu:08-31-11 Last:08-31-11 Expr:09-30-11
2) HYDROCHLOROTHIAZIDE 25MG TAB Qty: 45	ACTIVE	Issu:03-03-11

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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Printed at COLUMBIA, SC VAMC

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Radiology Reports

Printed On Dec 19, 2011

SPINE LUMBOSACRAL MIN 2 VIEWS

Exm Date: AUG 31, 2011@21:22

Req Phys: ILSLEY, JEFFREY E

Pat Loc: WJB ER PROVIDER-X (Req'g Loc)
Img Loc: DIAGNOSTIC OOS
Service: Unknown

(Case 1198 COMPLETE) SPINE LUMBOSACRAL MIN 2 VIEWS
Reason for Study: pain

(RAD Detailed) CPT:72100

Clinical History:

Report Status: Verified

Date Reported: AUG 31, 2011

Date Verified: SEP 01, 2011

Verifier E-Sig:/ES/JASON C BELAND

Report:

Impression:

FINDINGS: AP and lateral views of the lumbar spine from August 31, 2011 are without previous studies for comparison. I do have a report of a previous MRI from March 14, 2011, although the images are currently not available. The report of the previous MRI describe greater anterolisthesis of L5 with respect to S1 due to spondylolysis at L5 and advanced degenerative disk disease at L5-S1. Spondylolysis is suggested on this study, and there is minimal anterolisthesis of L5 with respect to S1. Advanced degenerative disk disease is evident at the level of L5-S1.

There is minor dextroconvex scoliosis centered at the level of L4-L5. There is chronic appearing anterior wedging at the level of T12 which may be physiologic. Vertebral body height and alignment are otherwise preserved. Mild degenerative disk disease is evident at T11-T12, but no other arthropathic features re evident.

The SI joints are symmetric.

IMPRESSION:

BILATERAL PARS DEFECTS AT THE LEVEL OF L5 ARE ASSOCIATED WITH GRADE 1 ANTEROLISTHESIS OF L5 WITH RESPECT TO S1 AND ADVANCED DEGENERATIVE DISK DISEASE AT THIS LEVEL.

Primary Interpreting Staff:

JASON C BELAND, Staff Physician (Verifier)

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

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Progress Notes

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URGENCY:

STATUS: COMPLETED

CLINICAL REMINDER ACTIVITY

Suicide Risk SCREEN:

Suicide Risk Screening:

Do you have thoughts of hurting yourself?

No

Do you have a plan to take your life?

No

Are you feeling hopeless about the present or future?

No

Have you ever had a suicide attempt?

No

Suicide risk screen negative.

V7-HTN BP>140/90:

The patient was counseled on the importance of regular exercise and/or physical activity in the control of blood pressure.

The patient was instructed to try to exercise at least 30 minutes 3 times per week if possible and that any increase in physical activity may be useful in controlling BP.

The patient was counseled on the importance of diet and weight control in the control of blood pressure.

The patient was counseled to reduce their weight to within 10 percent of their ideal body weight. The possible improvement in BP control with even 5 to 10 pounds of weight loss was reviewed.

The contribution of dietary sodium to elevated blood pressure was reviewed. The patient was counseled to limit sodium intake to no more than 2.4g of sodium or 6g of sodium chloride.

BMI > 30 or 24.99 High Risk:

Screening for obesity.

At this visit, the health risks of obesity were reviewed with the patient, and the benefits of weight loss were discussed.

Patient refuses MOVE! referral.

Pain Assessment (Nsg):

Pain Level: 4 (02/23/2009 08:57)

The patient has pain problem. Pain assessment/plan as follows:

PAIN ASSESSMENT:

Current Vital Measurement:

Pain Level: 4

Pain intensity: (please select number closest to patient's perception)

4=Uncomfortable, impacts on work

Location of pain:

lower back

Description of pain:

sharp, radiates to right leg

Frequency/Duration:

constant

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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8100 BAYFIELD RD APT 3 J

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Progress Notes

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Education Summary & Comments:

Recipient of education: ☒ Patient ☐ Family/caregiver ☐ Other

Teaching method: ☒ Verbal ☐ Demonstration/doing ☐ Printed material
☐ Audiovisual

Outcome: ☒ Verbalizes understanding ☐ Needs reinforcement
☐ Able to demonstrate

/es/ ROBERT H KNEECE

Staff Physician, Primary Care

Signed: 09/14/2008 09:42

LOCAL TITLE: EMERGENCY DEPT TRIAGE/VS NURSING NOTE TL
STANDARD TITLE: NURSING EMERGENCY DEPARTMENT TRIAGE NOTE
DATE OF NOTE: SEP 14, 2008@08:54 ENTRY DATE: SEP 14, 2008@08:54:27
AUTHOR: MCMANUS, ROBERT N EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Vital Signs: Temperature: 97.5 F [36.4 C] (09/14/2008 08:52)
Pulse: 61 (09/14/2008 08:52)
Respiration: 16 (09/14/2008 08:52)
Blood Pressure: 141/85 (09/14/2008 08:52)
Height: 68 in [172.7 cm] (06/09/2008 07:53)
Weight: 166.4 lb [75.6 kg] (06/09/2008 07:53)
Pain level: 8 (09/14/2008 08:52)
Pulse Ox: No PULSE OXIMETRY Vitals taken in the last 1
Year.

Age: 46 Sex: MALE

ALLERGIES/ADR: Patient has answered NKA

Is the above computer generated Allergy/ADR data reflective of an
assessment that is current and accurate based on the patient/family
information provided?

Yes
Patient arrived via:
Ambulatory
Oriented:
Yes

COMPLAINT: Pain in shoulder, upper back
SUICIDE RISK SCREEN:
Suicide Risk Screening:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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PREVENTIVE CARE/PATIENT EDUCATION:

Patient educated about the following:

- ☒ Plan of Care/illness & condition
- ☒ Medications
- ☐ Pain Management
- ☐ Tests/procedures
- ☐ Basic health practices (smoking, exercise, alcohol use, diet, immunizations, etc.)
- ☐ Other (specify):

Education Summary & Comments:

Recipient of education: ☒ Patient ☐ Family/caregiver ☐ Other

Teaching method: ☒ Verbal ☐ Demonstration/doing ☐ Printed material
☐ Audiovisual

Outcome: ☒ Verbalizes understanding ☐ Needs reinforcement
☐ Able to demonstrate

CLINICAL REMINDER ACTIVITY

Pain Assessment:

Pain Level: 3 (10/29/2007 08:12)

Patient is comfortable with current pain level/management and understands to notify staff if uncomfortable.

Pain Location: rt hip pain

OncWatch Colorectal Cancer Screen:

Colorectal Screen is indicated

- The importance of colorectal cancer screening and options available were discussed with the patient. Patient understands the importance of following-up on a positive CRC screening, including the need to undergo a colonoscopy.

Level of Understanding: Good

Patient WILLING to go through Colorectal cancer screening.

Patient does NOT have risk factors

The following was ordered:

Fecal Occult Blood Test (FOBT) lab ordered

Patient was given a kit containing 3 FOBT cards with instructions.

/es/ KAREN R COVINGTON, APN
Adult Nurse Practitioner

Signed: 10/29/2007 09:10

LOCAL TITLE: PC PROVIDER F/U NOTE - TL

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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09/19/2005 EOSINOPHIL # 0.10
09/19/2005 BASOPHIL # 0.0

No A1C results in last 1Y

09/19/2005 CHOLESTEROL 178.00
09/19/2005 TRIGLYCERIDE 42.00
09/19/2005 HDL 38.00 L
09/19/2005 LDL-CHOL CALCULATION 132.00 H

09/19/2005 ALT 29.00

10/16/2003 PSA 0.76

VITAL SIGNS:

HEIGHT: 68 in [172.7 cm] (10/20/2004 08:52) inches
WEIGHT: 157 lb [71.4 kg] (09/26/2005 08:27)
TEMPERATURE: 98.2 F [36.8 C] (09/26/2005 08:27)
PULSE: 65 (09/26/2005 08:27)
BLOOD PRESSURE: 127/84 (09/26/2005 08:27)
RESPIRATION: 18 (09/26/2005 08:27)
PAIN: 0 (09/26/2005 08:27)

PE:

Afebrile with VSS NAD
A and O x3 and appropriate with examiner
COR NRRR no MCR
LUNGS BBS CTA
ABD BS+ NTND
No LEE

AP:

HTN - controlled

Hyperlipidemia - LDL just over 130. DW pt once again healthy eating habits - is on the road a lot eating fast food. Will increase simvastatin to 40mg q hs.

LBP - no co as long as he doesn't sit or stand too long

B12 deficiency - repleted on po B12 supplement. Has not had this refilled since March however. States that when he took this it made it difficult for him to sleep so quit taking it. Will DC this in computer and fu next visit.

Orders:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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McFaddin Reminder Recall 8 months with fasting cbc chem 7 lipid panel ALT and B12 up to one week prior

CLINICAL REMINDER ACTIVITY

OTC/Non-VA Prescriptions:

None

Depression FY04 Screen:

Depression Screen:

During the past month, have you often been bothered by feeling down, depressed, or hopeless?

No

During the past month, have you often been bothered by little interest or pleasure in doing things?

No

In the past week have you had serious thoughts of killing yourself or had death wishes?

No

Depression screen PRIME-MD is negative.

PTSD SCREEN:

PTSD screen:

In your life, have you ever had any experience that was so frightening, horrible, or upsetting that in the PAST MONTH, you:

1. Had nightmares about it or thought about it when you did not want to?

No

2. Tried hard not to think about it or went out of your way to avoid situations that reminded you of it?

No

3. Were constantly on guard, watchful or easily startled?

No

4. Felt numb or detached from others, activities, or your surroundings?

No

If < 3 responses to questions are "yes", the screen is NEGATIVE.
If 3 or 4 responses to questions are "yes", the screen is POSITIVE.

+++++

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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Progress Notes

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Score = 0, veteran responded 'yes' to none of the questions, PTSD screen is negative.

Patient educated about the following:
Plan of Care/Illness/condition, Medications

EDUCATION SUMMARY & COMMENTS: access to care, simvastatin

RECIPIENT OF EDUCATION:
Patient

TEACHING METHOD:
Verbal

OUTCOME:
Verbalized understanding

/es/ JENNIFER M MCFADDIN
MD
Signed: 09/26/2005 09:11

LOCAL TITLE: PCC NURSING EDUCATION NOTE
STANDARD TITLE: PRIMARY CARE EDUCATION NOTE
DATE OF NOTE: SEP 26, 2005@08:28 ENTRY DATE: SEP 26, 2005@08:28:54
AUTHOR: WILLIAMS, BRENDA H EXP COSIGNER: WILLIAMS, DIANE T
URGENCY: STATUS: COMPLETED

*** PCC NURSING EDUCATION NOTE Has ADDENDA ***

CLINICAL REMINDER ACTIVITY

Functional Ability Screen:

Patient arrived via:

Ambulatory

Patient has had NO change in functional ability.

Alcohol Use Screening-Audit:

Patient has never used alcohol and/or denies use this past year.

Tobacco Use Screen:

Patient has never used tobacco or has not used tobacco in more than a year. Patient encouraged to continue healthy lifestyle of a non-smoker and not use tobacco due to the health risks associated. Tobacco counseling not indicated.

Learning Needs Assessment:

Learning Abilities:

Patient can read.

Veteran can write.

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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AP:

HTN - controlled

Hyperlipidemia - LDL just over 120. Pt only intermittently takes simvastatin. Encouraged compliance. Pt is a truck driver and eats lots of fast foods. Long DW pt health eating habits and healthy choices for on the road.

LBP - no co as long as he doesn't sit or stand too long

Anemia - stable but MCV low last visit. B12 levels this visit low. Will start on B12 po and repeat next visit. Consider IM pending response

Orders:

McFaddin clinic 5 months with fasting cbc chem 7 lipid panel ALT and B12 up to one week prior

CLINICAL REMINDER ACTIVITY

OTC/Non-VA Prescriptions:

Patient denies any usage of OTC or Non-VA medications.

Pain Assessment:

Pain Level: 5 (10/20/2004 08:52)

Patient is comfortable with current pain level/management and understands to notify staff if uncomfortable.

The patient is being treated for pain problem and understands to notify staff if treatment desired.

The patient has pain problem. Pain assessment and plan addressed in today's note.

Patient educated about the following:

Plan of Care/Illness/condition, Medications, Basic health practices (smoking, exercise, alcohol use, diet, immunizations, etc.)

EDUCATION SUMMARY & COMMENTS: B12, compliance, access to care, diet

RECIPIENT OF EDUCATION:

patient

TEACHING METHOD:

Verbal

OUTCOME:

Verbalized understanding

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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/es/ JENNIFER M MCFADDIN

MD

Signed: 10/20/2004 12:26

03/09/2005 ADDENDUM

STATUS: COMPLETED

I conated this patient's mother as the number listed for him. I contacted this patient at the following number:

803-447-1968

I DW this patient to come in the last week in March to get fasting labs drawn and I will call him with the results. As he has not had meds refilled since October, encouraged compliance.

803-772-8479. Pt is a truck driver. The above number is his cell phone. This number is the correct phone number.

Orders:

Please change phone number to: 803-772-8479

Please cancel April 11th appointment

Mcfaddin phone clinic April 1 with fasting cbc chem 7 lipid panel ALT B12 up to one week prior

/es/ JENNIFER M MCFADDIN

MD

Signed: 03/09/2005 09:06

LOCAL TITLE: PCC NURSING EDUCATION NOTE

STANDARD TITLE: PRIMARY CARE EDUCATION NOTE

DATE OF NOTE: OCT 20, 2004@08:53

ENTRY DATE: OCT 20, 2004@08:53:16

AUTHOR: PRUETT, MELISA G

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

CLINICAL REMINDER ACTIVITY

Functional Ability Screen:

Patient arrived via:

Ambulatory

Patient has had NO change in functional ability.

Alcohol Use Screening-Audit:

Patient has never used alcohol and/or denies use this past year.

Tobacco Use Screen:

Patient has never used tobacco or has not used tobacco in more than a year. Patient encouraged to continue healthy lifestyle of a non-smoker and not use tobacco due to the health risks associated. Tobacco counseling not indicated.

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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Progress Notes

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MAINTAINING caloric intake to avoid weight gain.
Increasing dietary fiber and a description of sources of fiber.
Other:

Low fat diet

Patient understanding:

Level: Good

/es/ SUE R DAVIS

RN

Signed: 05/19/2004 08:48

LOCAL TITLE: PC NURSE PRACTITIONER NOTE TL
STANDARD TITLE: PRIMARY CARE NURSE PRACTITIONER NOTE
DATE OF NOTE: OCT 16, 2003@08:45 ENTRY DATE: OCT 16, 2003@08:45:12
AUTHOR: GRASS, MARY A EXP COSIGNER:
URGENCY: STATUS: COMPLETED

OCT 16, 2003

Allergies:

Patient has answered NKA

Vitals: Weight (lbs): 165 lb [75.0 kg] (10/16/2003 08:20)
 BP: 139/89 (10/16/2003 08:23)
 Temp: 98.7 F [37.1 C] (10/16/2003 08:20)
 Heart Rate: 60 (10/16/2003 08:20)
 Resp: 18 (10/16/2003 08:20)
 Patients BMI on 10/16/03 is 25.

Problem List:

Computerized Problem List is the source for the following:

Anemia * (ICD-9-CM 285.9)
Hypertension * (ICD-9-CM 401.9)
Personal History of Surgery
Lower Back Pain
Hypercholesterolemia

S: CLIFFORD PASLEY is a 41 year old MALE who presents to the clinic for eval of clbp--some lately and wants renewal of muscl relaxer and motrin. he has not been taking zocor regularly b/c he 's driving truck and has irregular sleep cycle. he didn't take bp meds this am but usually does.

O: Physical exam reveals:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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No PSA results in last 2Y

04/07/2003 HEMOGLOBIN A1C 4.00 L

Current outpatient medications include:

Computer is the source for the following medication list:

HYDROCHLOROTHIAZIDE 25MG TAB Sig: TAKE ONE-HALF TABLET BY MOUTH EVERY DAY FOR ELEVATED BLOOD PRESSURE.

SIMVASTATIN 20MG TAB Sig: TAKE ONE-HALF TABLET BY MOUTH AT BEDTIME FOR CHOLESTEROL

A/P:

1. hyperlipidemia--encouraged to take zocor. f/u w liids next visit
2. htn-no chg meds;
3. clbp--encourage rom and stretching while driving. renewed motrin and robaxin

np grass 6 mos w fasting lipid profile,lft.c7,cbc

Patient verbally educated about the following:

- ☒ Plan of Care/illness & condition
- ☒ Medications
- ☐ Pain Management
- ☐ Tests/procedures
- ☐ Other (specify):

Recipient of education: ☒ Patient ☐ Family/caregiver ☐ Other

Outcome: ☒ Verbalizes understanding ☐ Needs reinforcement

CLINICAL REMINDER ACTIVITY

OTC/Non-VA Prescriptions:

Patient denies any usage of OTC or Non-VA medications.

Pain Assessment:

Pain Level: 4 (10/16/2003 08:20)

Patient is comfortable with current pain level/management and understands to notify staff if uncomfortable.

/es/ MARY A GRASS

Nurse Practitioner, CDE

Signed: 10/16/2003 09:01

LOCAL TITLE: PCC NURSING EDUCATION NOTE

STANDARD TITLE: PRIMARY CARE EDUCATION NOTE

DATE OF NOTE: OCT 16, 2003@08:21

ENTRY DATE: OCT 16, 2003@08:21:20

AUTHOR: SHIPMON, ANGELA D

EXP COSIGNER: ANDERSON, TINA M

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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Perform 3 sets of 8 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.
Rest 1 Minute between sets.

3. Exercise: AROM lumbar ext standing
Perform 3 sets of 8 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.
Rest 1 Minute between sets.

4. Exercise: AROM lumbar ext standing at wall
Perform 3 sets of 8 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.
Rest 1 Minute between sets.

5. Exercise: AROM gait walking
Perform 1 set of 20 Minutes,
Perform 1 repetition every 4 Seconds.
once a day.
Rest 1 Minute between sets.

Pt instructed to perform prone press up when at home, and when out in the community and begins to experience radicular symptoms, he is to perform #3 or #4. Also instructed to begin progressive gait program, increasing 5 minutes each week. However pt instructed decrease gait time by 5 minutes if exacerbation of symptoms, and progressive back up when symptoms no longer present.

A: Pt stated no back pain, and no radicular symptoms post ice.

P: Continue tx until goals met.

/es/ MICHAEL JON UFFORD
Physical Therapist
Signed: 07/30/2002 10:55

LOCAL TITLE: PM&RS PHYSICAL THERAPY CONSULT
STANDARD TITLE: PHYSICAL THERAPY CONSULT

DATE OF NOTE: JUL 16, 2002@10:48

ENTRY DATE: JUL 16, 2002@10:48:51

AUTHOR: UFFORD, MICHAEL JON

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

LUMBAR SPINE ASSESSMENT

PMHx Computerized Problem List is the source for the following:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD
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Progress Notes

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Personal History of Surgery

Lower Back Pain

Hypercholesterolemia

SUBJECTIVE FINDINGS: Injured while working loading and tying down steel on his truck. While pushing down loading bar. Noticed as got up and down from the trailer that hurt more and more with pain in tingling in right leg. The first 2.5 to 3 months post injury his back hurt so much that had to bend forward. Had an MRI done a Lexington Medical Center which revealed a herniated disc pinching one of his lumbar nerves, as per patient report. Currently much better with pain rated at 2/10. Has sporadic tingling and weakness in right anterior tibialis, lateral right foot and big toe.

AGE: 40

OCCUPATION: Truck driver, however has not worked since January.

OFF WORK BECAUSE OF CURRENT EPISODE: Yes

REFERRAL: PCC

DESCRIBE RELEVANT SYMPTOMS: Tingling right anterior tibialis, lateral aspect right foot, and right big toe. Lower right leg becomes weak when ambulated 10 minutes or greater.

PRESENT SINCE: January 02.

[x]IMPROVING []UNCHANGING []WORSENING

COMMENCED AS A RESULT OF: Work related injury.

CONSTANT SYMPTOMS: None

INTERMITTENT SYMPTOMS: Tingling, pain, weakness.

PAIN LEVEL: 2/10

WORSE: Bending[] Sitting[] Standing[] Rising[] Walking[x] Lying[]

AM[] As the day progresses[] PM[]

When still[] On the move[]

BETTER: Bending[] Sitting[] Standing[] Walking[] Lying[]

AM[] As the day progresses[] PM[]

When still[] On the move[]

DISTURBED SLEEP? No

BLADDER: normal[x] abnormal[]

GAIT: normal[x] abnormal[]

PREVIOUS TREATMENTS: none

GENERAL HEALTH: Good[x] Fair[] Poor[]

Cardiac[] DM[] CA[] Osteoporosis[] Other:

X-rays OR OTHER DIAGNOSTIC TESTS: There was mild narrowing of the L5-S1 level. Vacuum phenomena compatible with degenerative disk disease is seen. There is mild to moderate degenerative spondylosis. The remainder of the exam is normal.

MEDS: Active Outpatient Medications (including Supplies):

Active Outpatient Medications	Status
1) IBUPROFEN 800MG TAB TAKE ONE TABLET BY MOUTH THREE TIMES A DAY AFTER FOOD	ACTIVE
2) METHOCARBAMOL 750MG TAB TAKE ONE TABLET BY MOUTH	ACTIVE

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD

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Progress Notes

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THREE TIMES A DAY

Pending Outpatient Medications

Status

Pending Outpatient Medications	Status
1) HYDROCHLOROTHIAZIDE 25MG TAB TAKE ONE-HALF TABLET BY MOUTH EVERY DAY	PENDING
2) TABLET CUTTER MISCELLANEOUS USE AS DIRECTED EVERY DAY	PENDING

4 Total Medications

RECENT/MAJOR SURGERY:

ACCIDENTS/FALLS: Work injury in January.

UNEXPLAINED WEIGHT LOSS: na

OBJECTIVE EXAMINATION

POSTURE:

SITTING: slouched posture.

STANDING: normal

LORDOSIS: Reduced[] Accentuated[] Normal[x]

OTHER OBSERVATIONS:

SPECIAL TESTS

SLR (with DF) -

WELL SLR (with DF) -

HOOVER (malinger) -

MILGRAM (bilat. LE 30= w/o pain) -

PELVIC ROCK (ASIS push together) -

GAENSLER'S SIGN (bilat flex and drop off-SI) -

FABER -

AGGRAVATING/EASING FACTORS Gait.

NEUROLOGICAL

Motor Deficits: Slight decrease in right quad strength, and right DF.

Reflexes: nt

Sensory Deficits: na

Dural Signs: nt

OTHER

Hip Joints:

SI Joint: + right SI region.

MOVEMENT LOSS: None

TEST MOVEMENTS: KEY: P produces, A abolishes, I increases, D. decreases, B better, W. worse, NBAR no better as result, NWAR no worse as a result, NE no effect. DIF deviation in flexion, deviation in extension.

DESCRIBE PRETEST SYMPTOMS IN STANDING:

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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FIS: ne

EIS: ne

DESCRIBE PRETEST SYMPTOMS IN LYING:

FIL: ne

EIL: ne

THEREX/HEP: Pt instructed in and performed one set of following lumbar stabilization and LE stretching ex/HEP:

1. Exercise: Stretch groin supine static
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
2. Exercise: Stretch hamstrings supine active
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
3. Exercise: Stretch hip flexors supine 2
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
4. Exercise: Stretch hip/knee figure 4
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
5. Exercise: Stretch Piriformis supine w/hip ER
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
6. Exercise: Stretch hamstring bil (stand 90)
Perform 1 set of 2 Repetitions,
twice a day.
Hold exercise for 20 Seconds.
7. Exercise: AROM abdominal/lumbar training supine bent knee raise
Perform 2 sets of 1 Minute,
Perform 1 repetition every 4 Seconds.
once a day.
8. Exercise: AROM lumbar flx (crunches) supine arms crossed
Perform 3 sets of 20 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD
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Progress Notes

Printed On Feb 16, 2010

9. Exercise: AROM lumbar flx kneeling
Perform 3 sets of 20 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.

10. Exercise: AROM lumbar pelvic tilt post supine
Perform 3 sets of 20 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.

11. Exercise: AROM hip ext prone straight leg
Perform 3 sets of 20 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.

12. Exercise: AROM lumbar bridging bil
Perform 2 sets of 10 Repetitions,
Perform 1 repetition every 4 Seconds.
once a day.

ASSESSMENT Lumbar radiculopathy.

CONCLUSION

Posture[] Dysfunction[x] Derangement[x] Trauma[] Other:

REHAB POTENTIAL: Good

PRINCIPLE OF TREATMENT

Stabilization[x]
Posture Correction[x]
Body Mechanics[x]
Extension[x]
Flexion[x]
Lateral[]

PATIENT'S GOALS: Exercise and decrease tingling and weakness right LE.
GOALS:

1. Pt will demonstrate and verbalize correct body mechanics and posture with functional activities in 4 to 6 visits.
 2. Indep with lumbar stabilization/stretching exercises in 4 to 6 visits.
- PLAN: Pt for therex, posture/body mechanicx, HEP, modalities PRN.

/es/ MICHAEL JON UFFORD
Physical Therapist
Signed: 07/16/2002 13:57

LOCAL TITLE: PC PHARMACIST NOTE TL
STANDARD TITLE: PHARMACY OUTPATIENT NOTE

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

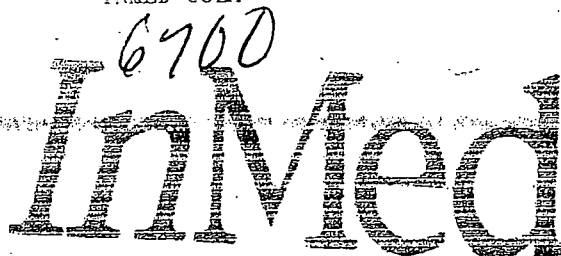
PASLEY, CLIFFORD
8100 BAYFIELD RD APT 3 J
COLUMBIA, SOUTH CAROLINA 29223

VISTA Electronic Medical Documentation

000189

Printed at COLUMBIA, SC VAMC

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Diagnostic Services of S.C., LLC

PATIENT NAME:
ACCOUNT NUMBER:
DATE OF BIRTH:
REFERRING PHYSICIAN:
DATE OF EXAMINATION:

CLIFFORD PASLEY
142098
-61
DR. G. NEAL
10-12-05

MRI LUMBAR SPINE

TECHNIQUE: MRI of the lumbar spine was performed using sagittal and axial pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The L1-2, L2-3, L3-4, L4-5 disc levels are within normal limits.

The L5-S1 disc level shows discogenic degenerative change with loss of height and loss of T2 signal. There is also broad-based posterior disc protrusion. There is some Grade I spondylolisthesis of L5 on S1, which is related to bilateral L5 pars defects and facet degenerative changes. The axial images through the L5-S1 level do not show any significant spinal canal stenosis and there is no evidence of any nerve root impingement. Note is made that the right and left L5-S1 neural foramina are narrowed bilaterally and there appears to be flattening of the right and left L5 nerve roots as they extend through the neural foramina bilaterally.

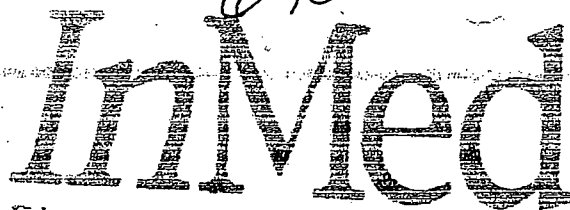
IMPRESSION: Grade I spondylolisthesis of L5 on S1 related to bilateral L5 pars defects and facet degenerative changes of L5 with associated bilateral narrowing of the L5-S1 neural foramina and apparent flattening of the nerve roots as they extend through this region. Note, there is broad-based posterior and far posterior lateral disc osteophyte formation and disc protrusion of the L5-S1 disc, which also contributes to the stenosis of the right and left neural foramina.

T. Daniel Steiner
T. Daniel Steiner

126 South Assembly Street, Columbia, SC 29201
T: 803-988-0082 F: 803-988-0095
Toll Free: 1-877-463-0082

000190

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Diagnostic Services of S.C., LLC

PATIENT NAME:

ACCOUNT NUMBER:

DATE OF BIRTH:

REFERRING PHYSICIAN:

DATE OF EXAMINATION:

CLIFFORD PASLEY

142098

[REDACTED] 61

DR. G. NEAL

10-12-05

MRI THORACIC SPINE

TECHNIQUE: MRI of the thoracic spine was performed using sagittal pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The C7-T1 disc level shows some very mild posterior disc osteophyte formation as seen on the sagittal images, but there is only mild generalized decrease in spinal canal dimensions.

There is some desiccation of the T1-T2, T2-T3, and T3-T4 disc levels, but no significant posterior disc protrusion. There is no spinal canal or neural foramina stenosis at these levels.

The T4-T5 through the T10-T11 disc levels are within normal limits.

The T11-T12 disc level shows some desiccation, and some very mild posterior disc osteophyte formation, but no significant associated spinal canal or neural foramina stenosis.

The T12-L1 disc level is within normal limits.

IMPRESSION: Mild desiccation and degenerative changes of the thoracic spine seen at only a few levels as described above. Note, there is no significant stenosis or disc protrusion at any level, and no evidence of any spinal cord or spinal nerve root impingement. The spinal cord also shows normal size, shape, and signal.

T. Daniel Siwesler, M.D.

TDS/skd

146 South Assembly Street, Columbia, SC 29201
T: 203-982-0002 F: 203-982-6095
Toll Free: 1-877-428-0052

000191

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CT - SPIRAL
MRI - OPEN STYLE
NUCLEAR MEDICINE
X-RAY/FLUOROSCOPY

InMed

Diagnostic Services of S.C., LLC
126 South Assembly Street • Columbia, SC 29201
Phone (803) 988-0082 • Toll Free (877) 488-0082
Fax (803) 988-0095

ULTRASOUND
MAMMOGRAPHY
BONE DENSITOMETRY

Interpretations by Pitts Radiology Associates

PATIENT INFORMATION

Your Appointment Date/Time: 10-12-05 6:45 pm

Patient Name: Cliff Pasley

D.O.B. 12-27-61

Sex ☒ M ☐ F

Referring Physician's Name: Green B D, MD

Phone # 256-7985

Fax # 256-7919

Please check procedure(s) requested.

MRI

☐ NON-CONTRAST

☐ WITH CONTRAST

☐ BRAIN

☐ IAC'S

☐ ABDOMEN

☒ LUMBAR

☐ CERVICAL

☒ THORACIC

☐ PELVIS

☐ with Compression

☐ SHOULDER (Lt. or Rt.)

☐ KNEE (Lt. or Rt.)

☐ HIPS

☐ without Compression

☐ OTHER: _____

DIAGNOSTIC X-RAY

☐ IVP

☐ OTHER: _____

CT

☐ NON-CONTRAST

☐ WITH CONTRAST

☐ HEAD

☐ SINUSES

☐ LUMBAR

☐ ABDOMEN & PELVIS

☐ CERVICAL

☐ THORACIC

☐ with Compression

☐ PELVIS ONLY

☐ CHEST

☐ without Compression

☐ ABDOMEN ONLY

☐ OTHER: _____

FLUOROSCOPY

☐ UPPER GI

☐ BARIUM SWALLOW

☐ LOWER GI

☐ LOWER GI W/AIR

☐ OTHER: _____

ULTRASOUND

☐ ABDOMINAL

☐ PELVIC - USE PITTS PROTOCOL
(Transabdominal/Transvaginal)

☐ CAROTID DUPLEX

☐ VENOUS DUPLEX (Lt. or Rt.)

☐ RENAL

☐ THYROID

☐ BREAST

☐ (Lt. or Rt.)

☐ PELVIC - DO NOT USE
PITTS PROTOCOL
(See Other for Specific Request)

☐ ARTERIAL DUPLEX
WITH ANKLE BRACHIAL INDEX
(PITTS PROTOCOL)

☐ WITHOUT ANKLE BRACHIAL INDEX

☐ OTHER: _____

NUCLEAR MEDICINE

☐ BONE SCAN

☐ CARDIAC

W/STRESS TEST

☐ ORGAN (SPECIFY) _____

☐ SPECT

☐ PLANAR

☐ OTHER: _____

MAMMOGRAPHY

SCREENING

DIAGNOSTIC

UNILATERAL

BILATERAL

☐ with CAD

☐ with CAD

☐ with CAD

☐ with CAD

☐ without CAD

☐ without CAD

☐ without CAD

☐ without CAD

COMMENTS: _____

BONE DENSITOMETRY

☐ DEXA Bone Mineral Densitometry Exam

000192

☐ Send films w/patient

☐ Compare with previous exam

Symptoms: DX: impingement vs HNP vs facet ID

Ordering Physician's Signature Green B D, MD

Date 10/5/05

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COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine and Neurological Surgery

114 Gateway Corporate Blvd., Suite 420, Columbia, SC 29203, 803-462-0423 - FAX 803-462-0432
2728 Sunset Blvd. Suite 308, W. Columbia, SC 29169, 803-794-3700 - FAX 803-794-0322

Pain Management

Steven B. Storick, MD

1415 Blanding St., Suite 3, Columbia, SC 29201, 803-779-1222 - FAX 803-779-7888

Thomas J. Holbrook, Jr., MD, FACS

William M. Rambo, Jr., MD, FACS

www.columbianeurosurgical.com

Scott B. Boyd, MD

Brett C. Gunter, MD

OFFICE VISIT - NEW PATIENT

Clifford Pasley

#45994

4/15/02

CHIEF COMPLAINT: Pain in the lower back and right leg.

HISTORY OF PRESENT ILLNESS: Mr. Clifford Pasley is a 40-year-old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain.

PAST MEDICAL HISTORY, CURRENT MEDICATIONS, ALLERGIES, SOCIAL HISTORY, FAMILY HISTORY, AND REVIEW OF SYSTEMS: All are contained in the three page past history document. I reviewed this information which I signed today, and it is contained in the chart and considered a part of this note.

PHYSICAL EXAMINATION:

VITAL SIGNS: Height 5'8", weight 165 pound.

GENERAL: The patient is healthy appearing and appropriate for stated age.

HEAD: Head is atraumatic and normocephalic.

NECK: Neck is supple. There are no masses.

EYES: Eyes are without conjunctival injection or scleral icterus. Pupils are briskly reactive.

ENT: Hearing present in both ears. Significant for anatomically normal appearing ears, nose and throat.

LUNGS: Lungs are clear to auscultation and percussion.

CARDIOVASCULAR: Heart has a regular rate and rhythm without murmurs.

ABDOMEN: Abdomen is soft and nondistended. No masses. Positive bowel sounds.

EXTREMITIES: Warm, moist, and have good pulses. No cyanosis, clubbing or edema.

MUSCULOSKELETAL AND NEUROLOGICAL:

MENTAL STATUS: Awake, alert, and oriented x 4. Speech is fluent and conversant.

Content and quality of speech are appropriate.

CRANIAL NERVES:

Cranial Nerve II: Vision present in both eyes.

Cranial Nerves III, IV, VI: Extraocular movements are intact.

Cranial Nerves V: Sensation on face intact FT/PP.

Cranial Nerves VII: Muscles of facial expression intact.

Cranial Nerves VIII: Hearing present in both ears.

Cranial Nerves IX, X: Oropharynx elevates symmetrically in the midline.

Cranial Nerve XI: Strength in the sternocleidomastoid and trapezius is intact.

Cranial Nerves XII: Tongue protrudes normally in the midline.

STRENGTH: His right extensor hallucis longus strength is reduced and graded 4/5. The tibialis

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COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Page 2

Re: Clifford Pasley

4/15/02

anticus is also graded 4/5. The remainder of the strength in his lower extremity is intact.

SENSORY: Fine touch and pinprick over face, trunk, and extremities intact.

CEREBELLAR: Gait, station, finger-to-nose, and heel-to-shin intact.

DEEP TENDON REFLEXES: Triceps, biceps, brachioradialis, patella and Achilles 2/4, no clonus, and toes are downgoing on Babinski.

RADIOGRAPHIC STUDIES: MRI of the lumbar spine dated 3/25/02 demonstrates a Grade L5-S1 spondylolisthesis that may produce some compression of the L5 nerve root.

ASSESSMENT: The patient has had a foot drop and L5 nerve root compression from what appears to be spondylolisthesis at L5-S1. He is making some significant improvement without any specific therapy and does not require any surgical intervention at this time.

PLAN:

1. Physical therapy of the lumbar spine.
2. Continue his anti-inflammatory drugs. Follow-up once he has completed the above.

Brett C. Gunter, M.D./meh

FAXED TO: Steve Suits, M.D.

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COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine Surgery and Neurological Surgery

Thomas J. Holbrook, Jr. MD, FACS

William M. Rambo, Jr. MD, FACS

Scott B. Boyd, MD

Brett C. Gunter, MD

THERAPY ORDERS

Name: Clifford Pasley

Age: _____

Date: 7/15/02

PHYSICAL THERAPY

CERVICAL

DX: _____

- _____ Range of motion of the cervical spine
- _____ Home cervical traction with instruction
- _____ Local measures including heat, ultrasound, and massage
- _____ Strengthening exercises for the upper extremity (Left / Right / Bilateral)
 - _____ Shoulder abduction, adduction, extension, flexion, and elevation
 - _____ Elbow flexion and extension
 - _____ Wrist flexion and extension
 - _____ Handgrip and intrinsic hand function
 - _____ All of the above
 - _____ Fine motor tasks for hand and upper extremity

Other: _____

LUMBAR

DX: Lumbar Disc herniation

- ☒ Range of motion of the lumbar spine
- ☒ Lumbar traction
- ☒ Williams exercises and instruction with supervision of each exercise
- ☒ Local measures including heat, ultrasound, and massage
- ☒ Gait training
- _____ Strengthening exercises for the lower extremity (Left / Right / Bilateral)
 - _____ Hip flexion and extension
 - _____ Knee flexion and extension
 - _____ Ankle flexion and extension
- _____ Perform functional capacity evaluation

SPEECH

DX: _____

- _____ Speech therapy
- _____ Swallowing evaluation
- _____ Cognitive function
- _____ Other: _____

OCCUPATIONAL DX: _____

- _____ Activities of daily living
- _____ Fine motor upper extremity
- _____ Other: _____

FREQUENCY: ☒

Three times per week

Two times per week (then at therapist's discretion)

DURATION: ☒

1 2 3 4 6 weeks (then at therapist's discretion)

Instructional visit only

114 Gateway Corporate Blvd.
Suite 420
Columbia, SC 29203
Phone (803) 462-0423
Fax (803) 462-0432

PHYSICIAN:

Brett C. Gunter
Brett C. Gunter MD

www.columbianeurosurgical.com

2728 Sunset Blvd.
Suite 308
West Columbia, SC 29
Phone (803) 794-3700
Fax (803) 794-0322

000195

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RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 791-2460

PATIENT: PASLEY,CLIFFORD

UNIT/MR NO: M000063738
ACCT NO: H00008729642
SSN: [REDACTED]
REQ NO: 02-0030141
REPORT NO: 0326-0132

AGE: 40
DOB: [REDACTED] 61
SEX: M

FAMILY DR: [REDACTED]
ATTENDING DR: G STEVEN SUITS, MD
ADMITTING DR: [REDACTED] HMRI
ORDERED BY: G SUITS MD - [SUIGST EM]

DATE OF EXAM: 03/25/02 MAGNETIC RESONANCE IMAGING
CLINICAL DATA: LOW BACK PAIN EXTENDING INTO RIGHT LOWER EXTREMITY,
RIGHT FOOT DROP

MR LUMBAR SPINE (WITHOUT CONTRAST):

Sagittal T1 and fast T2 images of the entire lumbar spine were supplemented with axial images through the lower three lumbar discs.

Marrow signal is normal. The conus is unremarkable. Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left.

IMPRESSION: Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left. No frank disc herniation and no signs of spinal stenosis.

MAS

JOHN W HAYNES MD

REPORT STATUS: Signed

Report Lines: 27
EXAM TECH: DSHUL
DISC DATE:
DISC DIAG:
SIGNED COPY IN RADIOLOGY DEPARTMENT

Report Completed: 03/26/02 1203

PT LOC/ROOM: HMRI/
PASLEY,CLIFFORD

000196

received
7/23/04 E4

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LEXINGTON MEDICAL CENTER IRMO

7035 St. Andrews Road
Columbia, SC 29212
803-749-0924

PATIENT: PASLEY, CLIFFORD

D: 02/14/2002

M.R. #: 24716

T: 2/14/02 1:31 PM /kcm

PHYSICIAN: G STEVEN SUTTS, MD

S: The patient is a 40-year-old black male initially seen here for this problem on 01/23/02. At that time, he gave a 6-day history of pain in his right lower back, right gluteal area radiating down the posterior aspect of his thigh, some tingling in his right lower extremity. He had some tingling down on top of his right foot. In my dictation last time, I recall that he told me that he had hurt his back while he was stepping down off the trailer of his tractor. He was explaining to me the kind of activity that caused the pain. His initial episode of pain was onset when he was pulling down on a bar to tighten up the straps on his load. He then states that every time he was to try to step down from the truck or trailer, he would have pain. The meeting last time was consistent with a herniated disc with either a peroneal nerve or a fibular nerve palsy with foot drop. I tried to get him set up for an MRI. This was denied by Worker's Comp. He is back now with continued pain. This is essentially just an increase in his pain, but no other new findings. He still has right leg problems as well.

O: BACK: Tenderness over the right paravertebral muscles, no tenderness of the SI joint. No tenderness of the spinous processes of the lumbar spine. EXTREMITIES: He has decreased right lateral flexion, decreased forward flexion, almost intact left lateral flexion, and poor extension. Rotation left is intact, rotation right is almost absent. He is able to toe walk, though seemed to be weaker on the right side than he did the last time. He is not able to heel walk on the right foot, though he can on the left foot. He is able to squat and get up. Individual motor group testing intact for hip flexors, hip abductors, hip adductors, knee flexors and extensors. His foot dorsiflexors are weak on the right. Plantar flexors intact. Inversion and eversion intact. Sensation testing for light touch, pin-prick, position, vibration intact throughout lower extremities. Deep tendon reflexes checked in patellar and Achilles tendons, 2+ visualized and symmetrical. He has negative Babinski testing. Positive straight-leg raises on the right at approximately 170, 160 degrees.

A: Lumbar herniated disc with foot drop, peroneal or fibular nerve palsy.

000197

URGENT CARE - IRMO
PAGE 1 OF 2

PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

P: I am going to try to talk to Worker's Comp to try to get them to cover for an MRI,
and will continue him on a flat-on-his-back status, Lodine, Zanaflex, and Lortab.
Again, I am going to try to get an MRI for him.

Hooper for Suits
G STEVEN SUITS, MD

cc:

000198

URGENT CARE - IRMO
PAGE 2 OF 2

65

LEXINGTON MEDICAL CENTER IRMO

7035 St. Andrews Road
Columbia, SC 29212
803-749-0924

PATIENT: PASLEY, CLIFFORD

D: 01/23/2002

M.R. #: 24716

T: 1/23/02 8:14 AM /hw

PHYSICIAN: G STEVEN SUITS, MD

DATE OF VISIT: 01/23/02

URGENT CARE

S: The patient is a 40-year-old black male established patient who is complaining of a 6-day history of right gluteal pain radiating down the posterior aspect of his thigh laterally down into his leg and the top of his foot. He has not had pain like this before, though he has had back pain in the past more superior to where this is located. He said he first started feeling this when he was stepping down from the trailer of his tractor trailer on 01/17/02. He also does some working out, does not know if he aggravated it with that. He recalls the onset of the pain stepping down from the trailer. The patient states that his pain is intermittent. It is burning and throbbing. He rates it an 8 on a scale of 10. He states that his pain hurts him during the night. He sleeps on his back. He awakes with morning stiffness. His pain is aggravated by coughing and movement. He has some tingling in his right leg. He denies any constipation, bowel incontinence, numbness around the anus. Denies difficulty voiding, frequency of urination, burning of urination or incontinence of urine. He does not have any history of cancer, arthritis, osteoporosis or steroid use. He has had no recent febrile illnesses. After the exam, when I asked him if he had noticed any weakness in any particular area, he said his right foot. ROS: Otherwise, negative. PMH: Significant for back problems. PSH: None. PAST HOSPITALIZATIONS: None. CURRENT MEDICATIONS: Ibuprofen. DRUG ALLERGIES: None known. FH: Negative, at least the patient does not know of anything. SH: He is a truck driver. Denies alcohol, tobacco or marijuana use.

O: VITAL SIGNS: Stable, blood pressure 152/102. BACK: Visible scoliosis of spine secondary to tight muscle spasms of the right lumbar paravertebral muscles. No tenderness over the paravertebral muscles, however. No tenderness over SI joints bilaterally. Tender over right gluteal area. Decreased ROM of lumbo-thoracic spine in all directions, but most marked in right lateral flexion and extension as well as right rotation. NEUROLOGIC: Able to toe walk. He is not able to heel walk with the right foot having a foot drop on the right. Squats and up without difficulty. Individual motor testing including hip flexors, hip abductors, hip adductors, knee flexors, extensors, foot flexors, dorsi flexors, inverters and evertors are all intact except for right foot dorsi flexors. This was tested with him in both sitting and supine positions. Sensation testing for light touch, pinprick position and vibration intact throughout lower extremities paying particular attention to the lateral aspect of the right leg and dorsum of the right foot. Deep tendon reflexes 2+ physiologic and symmetrical.

A: Lumbosacral herniated nucleus pulposus (herniated disc) with foot drop on right, indicating a peroneal nerve or fibular nerve palsy.

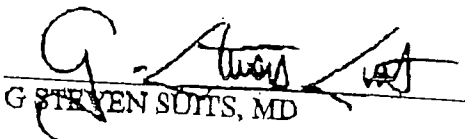
URGENT CARE - IRMO

PAGE 1 OF 2

000199

PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

P: Because of the foot drop, we will get an MRI. He will be started on Rx Lodine
400 mg q.8h. Rx Zanaflex 4 mg q.8h. for 5 days then q.h.s. Rx Lortab 5 q.6h. p.r.n.
pain. He is to rest flat on his back with a cushion under his knees. Recheck here in 10
days.


G STEVEN SUITS, MD

CC:

000200

URGENT CARE - IRMO
PAGE 2 OF 2

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0202022
Carrier File # 026-CB-ARV7089K
Carrier Code #
Employer FEIN

<u>Clifford Pasley</u>		<u>TransAgri, Inc./Leonard Enterprises</u>	
Claimant's Name	SSN	Employer's Name	
107 Broken Hill Road	Columbia, SC 29212	371 W. Hill Street	Goldsboro, NC 27584
Address	City State Zip	Address	City State Zip
(803) 750-9491		Travelers Insurance Company	
Home Phone #	Work Phone #	Insurance Carrier	
Terri J. Morrill	(843) 577-2026		
Preparer's Name	Phone #		

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

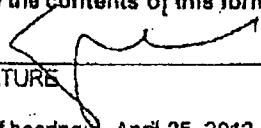
1. Compensation Rate: \$ Unknown to SCUEF 2. AWW: \$ 735.00 per week per Claimant, but is gross not net Date of Injury: 01/17/02
3. Type of Injury and body part(s): Claimant alleges injury to his back with radiation and "nervous condition"
4. Facts in Controversy: Whether Trans Agri and/or Leonard Enterprises were subject to the Act in S.C.? Whether Claimant is entitled to any benefits and in what amount?
5. Legal Issues Involved: \$42-1-150 - Leonard Brown and Trans Agri did not regularly employ four or more employees as to be subject to the Act; \$42-9-10, \$42-9-20, \$42-9-30, \$42-15-60 & \$42-15-80 - No entitlement to benefits under the Act.
6. Unusual problems: Yes, Leonard Enterprises never responded to Employer's subpoena dated 4/28/11 (attached).
7. Witnesses (designate if expert)*: Clifford Pasley and/or recorded statement - drove a truck for Leonard Enterprises; Leonard Brown - by subpoena (see attached); Deposition of Claimant - 9/23/03 - p.52 Leonard Brown had three trucks; 2/22/10 deposition
8. Exhibits: 8/2/02 - letter from Coverage and Compliance to Claimant's attorney; 5/16/02 - Travelers' summary - re injured worker requesting benefits in a state not covered; Records of Employment Security Commission 1/24/10 - discharged from job - worked from 10/15/2006 - 1/15/2010; benefits received in 2010; tax records from 2001, 2004, 2005, 2006, 2007, and 2008; SSN Wage Record Inquiry - 2004-2010. Employment Security Commission - 1/7/10- last day worked; Receipt of Unemployment.
9. Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance) Veteran's Administration Hospital - 9/22/11 - appealing a workers compensation claim. 5/27/11 - works 3:30 p.m. to midnight most shifts; 4/11/11 - chest pain, stress about upcoming wedding; working in housekeeping department; 3/7/11 - bilateral foot pain after walking on floors for 12 hour shifts; 3/3/11 Workers Compensation asking for updated MRI; 2/8/11 - pre employment Form. Occupational Health - 04/27/09 - passed CDL physical. In Med - 06/11/07 - very early osteoarthritic changes of right hip. 10/12/05 - MRI lumbar and thoracic spine - spondylolisthesis degenerative changes. Dr. Green B. Neal - 10/05/05 - returned to work driving trucks, pain climbing out of cab; 09/8/05 - released on 2/18/03; 02/18/03 - falling (includes cervical spine/upper extremity, not injured in this case); 01/07/03 - unable to work due to slow down, tried yard work; - 12/02/02 return to short runs and progress to full work; 10/23/02 - truck driver, could do local runs; 08/25/02 - nerve impingement; 08/13/02 - should be on p.t., Dr. Brett C. Gunter - 04/15/02 - spondylolisthesis, significant improvement; no surgical intervention. Lexington Medical Center - 03/28/02 - spondylolisthesis, no disc herniation; 01/23/02 - foot drop.
10. Name, address, and specialty, if any, of the treating physician: Veterans Administration, 6437 Garners Ferry Road, Columbia, SC 29209, Lexington Medical Center, 7035 St. Andrews Road, Columbia, SC 29212, Dr. Brett C. Gunter, Columbia Neurosurgical Associates, P.A., 2726 Sunset Blvd. Ste. 308, W. Columbia, SC 29169; Green B. Neal, M.D., 1415 Barnwell Street, Columbia, SC 29201, InMed Diagnostics, 126 S. Assembly Street, Columbia, SC 29201

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
*Commissioners reserve the right to admit expert witnesses at hearings.

11. Impairment rating(s); body part(s); physician and date of opinion: 15% - lumbar spine - Dr. Green B. Neal

12. I am amending my Form 50/51 in the follow manner: _____

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

SIGNATURE 

Email: tmorrill@clawsonandstaubes.com

Date of hearing: April 25, 2012

Time needed for hearing: 1/2 to 1 Hour

On Behalf of: ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

*Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form #58 Rev. Date 9/07

Pre-Hearing Brief

AMENDED FORM 58

000202

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Clifford Pasley,

Claimant,

vs.

Trans Agri, Inc./Leonard Enterprises,

Employer,

and

Travelers Insurance Company,

Carrier.

WCC FILE NO: 0202022

AMENDED NOTICE OF APA
EXHIBITS AND WITNESSES ON
BEHALF OF THE SOUTH
CAROLINA UNINSURED
EMPLOYER'S FUND

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION, J. MARVIN MULLIS, JR., ESQUIRE, ATTORNEY FOR CLAIMANT, AND RICHARD DANIEL ADDISON, ATTORNEY FOR THE EMPLOYER/CARRIER:

YOU ARE HEREBY NOTIFIED, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1985), The South Carolina Uninsured Employer's Fund, hereby submit the following medical records and other evidence:

	EXHIBITS	DATE	PAGE NOS.
1.	Subpoena: Leonard Enterprises	4/28/11	1-2
2.	SSN Wage Record Inquiry -	2004-2010	3-8
3.	Employment Security Commission Records	1/24/10 10/15/2006 -1/15/2010	9-11
4.	Employment Security Commission Last Date Worked	1/17/10	12
5.	Coverage and Compliance letter to Claimant's attorney	08/02/02	13-14
6.	Travelers' Summary	1/28/02	15-36

000203

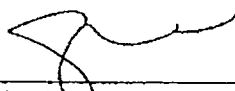
7.	U.S. Treasury Department (Claimant's Tax returns)	2001, 2004-2008	37-48
	PROVIDER	REPORT DATE	PAGE NOS.
8.	Veteran's Administration Hospital	2/8/11-9/22/11	49-59
9.	Occupational Health	04/27/09	60
10.	In Med	06/11/07, 10/12/05	61-63
11.	Dr. Green B. Neal	8/13/02 - 10/05/05	64-74
12.	Dr. Brett C. Gunter	04/15/02	75-76
13.	Lexington Medical Center	01/23/02 and 03/26/02	77-79

YOU ARE FURTHER HEREBY NOTIFIED you have the right to cross-examination. Should you desire to exercise that right, you are to schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the documents referred to herein will be submitted at the Hearing before the South Carolina Workers' Compensation Commission.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called:

CLAWSON AND STAUBES, LLC



Terri J. Morrill
 126 Seven Farms Drive, Suite 200
 Charleston, SC 29492-8144
 (843) 577-2026
 Attorneys for the South Carolina Uninsured
 Employer's Fund

Charleston, South Carolina
 April 21, 2012

CLAWSON & STAUBES, LLC
ATTORNEYS AT LAW

TERRI MORRILL LYNCH
Of Counsel
tlynch@clawsonandstaubes.com

April 28, 2011

Reply to Charleston Office
File No.: 2002-0502 tml

CUSTODIAN OF EMPLOYMENT RECORDS

Leonard Enterprises
230 Moonlight Drive
Columbia, SC 29210

Re: Clifford Pasley v. Trans Agri, Inc., Leonard Enterprises
SSN: ***-**-2272
DOB: 12/27/1961

Dear Sir/Madam:

Enclosed please find our subpoena requesting that you produce to us a copy of your records on Clifford Pasley, by May 19, 2011. Prior to preparing these copies, please notify us of the cost, should it exceed \$75. Additionally, please enclose a letter certifying that the materials produced are, in fact, a complete copy of your file on Clifford Pasley.

By copy of this letter to J. Marvin Mullis, Jr., Esquire, I am advising him of my request for these records. Additionally, should he require a copy of the records, he will contact your office and request that an additional copy be made and forwarded to him at his expense.

Thank you for your attention to this request, and please give me a call if you have any questions.

Very truly yours,

CLAWSON & STAUBES, LLC

Terri Morrill Lynch

Terri Morrill Lynch

TML/cjf
Enclosure
cc: J. Marvin Mullis, Jr., Esquire (w/enclosure)

Charleston Office:
126 Seven Farms Dr., Suite 200
Charleston, SC 29492-8144
(o) 843.577.2026
(f) 843.722.2867

Charlotte Office:
756 Tyvola Rd., Suite 130
Charlotte, NC 28217-3535
(o) 704.940.9128
(f) 704.522.9033

clawsonandstaubes.com

000205

South Carolina Workers' Compensation Commission

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File #

Carrier File #

Carrier Code #

Employer FEIN

026CB

026-CB-ARV7089K

Clifford Pasley

Claimant's Name

SSN

07 Broken Hill Road

Columbia, SC 29212

Address

City State Zip

(803) 750-9491

Home Phone #

Work Phone #

FERRI MORRILL LYNCH, CLAWSON & STAUBES, LLC

126 SEVEN FARMS DR., STE. 200, CHAS., SC 29492-8144

Preparer's Name and Address

TransAgri, Inc./Leonard Enterprises

Employer's Name

371 W. Hill Street

Goldsboro, NC 27584

Address

City State Zip

Travelers Insurance Company

Insurance Carrier

(843) 577-2026

Phone No.

TO: Records Custodian
Leonard Enterprises
230 Moonlight Drive
Columbia, SC 29210

☐ YOU ARE HEREBY COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____ DATE AND TIME: _____

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Copies of any and all contracts with Clifford Pasley covering the year 2001 through 2009, any payroll records, 1099s, W-2 forms, and any other wage withholding information. Any and all workers compensation insurance policies or coverage documentation. Copies of any and all employment, personnel and payroll records including but not limited to, applications for employment, pre-employment and employment related to physical examination records, employment evaluation and promotion/demotion/performance evaluation reports attendance and/or absentee records, salary history and compensation records, etc. from the first date of employment to the last date of employment. This subpoena is deemed continuing until the last date of employment. Re: Clifford Pasley, SSN: 249-31-2272, DOB: 12/27/1961

PLACE: CLAWSON & STAUBES, LLC, 126 SEVEN FARMS DR., STE. 200, CHARLESTON, SC 29492-8144

DATE AND TIME: May 17, 2011 @ 2:00 p.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

☐ PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

Terr Morrill Lynch
Terra Morrill Lynch

(843) 577-2026
PHONE #

4/28/11
DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803-737-5675).

SSN Wage Record Inquiry

SSN [REDACTED]-2272

Name	Acct #	Report Type	Year	Qtr - 1	Qtr - 2	Qtr - 3	Qtr - 4
CLIFFORD PASLEY	[REDACTED]	Original	2010	\$855.00			
CLIFFORD PASLEY	[REDACTED]	Original	2009	\$5,035.00	\$5,205.00	\$3,985.00	\$4,100.00
CLIFFORD PASLEY	[REDACTED]	Original	2008	\$6,673.49	\$7,121.32	\$7,267.61	\$5,510.00
CLIFFORD PASLEY	[REDACTED]	Original	2007		\$1,270.00	\$6,580.00	\$7,017.50
CLIFFORD PASLEY	[REDACTED]	Original	2005	\$2,414.25			
CLIFFORD PASLEY	[REDACTED]	Original	2004				\$8,901.11

000207

03/12/12

B E N E F I T P A Y M E N T H I S T O R Y

SSN: █████ 2272 1 NAME: CLIFFORD PASLEY BYE: 01/23/11
 BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 633.00

PGM CDE	PO DOI	CWE	ENTRY DATE	CHECK BY	PAYMENT DOI	CHK/SEQ NUMBER	PAY TYPE	AMOUNT PAID	UNR FLG	DISQ REAS	TOTAL AMOUNT
00	022711	030511				0000000	00	.00	0	00	.00
31	022011	022611	022711	T	022711	DD	4923535	19	211.00	0	211.00
31	021311	021911	022011	T	022011	DD	4818871	19	211.00	0	211.00
31	020611	021211	021311	T	021311	DD	4712097	19	211.00	0	211.00
31	013111	020511	020611	T	020611	DD	4604877	19	211.00	0	211.00
31	012311	012911	013111	O	013111	DD	4543219	19	211.00	0	211.00
31	011611	012211	012311	T	012311	DD	4388285	19	211.00	0	211.00
31	010911	011511	011611	T	011611	DD	4279329	19	211.00	0	211.00
31	010211	010811	010911	T	010911	DD	4174143	19	211.00	0	211.00
31	122610	010111	010211	T	010211	DD	4065958	19	211.00	0	211.00
31	122010	122510	122610	T	122610	DD	3958351	19	211.00	0	211.00
21	121210	121810	121910	T	121910	DD	3842592	16	211.00	0	211.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000208

03/12/12

B E N E F I T P A Y M E N T H I S T O R Y

SSN: ~~242-221~~ 2272 1 NAME: CLIFFORD PASLEY BYE: 01/23/11
BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 633.00

PGM CDE	PO DOI	CWE	ENTRY DATE	CHECK BY	PAYMENT OPTION	CHK/SEQ NUMBER	PAY TYPE	AMOUNT PAID	UNR FLG	DISQ REAS	TOTAL AMOUNT	
21	091210	091810	091910	T	091910	DD	2494708	19	211.00	0	00	211.00
21	090510	091110	091210	T	091210	DD	2421722	19	211.00	0	00	211.00
21	082910	090410	090510	T	090510		2299815	19	211.00	0	00	211.00
21	082210	082810	082910	T	082910		2235899	19	211.00	0	00	211.00
21	081510	082110	082210	T	082210		2168377	19	211.00	0	00	211.00
21	080810	081410	081510	T	081510		2096745	19	211.00	0	00	211.00
21	080410	080710	080810	T	080810		2020310	19	211.00	0	00	211.00
01	072510	073110	080110	T	080110		1939666	16	211.00	0	00	211.00
01	071810	072410	072510	T	072510		1847329	19	211.00	0	00	211.00
01	071110	071710	071810	T	071810		1778943	19	211.00	0	00	211.00
01	070410	071010	071110	T	071110		1718448	19	211.00	0	00	211.00
01	062710	070310	070410	T	070410		1654701	19	211.00	0	00	211.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000209

03/12/12

B E N E F I T P A Y M E N T H I S T O R Y

SSN: ██████████ 2272 1 NAME: CLIFFORD PASLEY BYE: 01/23/11
BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 633.00

PGM	PO	CWE	ENTRY	CHECK	PAYMENT	CHK/SEQ	PAY	AMOUNT	UNR	DISQ	TOTAL
CDE	DOI		DATE BY	DOI	OPTION	NUMBER	TYPE	PAID	FLG	REAS	AMOUNT
01	062010	062610	062710	T	062710	1586336	19	211.00	0	00	211.00
01	061310	061910	062010	T	062010	1511784	19	211.00	0	00	211.00
01	060610	061210	061310	T	061310	1427808	19	211.00	0	00	211.00
01	053010	060510	060610	T	060610	1333623	19	211.00	0	00	211.00
01	052310	052910	053010	T	053010	1242343	19	211.00	0	00	211.00
01	051610	052210	052310	T	052310	1147619	19	211.00	0	00	211.00
01	050910	051510	051610	T	051610	1054010	19	211.00	0	00	211.00
01	050310	050810	050910	T	050910	9958694	19	211.00	0	00	211.00
01	042510	050110	050310	T	050310	9903288	19	211.00	0	00	211.00
01	041810	042410	042510	T	042510	9767413	01	211.00	0	00	211.00
01	041210	041710	041810	T	041810	9671372	01	211.00	0	00	211.00
01	040410	041010	041210	T	041210	9614058	01	211.00	0	00	211.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000210

03/12/12

B E N E F I T P A Y M E N T H I S T O R Y

SSN: ██████████ 2272 1 NAME: CLIFFORD

PASLEY

BENEFITS

WBA: 211.00

UI MBA : 3798.00

BALANCE: BYE: 01/23/11
633.00

PGM CDE	PO DOI	CWE	ENTRY DATE	CHECK BY	PAYMENT OPTION	CHK/SEQ NUMBER	PAY TYPE	AMOUNT PAID	UNR FLG	DISQ REAS	TOTAL AMOUNT
01	032810	040310	040410	T	040410	9470105	01	211.00	0	00	211.00
01	032810	032710	032810	T		0000000	10	.00	0	00	.00
01	031410	032010	032810	T		0000000	07	.00	0	01	.00
01	030710	031310	031410	T		0000000	07	.00	0	01	.00
01	022810	030610	030710	T		0000000	07	.00	0	01	.00
01	022110	022710	022810	T		0000000	07	.00	0	01	.00
01	021410	022010	022110	T		0000000	07	.00	0	01	.00
01	020710	021310	021410	T		0000000	07	.00	0	01	.00
01	013110	020610	020710	T		0000000	07	.00	0	01	.00
01	012610	013010	013110	T		0000000	07	.00	0	01	.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000211

SSN: [REDACTED] 0
BENEFITS

NAME: CLIFFORD

PASLEY

WBA: 211.00

UI MBA : 3798.00

BYE: 01/23/11
BALANCE: 4009.00

PGM	PO	CWE	ENTRY	CHECK	PAYMENT	CHK/SEQ	PAY	AMOUNT	UNR	DISQ	TOTAL
CDE	DOI		DATE	BY	OPTION	NUMBER	TYPE	PAID	FLG	REAS	AMOUNT
01	051610	052210	052310	T	052310	1147619	19	211.00	0	00	211.00
01	050910	051510	051610	T	051610	1054010	19	211.00	0	00	211.00
01	050310	050810	050910	T	050910	9958694	19	211.00	0	00	211.00
01	042510	050110	050310	T	050310	9903288	19	211.00	0	00	211.00
01	041810	042410	042510	T	042510	9767413	01	211.00	0	00	211.00
01	041210	041710	041810	T	041810	9671372	01	211.00	0	00	211.00
01	040410	041010	041210	T	041210	9614058	01	211.00	0	00	211.00
01	032810	040310	040410	T	040410	9470105	01	211.00	0	00	211.00
01	032810	032710	032810	T		0000000	10	.00	0	00	.00
01	031410	032010	032810	T		0000000	07	.00	0	01	.00
01	030710	031310	031410	T		0000000	07	.00	0	01	.00
01	022810	030610	030710	T		0000000	07	.00	0	01	.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000212

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
P.O. BOX 995, COLUMBIA, S.C. 29202

1 CLIFFORD PASLEY

1 1074 KINGVILLE RD

1 GADSDEN SC 29052

DATE OF THIS NOTICE 03/31/10

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
CLIFFORD PASLEY				[REDACTED]	01/24/10	03/20/10	
LO. NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
400	I	01	\$ 211.00	\$ 5486.00	\$ 1688.00	\$ 3798.00	01/23/11

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 ☐ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO CARRY
1 OUT THE DIRECTIVES OF YOUR EMPLOYER. FAILURE TO CARRY OUT THE DIRECTIVE OF YOUR EMPLOYER IN A
1 MANNER THAT THE EMPLOYER HAS A REASONABLE RIGHT TO EXPECT CONSTITUTES DISCHARGE FOR CAUSE IN
1 CONNECTION WITH THE WORK UNDER THE SOUTH CAROLINA EMPLOYMENT SECURITY LAW, SECTION 41-35-120(2).
1 YOU ARE DISQUALIFIED FOR 08 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 08 TIMES YOUR
1 WEEKLY BENEFIT AMOUNT.

1 ☐ LAST SEPARATION FROM NON-LIABLE EMPLOYER

1 UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/01/2010

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE COMMISSION UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY EMPLOYMENT SECURITY OFFICE, OR BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202. FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL EMPLOYMENT SECURITY OFFICE.

000213

UCB-102VL
8/99
08123

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
UNEMPLOYMENT INSURANCE DIVISION
VOLUNTARY LEAVING
FACT FINDING

Effective Date of Issue 1/24/2010	
Type of Claim	
New ☒	Add ☐
Trans ☐	Rein ☐
Cont ☐	
BYE 1/23/2010	

L O No 02

CLAIMANT'S

NAME Clifford Pasléy

SOCIAL SECURITY
NUMBER

1 Most recent BONA FIDE employer (Name of Company)

Address of Company

Telephone No of Company

Name of individual at Company to contact for more information

2 Dates of employment with this company beginning 10/15/2006 ending 01/15/2010

Hours worked from _____ to _____ or which shift Rotating _____ for 5 days per week

Ending salary \$ 400 per week Occupation Truck Driver

3 CLAIMANT'S STATEMENT

a I quit my job because (Include reason for leaving work on that particular day) The employer did not have a truck to put me in, because he sold the truck that I was driving He offered me to drive a truck that belonged to another driver the following week 01/11/2010-01/15/2010 I couldn't continue driving that truck because that truck is used to carry diesel and you need a special license to drive this truck

b If you left because of working conditions, describe the situation in detail N/A

c Were you granted a bona fide leave of absence by your employer? Yes ☐ No ☒ NA ☐
If "Yes," describe briefly giving beginning and ending dates
Date you reported to employer to return to work

d What did you do to resolve the problem before leaving? For example, did you ask for a transfer or leave of absence, file a grievance or talk to your supervisor? N/A

4 CLAIMANT'S CERTIFICATION I certify that the information stated herein is true I understand that the Law prescribes penalties for false statements for the purpose of securing benefits to which I am not entitled

CLAIMANT'S SIGNATURE Signature on file

DATE 2/16/10

5 INTERVIEWER'S STATEMENT Employer Reply received? Yes ☒ No ☐ (If "Yes," all the employer's allegations not addressed in the claimant's statement must be addressed in Section 7 If "No," or information was not adequate, was employer contacted to obtain adequate information?

Yes ☐ No ☐ If "No," give a date of attempt(s) to contact and explain why

SC Employment Comm

FEB 23 2010

Received Benefits Div

000214

SSN: [REDACTED] 0 NAME: CLIFFORD PASLEY
 BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 4009.00
 BYE: 01/23/11

PGM	PO	CWE	ENTRY	CHECK	PAYMENT	CHK/SEQ	PAY	AMOUNT	UNR	DISQ	TOTAL
CDE	DOI		DATE	BY	DOI	NUMBER	TYPE	PAID	FLG	REAS	AMOUNT
00	080810	081410				00000000	00	.00	0	00	.00
21	080410	080710	080810	T	080810	2020310	19	211.00	0	00	211.00
01	072510	073110	080110	T	080110	1939666	16	211.00	0	00	211.00
01	071810	072410	072510	T	072510	1847329	19	211.00	0	00	211.00
01	071110	071710	071810	T	071810	1778943	19	211.00	0	00	211.00
01	070410	071010	071110	T	071110	1718448	19	211.00	0	00	211.00
01	062710	070310	070410	T	070410	1654701	19	211.00	0	00	211.00
01	062010	062610	062710	T	062710	1586336	19	211.00	0	00	211.00
01	061310	061910	062010	T	062010	1511784	19	211.00	0	00	211.00
01	060610	061210	061310	T	061310	1427808	19	211.00	0	00	211.00
01	053010	060510	060610	T	060610	1333623	19	211.00	0	00	211.00
01	052310	052910	053010	T	053010	1242343	19	211.00	0	00	211.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000215

Eligibility Review Data

Office Number: 400		Registered for Work and Filed a Claim.	
CLMTKR ID: WBGTH		*Reviewer's notes exist	
Name: CLIFFORD PASLEY		SSN: [REDACTED] [REDACTED] [REDACTED]	Search
Sequence Number:3			
Last day worked:	01-17-2010	Date of review:	01-24-2011
Type of work performed:	Truck Drivers, Light or Delivery Services	Expect recall:	N
Type of work seeking 1:	TRUCK DRIVER	Years experience:	25
Type of work seeking 2:		Years experience:	
Previous wage:	500.00 WEEKLY	Wage willing to accept:	500.00 WEEKLY
Hours last worked:	8:00AM - 7:00PM	Hours willing to work:	8:00AM-7:00PM
Miles traveled last:	50	Miles willing to travel:	50
Job Location City & State:	CHARLESTON, SC	Job Location Phone:	(843) 709 - 1028
Transportation:	AUTOMOBILE	Attending or plans to attend school:	N
		School:	
		Hours:	
Days not willing to work:	SUNDAY		
Dependent/Childcare:	N/A	Available Immediately:	Y
Self-employed:	N	Name of employer:	
Pensions/Retirement:	N		
Pension Effective:			
% Employer contributed:			
Medical condition:	Y	Explanation of condition/disability:	HERNAITED DISK

1612 Marion Street
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
FAX: (803) 737-5768

Workers' Compensation Commission

August 2, 2002

VIA FACSIMILE (803) 254-8956
AND FIRST CLASS MAIL

J. Marvin Mullis
Attorney at Law
P.O. Box 7757
Columbia, SC 29202

RE: Clifford Pasley vs. Leonard Enterprises/Trans Agri
WCC File No. 0202022 (Claim file)

SCWCC vs. Leonard Enterprise
WCC File No. X020326 (Investigation file)

SCWCC vs. Trans Agri, Inc.
WCC File No. X020327 (Investigation file)

Dear Mr. Mullis:

This is in follow up to our recent conversation in which you told me you want a 50/51 hearing, even though Coverage and Compliance's investigation has shown Trans Agri's North Carolina coverage does not extend to South Carolina, nor were we unable to show conclusively that Leonard Enterprises and/or Trans Agri were subject to the SC Workers' Compensation Act and in violation by being uninsured. Accordingly, please indicate in writing that you want all issues, to include liability of the employers, to be determined at a 50/51 hearing. In addition, please serve the Uninsured Employers' Fund at the following address:

Uninsured Employers' Fund
220 Executive Center Drive.
Suite 119
Columbia, SC 29210

Investigation has shown that Trans Agri deducted for insurance coverage from gross payments made to Leonard Enterprises, thereby effectively bringing Leonard Enterprises

under Trans Agri's North Carolina policy. Since your client was an employee of Leonard Enterprises, he could file a claim for benefits against the policy in North Carolina. But unfortunately, as previously stated, Trans Agri's policy does not extend to South Carolina. Please find enclosed a copy of the declaration page of Trans Agri's North Carolina policy.

Since our investigation has shown that Trans Agri's policy does not extend to South Carolina, Trans Agri's Carrier, Travelers, is being deleted as the carrier of record, and the record will show that both Leonard Enterprises and Trans Agri are uninsured in South Carolina, but no evidence they are subject to the Act.

In order for the merits of your client's claim to be heard, you must first prove either Leonard Enterprises and/or Trans Agri was/were subject to the SC Workers' Compensation Act by regularly having four or more employees in a South Carolina. The Uninsured Employers' Fund is not required to pay compensable, uninsured claims until this has been shown.

If you have questions or comments about the above, please call me on my direct line at 803-737-5707.

Sincerely,



Gary Smith, Director
Division of Coverage and Compliance

GLS/kwj

Enclosure:

Cc:

Matthew J. Story
Attorney at Law
304 Meeting Street
Charleston, SC 29401

(Side note to Mr. Story: Since your client Travelers is being deleted as a carrier of record in the database of the Commission, you in turn are being deleted as an attorney of record. I believe you may take the appropriate steps to close your file at this time.)

000218

028 CB ICU ARV7089 K CMT:Clifford Pasley INS:TRANS AGRI INC
 DOL:01/17/2002 ST:SC CH/SUPV/NURSE:CAP/PLD/ INJ:Lumbar &/or Sacral Vertebrae (Vertebra NOC Trunk)

Date	Author	Topic	Subject	Free Form Subject
05/16/2002	VICKI CROUSE - 026	General	AMD DENIAL TEMPLATE	

Date: 05/14/2002

To : ICU-AAMD Case Manager : Vicki L Crouse
 Claim Office : Charlotte, NC

Re: Insured's Name: Trans Agri
 Policy Number : 803x4046
 Policy Term : 10/23/2001 to 10/23/2002
 SOA: North Carolina

Reporting Office : Charlotte
 Claim #: ARV7089
 Injured Worker's Name: Clifford Paisley
 Accident Date: 01/17/2002
 Accident State : South Carolina
 Benefit State : North Carolina

This is to confirm our discussion on 05/14/2002. Based on the facts presented, I do not believe the above referenced claim is covered under the above referenced policy. The primary facts that lead me to this conclusion are as follows:

Injured worker is requesting benefits for a state not covered on this policy.

If in the course of your on-going investigation you develop information which is inconsistent with the information set forth above, please contact me immediately, in that, these new facts may change our position on the lack of coverage for this claim. My phone number is 1-(877)-467-9546 ext. 3736.

Sincerely,
James M Carey
 AAMD Account Manager Underwriter

(This letter is PRIVILEGED & CONFIDENTIAL, for INTERNAL use only.)

cc: ICU Unit Manager: Valerie Buchanan
 Team Coordinator: Bitsy K Davis
 CL Law(Hartford): Mark Levine

000219

RECORDED CLAIMS STATEMENT

Insured Trans Agri Inc		Claim No. ATS7808H	File Name
Name of Person Giving Statement Clifford Pasley		Relationship to Accident Claimant	
Date Taken 1/28/02	Date of Loss 1/17/02	Interviewer Vicki Crouse	

Q: Vicki Crouse
A: Clifford Pasley
L: N/A

This is Vicki Crouse with Travelers Insurance in Charlotte, North Carolina. The date is Monday, January 28, 2002. The time is approximately 3:40 p.m.. I'm speaking with Mr. Clifford Pasley in reference to a worker's compensation claim.

Q. Mr. Pasley, are you represented by an attorney?

A. No ma'am.

Q. Are you aware that I'm taking a recorded statement?

A. Yes ma'am.

Q. Do I have your permission to have the recorder on?

A. Yes ma'am.

Q. You do realize that this statement is being taken to determine if you are eligible for North Carolina worker's comp benefits?

A. Yes ma'am.

Q. Alright. Would you state your complete name please and spell your last name?

A. Clifford Pasley P-A-S-L-E-Y.

Q. What is your home mailing address including the city, state and zip code?

A. 107 Broken Hill Road, Columbia, South Carolina 29212.

000220

Q. What is your home telephone number including the area code?

A. Area 803-750-9491.

Q. What is your Social Security number?

A. [REDACTED]

Q. What is your marital status?

A. Single.

Q. What is your date of birth?

A. [REDACTED].

Q. That makes you how old?

A. 40.

Q. Do you have any dependent children under the age of eighteen?

A. Yes ma'am.

Q. How many?

A. Just one.

Q. What is that child's age?

A. He's nine.

Q. Nine. Have you ever been married?

A. Yes.

Q. Okay, so you are divorced?

A. Yes.

Q. Okay. How long have you been divorced?

A. About ten years.

Q. Oh, okay. What is your height?

A. 5'8".

Q. What is your weight?

A. Approximately 170.

Q. Are you a high school graduate?

A. Yes ma'am.

Q. When did you graduate?

A. 1980.

Q. Do you have any college experience?

A. None.

Q. What are your activities and hobbies when you are not working?

A. Pretty much no activities. I work Monday through Friday and really there are no activities involved other than just going to church on Saturday morning and Sunday morning.

Q. Okay. Do you play ball of any kind...basketball, football?

A. None at all.

Q. Okay. Do you golf, bowl?

A. None.

Q. Do you lift weights?

A. No ma'am.

Q. Do you have any home projects that are going on? Do you own your home?

A. Yes ma'am, just bought it but no project of any.

- Q. Tell me about your medical history. Have you ever been diagnosed with arthritis, tendonitis or bursitis?
- A. No ma'am.
- Q. Thyroid disease?
- A. No ma'am.
- Q. Diabetes?
- A. No ma'am.
- Q. Gout?
- A. No ma'am.
- Q. Obesity?
- A. No ma'am.
- Q. Hypertension?
- A. No.
- Q. Any other medical conditions that we've not talked about?
- A. No ma'am.
- Q. Have you ever had a worker's comp claim?
- A. No ma'am, I haven't.
- Q. Have you ever had any prior injuries to your back?
- A. No ma'am.
- Q. When did you move?
- A. I've been here now about...I guess about going on two months I guess it is.
- Q. Are you taking any prescription or over the counter medication?

- A. Prescription drugs, yes ma'am.
- Q. Alright, is that for this injury?
- A. Yes ma'am.
- Q. Okay, prior to the injury were you taking anything?
- A. No ma'am.
- Q. Do you use tobacco products?
- A. None at all.
- Q. Do you use alcoholic beverages?
- A. No ma'am.
- Q. Who is your family physician?
- A. Dr. Suit.
- Q. S-O-O-T?
- A. S-U-I-T.
- Q. S-U-I-T. Where is he located?
- A. Lexington Medical Center in Lexington...I'm sorry, (inaudible), South Carolina.
- Q. Okay. When is the last time that you saw him prior to this injury?
- A. It may have been in the...maybe back in March.
- Q. March of 2001?
- A. Well, of last year.
- Q. 2001.
- A. Yes ma'am.
- Q. Okay. What was that for?

- A. Colon polyps.
- Q. Okay.
- A. But at that particular time he wasn't the doctor. I can't remember the doctor's name that...
- Q. Okay, but it was same facility?
- A. Yes ma'am.
- Q. Okay. At the time of this injury, who were you working for? Who is your employer?
- A. Right now I drive a truck for Leonard Brown. He's leased to Trans Agri.
- Q. So you drive for Leonard Brown?
- A. Yes ma'am.
- Q. What does it say on your paycheck? Are you paid by check?
- A. Yes ma'am. Say about from him...it's Leonard or Doris Brown Trucking Incorporation.
- Q. Okay. Leonard and Doris Brown Trucking Inc.?
- A. Yes ma'am.
- Q. Is that it?
- A. Yes ma'am.
- Q. Okay. What is your average weekly wage?
- A. Ma'am, I get paid a percentage of what the truck gross and that's...I get thirty-five percent of what the truck gross. It varies each week anywhere from twenty-two to about maybe twenty-four fifty each week.
- Q. At twenty-two or twenty-four fifty what? Hundred...thousand...what?

- A. Twenty-four hundred dollars...yes ma'am.
- Q. Each week?
- A. Well, it varies. Anywhere from twenty-one...like I say anywhere from about twenty-one fifty to about maybe twenty-four fifty. Like I say it varies.
- Q. Twenty-one...
- A. Two thousand one hundred dollars to about maybe twenty-four.
- Q. I just want to make sure that I'm understanding what you are saying.
- A. Yes ma'am.
- Q. You get anywhere from two thousand one hundred to two thousand four hundred dollars per week?
- A. Okay, that's what the truck grosses.
- Q. Uh-huh.
- A. Then I get thirty-five percent of that.
- Q. Oh. Alright.
- A. Yes ma'am.
- Q. You get thirty-five percent?
- A. Yes ma'am. Like I say it varies each week you know because...
- Q. Okay. Alright. Do you have a copy of your check stub?
- A. Well, not in front of me I don't.
- Q. Not in front of you?
- A. No ma'am.

Q. Okay. But actually Leonard Brown is your employer?

A. Yes ma'am.

Q. Do you receive a check from Trans Agri Incorporated?

A. No ma'am, I don't. He does though.

Q. And then he distributes it?

A. Yes ma'am.

Q. Alright. Do you have any sources of income?

A. No ma'am, just the truck.

Q. How many employees does Mr. Leonard have...Mr. Brown?

A. Three.

Q. He has three drivers?

A. Yes ma'am.

Q. Is he included in that?

A. No ma'am.

Q. Other than himself?

A. Right, there's three others and him.

Q. What days do you normally work?

A. Monday through Friday.

Q. What time of day?

A. It varies, ma'am. My day may start out...it depends on how far I go. I may start out sometime 4:00 or 5:00 in the morning and end about maybe 6:00...no later than 7:00 at night. And like I say it varies. Because I just run the Carolinas and Georgia.

Q. North and South Carolina?

000227

A. Yes ma'am.

Q. Alright. And no other sources of income, right?

A. No ma'am.

Q. When were you hired by Mr. Brown?

A. I may have been over there about...maybe in...around May I think it is of last year.

Q. May of 2001?

A. Yes ma'am.

Q. Did you fill out an application for him?

A. Yes ma'am.

Q. Okay. And where were you when you completed that application?

A. At his house.

Q. And that was where?

A. Well, that's in Columbia, South Carolina.

Q. Okay. And do you drive for any other people?

A. No ma'am, he's the only one.

Q. Okay. And Mr. Brown hired you himself?

A. Yes ma'am.

Q. Have you ever driven for any other company?

A. No ma'am, because the situation...I had my own truck leased onto Trans Agri and I parked my truck and then I started driving his.

Q. Okay, when did you park your truck?

- A. Let's see, I started driving for him in May. Mine may have been parked in March...March or April. And then I know either like the next week or two weeks I started driving for him. My truck has been parked now almost a year.
- Q. That's okay. But you used to own your own truck?
- A. Yes ma'am.
- Q. And you actually had a contract with Trans Agri?
- A. Yes ma'am.
- Q. But then you parted your truck out?
- A. Yes ma'am.
- Q. And you started driving for Leonard Brown?
- A. Right.
- Q. And Leonard Brown has a contract with Trans Agri?
- A. Right. Yes ma'am.
- Q. Okay. I wanted to make sure I got that right. And you get your paycheck from Leonard Brown?
- A. Exactly.
- Q. You do not get a paycheck from Trans Agri?
- A. No ma'am, I do not.
- Q. So you are not an employee of Trans Agri, is that correct?
- A. Okay, well I guess...well with him being leased to Trans Agri I guess then I am. Because he's under...we don't haul for anyone but Trans Agri. And as a matter of fact, Trans Agri takes our workman's comp out each week...thirty dollars a week.
- Q. Does that reflect on your check stub?

A. Yes ma'am.

Q. Alright. Tell me about your job. You are a driver, right?

A. Yes ma'am.

Q. What do you have to do?

A. We haul steel out of Charleston. Everything that we haul has to be tied down by either chain or straps and then we have to put a tarp on top of it. Once the steel is loaded, like I said we use chains or straps and... If I use straps we have this long bar that we have to tie it down real tight with.

Q. Uh-huh.

A. And to begin with you have to pull down on the bar and then once you get it pulled down then you have to put enough pressure to go on down with it to get the load secured real tight. You may have to do about...depends on the length of the load. You may have to put on anywhere from six to ten straps.

Q. Uh-huh.

A. And if you use chains, you have what you call binders. The binders you can take a steel pipe and tighten them down. You know pull up and then down. And that's the way we tighten and secure the load.

Q. Alright. Tell me about your injury. One thing that I ask...do you have to do that on every load?

A. Every load, yes ma'am.

Q. Okay. Alright, tell me about your injury. When were you injured?

A. Okay. I started to pull on last Thursday.

Q. Last Thursday was January 24th.

A. Yes ma'am.

000230

Q. Or the week before?

A. No, this past Thursday, the 24th.

Q. January 24th?

A. Yes ma'am.

Q. What time of day were you injured?

A. Approximately 11:00 I think it was.

Q. 11:00 p.m.?

A. Yes ma'am.

Q. Alright. What happened?

A. In tying my load down, this particular day I was using straps. The load was kind of high and with me...like I said I have to pull down on the bar and then in pulling down then you have to keep pulling until you get it, you know, each ratchet tightened. I just, you know, once you get a certain (inaudible) down you have to push down on the bar. So I went to the next one and in pulling down on the bar I felt something...I just felt something pull in my back. But I proceeded on to tighten the rest of them.

Q. Where did you feel the pull in your back?

A. It was like in the lower part of it like on the butt part.

Q. Uh-huh. Was it in the middle or on the side?

A. Well, it's kind of like in the middle...top middle of it.

Q. Okay.

A. So like I said I proceeded on to tighten these straps.

Q. Okay, so you continued to work then what happened?

000231

- A. Then I went the next morning to Greensboro, North Carolina to deliver and in loosening the straps, you know, I felt a little tension then also. And then I took each strap loose. Well, I took my tarps off first and then I break my straps loose. So this was that Friday. So on Monday morning I loaded out of Charleston again.
- Q. Well, that would be today and you are not working today.
- A. No, this is this past Monday.
- Q. Alright, so it wasn't the 24th that you were injured. You said it was last Thursday.
- A. I got my days mixed up.
- Q. So was it the week before?
- A. The week before, yes ma'am.
- Q. Alright, January 17th.
- A. Yes ma'am.
- Q. Okay. Alright, so what happened then the following Monday?
- A. Okay, on that Monday I loaded again out of Charleston to go to Alabama. And in loading that day, you know, I had a heavier load but it was coiled steel. And in tightening each one now I was using chains and straps this particular day. And I started to...I think I did about maybe three of them and I just...it just...it got really bad then. You know I struggled to secure my load, which it wasn't tight completely because my back had started to bother me so bad. Like I said I was using chains and straps but I just...I forded it through and went on and delivered my load that Tuesday morning. And it just...and even going down the road...driving the truck down the road, I couldn't even sit still in the seat because it had gotten so bad. And after a while it started the pain going down through my leg. And everything just started getting numb all

the way into my foot. And then that Tuesday morning I told dispatch that I needed to get back home because, you know, I pulled something in my back and it was hurting me really bad. So he told me well just go on home and you know once you talk to the doctor in the morning give me a call back.

Q. Alright. So which leg was the pain radiating down?

A. The right leg.

Q. And the right foot was getting numb?

A. Yes ma'am.

Q. Alright. Now, when did you report it?

A. I told him on Tuesday morning.

Q. The 22nd?

A. Yes ma'am.

Q. And that was to Leonard?

A. Well, I told...I mentioned it to Leonard on Monday but I told dispatch Tuesday morning, you know, after I delivered in Alabama. I told dispatch then that I needed to go back to...I needed to go home because my back and leg was bothering me really bad. But I mentioned it to Leonard that Monday afternoon.

Q. At any time while you were tightening the load was there anything unusual or out of the ordinary about you tightening the load?

A. No ma'am. I used the same procedure each time.

Q. Same procedure?

A. Yes ma'am.

Q. Did you slip, trip or fall while you were tightening the load?

A. No ma'am.

Q. Was it raining or anything like that?

A. The conditions were dry.

Q. So you were doing your job in the same manner in the same way and you just felt pain in your low back?

A. Well, just whenever I...you know when I pulled down on the bar?

Q. Uh-huh.

A. Just when I pulled down on the bar I just... Like I said this particular load on that Monday, it was...

Q. Uh-huh.

A. A little bit more difficult to tie down than what the load was on that Thursday.

Q. Why?

A. The load on that Thursday, it was all just flat steel.

Q. Uh-huh.

A. And the load on that Monday, it was what they called coiled steel.

Q. Uh-huh.

A. And you just have to use more devices to tie the load down...secure the load with.

Q. Alright. Have you ever transported flat steel before?

A. Yes ma'am.

Q. With no problem?

A. No problem at all.

Q. Have you ever transported coiled steel before?

A. Yes ma'am.

Q. Okay, so it's not unusual for you to do either type of load?

A. Right.

Q. You've done that before?

A. Yes ma'am.

Q. Both kinds?

A. Yes ma'am.

Q. With no problem?

A. Right.

Q. Okay. So there really was nothing out of the ordinary then about either load, right?

A. Right.

Q. Because you had worked with them before?

A. Yes ma'am.

Q. Alright. And you did not slip, trip or fall?

A. No ma'am.

Q. Did you lose your grip at anytime while you were loosening or tightening the load?

A. Not that I can remember. Like I say just on that particular Monday just putting more pressure on those coiled steel.

Q. Uh-huh.

A. I just...that's when I...I guess it just really, you know, it really gave away then. Because like I said I don't work on weekends.

- Q. Uh-huh. On that Thursday, was it an immediate onset of pain or was it a gradual onset of pain since you were doing your normal job?
- A. Well, on that...when I was tying it down that Thursday, I felt it kind of pull. You know I felt it kind of, you know I felt a sharp pain, you know when I was tying it down.
- Q. Uh-huh.
- A. But then like I said I proceeded on. It kind of bothered me but you know I went on and you know finished securing the load.
- Q. Uh-huh.
- A. And then that Friday morning, you know, (inaudible) unstrapping the load. Kind of, you know, putting pressure on it to release the tension off the straps?
- Q. Uh-huh.
- A. I could feel it in my back then. But I noticed also that on that Monday that right hip muscle.
- Q. Uh-huh.
- A. It was somewhat swollen.
- Q. Had you been having any problems with your hip or your leg?
- A. No ma'am.
- Q. And no problems with your back?
- A. No ma'am.
- Q. And you've never been treated for back pain before?
- A. No ma'am.
- Q. Okay. Alright. What did the doctor say? Where did you go for medical treatment?

- A. Well, I went to that Lexington Medical Center.
- Q. You went to your own doctor?
- A. Yes ma'am.
- Q. What day did you first go?
- A. That Wednesday morning because I got in here late Tuesday afternoon. I went Wednesday morning...this past Wednesday morning.
- Q. The 23rd?
- A. Yes ma'am.
- Q. Okay. And you went to Lexington Medical Center?
- A. Yes ma'am.
- Q. And that was in Irma?
- A. Yes ma'am.
- Q. What was the diagnosis?
- A. He said...you know he had me to walk on my toes, my heel. He had me to bend over, which I couldn't go all the way down. And he said he was under the impression I may have had a slipped disk. But he set me an appointment for tomorrow night to have an MRI done. Then he told me he just wanted me to stay in the bed for the next ten days to see what, you know...because I couldn't...really I couldn't even stand up straight. Whenever I walk I just...
- Q. He wrote you out of work for how many days?
- A. On this paper he has no work from 1/23 until 2/1/02. I'm supposed to go back to him on the fourth. He said he wanted me to lie flat on my back, put a cushion under my legs and check back in ten days.
- Q. Okay. What doctor saw you?

- A. Dr. Suit.
- Q. What is his first name?
- A. Ma'am, I'm not sure.
- Q. Okay. Have you seen any other physicians?
- A. No ma'am.
- Q. Did he give you medication?
- A. Yes ma'am.
- Q. What did he give you?
- A. He gave me a muscle relaxer.
- Q. Do you know the name of it?
- A. Yes ma'am. Zanaflex.
- Q. Okay.
- A. And he gave me...one was an anti-inflammatory pain medicine.
- Q. Do you know the name of that one?
- A. Yes ma'am. It's Hydrocodone...I'll spell it.
- Q. Hydrocodone?
- A. Yes ma'am.
- Q. Okay. What else?
- A. And then he gave me another one...E-T-O-D-O-L-A-C...
- Q. E-T-O-D-O?
- A. L-A-C.
- Q. L-A-C.

000238

A. Yes ma'am.

Q. What was that for?

A. It was a pain medicine also. Because he said one was just strictly a pain medicine and the other one is like a pain and anti-inflammatory. But he said if I didn't need...if the pain wasn't...if one of them wasn't killing the pain...wasn't easing the pain to go ahead to the drug store and get the other one. And I really needed the third one because...the second pain killer because the first one wasn't really easing the pain.

Q. Okay. When was the last time that you took your medication?

A. About 8:00 this morning.

Q. Will that medication...does it affect your judgment while you are giving this statement do you think?

A. No ma'am, I don't think it would.

Q. Have you ever been involved in a motor vehicle accident?

A. No ma'am. Well, I have but it's been maybe fifteen years ago I guess.

Q. Okay.

A. It's been a while.

Q. Any injury?

A. No ma'am.

Q. Alright. Do you have anything else that you want to add to the statement?

No ma'am.

ve you answered all of my questions to the best of ability?

A. Yes ma'am.

Q. Did you understand that I recorded the conversation?

A. Yes ma'am.

Q. I did have your permission to do so?

A. Yes ma'am.

Q. Do I now have your permission to turn the recorder off?

A. Yes ma'am.

Form 1040

Department of the Treasury—Internal Revenue Service

U.S. Individual Income Tax Return 2001

(99)

IRS Use Only—Do not write or stamp in this space.

Label

(See instructions on page 19.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See page 19.)

LABEL HERE

For the year Jan. 1–Dec. 31, 2001, or other tax year beginning

, 2001, ending

, 20

OMB No. 1545-0074

Your first name and initial

CLIFFORD

Last name

PASLEY

Your social security number

[REDACTED]

If a joint return, spouse's first name and initial

Last name

Spouse's social security number

[REDACTED]

Home address (number and street). If you have a P.O. box, see page 19.

8100 BAYFIELD ROAD

Apt. no.

3J

City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.

COLUMBIA, SOUTH CAROLINA, 29229

▲ Important! ▲

You must enter your SSN(s) above.

Note: Checking "Yes" will not change your tax or reduce your refund.

Do you, or your spouse if filing a joint return, want \$3 to go to this fund?

You

Spouse

☐ Yes ☒ No☐ Yes ☐ No

Filing Status

Check only one box.

1

☒ Single

2

☐ Married filing joint return (even if only one had income)

3

☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶

4

☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶

5

☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

If more than six dependents, see page 20.

6a

☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a

No. of boxes checked on 6a and 6b

b

☐ Spouse

c

Dependents:

(1) First name Last name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☐ If qualifying child for child tax credit (see page 20)

No. of your children on 6c who:

• lived with you
• did not live with you due to divorce or separation (see page 20)

Dependents on 6c not entered above

Add numbers entered on lines above ▶

1

d

Total number of exemptions claimed

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7

Wages, salaries, tips, etc. Attach Form(s) W-2

7

8a

Taxable interest. Attach Schedule B if required

8a

b

Tax-exempt interest. Do not include on line 8a

8b

8

9

Ordinary dividends. Attach Schedule B if required

9

10

Taxable refunds, credits, or offsets of state and local income taxes (see page 22)

10

11

Alimony received

11

12

Business income or (loss). Attach Schedule C or C-EZ

12

10270

13

Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐

13

14

Other gains or (losses). Attach Form 4797

14

15a

Total IRA distributions

15a

b Taxable amount (see page 23)

15b

16a

Total pensions and annuities

16a

b Taxable amount (see page 23)

16b

17

Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

17

18

Farm income or (loss). Attach Schedule F

18

19

Unemployment compensation

19

20a

Social security benefits

20a

b Taxable amount (see page 25)

20b

21

Other income. List type and amount (see page 27)

21

22

Add the amounts in the far right column for lines 7 through 21. This is your total income ▶

22

10270

Adjusted Gross Income

23

IRA deduction (see page 27)

23

24

Student loan interest deduction (see page 28)

24

25

Archer MSA deduction. Attach Form 8853

25

26

Moving expenses. Attach Form 3903

26

27

One-half of self-employment tax. Attach Schedule SE

27

726

28

Self-employed health insurance deduction (see page 30)

28

29

Self-employed SEP, SIMPLE, and qualified plans

29

30

Penalty on early withdrawal of savings

30

31a

Alimony paid b Recipient's SSN ▶

31a

32

Add lines 23 through 31a

32

33

Subtract line 32 from line 22. This is your adjusted gross income ▶

33

9544

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 72.

Cat. No. 113208

Form 1040 (2001)

000241

Tax and Credits

Standard Deduction for—

• People who checked any box on line 35a or 35b or who can be claimed as a dependent, see page 31.

• All others:

Single, \$4,550

Head of household, \$6,550

Married filing jointly or Qualifying widow(er), \$7,500

Married filing separately, \$3,800

34	Amount from line 33 (adjusted gross income)	34	9544
35a	Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here. 35a		
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here 35b ☐		
36	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	36	4550
37	Subtract line 36 from line 34	37	4994
38	If line 34 is \$99,725 or less, multiply \$2,900 by the total number of exemptions claimed on line 6d. If line 34 is over \$99,725, see the worksheet on page 32	38	2900
39	Taxable income. Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-	39	2094
40	Tax (see page 33). Check if any tax is from a ☐ Form(s) 8814 b ☐ Form 4972	40	313
41	Alternative minimum tax (see page 34). Attach Form 6251	41	
42	Add lines 40 and 41	42	313
43	Foreign tax credit. Attach Form 1116 if required	43	
44	Credit for child and dependent care expenses. Attach Form 2441	44	
45	Credit for the elderly or the disabled. Attach Schedule R	45	
46	Education credits. Attach Form 8863	46	
47	Rate reduction credit. See the worksheet on page 35.	47	105
48	Child tax credit (see page 37)	48	
49	Adoption credit. Attach Form 8839	49	
50	Other credits from: a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (specify)	50	
51	Add lines 43 through 50. These are your total credits	51	
52	Subtract line 51 from line 42. If line 51 is more than line 42, enter -0-	52	208
53	Self-employment tax. Attach Schedule SE	53	1451
54	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	54	
55	Tax on qualified plans, including IRAs, and other tax-favored accounts. Attach Form 5329 if required	55	
56	Advance earned income credit payments from Form(s) W-2	56	
57	Household employment taxes. Attach Schedule H	57	
58	Add lines 52 through 57. This is your total tax	58	1659

Other Taxes

Payments

If you have a qualifying child, attach Schedule EIC.

59	Federal income tax withheld from Forms W-2 and 1099	59	
60	2001 estimated tax payments and amount applied from 2000 return	60	
61a	Earned income credit (EIC)	61a	91
b	Nontaxable earned income	61b	
62	Excess social security and RRTA tax withheld (see page 51)	62	
63	Additional child tax credit. Attach Form 8812	63	
64	Amount paid with request for extension to file (see page 51)	64	
65	Other payments. Check if from a ☐ Form 2439 b ☐ Form 4135	65	
66	Add lines 59, 60, 61a, and 62 through 65. These are your total payments	66	91

Refund

Direct deposit? See page 51 and fill in 68b, 68c, and 68d.

67	If line 66 is more than line 58, subtract line 58 from line 66. This is the amount you overpaid	67	
68a	Amount of line 67 you want refunded to you	68a	
b	Routing number	c	Type: ☐ Checking ☐ Savings
d	Account number		
69	Amount of line 67 you want applied to your 2002 estimated tax	69	
70	Amount you owe. Subtract line 66 from line 58. For details on how to pay, see page 52	70	1652
71	Estimated tax penalty. Also include on line 70	71	84

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 53)? ☐ Yes. Complete the following. ☐ No

Designee's name _____ Phone no. _____ Personal identification number (PIN) _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no.	

Form 1040

Department of the Treasury—Internal Revenue Service

U.S. Individual Income Tax Return 2004

(1) IRS Use Only—Do not write or staple in this space.

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

Presidential

Election Campaign (See page 16.)

L
A
B
E
L
H
E
R
E

For the year Jan. 1-Dec. 31, 2004, or other tax year beginning

, 2004, ending

, 20

OMB No. 1545-0074

Your first name and initial.

Last name

Clifford

Pasley

If a joint return, spouse's first name and initial

Last name

Your social security number

Spouse's social security number

Home address (number and street). If you have a P.O. box, see page 16.

Apt. no.

107 Broken Hill Road

Columbia, SC 29212

Important!

You must enter your SSN(s) above.

Note. Checking "Yes" will not change your tax or reduce your refund.

Do you, or your spouse if filing a joint return, want \$3 to go to this fund?

You

Spouse

Yes No Yes No

Filing Status

Check only one box.

1 ☒ Single2 ☐ Married filing jointly (even if only one had income)3 ☐ Married filing separately. Enter spouse's SSN above and full name here.4 ☐ Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here.5 ☐ Qualifying widow(er) with dependent child (see page 17)

Exemptions

If more than four dependents, see page 18.

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6ab ☐ Spouse

c Dependents:

(1) First name Last name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☒ If qualifying child for child tax credit (see page 18)

Boxes checked on 6a and 6b

No. of children on 6c who:

• lived with you

• did not live with you due to divorce or separation (see page 18)

Dependents on 6c not entered above

d Total number of exemptions claimed

Add numbers on lines above

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends (see page 20)

10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20)

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

16a Pensions and annuities

b Taxable amount (see page 22)

b Taxable amount (see page 22)

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

b Taxable amount (see page 24)

21 Other income. List type and amount (see page 24)

22 Add the amounts in the far right column for lines 7 through 21. This is your total income

Adjusted Gross Income

23 Educator expenses (see page 26)

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

25 IRA deduction (see page 26)

26 Student loan interest deduction (see page 28)

27 Tuition and fees deduction (see page 29)

28 Health savings account deduction. Attach Form 8889

29 Moving expenses. Attach Form 3903

30 One-half of self-employment tax. Attach Schedule SE

31 Self-employed health insurance deduction (see page 30)

32 Self-employed SEP, SIMPLE, and qualified plans

33 Penalty on early withdrawal of savings

34a Alimony paid b Recipient's SSN

35 Add lines 23 through 34a

36 Subtract line 35 from line 22. This is your adjusted gross income

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 75.

Cat. No. 11320B

Form 1040 (2004)

000243

Tax and Credits

Standard Deduction for—

• People who checked any box on line 38a or 38b or who can be claimed as a dependent, see page 31.

• All others:

Single or Married filing separately, \$4,850

Married filing jointly or Qualifying widow(er), \$9,700

Head of household, \$7,150

37	Amount from line 36 (adjusted gross income)	37	27,498	—
38a	Check ☐ You were born before January 2, 1940, ☐ Blind. Total boxes if: ☐ Spouse was born before January 2, 1940, ☐ Blind. checked > 38a			
b	If your spouse itemizes on a separate return or you were a dual-status alien, see page 31 and check here > 38b			
39	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	39	4,850	—
40	Subtract line 39 from line 37	40	22,598	—
41	If line 37 is \$107,025 or less, multiply \$3,100 by the total number of exemptions claimed on line 6d. If line 37 is over \$107,025, see the worksheet on page 33	41	3,100	—
42	Taxable income. Subtract line 41 from line 40. If line 41 is more than line 40, enter -0-	42	19,498	—
43	Tax (see page 33). Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972	43	2,564	—
44	Alternative minimum tax (see page 35). Attach Form 6251	44		
45	Add lines 43 and 44	45	2,564	—
46	Foreign tax credit. Attach Form 1118 if required	46		
47	Credit for child and dependent care expenses. Attach Form 2441	47		
48	Credit for the elderly or the disabled. Attach Schedule R	48		
49	Education credits. Attach Form 8863	49		
50	Retirement savings contributions credit. Attach Form 8880	50		
51	Child tax credit (see page 37)	51		
52	Adoption credit. Attach Form 8839	52		
53	Credits from: a ☐ Form 8398 b ☐ Form 8859	53		
54	Other credits. Check applicable box(es): a ☐ Form 3800 b ☐ Form 8801 c ☐ Specify	54		
55	Add lines 46 through 54. These are your total credits	55		
56	Subtract line 55 from line 45. If line 55 is more than line 45, enter -0-	56	2,564	—

Other Taxes

57	Self-employment tax. Attach Schedule SE	57		
58	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	58		
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59		
60	Advance earned income credit payments from Form(s) W-2	60		
61	Household employment taxes. Attach Schedule H	61		
62	Add lines 56 through 61. This is your total tax	62	2,564	—

Payments

If you have a qualifying child, attach Schedule EIC.

63	Federal income tax withheld from Forms W-2 and 1099	63	2,005	—
64	2004 estimated tax payments and amount applied from 2003 return	64		
65a	Earned income credit (EIC)	65a		
b	Nontaxable combat pay election > 65b	65b		
66	Excess social security and tier 1 RRTA tax withheld (see page 54)	66		
67	Additional child tax credit. Attach Form 8812	67		
68	Amount paid with request for extension to file (see page 54)	68		
69	Other payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885	69		
70	Add lines 63, 64, 65a, and 66 through 69. These are your total payments	70	2,005	—

Refund

Direct deposit? See page 54 and fill in 72b, 72c, and 72d.

71	If line 70 is more than line 62, subtract line 62 from line 70. This is the amount you overpaid	71		
72a	Amount of line 71 you want refunded to you	72a		
b	Routing number	c	Type: ☐ Checking ☐ Savings	
d	Account number			
73	Amount of line 71 you want applied to your 2005 estimated tax	73		

Amount You Owe

74	Amount you owe. Subtract line 70 from line 62. For details on how to pay, see page 55	74	559	—
75	Estimated tax penalty (see page 55)	75		

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 56)? ☐ Yes. Complete the following. ☐ No

Designee's name _____ Phone no. _____ Personal identification number (PIN) _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no.	

For the year Jan. 1-Dec. 31, 2005, or other tax year beginning 2005, ending 20 OMB No. 1545-0074

Label Use the IRS label. Otherwise, please print or type. Presidential Election Campaign	L A B E L H E R E	Your first name and initial CLIFFORD	Last name PASLEY	Your social security number [REDACTED]
		If a joint return, spouse's first name and initial	Last name	Spouse's social security number
		Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.
		City, town or post office, state, and ZIP code. If you have a foreign address, see instructions.		
		8100 BAYFIELD ROAD APT 3J		
		COLUMBIA	SC	29229-0000
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund			☐ You ☐ Spouse	

Filing Status

Check only one box.

1 ☒ Single

2 ☐ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here.

4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter the child's name here.

5 ☐ Qualifying widow(er) with dependent child

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a.

b ☐ Spouse

c Dependents:		(2) Dependent's social security number	(3) Dependent's relationship to you	(4) X if qualifying child for child tax credit	No. of children on 6a who: • lived with you • did not live with you due to divorce or separation
(1) First name	Last name				
				☐	0
				☐	0
				☐	0
				☐	0

d Total number of exemptions claimed **1**

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9a	Ordinary dividends. Attach Schedule B if required	9a	
b	Qualified dividends	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	6235
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
b	Taxable amount	15b	
16a	Pensions and annuities	16a	
b	Taxable amount	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits	20a	
b	Taxable amount	20b	
21	Other income. List type and amount: OCWEN. LOAN. SERVICE.	21	500
22	Add the amounts in the far right column for lines 7 through 21. This is your total income	22	6735

Adjusted Gross Income

23	Educator expenses	23	
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25	Health savings account deduction. Attach Form 8889	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE	27	441
28	Self-employed SEP, SIMPLE, and qualified plans	28	
29	Self-employed health insurance deduction	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid b Recipient's SSN	31a	
32	IRA deduction	32	
33	Student loan interest deduction	33	
34	Tuition and fees deduction	34	
35	Domestic production activities deduction. Attach Form 8803	35	
36	Add lines 23 through 31a and 32 through 35	36	441
37	Subtract line 36 from line 22. This is your adjusted gross income	37	6294

38 Amount from line 37 (adjusted gross income)		38	6294
Tax and Credits	39a Check if: ☐ You were born before January 2, 1941, ☐ Blind. ☐ Spouse was born before January 2, 1941, ☐ Blind. Total boxes checked ☐ 39a		
	b If your spouse itemizes on a separate return or you were a dual-status alien, see instructions and check here ☐ 39b		
	40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)		40 5000
	41 Subtract line 40 from line 38		41 1294
	42 If line 38 is over \$109,475, or you provided housing to a person displaced by Hurricane Katrina, see instructions. Otherwise, multiply \$3,200 by the total number of exemptions claimed on line 6d		42 3200
	43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		43
	44 Tax. Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972		44
	45 Alternative minimum tax. Attach Form 6251		45
	46 Add lines 44 and 45		46
	47 Foreign tax credit. Attach Form 1116 if required		47
48 Credit for child and dependent care expenses. Attach Form 2441		48	
49 Credit for the elderly or the disabled. Attach Schedule R		49	
50 Education credits. Attach Form 8863		50	
51 Retirement savings contributions credit. Attach Form 8880		51	
52 Child tax credit. Attach Form 8901 if required		52	
53 Adoption credit. Attach Form 8839		53	
54 Credits from: a ☐ Form 8396 b ☐ Form 8859		54	
55 Other credits. Check applicable box(es): a ☐ Form 3800 b ☐ Form 8801 c ☐ Form		55	
56 Add lines 47 through 55. These are your total credits		56	
57 Subtract line 56 from line 46. If line 56 is more than line 46, enter -0-		57	
Other Taxes	58 Self-employment tax. Attach Schedule SE		58 881
	59 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137		59
	60 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required		60
	61 Advance earned income credit payments from Form(s) W-2		61
	62 Household employment taxes. Attach Schedule H		62
63 Add lines 57 through 62. This is your total tax		63 881	
Payments	64 Federal income tax withheld from Forms W-2 and 1099		64
	65 2005 estimated tax payments and amount applied from 2004 return		65
	66a Earned income credit (EIC)		66a 399
	b Nontaxable combat pay election ☐ 66b		
	67 Excess social security and tier 1 RRTA tax withheld		67
	68 Additional child tax credit. Attach Form 8812		68
	69 Amount paid with request for extension to file		69
	70 Payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885		70
	71 Add lines 64, 65, 66a, and 67 through 70. These are your total payments		71 399
	72 If line 71 is more than line 63, subtract line 63 from line 71. This is the amount you overpaid		72
Refund	73a Amount of line 72 you want refunded to you.		73a
	b Routing number c Type: ☐ Checking ☐ Savings		
	d Account number		
74 Amount of line 72 you want applied to your 2005 estimated tax		74	
Amount You Owe	75 Amount you owe. Subtract line 71 from line 63. For details on how to pay, see Instr		75 482
	76 Estimated tax penalty		76
Do you want to allow another person to discuss this return with the IRS (see Instr)? ☐ Yes. Complete the following. ☐ No			
Third Party Designee	Designee's name	Phone no.	Personal identification number (PIN)
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		
Joint return? See instructions. Keep a copy for your records.	Your signature	Date	Your occupation DRIVER
	Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation
Paid Preparer's Use Only	Preparer's signature	Date	Preparer's SSN or PTIN
	Firm's name (or yours if self-employed), address, and ZIP code	Check if self-employed ☐	Preparer's EIN or PTIN
	H T HARRIS INCOME TAX SERVICE 100 ASHLAND PARK LANE SUITE E COLUMBIA SC 29210-0000		Phone no. (803) 731-6064

For the year Jan. 1-Dec. 31, 2006, or other tax year beginning

2006, ending

20

OMB No. 1545-0074

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

L
A
B
E
L
H
E
R
E

Your first name and initial

CLIFFORD

Last name

PASLEY

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 16.

8100 BAYFIELD ROAD APT 3J

Apt. no.

City, town or post office, state, and ZIP code. If you have a foreign address, see page 16.

COLUMBIA, SC 29229-0000

Your social security number

[REDACTED]

Spouse's social security number

You must enter

your SSN(s) above. A

Checking a box below will not change your tax or refund.

Presidential

Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 16) ▶

You

Spouse

Filing Status

Check only one box.

1

X Single

4

Head of household (with qualifying person). (See page 17.)

2

Married filing jointly (even if only one had income)

If the qualifying person is a child but not your dependent,

3

Married filing separately. Enter spouse's SSN above and full name here. ▶

enter this child's name here. ▶

5

Qualifying widow(er) with dependent child. (See page 17.)

6a

X Yourself. If someone can claim you as a dependent, do not check box 6a

Boxes checked on 6a and 6b

1

b

Spouse

No. of children on 6c who:

0

Exemptions

c Dependents:

(1) First Name

Last Name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) X if qualifying child for child tax credit (see pg 19)

- lived with you
- did not live with you due to divorce or separation (see page 20)

0

0

Dependents on 6c not entered above

0

Add numbers on lines above ▶

1

d

Total number of exemptions claimed

If more than four dependents, see page 19.

Income

Attach Forms W-2 here. Also attach Form(s) W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 23.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7

Wages, salaries, tips, etc. Attach Form(s) W-2

7

8a

Taxable interest. Attach Schedule B if required

8a

b

Tax-exempt interest. Do not include on line 8a.

8b

9a

Ordinary dividends. Attach Schedule B if required

9a

b

Qualified dividends (see page 23)

9b

10

Taxable refunds, credits, or offsets of state and local income taxes (see page 24)

10

11

Alimony received

11

12

Business income or (loss). Attach Schedule C or C-EZ

12

17911

13

Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶

13

14

Other gains or (losses). Attach Form 4797

14

15a

IRA distributions

15a

b Taxable amount (see page 25)

15b

16a

Pensions and annuities

16a

b Taxable amount (see page 26)

16b

17

Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

17

18

Farm income or (loss). Attach Schedule F

18

19

Unemployment compensation

19

20a

Social security benefits

20a

b Taxable amount (see page 27)

20b

21

Other income. List type and amount (see page 29)

21

22

Add the amounts in the far right column for lines 7 - 21. This is your total income ▶

22

17911

23

Archer MSA deduction. Attach Form 8853

23

24

Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

24

25

Health savings account deduction. Attach Form 8889

25

26

Moving expenses. Attach Form 3903

26

27

One-half of self-employment tax. Attach Schedule SE

27

1266

28

Self-employed SEP, SIMPLE and qualified plans

28

29

Self-employed health insurance deduction (see page 29)

29

30

Penalty on early withdrawal of savings

30

31a

Alimony paid. b Recipient's SSN ▶

31a

32

IRA deduction (see page 31)

32

33

Student loan interest deduction (see page 33)

33

34

Jury duty pay you gave to your employer

34

35

Domestic production activities deduction. Attach Form 8903

35

36

Add lines 23 through 31a and 32 through 35.

36

1266

37

Subtract line 36 from line 22. This is your adjusted gross income ▶

37

16645

Tax and Credits Standard Deduction	Amount from line 37 (adjusted gross income)	38	16645
Check	You were born before January 2, 1942.	Blind.	Total boxes checked ▶ 39a
If:	Spouse was born before January 2, 1942.	Blind.	checked ▶ 39b
b If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here . . . ▶ 39b			
Itemized deductions (from Schedule A) or your standard deduction (see left margin)		40	5150
Subtract line 40 from line 38		41	11495
If line 38 is over \$112,875, or you provided housing to a person displaced by Hurricane Katrina, see page 36. Otherwise, multiply \$3,300 by the total number of exemptions claimed on line 6d.		42	3300
Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		43	8195
Tax. (See page 36.) Check if any tax is from: a Form(s) 8814 b Form 4972		44	849
Alternative minimum tax. (see page 39). Attach Form 6251		45	
Add lines 44 and 45		46	849
Foreign tax credit. Attach Form 1116 if required	47		
Credit for child and dependent care expenses. Attach Form 2441.	48		
Credit for the elderly or the disabled. Attach Schedule R	49		
Education credits. Attach Form 8863	50		
Retirement savings contributions credit. Attach Form 8880	51		
Residential energy credits. Attach Form 5695	52		
Child Tax credit (see page 42). Attach Form 8901 if required	53		
Credits from: a Form 8395 b Form 8839 c Form 8859	54		
Other Credits a Form 3800 b Form 8801 c Form	55		
Add line 47 through 55. These are your total credits	56		
Subtract line 56 from line 46. If line 56 is more than line 46, enter -0-	57	849	
Self-employment tax. Attach Schedule SE	58	2531	
Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59		
Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60		
Advance earned income credit payments from Form(s) W-2, box 9	61		
Household employment taxes. Attach Schedule H	62		
Add lines 57 through 62. This is your total tax	63	3380	
Federal income tax withheld from Forms W-2 and 1099	64		
2006 estimated tax payments and amount applied from 2005 return	65		
Earned Income credit (EIC)	66a		
Nontaxable combat pay election ▶ 66b	66b		
Excess social security and tier 1 RRTA tax withheld (see page 60)	67		
Additional child tax credit. Attach Form 8812	68		
Amount paid with request for extension to file (see page 60)	69		
Payments from: a Form 2439 b Form 4136 c Form 8885	70		
Credit for federal telephone excise tax paid. Attach Form 8913 if required	71	30	
Add lines 64, 65, 66a, and 67 through 71. These are your total payments	72	30	
If line 72 is more than line 63, subtract line 63 from line 72. This is the amount you overpaid	73		
Amount of line 73 you want refunded to you. If Form 8888 is attached, check here	74a		
Routing number X X X X X X X X X X Type: Checking Savings	74b		
Account number X X X X X X X X X X X X X X X X X X X X X X	74c		
Amount of the 73 you want applied to your 2007 estimated tax	75		
Amount you owe. Subtract line 72 from line 63. For details on how to pay, see page 62	76	3350	
Estimated tax penalty (see page 62).	77		
Do you want to allow another person to discuss this return with the IRS (see page 63)? [X] Yes. Complete the following. [] No			
Designee's name ▶ PREPARER	Phone no. ▶	Personal identification number (PIN) ▶	
Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Sign Here	Your signature	Date	Your occupation DRIVER
Joint return? See page 17.	Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation
Keep a copy for your records.	Preparer's signature	Date 09/20/08	Check if self-employed [X]
Paid Preparer's Use Only	Firm's name (or yours if self-employed), address, and ZIP code	H T HARRIS INCOME TAX SERVICE 100 ASHLAND PARK LANE COLUMBIA, SC 29210-0000	Preparer's SSN or PTIN EAT 250-57-4173
			Phone no. 803-731-6064

For the year Jan. 1-Dec. 31, 2007, or other tax year beginning

2007, ending

20

OMB No. 1545-0074

Label

(See instructions on page 12.)

Use the IRS label. Otherwise, please print or type.

L
A
B
E
L
H
E
R
E

Your first name and initial

CLIFFORD

Last name

PASLEY

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 12.

8100 BAYFIELD ROAD APT 3J

Apt. no.

City, town or post office, state, and ZIP code. If you have a foreign address, see page 12.

COLUMBIA, SC 29229-0000

Your social security number

[REDACTED]

Spouse's social security number

You must enter

A your SSN(s) above. A

Checking a box below will not change your tax or refund.

Presidential

Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 12) ▶

☐ You☐ Spouse

Filing Status

Check only one box.

1 ☒ Single2 ☐ Married filing jointly (even if only one had income)3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶4 ☐ Head of household (with qualifying person). (See page 12.)

If the qualifying person is a child but not your dependent, enter this child's name here. ▶

5 ☐ Qualifying widow(er) with dependent child (see page 14)6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6ab ☐ Spouse

Boxes checked on 6a and 6b

1

No. of children on 6c who:

• lived with you

0

• did not live with you due to divorce or separation (see page 16)

0

Dependents on 6a not entered above

0

Add numbers on lines above ▶

1

Exemptions

c Dependents:

(1) First Name

Last Name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☒ If qualifying child for child tax credit (see pg 16)

d Total number of exemptions claimed

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends (see page 19)

10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20)

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

15a

b Taxable amount (see page 21)

16a Pensions and annuities

16a

b Taxable amount (see page 22)

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

20a

b Taxable amount (see page 24)

21 Other income. List type and amount (see page 24)

22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶

23 Educator expenses (see page 26)

23

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

24

25 Health savings account deduction. Attach Form 8889

25

26 Moving expenses. Attach Form 3903

26

27 One-half of self-employment tax. Attach Schedule SE

27

28 Self-employed SEP, SIMPLE and qualified plans

28

29 Self-employed health insurance deduction (see page 26)

29

30 Penalty on early withdrawal of savings

30

31a Alimony paid. b Recipient's SSN ▶

31a

32 IRA deduction (see page 27)

32

33 Student loan interest deduction (see page 30)

33

34 Tuition and fees deduction. Attach Form 8917

34

35 Domestic production activities deduction. Attach Form 8903

35

36 Add lines 23 through 31a and 32 through 35

36

37 Subtract line 36 from line 22. This is your adjusted gross income ▶

37

14591

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

Adjusted Gross Income

[illegible]

000250

Form 1040

Department of the Treasury—Internal Revenue Service

U.S. Individual Income Tax Return

2008

(99) IRS Use Only—Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 2008, or other tax year beginning

2008, ending

20

OMB No. 1545-0074

Label

(See instructions on page 14.)

Use the IRS label. Otherwise, please print or type.

L
A
B
E
L
H
E
R
E

Your first name and initial

CLIFFORD

Last name

PASLEY

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 14.

8100 BAYFIELD ROAD APT 3J

Apt. no.

City, town or post office, state, and ZIP code. If you have a foreign address, see page 14.

COLUMBIA, SC 29229-0000

Your social security number

[REDACTED]

Spouse's social security number

You must enter
▲ your SSN(s) above. ▲Checking a box below will not
change your tax or refund.Presidential
Election CampaignCheck here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14) ▶ ☐ You ☐ Spouse

Filing Status

Check only
one box.

- 1 ☒ Single
- 2 ☐ Married filing jointly (even if only one had income)
- 3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
- 4 ☐ Head of household (with qualifying person). (See page 15.)
If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 ☐ Qualifying widow(er) with dependent child (see page 16)

Exemptions

- 6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a
- b ☐ Spouse

c Dependents:

(1) First Name	Last Name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) X if qualifying child for child tax credit (see page 17)	Boxes checked on 6a and 6b
					1
					No. of children on 6c who:
					• lived with you 0
					• did not live with you due to divorce or separation (see page 18) 0
					Dependents on 6c not entered above 0

If more than four
dependents,
see page 17.

- d Total number of exemptions claimed
- Add numbers
on lines above ▶ 1

Income

Attach Form(s)
W-2 here. Also
attach Forms
W-2G and
1099-R if tax
was withheld.If you did not
get a W-2,
see page 21.Enclose, but do
not attach, any
payment. Also,
please use
Form 1040-V.

- 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 26572
- 8a Taxable interest. Attach Schedule B if required 8a
- b Tax-exempt interest. Do not include on line 8a. 8b
- 9a Ordinary dividends. Attach Schedule B if required 9a
- b Qualified dividends (see page 21) 9b
- 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 22) 10
- 11 Alimony received 11
- 12 Business income or (loss). Attach Schedule C or C-EZ 12
- 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐ 13
- 14 Other gains or (losses). Attach Form 4797 14
- 15a IRA distributions 15a b Taxable amount (see page 23) 15b
- 16a Pensions and annuities 16a b Taxable amount (see page 24) 16b
- 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17
- 18 Farm income or (loss). Attach Schedule F 18
- 19 Unemployment compensation 19
- 20a Social security benefits 20a b Taxable amount (see page 26) 20b
- 21 Other income. List type and amount (see page 28) 21
- 22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶ 22 26572

Adjusted
Gross
Income

- 23 Educator expenses (see page 28) 23
- 24 Certain business expenses of reservists, performing artists,
and fee-basis government officials. Attach Form 2106 or 2106-EZ 24
- 25 Health savings account deduction. Attach Form 8889 25
- 26 Moving expenses. Attach Form 3903 26
- 27 One-half of self-employment tax. Attach Schedule SE 27
- 28 Self-employed SEP, SIMPLE and qualified plans 28
- 29 Self-employed health insurance deduction (see page 29) 29
- 30 Penalty on early withdrawal of savings 30
- 31a Alimony paid to Recipient's SSN ▶ 31a
- 32 IRA deduction (see page 30) 32
- 33 Student loan interest deduction (see page 33) 33
- 34 Tuition and fees deduction. Attach Form 8917 34
- 35 Domestic production activities deduction. Attach Form 8903 35
- 36 Add lines 23 through 31a and 32 through 35. 36
- 37 Subtract line 36 from line 22. This is your adjusted gross income ▶ 37 26572

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 88.

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000251

26572

Tax and Credits
Standard Deduction for:

• People who checked any box on line 39a, 39b or 39c or who can be claimed as a dependent, see page 34.

* All others:

Single or
Married filing
separately,
\$5,450

Married filing
jointly or
Qualifying
widow(er),
\$10,900*

Head of household, \$8,000

Other
Taxes

Payments

If you have a
qualifying
child, attach
Schedule E/C.

Refund .

Direct deposit? See page 63 and III in 73b, 73c, and 73d. or Form 8888.

Amount
You Owe

Third Party
Designee

[illegible]

Progress Notes

Printed On Feb 21, 2012

Patient verbalizes understanding of the above material. A copy of the information was provided.

/es/ GENEVA B JACKSON

LPN

Signed: 09/22/2011 10:42

LOCAL TITLE: PC PHYSICIAN F/U NOTE

STANDARD TITLE: PRIMARY CARE PHYSICIAN NOTE

DATE OF NOTE: SEP 22, 2011@10:11

ENTRY DATE: SEP 22, 2011@10:11:46

AUTHOR: PINEDA, JACQUELINE Y EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

HPI: PASLEY, 49 yo, MALE, BLACK OR AFRICAN AMERICAN, who presents to the clinic for routine follow up. Today Mr. Pasley tells me that he went to the ER due to worsening of the low back pain radiated to his left leg. States doing better but reports having on/off pain radiated to the left leg.

He was evaluated by a NS and he is being f/u by a pain specialist at Charleston. Mr. Pasley is appealing for a work compensation case. Otherwise he is doing well

ROS: denies CP, SOB, LE edema, abdominal pain, nausea, vomiting, diarrhea, constipation

Past Medical History:

Computerized Problem List is the source for the following:

1. PRE-EMPLOYMENT EXAM	02/08/11	HANSFORD, BILLY
2. Impaired FASTING Glucose (ICD-9-CM 790.21)	06/09/08	COVINGTON, KAREN
3. Vitamin B 12 Deficiency	10/20/04	MCFADDIN, JENNIF
4. Anemia * (ICD-9-CM 285.9)	09/06/02	GRASS, MARY A
5. Hypertension * (ICD-9-CM 401.9)	09/06/02	GRASS, MARY A
6. Personal History of Surgery Coloscopy s/p polypectomy	06/04/02	PEL, DARAVUTH K
7. Lower Back Pain	06/04/02	PEL, DARAVUTH K
8. Hypercholesterolemia	06/04/02	PEL, DARAVUTH K

Physical exam :

Vitals: Weight 162 lb [73.6 kg] (09/22/2011 09:58)
BP 124/84 (09/22/2011 09:58)
Temperature 98.5 F [36.9 C] (09/22/2011 09:58)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000253

Progress Notes

Printed On Feb 21, 2012

Pulse 67 (09/22/2011 09:58)
Respiration 18 (09/22/2011 09:58)
Pain 6 (09/22/2011 09:59)
BMI: 24.6 (09/22/11)

General: Alert and oriented in no distress

Labs: reviewed

Assessment/Plan:

1. LBP/lumbar radiculopathy: Stable; Continue ibuprofen 800mg po prn. Mr. Pasley is appealing a work compensation. He was seen by a NS through his attorney.

MRI of the lumbar spine done on 3/2011 showed:

spondylolisthesis of L5 upon S1
due to spondylolysis at the L5 vertebra. This results in
high-grade narrowing at both of the L5-S1 intervertebral nerve
root canals. Annular bulging minimally compresses the anterior
surface of the thecal sac at this same level.

Will provide a back brace

2. Hypercholesterolemia : LP at goal; continue with zocor 20 mg qhs.

3. Impaired fasting glucose: Hgbaic normal; fasting glucose normal. Encourage to continue with exercise keep weight down and low carb diet

4. HTN : BP Well controlled. Continue hctz 12.5mg po daily.

5. Health maintenance: due for colonoscopy; last colonoscopy in 2001. GI consult pending

RTC: 12 months

Allergies/ADR: Patient has answered NKA

Outpatient: Medication Reconciliation

Active Outpatient Medications (excluding Supplies):

Active Outpatient Medications	Status Refills	Issue Date Last Fill Expiration
1) CODEINE 30/ACETAMINOPHEN 300MG TAB Qty: 25 for 5 days Sig: TAKE 2 TABLETS BY MOUTH EVERY 6 HOURS AS NEEDED FOR PAIN	ACTIVE Refills: 0	Issu:08-31-11 Last:08-31-11 Expr:09-30-11
2) HYDROCHLOROTHIAZIDE 25MG TAB Qty: 45	ACTIVE	Issu:03-03-11

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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000254

Progress Notes

Printed On Feb 21, 2012

*** PC SOCIAL WORK Has ADDENDA ***

SWer received a message from the White Team SWer re: Veteran's request for an appt. She reported that Veteran can come to any appt. scheduled in the morning but not afternoon. SWer attempted to contact Veteran at 803-361-1658 to determine what day he would like for the appt. to be on. SWer left Veteran a message including contact information so that he can return the t/c at his convenience.

Encounter time: 10 minutes

Follow-up: SWer will f/u accordingly once Mr. Pasley returns the t/c to schedule an appt.

/es/ KRISTEN E TROFICANTO

Social Worker

Signed: 05/25/2011 14:19

05/27/2011 ADDENDUM

STATUS: COMPLETED

Mr. Pasley returned SWer's t/c and requested an appt. scheduled for afternoon as he works from 3:30pm to midnight most shifts. Veteran stated that he has off Monday, Tuesday, and Wednesday of next week, therefore requested next Thursday or Friday. SWer did not have an afternoon appt. on either date. SWer offered to meet with Veteran on Monday, June 6, 2011 at 2:00pm. He stated that this was a good time, therefore SWer scheduled the appt. and will send an appt. letter as a reminder.

/es/ KRISTEN E TROFICANTO

Social Worker

Signed: 05/27/2011 16:00

LOCAL TITLE: PROSTHETICS NOTE

STANDARD TITLE: ORTHOTICS PROSTHETICS NOTE

DATE OF NOTE: MAY 04, 2011@09:33

ENTRY DATE: MAY 04, 2011@09:33:37

AUTHOR: CRABTREE, GREGG

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** PROSTHETICS NOTE Has ADDENDA ***

measured pt. for shoes size 10-C/D #X801M from Skye, also took bil. impressions to make lpr. of custom arch supports, to be made by Hersco, both devices must be fit together.

/es/ GREGG CRABTREE

Signed: 05/04/2011 09:35

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000255

Progress Notes

Printed On Feb 21, 2012

Follow-up: rest, continue your medications, return as needed.

Follow up in Emergency Dept if condition acutely worsens., Follow up with Primary Care Provider.

TAP Line: 1-888-651-2683 Toll-Free and 803-647-5829 Local.

/es/ JASWINDER TONY CHAUHAN
ED PHYSICIAN
Signed: 04/12/2011 23:55

LOCAL TITLE: EMERGENCY DEPT PHYSICIAN NOTE TL
STANDARD TITLE: PHYSICIAN EMERGENCY DEPARTMENT NOTE
DATE OF NOTE: APR 12, 2011@23:30 ENTRY DATE: APR 12, 2011@23:30:17
AUTHOR: CHAUHAN, JASWINDER T EXP COSIGNER:
URGENCY: STATUS: COMPLETED

CLIFFORD PASLEY is a 49 year old BLACK OR AFRICAN AMERICAN MALE who presents to the Emergency Dept with occasional SOB. no doe, no f/s/c, no uri sxs, no n/v. pt states he had trouble sleeping several nights ago. appetite is normal. He recently started working in the housekeeping dept and has been sore. no diaphoresis. pt does admit to being under stress. he is getting married in the near future. he has been having trouble financially and states he did have several discussions with his girlfriend.

ROS: Otherwise negative

PMH:

Computerized Problem List is the source for the following:

Anemia * (ICD-9-CM 285.9)
Hypercholesterolemia
Hypertension * (ICD-9-CM 401.9)
Impaired FASTING Glucose (ICD-9-CM 790.21)
Lower Back Pain
PRE-EMPLOYMENT EXAM
Personal History of Surgery
Vitamin B 12 Deficiency

ALLERGIES: Patient has answered NKA

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000256

Progress Notes

Printed On Feb 21, 2012

EKG: NSR no ischemic changes

ASSESSMENT: anxiety

CONDITION ON DISCHARGE: Stable.

PLAN/INSTRUCTIONS: I do not feel this is cardiac. I believe he is stressed about his upcoming wedding. labs and xrays discussed with patient. cont home medications, return as needed.

PAIN MANAGEMENT/EDUCATION:

Patient educated about the following:

☒ Plan of Care/illness & condition

☐ Medications (Including drug-food interactions that apply: Ciprofloxacin, Levofloxacin, and Gatifloxacin)

☐ Pain Management

☐ Tests/procedures

☐ Basic health practices (smoking, exercise, alcohol use, diet, immunizations, etc.)

☐ Other (specify):

Education Summary & Comments:

Recipient of education: ☐ Patient ☐ Family/caregiver ☐ Other

Teaching method: ☐ Verbal ☐ Demonstration/doing ☐ Printed material
☐ Audiovisual

Outcome: ☐ Verbalizes understanding ☐ Needs reinforcement
☐ Able to demonstrate

/es/ JASWINDER TONY CHAUHAN

ED PHYSICIAN

Signed: 04/13/2011 04:34

LOCAL TITLE: EMERGENCY DEPT TRIAGE/VS NURSING NOTE TL

STANDARD TITLE: NURSING EMERGENCY DEPARTMENT TRIAGE NOTE

DATE OF NOTE: APR 12, 2011@22:50

ENTRY DATE: APR 12, 2011@22:51:01

AUTHOR: CONE, BARBARA

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** EMERGENCY DEPT TRIAGE/VS NURSING NOTE TL Has ADDENDA ***

Initial Triage:

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000257

Progress Notes

Printed On Feb 21, 2012

Age: 49 Sex: MALE

Vital Signs:

Temp:

99.2 F (37.3 C)

Pulse:

68

Respirations:

16

BP:

141/93

Pain Level:

7

(Note: IF Pulse Ox is needed, entered via VS on cover sheet)

Oxygen Saturation %:96

COMPLAINT/ASSESSMENT: Pt c/o chest tightness last night. e c/o shortness of breath today. He self medicated with Ibuprofen with relief.

Is the veteran homeless?

No.

SUICIDE RISK SCREEN:

Suicide Risk Screening:

Do you have thoughts of hurting yourself?

No

Do you have a plan to take your life?

No

Are you feeling hopeless about the present or future?

No

Have you ever had a suicide attempt?

No

Suicide risk screen negative.

Emergency Dept Nursing Triage:

PAIN ASSESSMENT:

Pain is present.

Pain intensity: 7= Hurts a lot, interferes with sleep

Source of pain intensity score: Stated Score

Location of pain: Chest

Character of pain: Pressure, Tightness

Frequency: intermittent Duration:

Causes: Relief measures:

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000258

Progress Notes

Printed On Feb 21, 2012

- [] Provided pain management information
- [] Pt verbalizes understanding to notify staff if uncomfortable

ALLERGIES/ADR: Patient has answered NKA

Is the above computer generated Allergy/ADR data reflective of an assessment that is current and accurate based on the patient/family information provided?

Yes

Patient arrived via: Ambulatory

Oriented:

Yes

Triage process explained to veteran/family with understanding voiced.

Plan:

Location of Veteran:

Veteran sent to ED bed immediately.

Emergency Severity Index (ESI):

Level 2- Critical

Morse Fall Score is 0-24. Patient is at low risk for falls.

/es/ BARBARA CONE

RN

Signed: 04/12/2011 22:53

04/12/2011 ADDENDUM

STATUS: COMPLETED

Pt is currently resting comfortably. He is on the cardiac monitor with sinus rhythm at 56bpm. Blood pressure is 139/85. Will continue to monitor.

/es/ BARBARA CONE

RN

Signed: 04/12/2011 23:47

LOCAL TITLE: TELEPHONE ADVICE PROGRAM NOTE

STANDARD TITLE: TELEPHONE ENCOUNTER NOTE

DATE OF NOTE: APR 11, 2011@12:50:09 ENTRY DATE: APR 11, 2011@13:10:11

AUTHOR: SWEET, CHARLOTTE K EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** TELEPHONE ADVICE PROGRAM NOTE Has ADDENDA ***

Call Type: CALLING FOR CLINIC.

Facility Appointed PCP: PINEDA, JACQUELINE Y (RED THREE)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, If available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000259

Progress Notes

Printed On Feb 21, 2012

At 7:30 AM on March 14, 2011, the patient (and/or surrogate) received the following document:

MRI SCREENING QUESTIONNAIRE.

This document was selected from category: Education - Standard.

This document was selected from specialty: Interventional Radiology.

Witness Name (if applicable):

*** SCANNED DOCUMENT ***

SIGNATURE NOT REQUIRED

Electronically Filed: 03/14/2011

by: User IMED

LOCAL TITLE: EMPLOYEE HEALTH NOTE

STANDARD TITLE: OCCUPATIONAL MEDICINE NOTE

DATE OF NOTE: MAR 09, 2011@11:20

ENTRY DATE: MAR 09, 2011@11:20:05

AUTHOR: BELL, LISA E

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

You may not VIEW this COMPLETED EMPLOYEE HEALTH NOTE.

LOCAL TITLE: EMERGENCY DEPT PHYSICIAN TL

STANDARD TITLE: PHYSICIAN EMERGENCY DEPARTMENT NOTE

DATE OF NOTE: MAR 07, 2011@07:44

ENTRY DATE: MAR 07, 2011@07:44:23

AUTHOR: WILLIAMS, MARVA D

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

CC: CLIFFORD PASLEY IS A 49y/o with complaint of: bilateral foot pain. pain started after started walking on concrete floors. shifts are for 12 hours, has tried changing shoes and taking ibuprofen but without much relief. patient has been tested for diabetes and has had potassium checked

Current Vitals:

T: 98.5 F [36.9 C] (03/07/2011 06:44)

P: 61 (03/07/2011 06:44)

R: 20 (03/07/2011 06:44)

BP: 140/96 (03/07/2011 06:44)

Pain: 5 (03/07/2011 06:44)

Height: 68 in [172.7 cm] (03/08/2010 13:46)

Weight: 168 lb [76.4 kg] (03/03/2011 07:50)

BMI: 25.6 (03/03/11)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000260

Progress Notes

Printed On Feb 21, 2012

same occurred a week ago, "but not as bad." he took his prescribed motrin with good effect. pt advised to seek local er or dorn er evaluation if symptoms return or progress and he verbalized understanding. Pt states that he is okay now, but will report to the ER if symptoms progress.

/es/ LATUNDRA S PRYOR

Staff Nurse RN

Signed: 04/11/2011 15:42

Receipt Acknowledged By:

04/11/2011 15:49

/es/ JACQUELINE Y PINEDA, MD
ATTENDING PHYSICIAN

LOCAL TITLE: PC PROVIDER TELEPHONE CLINIC NOTE TL

STANDARD TITLE: PRIMARY CARE TELEPHONE ENCOUNTER NOTE

DATE OF NOTE: MAR 15, 2011@06:46

ENTRY DATE: MAR 15, 2011@06:46:20

AUTHOR: PINEDA, JACQUELINE Y EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** PC PROVIDER TELEPHONE CLINIC NOTE TL Has ADDENDA ***

Mri of the lumbar spine was ordered to r/o lumbar spine stenosis

MRI scan of the lumbar spine showed:

Sagittal and axial images made on

03/14/11 show grade I anterior spondylolisthesis of L5 upon S1 due to spondylolysis at the L5 vertebra. This results in high-grade narrowing at both of the L5-S1 intervertebral nerve root canals. Annular bulging minimally compresses the anterior surface of the thecal sac at this same level.

No other abnormalities are at the lumbar spine. The conus appears normal and ends at the L1 level.

Called and spoke with Mr. Pasley ; gave results of the MRI. I have offered him referral to NS considering the above findings. I have explained that NS will decide if the condition is severe enough to consider surgery. Mr. Pasley states that he is appealing for work compensation and his attorney already has referred him to a NS in Charleston. HE will fax me copies of the notes once he is evaluated. HE is asking me to mail report of the MRI. Will mail it
HE verbalizes understanding and appreciation of the call.

Also I have asked him to stop at the desk at the red team when he comes to request his MRI film to have his BP repeated.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD

1074 KINGVILLE RD

GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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000261

Progress Notes

Printed On Feb 21, 2012

BP 126/88 (03/03/2011 07:55)
Temperature 97.1 F [36.2 C] (03/03/2011 07:50)
Pulse 57 (03/03/2011 07:50)
Respiration 18 (03/03/2011 07:50)
Pain 6 (03/03/2011 07:52)
BMI: 25.6 (03/03/11)

General: Alert and oriented in no distress
HEENT: pupil equal reactive to light; EOMI, conjunctiva clear; TM and external canal clear.
CV: sinus rhythm, regular; no murmurs or bruit
Lungs: clear to auscultation
Abd: soft, non tender, non distended.
Ext: pedal dorsalis pulse 2+; no pitting edema
Neuro: alert and oriented in person, place and time.

Labs: reviewed

Assessment/Plan:

1.LBP/lumbar radiculopathy: Stable; Continue ibuprofen 800mg po q8hrs. Mr.

Pasley is appealing a

work compensation. He is asking me if he can have an updated MRI for his appealing. Will order MRI of the lumbar spine

2.Hypercholesterolemia : LP far from goal; we held zocor last year due to stable LP but LP very elevated again; plan to restart zocor 20mg qhs. Will schedule for phone appoint in 4 months

3.Impaired fasting glucose: HgbA1c normal; fasting glucose normal. Encourage to continue with exercise keep weight down and low carb diet

4. HTN : BP Well controlled. Continue hctz 12.5mg po daily.

5. Health maintenance: due for colonoscopy; last colonoscopy in 2001. Order placed for GI

RTC: 12 months

Allergies/ADR: Patient has answered NKA

Outpatient: Medication Reconciliation

Active Outpatient Medications (excluding Supplies):

	Status	Issue Date
Active Outpatient Medications	Refills	Last Fill
		Expiration
=====		

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

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000262

Progress Notes

Printed On Feb 21, 2012

registering at: www.myhealth.va.gov. This is your VA Personal Health Record online. For more information, go to the Patient Education Resource Center across from retail store at Dorn VAMC.

All medications will be mailed to you.

Patient verbalizes understanding of the above material. A copy of the information was provided.

/es/ GENEVA B JACKSON

LPN

Signed: 03/03/2011 08:40

LOCAL TITLE: PC PHYSICIAN F/U NOTE

STANDARD TITLE: PRIMARY CARE PHYSICIAN NOTE

DATE OF NOTE: MAR 03, 2011@08:00 ENTRY DATE: MAR 03, 2011@08:00:23

AUTHOR: PINEDA, JACQUELINE Y EXP COSIGNER:

URGENCY: STATUS: COMPLETED

HPI: PASLEY, 49 yo, MALE, BLACK OR AFRICAN AMERICAN, who presents to the clinic for routine follow up. Today Mr. Pasley reports having back pain radiated to the right leg; he states that he had problems with the back during his military time but he reports that he suffered an injury work related back in 2002 and the pain has been worse since then. States pain gets some relief with motrin. Otherwise reports doing well.

ROS: denies CP, SOB, LE edema, abdominal pain, nausea, vomiting, diarrhea

Past Medical History:

Computerized Problem List is the source for the following:

1. PRE-EMPLOYMENT EXAM	02/08/11	HANSFORD, BILLY
2. Impaired FASTING Glucose (ICD-9-CM 790.21)	06/09/08	COVINGTON, KAREN
3. Vitamin B 12 Deficiency	10/20/04	MCFADDIN, JENNIF
4. Anemia * (ICD-9-CM 285.9)	09/06/02	GRASS, MARY A
5. Hypertension * (ICD-9-CM 401.9)	09/06/02	GRASS, MARY A
6. Personal History of Surgery Coloscopy s/p polypectomy	06/04/02	PEL, DARAVUTH K
7. Lower Back Pain	06/04/02	PEL, DARAVUTH K
8. Hypercholesterolemia	06/04/02	PEL, DARAVUTH K

Physical exam :

Vitals: Weight 168 lb [76.4 kg] (03/03/2011 07:50)

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

PASLEY, CLIFFORD
1074 KINGVILLE RD
GADSDEN, SOUTH CAROLINA 29052

VISTA Electronic Medical Documentation

Printed at COLUMBIA, SC VAMC

000263

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Cliff Pasley
 In accordance with the Federal Motor Carrier Safety Regulations
 (49 CFR 391.41-391.49) and with knowledge of the driving
 duties, I find this person is qualified; and, if applicable, only when:

- ☐ Meets standards in 49CFR 391.41; qualifies for 2 year certificate
- ☐ Does not meet standards
- ☒ Meets standards, but periodic evaluation required
 Due to NTN driver qualified only for:
☐ 3 months ☐ 6 months ☒ 1 year ☐ other
- ☐ Temporarily disqualified due to (condition or medication) _____
- ☐ Return to medical examiner's office for follow up on _____
- ☐ Wearing corrective lenses
- ☐ Wearing hearing aid
- ☐ Accompanied by a _____ waiver/exemption
- ☐ Driving within an exempt intracity zone
- ☐ Skill Performance Evaluation (SPE) Certificate
- ☐ Qualified by operation of 49 CFR 391.54

Date 4/27/09
 Medical Examiner's Signature [Signature]
 Medical Examiner's Name (print) Diana Lawrence
 Address 300 W. Dunbar Road West Columbia, SC 29170
 Telephone Number (803) 755-3337
 Licenses or Certification Number and State SC A11433
 Signature of Driver [Signature]
 Driver's License Number [Redacted] State SC
 Address of Driver 9100 Bayfield Rd 3-5 C-16 S.C.
 Medical Certificate Expiration Date 4/27/10 29223
 Rev. 7/18/06

000264

InMed

Diagnostic Services of S.C., LLC

6/11/2007

Dr. BARTH GREEN
1095 N W 14 TERRACE
MIAMI, FL 59974

RE: PASLEY, CLIFFORD

Date of Birth: [REDACTED] 1961

Patient ID: 142098

Requesting Physician: Dr. BARTH GREEN 1095 N W 14 TERRACE MIAMI FL 59974

Reason for Study: PAIN TO LEFT HIP UPON PROLONGED STANDING/ PREV INJURY
2001

Date of Study: 06/06/2007

EXAMINATION: mri-hips(unilat) w/o contrast- left

TECHNIQUE: Multiplanar, multisequence imaging of the pelvis and hips was performed.

FINDINGS: The sacroiliac joints appear intact. The pubic symphysis appears intact. The hip joints appear symmetric. No effusions are demonstrated. The femoral head are well formed and appear intact. There are no cystic changes. Mild osteoarthritic type change is demonstrated with the right proximal femur, with small osteophytes apparent.

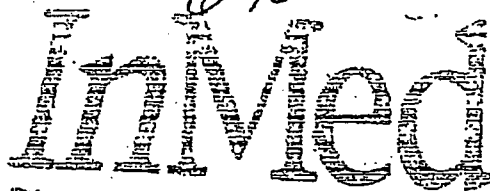
The gluteals appear intact. No trochanteric bursal fluid collections are seen. The hip abductors appear intact and are unremarkable. The ham strings origins appear normal. The iliopectas tendons are normal.

The pelvic floor musculature appears intact.

The pelvis appears unremarkable.

IMPRESSION: Very early osteoarthritic changes involving the right hip. No changes of tendinosis or bursal fluid collections are demonstrated. There is no evidence of fracture.

Preliminary - PASLEY, CLIFFORD 233ce43f-6297-4f16-b8b0-265b47ab4bf4 - 1



Diagnostic Services of S.C., LLC

PATIENT NAME:
ACCOUNT NUMBER:
DATE OF BIRTH:
REFERRING PHYSICIAN:
DATE OF EXAMINATION:

CLIFFORD PASLEY
142068
12-07-81
DR. G. NEAL
10-12-05

MRI THORACIC SPINE

TECHNIQUE: MRI of the thoracic spine was performed using sagittal pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The C7-T1 disc level shows some very mild posterior disc osteophyte formation as seen on the sagittal images, but there is only mild generalized decrease in spinal canal dimensions.

There is some desiccation of the T1-T2, T2-T3, and T3-T4 disc levels, but no significant posterior disc protrusion. There is no spinal canal or neural foraminal stenosis at these levels.

The T4-T5 through the T10-T11 disc levels are within normal limits.

The T11-T12 disc level shows some desiccation, and some very mild posterior disc osteophyte formation, but no significant associated spinal canal or neural foraminal stenosis.

The T12-L1 disc level is within normal limits.

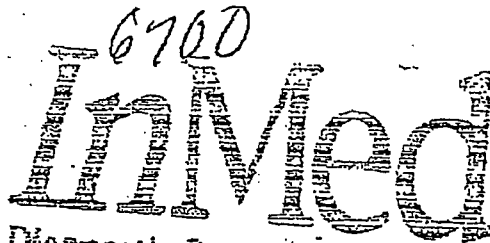
IMPRESSION: Mild desiccation and degenerative changes of the thoracic spine seen at only a few levels as described above. Note, there is no significant stenosis or disc protrusion at any level, and no evidence of any spinal cord or spinal nerve root impingement. The spinal cord also shows normal size, shape, and signal.

T. Daniel Silvestro, M.D.

TDS/skd

120 South Assembly Street, Columbia, SC 29201
T: 803-583-8022 F: 803-583-0075
Toll Free: 1-877-497-0022

000266



Diagnostic Services of S.C., LLC

PATIENT NAME:
ACCOUNT NUMBER:
DATE OF BIRTH:
REFERRING PHYSICIAN:
DATE OF EXAMINATION:

CLIFFORD PASLEY
142098
10-12-06
DR. G. NEAL

MRI LUMBAR SPINE

TECHNIQUE: MRI of the lumbar spine was performed using sagittal and axial pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The L1-2, L2-3, L3-4, L4-5 disc levels are within normal limits.

The L5-S1 disc level shows discogenic degenerative change with loss of height and loss of T2 signal. There is also broad-based posterior disc protrusion. There is some Grade I spondylolisthesis of L5 on S1, which is related to bilateral L5 pars defects and facet degenerative changes. The axial images through the L5-S1 level do not show any significant spinal canal stenosis and there is no evidence of any nerve root impingement. Note is made that the right and left L5-S1 neural foramina are narrowed bilaterally and there appears to be flattening of the right and left L5 nerve roots as they extend through the neural foramina bilaterally.

IMPRESSION: Grade I spondylolisthesis of L5 on S1 related to bilateral L5 pars defects and facet degenerative changes of L5 with associated bilateral narrowing of the L5-S1 neural foramina and apparent flattening of the nerve roots as they extend through this region. Note, there is broad-based posterior and far posterior lateral disc osteophyte formation and disc protrusion of the L5-S1 disc, which also contributes to the stenosis of the right and left neural foramina.

T. Daniel Silvester, M.D.

125 South Assembly Street, Columbia, SC 29201
T: 803-988-0092 F: 803-988-0095
Toll Free: 1-877-488-0022

000267

RETURN OFFICE VISIT

Clifford Pasley
(803) 447-1968

Chart No.: 6700
DOB: 11/17/61

DOS: 10/5/05

VITAL SIGNS:

Temperature:	97
Pulse:	73
Respiration:	18
Blood Pressure:	122/75
Weight:	170
Blood Sugar:	mg %
Waist:	inches
SPO2:	

Subject: He's seen today doing fairly well at this particular point but has pain in his low back for the last week. Does not remember doing anything. It sounds like its degenerative arthritis at this point. His blood pressure is really doing well. He has a pressure today of 122/75. I'm very, very pleased with that. He's returned to work driving trucks. He has some pain on climbing in and out of the cab. He's currently on HCTZ 25 mg 1/2 tablet qd, Zocor 40 1/2 tablet qd, and Foltx 1 qd. He's been using ibuprofen in the past for his back but I'm switching him to Aleve now. I want him to take 2 tablets qd. His rating for his cardiovascular system really hasn't changed any at all. I talked about doing another MRI of his back and another EMG/NCS if it was positive. I'm following through with a neurosurgical consult. I think I'll set him up for the MRI of the lower back at this point. I'll see him back in 4 weeks.

Return in 4 weeks.

Green B. Neal, M.D.

GBN: rpd 21(1)

000268

RETURN PHYSICAL EXAM

Cliff Pasley
107 Broken Hill Road
Columbia, SC 29212
(803) 447-1968

Chart No.: 6700
DOB: ~~11/11/61~~ 61

DOS: 9/8/05

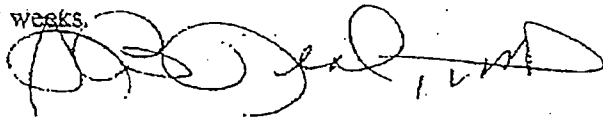
VITAL SIGNS:

Temperature:	97
Pulse:	59
Respiration:	18
Blood Pressure:	131/90
Weight:	170 ½
Blood Sugar:	99 mg %
Waist:	36 inches
SPO2:	

Subject: His blood pressure is a little up but he did not get to take his HCTZ this morning and that's probably the reason it's a little up. I Initially saw him for an accident that happened on 1/7/02 and followed him through 2/18/03 when I released him. He complained of having low back pain at that particular time with pain that radiated to both feet. When I released him he tried to go back to work but was unable at that particular point and really didn't return to work until August '03. He was subsequently seen by Dr. McFadden at the VA Hospital, and was given physical therapy by the VA. He was continued on his high blood pressure at that point. He gradually got better at that point and was able to return to work. He's currently on HCTZ 25 mg ½ tablet qd, Zocor 40 mg ½ tablet qd. He still has the pain in the LS area of the back with radiation down the entire right leg. He also is on Foltx 1 qd for Homocysteine. He's had a colonoscopy, which was negative. I believe his high blood pressure is directly related to the level of pain he has. He has a sequela of chronic pain from his accident. He's been on Ibuprofen 100 mg bid prn for pain. It does give him pretty good relief. He has a rating to the LS back of 15%. This is due to the fact he has chronic spasm and pain in this area. He has a L5 nerve root radiculopathy as noted to the clinical to the right leg. He has a permanent physical impairment rating to the cardiovascular system on the basis of his hypertension of 20%.

This letter is to confirm that Mr. Pasley is impaired as a result of his injury, and has really had no further involvement from a neurological standpoint. He really needs to be assessed at that particular time again with new MRIs of the back and EMG/NCS. If they are positive, then we need to follow through with a neurosurgical consult. If they are negative, he just has to live with it.

Return in 8 weeks.



000269

RETURN OFFICE VISIT

Cliff Pasley
107 Brocken Hill Road
Columbia, SC 29202

Chart No.: 6700
DOB: 10/27/81

DOS: 2/18/03

VITAL SIGNS:

Temperature:	97.6
Pulse:	78
Respiration:	18
Blood Pressure:	122/94
Weight:	160
Blood Sugar:	

Subject: Mr. Pasley at this particular point is seen today and is doing about as well as can be expected at this point. I gave him permission to try to find some type of work on the previous visit. He is still having some tingling in the right arm, some pain in the right extremity, in the LS area of the back and in the shoulder area. I think at this particular point he's reached maximum medical improvement. He is going to be stuck with some residual problem. He has a permanent physical impairment rating to the cervical neck and right upper extremity. In the cervical neck he has a 10% physical permanent physical impairment rating; to the right upper extremity he has a permanent physical rating of 10% as well. This is on the basis of traumatic fibromyositis and degenerative arthritis of the cervical spine. He has a permanent physical impairment rating of the LS area of the back and right extremity. The rating to the LS area of the back is 15% and involvement to the right leg is also 15%. This is basis of chronic pain. He degenerative disc disease; he has a disc protrusion which is exerting traction on the L5 nerve ^{root} ~~group~~ which is causing pain into the leg. It is not to the point where surgery is indicated at this point. He will have to stay on muscle relaxants and non-steroidal Motrin and Zanaflex. He does have a cholesterol problem that is not related to his current problem that is the accident. He does have hypertension and the hypertension is accident related because of the degree of pain that he has, the hypertension has manifested itself on this basis. Treatment of that now becomes a compensable cause related to the pain that he is in. He is treated with ~~4~~CTZ 25 mgs 1/2 tablets Monday, Wednesday, and Friday. I noticed that his blood pressure is up today and we may have to look at this and re-evaluate it. My next step would be to place him on Diovan 160-12.5 1 qd, but I am having him monitor his pressure and see how he is doing. I am releasing from the accident as of today, but I will continue to follow his blood pressure problem and cholesterol problem if he wishes to continue seeing me.

Green B. Neal, M.D.

GBN:rpj (1.4)

000270

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700
DOB: [REDACTED] 61

DOS: 01/07/03

VITAL SIGNS:

Temperature: 97
Pulse: 78
Respiration: 18
Blood Pressure: 140/82
Weight: 164 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today for follow-up. I've allowed him to return to some type of work. He's not be able to get back to the driving yet. Primarily because of the job slow down or truck problems or whatever with his employer. He has tried some yard work. Has had some pain, some swelling, some tenderness in the right extremity of the LS area and shoulder. I'm going ahead at this particular time and let him continue his present medications. No changes. I'll see him back in eight weeks.. We'll release him on return.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.
GBN:mbt

000271

RETURN OFFICE VISIT

Mr. Clifford Parsley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700
DOB: [REDACTED] 61

DOS: 12/02/02

VITAL SIGNS:

Temperature: 98.1
Pulse: 82
Respiration: 18
Blood Pressure: 126/79
Weight: 168 lbs.
Blood Sugar:

Subject: He's doing extremely well considering the amount of improvement he's done. I will allow him to go back to work on light duty. Short runs. Only around the Carolina's, Georgia, etc. And see how he does over the next weeks. And then progress him on to full work, if he does okay. I have some reservations about the clutches in the truck, but he thinks that he maybe able to do it. The other thing is when they disconnect trailers I've asked him to use a large pipe to extend to give him more leverage so he doesn't have to struggle as hard. Other than that I think he should do quite well. I'll see him back in four weeks. No change in his medications. He's still having the soreness and the pain in the LS area. I think that if he got back to work it'll act as a hardening conditioning and will help him a lot.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.

GBN:mbt

000272

RETURN OFFICE VISIT

Clifford Pasley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700

DOB: [REDACTED] 1

DOS: 10/23/02

Vital Signs:

Temperature: 96.7
Pulse: 74
Respiration: 18
Blood Pressure: 96/57/
Weight: 166 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today. He has improved a little, but he's still very cautious and protected of his injury site. I'm going ahead at this particular point and hold him off for four more weeks, at that point I'll try and return him to work. He's a truck driver, maybe he can do local runs and not wind up doing any long runs that'll keep him away. We'll see where we go from there. He can try some tricks such as using the extension pipe so that he don't have to pull as hard when cranking the landing gear, etc. Other than that he seems to be fairly stable. I think he is progressing well. He is on the Foltrix one q.d., on the Zocor 20 mg., one half tablet q.d. He really needs to go up to a whole tablet, but since he got that from the VA I'll let them decide where to go. We'll probably wind up doing a VAP Panel on him before it's all over to see whether or not his distribution is okay. I'd like to see him back in four weeks.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mbt

000273

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700

DOB: [REDACTED] 61

DOS: 8/28/02

Vital Signs:

Temperature: 97.4
Pulse: 66
Respiration: 18
Blood Pressure: 115/66
Weight:
Blood Sugar: 105/65

Subject: He's seen today for follow-up. His laboratory work is back (See Lab Reports in file). He has a nerve impingement at the LS area with severe pains. He certainly has high blood pressure and hematuria. At this particular point, I'm not making any changes in any of his medications. He's feeling better at this particular point. He's going to physical therapy at the VA right now. We'll see how he does at this particular point. He's not working. Has not been the work since January 17, 2002. He's working at Leonard Brown/Transgri. He had been employed about a year. He was tying down a load of steel with the tie down straps and using an iron bar to pull the straps tight, when he injured his back. I think that he is doing somewhat better today. We need to continue his therapy. At this point he's on ~~ACTZ~~ 25 1/2 tablet, 25 mg. q.d. He's doing okay today. No changes in any of his medications. Like to see him back in probably four weeks. I want him to finish his therapy out and then we'll see where we go from then.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mbt

000274

FIRST OFFICE COMPREHENSIVE VISIT

Mr. Clifford Pasley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700
DOB: [REDACTED] 1

Social Security #:
Telephone #: 803 731-5320
DOS: 08/13/02

VITAL SIGNS:

Temperature:
Pulse:
Respiration:
Blood Pressure:
Weight:
Height:
Blood Sugar:
See EKG and Hemo-dynamic Flow Study

Subject: Mr. Pasley has been referred by Attorney Mullis for a comprehensive examination. He wants to know how much permanent impairment he has. If I had to rate him at this time and what further medical treatment would I recommend at this time. A record from Urgent Care in Irmo was enclosed. The history as related by the patient and as received from the note from Urgent Care is as follows:

Incident: The patient is 40 years of age. He was an established patient of Urgent Care. Came in complaining of a six day history of right glottal pain radiating down the posterior aspect of the thigh. Laterally down into his leg and the top of the foot. He had never had pain like this before. He first started feeling this when he was stepping down from a trailer of a tracker trailer. When he stepped down off of a trailer of his tracker trailer on 01/17/02 and begin having pains. In talking to the patient I find that's not entirely correct. Actually what happen, he works for Leonard Brown Trucking which is Trans Agri. He's been employed there for approximately one year. He was hauling a load of steel and was in process of tying the steel down. They have ratchet binders and they use long pieces of metal in order to pull the ratchet tight so that the load does not shift. In the process of pulling and pushing on this ratchet he felt something pop in his back. He thought it would be okay in time. He just took it easy and continued to work. He even attempted to do a second load of steel the next day and that's when he realized he couldn't do it at all. He subsequently went to the doctor to be taken care of at Urgent Care, at that particular point, on the 23rd. The date of the initial injury was 01/17/02. It's true that his getting down out of the truck made his back hurt worse but that was not the initial time or thing that caused it. Actually using the ratchet bars was the culprit. At any rate the examination occurred. His b/p was up. And neurological at that particular point was abnormal. He was not able to

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Mr. Clifford Palsey

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walk on his heel on the right. Had a foot drop on the right. He was diagnosed as having a lumbo-sacral herniated nucleus pulposus with foot drop on the right indicating perineal nerve and fibular nerve palsy. MRI was ordered at that particular point. He was started on Loden and Zanaflex. Lortab 5 mgs. Was told to rest in a recumbent position with his back flat. With a cushion under his knees and he was to come back in about ten days. He went back within the ten day period. Was seen. Workmen's Comp did not authorize the MRI at that particular point. They never did and he wound up having to pay for it out of his pocket. The patient subsequently paid for MRI himself. He had no money to get any therapy done. The VA hospital did not authorize any treatment. He subsequently went the VA Hospital seeking assistance. He was in the US Army - 1980- 1983 with an honorable discharge. He did 2 1/2 years of National Guard duty with time in Desert Storm in 1991 - 1992. He currently not in the reserve at this time. He's currently having physical therapy at the VA Hospital at this time. He has not had an EMG and Nerve Conduction Study to determine whether or not he has a surgical impingement that needs decompression laminectomy. We'll get that done and determine where we go from there.

Review of Systems: Negative for diabetes, heart disease, VD, CA, kidney trouble, glaucoma, lung disease liver disease, gallbladder disease, TB, polio, sickle cell, bleeding dyscrasias, rheumatic fever, scarlet fever, typhoid fever, malaria. Denies any nausea, vomiting, diarrhea, constipation, hemorrhoids, chest pain, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain. Positive for aching feet. Muscle spasms. Back trouble or lumbago, high blood pressure which was found when he went to the VA. He's been put on a small pink pill, he takes once a day. He doesn't know the name of it. But his b/p this afternoon was absolutely normal. He's not had any sexual dysfunction as a result of it. He has a herniated ruptured disk. Has bloody or black stools. This was over a year ago. He does not now. He had a colonoscopy and had polyps removed. He has numbness and tingling in the right lateral foreleg and foot. It is not there constantly. It comes and goes. He's had all of the normal childhood immunizations. His colonoscopy with March of last year. He has weakness in the leg. Complains of back pains. He has no allergies to any food, drugs or plants. Does not smoke, does not consume alcoholic beverage and does not use any illicit drugs. Has difficulty on standing, walking any distance, climbing, crawling and things of that nature.

Medications: He has been on Motrin 800 mgs. three times a day for pain in his back. He's taking Robaxin 750 mgs. one/two three times a day as needed for pain.

Family History: His mother is still living. She's age 55. Suffers from high blood pressure. Grandmother has had cancer of the breast. Father is deceased. He was a diabetic. Was on renal dialysis. He died in his early 60's. He has one sister, age 38, in good health. Has no brothers. He's single. Has one child, age 9 years, male, in good health.

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Mr. Clifford Palsey

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Past History: He has not been able to return to work since the injury to his back. His b/p was elevated also when he was seen at Urgent Care, 152/102.

Physical Exam: **Head:** Black. Head is clean shaven, but the mustache is black. **Ears:** Shows no discharge or tophi. The drums are pearly gray. Hearing is intact. **Nose:** Nasal turbinate congestion with hyperemia and seromucous discharge. There's no paranasal or frontal sinus tenderness. **Eyes:** Brown. **Fundoscopy:** Grade II Afro-Sclerotic retinopathy. Pupils are round, regular and equal and reactive to light and accommodation. EOM are intact. Sclera is clear. Conjunctiva is pink. There is no ptosis, nystagmus or exophthalmos. Don't see any hypertensive changes in the eye. **Mouth:** Lips show no tremor or atrophy. Size is normal. There is no gum disease or leadline. Chewing surface is adequate. **Pharynx:** No hyperemia. The uvula is midline. There is no posterior or pharyngeal discharge. **Neck/Back:** Trachea is midline. Thyroid is not enlarged. No bruits. No JVD. ROM is normal. There's spasm and rigidity in right para-sacral area of the back. Positive ileo-sacral punch. **Lymph nodes:** No supraclavicular, submental, axillary or inguinal nodes. No submandibular lymph adenopathy or tenderness. **Lungs:** The AP diameter of the chest is normal. Lungs are clear to percussion and auscultation. There are no wheezes, rhonchi or rales. **Breast:** Symmetrical without dimpling, retraction, discharge or masses. **Heart:** PMI is in the 5th Intercostal space, within the MCL, localized and not sustained. No murmurs, gallops, heaves, thrills, lifts, rubs or clicks. **Abdomen:** Soft. Bowel sounds are active. No organomegaly. No rebounds or guarding noted. **Extremities:** Straight leg raising is positive at 15 degrees on the right, 60 degrees on the left. Heel punch is positive. Ankle jerk is absent on the right. Decrease in vibratory sensation on the right. Decrease in pinprick sensation on the lateral surface of the foreleg on the right. No edema. All pulses are equal and strong. There is no grinding or clicking or popping noted. **Neurological:** Intact.

Impression: At this particular point I concur that he has a herniated nucleus pulposus. Whether it will resolve by physical therapy or not depends on the therapy received. It is very late for him to be receiving physical therapy, almost some eight months after the initial injury. Because of the delay in his receiving his treatment he will have a significantly more difficult time of getting rid of residual damage that could have been limited had he had earlier treatment.

At this particular point I concur that he should stay on physical therapy at this point. I concur that the muscle relaxant and anti-inflammatory agents should be continued. My choice would be a different one, but since he's progressing and seems to be improving we'll let him continue on the ones that he's on. The Motrin and the Robaxin. His high blood pressure needs to be treated. I think that his hypertension, that he has, is directly related to the severe pain that he's had in his back since the injury and has resulted in damage to his heart, that is presently seen on his EKG at this time. Whether or not this will resolve will take time at

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Mr. Clifford Palsey

08/13/02

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this particular point. If I had to rate him at this particular point I would have to say that he is totally disabled at this particular point until he is completely rehab.

- A. He may have to have disk decompressive laminectomy to the LS area of the back in order to alleviate this.
- B. A short course of steroids may benefit his improvement as well.
- C. Longer acting muscle relaxants may benefit him at this particular point.
- 1. He has hematuria. Has a 1+ blood in the urine at this particular point. This needs to be investigated. The cause of this could be stone disease either in the kidney or urethra or the bladder that causes the irritation.
- 2. He may have nephro-sclerosis that has damaged the kidney from his hypertension. This needs to be thoroughly investigated at this particular point. An additional study should be undertaken including:
 - A. A CT Scan of the abdomen
 - B. An ultra sound of the urinary system
 - C. Performance of a PSA to make sure there is no prostate cancer involved
 - D. An urine culture to make sure there's no urinary tract infection
 - E. A probable referral to an urologist to make sure for consideration for cystoscopy looking for bladder causes of hematuria (blood in the urine)
 - F. He may need a neuro-surgical referral at this point. I don't have enough information to tell. We'll gather all of his old records including his MRI, etc. and we'll go from there.

Green B. Neal, M.D.

GBN:mbt

000278

COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

Spine and Neurological Surgery

114 Gateway Corporate Blvd., Suite 420, Columbia, SC 29203, 803-482-0423 - FAX 803-482-0432
2728 Sunset Blvd., Suite 308, W. Columbia, SC 29168, 803-794-9700 - FAX 803-784-0322

Pain Management

Steven B. Storkick, MD

1415 Blending St., Suite 3, Columbia, SC 29201, 803-779-1222 - FAX 803-779-7888

Thomas J. Holbrook, Jr., MD, FACS
William M. Rambo, Jr., MD, FACS

www.columbianeurosurgical.com

Scott B. Boyd, MD
Brett C. Gurder, MD**OFFICE VISIT - NEW PATIENT**

Clifford Pasley

#45994

4/15/02

CHIEF COMPLAINT: Pain in the lower back and right leg.**HISTORY OF PRESENT ILLNESS:** Mr. Clifford Pasley is a 40-year-old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain.**PAST MEDICAL HISTORY, CURRENT MEDICATIONS, ALLERGIES, SOCIAL HISTORY, FAMILY HISTORY, AND REVIEW OF SYSTEMS:** All are contained in the three page past history document. I reviewed this information which I signed today, and it is contained in the chart and considered a part of this note.**PHYSICAL EXAMINATION:****VITAL SIGNS:** Height 5'8", weight 165 pound.**GENERAL:** The patient is healthy appearing and appropriate for stated age.**HEAD:** Head is atraumatic and normocephalic.**NECK:** Neck is supple. There are no masses.**EYES:** Eyes are without conjunctival injection or scleral icterus. Pupils are briskly reactive.**ENT:** Hearing present in both ears. Significant for anatomically normal appearing ears, nose and throat.**LUNGS:** Lungs are clear to auscultation and percussion.**CARDIOVASCULAR:** Heart has a regular rate and rhythm without murmurs.**ABDOMEN:** Abdomen is soft and nondistended. No masses. Positive bowel sounds.**EXTREMITIES:** Warm, moist, and have good pulses. No cyanosis, clubbing or edema.**MUSCULOSKELETAL AND NEUROLOGICAL:****MENTAL STATUS:** Awake, alert, and oriented x 4. Speech is fluent and conversant.

Content and quality of speech are appropriate.

CRANIAL NERVES:

Cranial Nerve II: Vision present in both eyes.

Cranial Nerves III, IV, VI: Extraocular movements are intact.

Cranial Nerve V: Sensation on face intact FT/PP.

Cranial Nerve VII: Muscles of facial expression intact.

Cranial Nerve VIII: Hearing present in both ears.

Cranial Nerve IX, X: Oropharynx elevates symmetrically in the midline.

Cranial Nerve XI: Strength in the sternocleidomastoid and trapezius is intact.

Cranial Nerve XII: Tongue protrudes normally in the midline.

STRENGTH: His right extensor hallucis longus strength is reduced and graded 4/5. The tibialis

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COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

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Re: Clifford Pasley

4/15/02

articular is also graded 4/5. The remainder of the strength in his lower extremity is intact.

SENSORY: Fine touch and pinprick over face, trunk, and extremities intact.

CEREBELLAR: Gait, station, finger-to-nose, and heel-to-shin intact.

DEEP TENDON REFLEXES: Triceps, biceps, brachioradialis, patella and Achilles 2/4, no clonus, and toes are downgoing on Babinski.

RADIOGRAPHIC STUDIES: MRI of the lumbar spine dated 3/25/02 demonstrates a Grade L5-S1 spondylolisthesis that may produce some compression of the L5 nerve root.

ASSESSMENT: The patient has had a foot drop and L5 nerve root compression from what appears to be spondylolisthesis at L5-S1. He is making some significant improvement without any specific therapy and does not require any surgical intervention at this time.

PLAN:

1. Physical therapy of the lumbar spine.
2. Continue his anti-inflammatory drugs. Follow-up once he has completed the above.

Brett C. Gunter, M.D./meh

FAXED TO: Steve Suits, M.D.

000280

**RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 791-2480**

PATIENT: PASLEY, CLIFFORD

UNIT/MR NO: M00008373B
ACCT NO: H00008729642
SSN: [REDACTED]
REQ NO: 02-0030141
REPORT NO: 0328-0132

AGE: 40
DOB: [REDACTED] 361
SEX: M

FAMILY DR:

ATTENDING DR: G STEVEN SUITS, MD
ADMITTING DR:
ORDERED BY: G SUITS MD - [SULGST EM]

HMRI

DATE OF EXAM: 03/25/02
CLINICAL DATA: MAGNETIC RESONANCE IMAGING
LOW BACK PAIN EXTENDING INTO RIGHT LOWER EXTREMITY,
RIGHT FOOT DROP

MR LUMBAR SPINE (WITHOUT CONTRAST):

Sagittal T1 and fast T2 images of the entire lumbar spine were supplemented with axial images through the lower three lumbar discs.

Marrow signal is normal. The conus is unremarkable. Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left.

IMPRESSION: Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left. No frank disc herniation and no signs of spinal stenosis.

MAS

JOHN W HAYNES MD

REPORT STATUS: Signed

Report Lines: 27
EXAM TECH: DSHUL
DISO DATE:
DISC DIAG:
SIGNED COPY IN RADIOLOGY DEPARTMENT

Report Completed: 03/26/02 1203
PT LOC/ROOM: HMRV
PASLEY, CLIFFORD

*Ref to back specialist
if pt desires - neurosurgeon
if insurance will cover
[Signature]*

000281

LEXINGTON MEDICAL CENTER IRMO

7035 St. Andrews Road
Columbia, SC 29212
803-749-3934

PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

D: 01/23/2002
T: 1/23/02 8:14 AM /hwh

PHYSICIAN: G STEVEN SUITS, MD
DATE OF VISIT: 01/23/02

URGENT CARE

SI: The patient is a 40-year-old black male established patient who is complaining of a 6-day history of right gluteal pain radiating down the posterior aspect of his thigh laterally down into his leg and the top of his foot. He has not had pain like this before, though he has had back pain in the past more superior to where this is located. He said he first started feeling this when he was stepping down from the trailer of his tractor trailer on 01/17/02. He also does some working out, does not know if he aggravated it with that. He recalls the onset of the pain stepping down from the trailer. The patient states that his pain is intermittent. It is burning and throbbing. He rates it an 8 on a scale of 10. He states that his pain hurts him during the night. He sleeps on his back. He awakes with morning stiffness. His pain is aggravated by coughing and movement. He has some tingling in his right leg. He denies any constipation, bowel incontinence, numbness around the anus. Denies difficulty voiding, frequency of urination, burning of urination or incontinence of urine. He does not have any history of cancer, arthritis, osteoporosis or steroid use. He has had no recent febrile illnesses. After the exam, when I asked him if he had noticed any weakness in any particular area, he said his right foot. ROS: Otherwise, negative. PMH: Significant for back problems. PSH: None. PAST HOSPITALIZATIONS: None. CURRENT MEDICATIONS: Ibuprofen. DRUG ALLERGIES: None known. FH: Negative, at least the patient does not know of anything. NH: He is a truck driver. Denies alcohol, tobacco or marijuana use.

O: VITAL SIGNS: Stable, blood pressure 152/102. BACK: Visible scoliosis of spine secondary to tight muscle spasms of the right lumbar paravertebral muscles. No tenderness over the paravertebral muscles, however. No tenderness over SI joints bilaterally. Tender over right gluteal area. Decreased ROM of lumbo-thoracic spine in all directions, but most marked in right lateral flexion and extension as well as right rotation. NEUROLOGIC: Able to toe walk. He is not able to heel walk with the right foot having a foot drop on the right. Squats and up without difficulty. Individual motor testing including hip flexors, hip abductors, hip adductors, knee flexors, extensors, foot flexors, dorsal flexors, invertors and evertors are all intact except for right foot dorsal flexors. This was tested with him in both sitting and supine positions. Sensation testing for light touch, pinprick position and vibration intact throughout lower extremities paying particular attention to the lateral aspect of the right leg and dorsum of the right foot. Deep tendon reflexes 2+ physiologic and symmetrical.

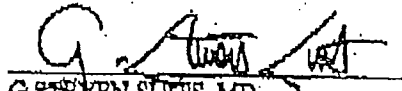
AI: Lumbosacral herniated nucleus pulposus (herniated disc) with foot drop on right, indicating a peroneal nerve or fibular nerve palsy.

URGENT CARE - IRMO
PAGE 1 OF 2

000282

PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

P: Because of the foot drop, we will get an MRI. He will be started on Rx Lodine 400 mg q.8h. Rx Zanaflex 4 mg q.8h. for 5 days then q.h.s. Rx Lortab 5 q.6h. p.r.n. pain. He is to rest flat on his back with a cushion under his knees. Recheck here in 10 days.


G STEVEN SUITS, MD

cc:

URGENT CARE - IRMO
PAGE 2 OF 2

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South Carolina Workers' Compensation Commission

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File #
Carrier File #
Carrier Code #
Employer FEIN

0202022
026-CB-ARV7089K

Clifford Pasley

Claimant's Name

107 Broken Hill Road

Address

(803) 750-9491

Home Phone #

Terri J. Morrill

Preparer's Name

SSN

Columbia, SC 29212

City State Zip

Work Phone #

TransAgri, Inc./Leonard Enterprises

Employer's Name

371 W. Hill Street

Address

Travelers Insurance Company

Insurance Carrier

(843) 577-2026

Phone #

Goldsboro, NC 27584

City State Zip

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$ Unknown to SCUE 2. AWW: \$ 735.00 gross wages per week Date of Injury: 01/17/02
3. Type of Injury and body part(s): Claimant alleges injury to his back with radiation, and "nervous condition"
4. Facts in Controversy: Whether Trans Agri and/or Leonard Enterprises were subject to the Act in S.C.? Whether Claimant is entitled to any benefits and in what amount?
5. Legal issues involved: §42-1-150 - Leonard Brown and Trans Agri did not regularly employ four or more employees as to be subject to the Act; §42-9-10, §42-9-20, §42-9-30, §42-15-60 & §42-15-80 - No entitlement to benefits under the Act.-
6. Unusual problems: Yes - waiting for release for VA Hospital, and list of Employers (See attached subpoenas); Also Leonard Enterprises never responded to Employer's subpoena dated 4/28/11 (attached).
7. Witnesses (designate if expert)*: Clifford Pasley and/or recorded statement - drove a truck for Leonard Enterprises; Leonard Brown - by subpoena (see attached); Deposition of Claimant - 9/23/03 - p.52 Leonard Brown had three trucks; 2/22/10 deposition
8. Exhibits: 8/2/02 - letter from Coverage and Compliance to Claimant's attorney; 5/16/02 - Travelers' summary - injured worker requesting benefits in a state not covered; Records of Employment Security Commission 1/24/10 - discharged from job - worked from 10/15/2006 - 1/15/2010; benefits received in 2010; tax records from 2001, 2004, 2005, 2006, 2007, and 2008
9. Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance) VA Hospital - requires disclosure not returned by Claimant. Occupational Health - 04/27/09 - passed CDL physical. In Med - 06/11/07 - very early osteoarthritic changes of right hip. 10/12/05 - MRI lumbar and thoracic spine - spondylolisthesis, degenerative changes. Dr. Green B. Neal - 10/05/05 - returned to work driving trucks, pain climbing out of cab; 09/8/05 - released on 2/18/03; 02/18/03 - rating (includes cervical spine/upper extremity, not injured in this case); 01/07/03 - unable to work due to slow down, tried yard work; - 12/02/02 return to short runs and progress to full work; 10/23/02 - truck driver, could do local runs; 08/25/02 - nerve impingement; 08/13/02 - should be on p.t. Dr. Brett C. Gunter - 04/15/02 - spondylolisthesis, significant improvement; no surgical intervention. Lexington Medical Center - 03/26/02 - spondylolisthesis, no disc herniation; 01/23/02 - foot drop.
10. Name, address, and specialty, if any, of the treating physician: Veterans Administration, 6437 Garners Ferry Road, Columbia, SC 29209, Lexington Medical Center, 7035 St. Andrews Road, Columbia, SC 29212, Dr. Brett C. Gunter, Columbia Neurosurgical Associates, P.A., 2726 Sunset Blvd. Ste. 308, W. Columbia, SC 29169; Green B. Neal, M.D., 1415 Barnwell Street, Columbia, SC 29201, InMed Diagnostics, 126 S. Assembly Street, Columbia, SC 29201
11. Impairment rating(s); body part(s); physician and date of opinion: 15% - lumbar spine - Dr. Green B. Neal - 2/18/03
12. I am amending my Form 50/51 in the follow manner: N/A

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

SIGNATURE

Date of hearing: February 1, 2012

On Behalf of: ☐ Claimant ☒ Employer

Email: tmorrill@clawsonandstaubes.com

Time needed for hearing: ½ to 1 Hour

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.
*Commissioners reserve the right to admit expert witnesses at hearings.

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Clifford Pasley,

Claimant,

vs.

Trans Agri, Inc./Leonard Enterprises,

Employer,

and

Travelers Insurance Company,

Carrier.

WCC FILE NO: 0202022

**NOTICE OF APA EXHIBITS AND
WITNESSES ON BEHALF OF THE
SOUTH CAROLINA UNINSURED
EMPLOYER'S FUND**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION, J. MARVIN
MULLIS, JR., ESQUIRE, ATTORNEY FOR CLAIMANT, AND RICHARD DANIEL
ADDISON, ATTORNEY FOR THE EMPLOYER/CARRIER:

YOU ARE HEREBY NOTIFIED, pursuant to the provisions of the South Carolina Workers'
Compensation Act and South Carolina Code Section 1-23-330, (1985), The South Carolina
Uninsured Employer's Fund, hereby submit the following medical records and other evidence:

	EXHIBITS	DATE	PAGE NOS.
1.	Subpoena: Clifford Pasley for List of Employers	1/10/12	1-3
2.	Subpoena: for authorizations for the VA Hospital	05/10/11	4-9
3.	Subpoena: Leonard Enterprises	4/28/11	10-11
4.	Employment Security Commission Records	1/24/10 10/15/2006 - 1/15/2010	12-15
5.	Coverage and Compliance letter to Claimant's attorney	08/02/02	16-17
6.	Travelers' Summary	1/28/02	18-39

000285

7.	U.S. Treasury Department (Claimant's Tax returns)	2001; 2004-2008	40-51
	PROVIDER	REPORT DATE	PAGE NOS.
8.	Occupational Health	04/27/09	52
9.	In Med	06/11/07, 10/12/05	53-55
10.	Dr. Green B. Neal	8/13/02 - 10/05/05	56-66
11.	Dr. Brett C. Gunter	04/15/02	67-68
12.	Lexington Medical Center	01/23/02 - 03/26/02	69-71

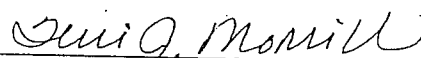
YOU ARE FURTHER HEREBY NOTIFIED you have the right to cross-examination. Should you desire to exercise that right, you are to schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the documents referred to herein will be submitted at the Hearing before the South Carolina Workers' Compensation Commission.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called:

1. Claimant by deposition; and
2. Leonard Brown, by subpoena.

CLAWSON AND STAUBES, LLC



Terri J. Morrill
 126 Seven Farms Drive, Suite 200
 Charleston, SC 29492-8144
 (843) 577-2026
 Attorneys for the South Carolina Uninsured
 Employer's Fund

Charleston, South Carolina
 January 19, 2012

**CLAWSON
AND
STAUBES**
LLC

Terri J. Morrill
Of Counsel
tmorrill@clawsonandstaubes.com

January 12, 2012

File No.: 2002-0502 tjm

J. Marvin Mullis, Jr., Esquire
Mullis Law Firm
P.O. Box 7757
Columbia, SC 29202

Re: Clifford Pasley v. Trans Agri, Inc. Leonard Enterprises
WCC File No.: 0202022
Carrier File No: ATS7808H
D/Loss: 01/17/2002

Dear Bo:

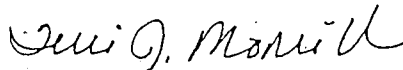
Enclosed please find our subpoena requesting that you produce to us a list of all employers of your client, Clifford Pasley, since February 2010, by **January 27, 2012**.

Thank you for your attention to this request. Please give me a call if you have any questions.

With kindest regards, I remain

Very truly yours,

CLAWSON AND STAUBES, LLC



Terri J. Morrill

TJM/cjf
Enclosure

cc: Richard Daniel Addison, Esquire (w/enclosure)

www.clawsonandstaubes.com
126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492
Fax: (843) 722-2867 / Office: (843) 577-2026

000287

South Carolina Workers' Compensation Commission

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File #

0202022

Carrier File #

026-CB-ARV7089K

Carrier Code #

Employer FEIN

Clifford Pasley

Claimant's Name

107 Broken Hill Road

Address

(803) 750-9491

Home Phone #

TERRI MORRILL LYNCH, CLAWSON AND STAUBES, LLC
126 Seven Farms Dr., Ste. 200, Chas., SC 29492-8144

Preparer's Name and Address

SSN

Columbia, SC 29212

City State Zip

Work Phone #

TransAgri, Inc./Leonard Enterprises

Employer's Name

371 W. Hill Street

Address

Travelers Insurance Company

Insurance Carrier

Goldsboro, NC 27584

City State Zip

(843) 577-2026

Phone No.

TO: CUSTODIAN OF RECORDS
J. Marvin Mullis, Jr., Esquire
As Attorney for Clifford Pasley
Mullis Law Firm
P.O. Box 7757
Columbia, SC 29202

[] YOU ARE HEREBY COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____ DATE AND TIME: _____

[] YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

[XX] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Copies of any and all list of employer's of Claimant, Clifford Pasley, since February 2010.
Re: Clifford Pasley, SSN: 249-31-2272, .

PLACE: CLAWSON AND STAUBES, LLC, 126 Seven Farms Drive., Ste. 200, Charleston, SC 29492-8144

DATE AND TIME: January 27, 2012 @ 2:00 p.m.

[] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

[] PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

Terri Morrill Lynch
Terri Morrill Lynch

(843) 577-2026
PHONE #

January 12, 2012
DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803-737-5675).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed with sufficient postage affixed thereto this 12th day of January, 2012.

To: J. Marvin Mullis, Jr., Esquire
Mullis Law Firm
P.O. Box 7757
Columbia, SC 29202
803-799-9577

Richard Daniel Addison, Esq.
Hedrick Gardner Kincheloe & Garofalo LLP
P.O. Box 11267
Columbia, SC 29211

Cathy Ford

000289

CLAWSON & STAUBES, LLC
ATTORNEYS AT LAW

TERRI MORRILL LYNCH
Of Counsel
tlynch@clawsonandstaubes.com

May 10, 2011

Reply to Charleston Office
File No.: 2002-0502 tml

J. Marvin Mullis, Jr., Esquire
Mullis Law Firm
P.O. Box 7757
Columbia, SC 29202

Re: Clifford Pasley v. Trans Agri, Inc. Leonard Enterprises
WCC File No.: 0202022
Carrier File No: ATS7808H
D/Loss: 01/17/2002

Dear Marvin: "Bd"

As you know, at the time of your client's supplemental discovery deposition taken on February 22, 2010, Mr. Pasley testified that he received \$376.00 a month from the Veteran's Administration for an injury to his lower back, representing a 30% disability of his back.

Accordingly, please find enclosed a Release for information from the Veteran's Administration to enable us to obtain copies of records from them. As you probably know, the VA Administration will not issue their records without a release. Accordingly, I would appreciate your immediately obtaining your client's signature, and returning the release to me to be sent to the VA Hospital in Columbia.

Please also find enclosed a subpoena requesting copies of your client's tax records from the year of the date of the accident, 2002, through the present, or the last filed tax return of 2010. The subpoena requests any and all tax records, W-2 Forms, 1099s, or other records reflecting the earnings of the Mr. Pasley from 2002 through the present.

Your assistance and attention to this matter will be appreciated.

000290

Charleston Office:
126 Seven Farms Dr., Suite 200
Charleston, SC 29492-8144
(o) 843.577.2026
(f) 843.722.2867

Charlotte Office:
756 Tyvola Rd., Suite 130
Charlotte, NC 28217-3535
(o) 704.940.9128
(f) 704.522.9033

clawsonandstaubes.com

J. Marvin Mullis, Jr., Esquire

May 10, 2011

Page 2

With kindest regards, I remain

Very truly yours,

Terri Morrill Lynch

Terri Morrill Lynch

TML/cjf

Enclosures

cc: Richard Daniel Addison, Esquire (w/enclosure)

000291

Department of Veterans Affairs	REQUEST FOR AND AUTHORIZATION TO RELEASE MEDICAL RECORDS OR HEALTH INFORMATION
Privacy Act and Paperwork Reduction Act Information: The execution of this form does not authorize the release of information other than that specifically described below. The information requested on this form is solicited under Title 38, U.S.C. The form authorizes release of information in accordance with the Health Insurance Portability and Accountability Act, 45 CFR Parts 160 and 164, 5 U.S.C. 552a, and 38 U.S.C. 5701 and 7332 that you specify. Your disclosure of the information requested on this form is voluntary. However, if the information including Social Security Number (SSN) (the SSN will be used to locate records for release) is not furnished completely and accurately, Department of Veterans Affairs will be unable to comply with the request. The Veterans Health Administration may not condition treatment, payment, enrollment or eligibility on signing the authorization. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices identified as 24VA19 "Patient Medical Record - VA" and in accordance with the VHA Notice of Privacy Practices. You do not have to provide the information to VA, but if you don't, VA will be unable to process your request and serve your medical needs. Failure to furnish the information will not have any effect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law. The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 2 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.	
ENTER BELOW THE PATIENT'S NAME AND SOCIAL SECURITY NUMBER IF THE PATIENT DATA CARD IMPRINT IS NOT USED.	
TO: DEPARTMENT OF VETERANS AFFAIRS (Print or type name and address of health care facility) Veteran Administration Hospital Columbia, South Carolina	PATIENT NAME (Last, First, Middle Initial) Pasley Clifford SOCIAL SECURITY NUMBER
NAME AND ADDRESS OF ORGANIZATION, INDIVIDUAL OR TITLE OF INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED	
Terri M. Lynch, Esquire, k Clawson & Staubes, LLC, 126 Seven Farms Drive, Ste. 200, Charleston, SC 29492 (843) 577-2026	
VETERAN'S REQUEST: I request and authorize Department of Veterans Affairs to release the information specified below to the organization, or individual named on this request. I understand that the information to be released includes information regarding the following condition(s):	
☐ DRUG ABUSE ☐ ALCOHOLISM OR ALCOHOL ABUSE ☐ TESTING FOR OR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV) ☐ SICKLE CELL ANEMIA	
INFORMATION REQUESTED (Check applicable box(es) and state the extent or nature of the information to be disclosed, giving the dates or approximate dates covered by each)	
☐ COPY OF HOSPITAL SUMMARY ☐ COPY OF OUTPATIENT TREATMENT NOTE(S) ☒ OTHER (Specify)	
Medical records and reports. Records of award of 30% disability of the back.	
PURPOSE(S) OR NEED FOR WHICH THE INFORMATION IS TO BE USED BY INDIVIDUAL TO WHOM INFORMATION IS TO BE RELEASED	
Active and pending Workers' Compensation claim in South Carolina.	
NOTE: ADDITIONAL ITEMS OF INFORMATION DESIRED MAY BE LISTED ON THE BACK OF THIS FORM	
AUTHORIZATION: I certify that this request has been made freely, voluntarily and without coercion and that the information given above is accurate and complete to the best of my knowledge. I understand that I will receive a copy of this form after I sign it. I may revoke this authorization, in writing, at any time except to the extent that action has already been taken to comply with it. Written revocation is effective upon receipt by the Release of Information Unit at the facility housing the records. Redisclosure of my medical records by those receiving the above authorized information may be accomplished without my further written authorization and may no longer be protected. Without my express revocation, the authorization will automatically expire: (1) upon satisfaction of the need for disclosure; (2) on (date supplied by patient); (3) under the following condition(s):	
I understand that the VA health care practitioner's opinions and statements are not official VA decisions regarding whether I will receive other VA benefits or, if I receive VA benefits, their amount. They may, however, be considered with other evidence when these decisions are made at a VA Regional Office that specializes in benefit decisions.	
DATE 	SIGNATURE OF PATIENT OR PERSON AUTHORIZED TO SIGN FOR PATIENT (Attach authority to sign, e.g., POA)
FOR VA USE ONLY	
IMPRINT PATIENT DATA CARD (or enter Name, Address, Social Security Number)	TYPE AND EXTENT OF MATERIAL RELEASED
	DATE RELEASED RELEASED BY

SECTION III - CONSENT TO RELEASE INFORMATION

READ ALL PARAGRAPHS CAREFULLY BEFORE SIGNING. YOU MUST CHECK THE APPROPRIATE STATEMENT UNDERLINED IN PARENTHESES IN PARAGRAPH 9C.

9A. Privacy Act Notice: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. However, if the information including your Social Security Number (SSN) is not furnished completely or accurately, the health care provider to which this authorization is addressed may not be able to identify and locate your records, and provide a copy to VA. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect.

9B. I, the undersigned, hereby authorize the hospital, physician or other health care provider or health plan shown in Item 7A to release any information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment, with the understanding that VA will use this information in determining my eligibility to veterans benefits I have claimed. I understand that the health care provider or health plan identified in Item 7A who is being asked to provide the Veterans Benefits Administration with records under this authorization may not require me to execute this authorization before it will, or will continue to, provide me with treatment, payment for health care, enrollment in a health plan, or eligibility for benefits provided by it. I understand that once my health care provider sends this information to VA under this authorization, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a, and VA may disclose this information as authorized by law. I also understand that I may revoke this authorization, at anytime (except to the extent that the health care provider has already released information to VA under this authorization) by notifying the health care provider shown in Item 7A. Please contact the VA Regional Office handling your claim or the Board of Veterans' Appeals, if an appeal is pending, regarding such action. If you do not revoke this authorization, it will automatically end 180 days from the date you sign and date the form (Item 10C).

9C. I ☐ (AUTHORIZE) ☐ (DO NOT AUTHORIZE) the source shown in Item 7A to release or disclose any information or records relating to the diagnosis, treatment or other therapy for the condition(s) of drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), sickle cell anemia or psychotherapy notes. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE:

10A. SIGNATURE OF VETERAN/CLAIMANT OR LEGAL REPRESENTATIVE

10B. RELATIONSHIP TO VETERAN/CLAIMANT
(If other than self, please provide full name, title, organization, city, State and ZIP Code. All court appointments must include docket number, county and State)

10C. DATE

10D. MAILING ADDRESS (Number and Street or rural route, city, or P.O. State and ZIP Code)

c/o J. Marvin Mullis, Esquire

Mullis Law Firm

Post Office Box 7757, Columbia, SC 29202

10E. TELEPHONE NUMBER (Include Area Code)

(803) 799-9577

The signature and address of a person who either knows the person signing this form or is satisfied as to that person's identity is requested below. This is not required by VA but may be required by the source of the information.

11A. SIGNATURE OF WITNESS

11B. DATE

11C. MAILING ADDRESS OF WITNESS

000293

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

Carrier file #
Carrier Code #
Employer FEIN

020-00-ARV/009A

Clifford Pasley

TransAgri, Inc./Leonard Enterprises

Plaintiff's Name
17 Broken Hill Road
Columbia, SC 29212
Address
City State Zip
(803) 750-9491
Home Phone #
Work Phone #

Employer's Name
371 W. Hill Street
Goldsboro, NC 27584
Address
City State Zip
Travelers Insurance Company
Insurance Carrier

FERRI MORRILL LYNCH, CLAWSON & STAUBES, LLC
126 SEVEN FARMS DR., STE. 200, CHAS., SC 29492-8144

(843) 577-2026

Defendant's Name and Address

Phone No.

TO: Clifford Pasley
c/o J. Marvin Mullis, Jr., Esquire
Post Office Box 7757
Columbia, SC 29202

YOU ARE HEREBY COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____ DATE AND TIME: _____

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Copies of any and tax returns, schedules, attachments, including but not limited to W-2s, 1099s, Schedules and other earning information. Please provide all records dated from tax return year 2002 through the present.

Re: Clifford Pasley, SSN: 249-31-2272, DOB: 12/27/1961

PLACE: CLAWSON & STAUBES, LLC, 126 SEVEN FARMS DR., STE. 200, CHARLESTON, SC 29492-8144

DATE AND TIME: May 26, 2011 @ 2:00 p.m.

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

Ferri Morrill Lynch
Ferri Morrill Lynch

(843) 577-2026
PHONE #

5/10/11
DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803-737-5675).

WCC Form #27. Rev. Date 3/96

27

SUBPOENA

000294

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed with sufficient postage affixed thereto this 10th day of May, 2011.

To: J. Marvin Mullis, Jr., Esquire
Mullis Law Firm
P.O. Box 7757
Columbia, SC 29202

Richard Daniel Addison, Esquire
Hedrick Gardner Kinchloe
& Garofalo, LLP
P.O. Box 11267
Columbia, SC 29211

Cathy Fox

000295

CLAWSON & STAUBES, LLC
ATTORNEYS AT LAW

TERRI MORRILL LYNCH
Of Counsel
tlynch@clawsonandstaubes.com

April 28, 2011

Reply to Charleston Office
File No.: 2002-0502 tml

CUSTODIAN OF EMPLOYMENT RECORDS

Leonard Enterprises
230 Moonlight Drive
Columbia, SC 29210

Re: Clifford Pasley v. Trans Agri, Inc., Leonard Enterprises
SSN: [REDACTED]
DOB: [REDACTED] 1961

Dear Sir/Madam:

Enclosed please find our subpoena requesting that you produce to us a copy of your records on **Clifford Pasley**, by **May 19, 2011**. Prior to preparing these copies, please notify us of the cost, should it exceed \$75. Additionally, please enclose a letter certifying that the materials produced are, in fact, a complete copy of your file on **Clifford Pasley**.

By copy of this letter to J. Marvin Mullis, Jr., Esquire, I am advising him of my request for these records. Additionally, should he require a copy of the records, he will contact your office and request that an additional copy be made and forwarded to him at his expense.

Thank you for your attention to this request, and please give me a call if you have any questions.

Very truly yours,

CLAWSON & STAUBES, LLC

Terri Morrill Lynch

Terri Morrill Lynch

TML/cjf

Enclosure

cc: J. Marvin Mullis, Jr., Esquire (w/enclosure)

000296

South Carolina Workers' Compensation Commission

P.O. Box 1715 ♦ 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File #

Carrier File #

Carrier Code #

Employer FEIN

026-CB-ARV7089K

Clifford Pasley

Plaintiff's Name

SSN

07 Broken Hill Road

Columbia, SC 29212

Address

City State Zip

(803) 750-9491

Home Phone #

Work Phone #

FERRI MORRILL LYNCH, CLAWSON & STAUBES, LLC
126 SEVEN FARMS DR., STE. 200, CHAS., SC 29492-8144

Preparer's Name and Address

TransAgri, Inc./Leonard Enterprises

Employer's Name

371 W. Hill Street

Goldsboro, NC 27584

Address

City State Zip

Travelers Insurance Company

Insurance Carrier

(843) 577-2026

Phone No.

TO: Records Custodian
Leonard Enterprises
230 Moonlight Drive
Columbia, SC 29210

[] YOU ARE HEREBY COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____ DATE AND TIME: _____

[] YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

[] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Copies of any and all contracts with Clifford Pasley covering the year 2001 through 2009, any payroll records, 1099s, W-2 forms, and any other wage withholding information. Any and all workers compensation insurance policies or coverage documentation. Copies of any and all employment, personnel and payroll records including but not limited to, applications for employment, pre-employment and employment related to physical examination records, employment evaluation and promotion/demotion/performance evaluation reports attendance and/or absentee records, salary history and compensation records, etc. from the first date of employment to the last date of employment. This subpoena is deemed continuing until the last date of employment. Re: Clifford Pasley, SSN: 249-31-2272, DOB: 12/27/1961

PLACE: CLAWSON & STAUBES, LLC, 126 SEVEN FARMS DR., STE. 200, CHARLESTON, SC 29492-8144

DATE AND TIME: May 17, 2011 @ 2:00 p.m.

[] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

[] PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

Terri Morrill Lynch
Terri Morrill Lynch

(843) 577-2026
PHONE #

4/28/11
DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803-737-5675).

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION

P.O. BOX 995, COLUMBIA, S.C. 29202

1 CLIFFORD PASLEY

DATE OF THIS NOTICE 03/31/10

1 1074 KINGVILLE RD

1 GADSDEN SC 29052

CLAIMANT'S NAME				SOCIAL SECURITY NUMBER	EFFECTIVE DATE	DISQUALIFICATION ENDS	
CLIFFORD PASLEY				[REDACTED]	01/24/10	03/20/10	
L.O. NO.	TYPE	CATEGORY	WEEKLY BENEFIT AMOUNT	MAXIMUM POTENTIAL ENTITLEMENT	LESS REDUCTION OF	NET TOTAL BENEFITS	BENEFIT YEAR ENDS
400	I	01	\$ 211.00	\$ 5486.00	\$ 1688.00	\$ 3798.00	01/23/11

1 DETERMINATION BY CLAIMS ADJUDICATOR ON CLAIM FOR BENEFITS

1 ☐ You are eligible for benefits from the above effective date.

1 ☒ You have been disqualified from receiving benefits or have been found to be ineligible for benefits for the following reason(s).

1 YOU WERE DISCHARGED FROM YOUR JOB WITH YOUR MOST RECENT BONA FIDE EMPLOYER FOR FAILING TO CARRY
1 OUT THE DIRECTIVES OF YOUR EMPLOYER. FAILURE TO CARRY OUT THE DIRECTIVE OF YOUR EMPLOYER IN A
1 MANNER THAT THE EMPLOYER HAS A REASONABLE RIGHT TO EXPECT CONSTITUTES DISCHARGE FOR CAUSE IN
1 CONNECTION WITH THE WORK UNDER THE SOUTH CAROLINA EMPLOYMENT SECURITY LAW, SECTION 41-35-120(2).
1 YOU ARE DISQUALIFIED FOR 08 WEEKS. YOUR MAXIMUM BENEFITS ARE ALSO REDUCED BY 08 TIMES YOUR
1 WEEKLY BENEFIT AMOUNT.

1 ☐ LAST SEPARATION FROM NON-LIABLE EMPLOYER

UI CLAIMS ADJUDICATOR

1 MAILING DATE 04/01/2010

IMPORTANT: THIS DETERMINATION WILL BE THE FINAL DECISION OF THE COMMISSION UNLESS YOU FILE AN APPEAL SETTING FORTH IN DETAIL THE GROUNDS FOR APPEAL WITHIN TEN (10) CALENDAR DAYS, INCLUDING WEEKENDS AND HOLIDAYS, FROM THE MAILING DATE SHOWN ABOVE. IF THE TENTH DAY FALLS ON A SATURDAY, SUNDAY, OR HOLIDAY, THE APPEAL PERIOD IS EXTENDED TO THE NEXT BUSINESS DAY. YOUR APPEAL MAY BE FILED IN PERSON AT ANY EMPLOYMENT SECURITY OFFICE, OR BY MAIL, ADDRESSED TO THE "APPEAL TRIBUNAL," P.O. BOX 995, COLUMBIA, SOUTH CAROLINA 29202 FOR ADDITIONAL INFORMATION OR ASSISTANCE IN FILING AN APPEAL, CONTACT YOUR LOCAL EMPLOYMENT SECURITY OFFICE.

000298

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
UNEMPLOYMENT INSURANCE DIVISION
VOLUNTARY LEAVING
FACT FINDING

Effective Date of Issue 1/24/2010	
Type of Claim	
New ☒	Add ☐
Trans ☐	Rein ☐
Cont ☐	
BYE 1/23/2010	

L O No 02

CLAIMANT'S

NAME Clifford Pasley

SOCIAL SECURITY

NUMBER [REDACTED]

2

1 Most recent BONA FIDE employer (Name of Company) [REDACTED]

Address of Company [REDACTED]

Telephone No of Company [REDACTED]

Name of individual at Company to contact for more information

2 Dates of employment with this company beginning 10/15/2006 ending 01/15/2010Hours worked from _____ to _____ or which shift Rotating for 5 days per weekEnding salary \$ 400 per week Occupation Truck Driver

3 CLAIMANT'S STATEMENT

a I quit my job because (Include reason for leaving work on that particular day). The employer did not have a truck to put me in, because he sold the truck that I was driving. He offered me to drive a truck that belonged to another driver the following week 01/11/2010-01/15/2010. I couldn't continue driving that truck because that truck is used to carry diesel and you need a special license to drive this truck.

b If you left because of working conditions, describe the situation in detail. N/A

c Were you granted a bona fide leave of absence by your employer? Yes ☐ No ☒ NA ☐
If "Yes," describe briefly giving beginning and ending dates
Date you reported to employer to return to work

d What did you do to resolve the problem before leaving? For example, did you ask for a transfer or leave of absence, file a grievance or talk to your supervisor? N/A

4 CLAIMANT'S CERTIFICATION I certify that the information stated herein is true. I understand that the Law prescribes penalties for false statements for the purpose of securing benefits to which I am not entitled.

CLAIMANT'S SIGNATURE

Signature on file

DATE

2/16/10

5 INTERVIEWER'S STATEMENT Employer Reply received? Yes ☒ No ☐ (If "Yes," all the employer's allegations not addressed in the claimant's statement must be addressed in Section 7. If "No," or information was not adequate, was employer contacted to obtain adequate information?

Yes ☐ No ☐ If "No," give a date of attempt(s) to contact and explain. SC Employment Comm

FEB 23 2010

Received Benefits Div

000299

SSN: [REDACTED] 0 NAME: CLIFFORD PASLEY BYE: 01/23/11
BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 4009.00

PGM	PO	CWE	ENTRY	CHECK	PAYMENT	CHK/SEQ	PAY	AMOUNT	UNR	DISQ	TOTAL	
CDE	DOI		DATE	BY	DOI	OPTION	NUMBER	TYPE	PAID	FLG	REAS	AMOUNT
00	080810	081410					00000000	00	.00	0	00	.00
21	080410	080710	080810	T	080810		2020310	19	211.00	0	00	211.00
01	072510	073110	080110	T	080110		1939666	16	211.00	0	00	211.00
01	071810	072410	072510	T	072510		1847329	19	211.00	0	00	211.00
01	071110	071710	071810	T	071810		1778943	19	211.00	0	00	211.00
01	070410	071010	071110	T	071110		1718448	19	211.00	0	00	211.00
01	062710	070310	070410	T	070410		1654701	19	211.00	0	00	211.00
01	062010	062610	062710	T	062710		1586336	19	211.00	0	00	211.00
01	061310	061910	062010	T	062010		1511784	19	211.00	0	00	211.00
01	060610	061210	061310	T	061310		1427808	19	211.00	0	00	211.00
01	053010	060510	060610	T	060610		1333623	19	211.00	0	00	211.00
01	052310	052910	053010	T	053010		1242343	19	211.00	0	00	211.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000300

SSN: [REDACTED] U NAME: CLIFFORD PASLEY BYE: 01/23/11
BENEFITS WBA: 211.00 UI MBA : 3798.00 BALANCE: 4009.00

PGM	PO	CWE	ENTRY	CHECK	PAYMENT	CHK/SEQ	PAY	AMOUNT	UNR	DISQ	TOTAL
CDE	DOI		DATE BY	DOI	OPTION	NUMBER	TYPE	PAID	FLG	REAS	AMOUNT
01	051610	052210	052310	T	052310	1147619	19	211.00	0	00	211.00
01	050910	051510	051610	T	051610	1054010	19	211.00	0	00	211.00
01	050310	050810	050910	T	050910	9958694	19	211.00	0	00	211.00
01	042510	050110	050310	T	050310	9903288	19	211.00	0	00	211.00
01	041810	042410	042510	T	042510	9767413	01	211.00	0	00	211.00
01	041210	041710	041810	T	041810	9671372	01	211.00	0	00	211.00
01	040410	041010	041210	T	041210	9614058	01	211.00	0	00	211.00
01	032810	040310	040410	T	040410	9470105	01	211.00	0	00	211.00
01	032810	032710	032810	T		0000000	10	.00	0	00	.00
01	031410	032010	032810	T		0000000	07	.00	0	01	.00
01	030710	031310	031410	T		0000000	07	.00	0	01	.00
01	022810	030610	030710	T		0000000	07	.00	0	01	.00

FOR MORE THAN 12 PAYMENTS DEPRESS PF2

TRANSACTION OPTION:

000301

1612 Marion Street
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
FAX: (803) 737-5768

Workers' Compensation Commission

August 2, 2002

VIA FACSIMILE (803) 254-8956
AND FIRST CLASS MAIL

J. Marvin Mullis
Attorney at Law
P.O. Box 7757
Columbia, SC 29202

RE: Clifford Pasley vs. Leonard Enterprises/Trans Agri
WCC File No.0202022 (Claim file)

SCWCC vs. Leonard Enterprise
WCC File No. X020326 (Investigation file)

SCWCC vs. Trans Agri, Inc.
WCC File No. X020327 (Investigation file)

Dear Mr. Mullis:

This is in follow up to our recent conversation in which you told me you want a 50/51 hearing, even though Coverage and Compliance's investigation has shown Trans Agri's North Carolina coverage does not extend to South Carolina, nor were we unable to show conclusively that Leonard Enterprises and/or Trans Agri were subject to the SC Workers' Compensation Act and in violation by being uninsured. Accordingly, please indicate in writing that you want all issues, to include liability of the employers, to be determined at a 50/51 hearing. In addition, please serve the Uninsured Employers' Fund at the following address:

Uninsured Employers' Fund
220 Executive Center Drive.
Suite 119
Columbia, SC 29210

Investigation has shown that Trans Agri deducted for insurance coverage from gross payments made to Leonard Enterprises, thereby effectively bringing Leonard Enterprises

000302

under Trans Agri's North Carolina policy. Since your client was an employee of Leonard Enterprises, he could file a claim for benefits against the policy in North Carolina. But unfortunately, as previously stated, Trans Agri's policy does not extend to South Carolina. Please find enclosed a copy of the declaration page of Trans Agri's North Carolina policy.

Since our investigation has shown that Trans Agri's policy does not extend to South Carolina, Trans Agri's Carrier, Travelers, is being deleted as the carrier of record, and the record will show that both Leonard Enterprises and Trans Agri are uninsured in South Carolina, but no evidence they are subject to the Act.

In order for the merits of your client's claim to be heard, you must first prove either Leonard Enterprises and/or Trans Agri was/were subject to the SC Workers' Compensation Act by regularly having four or more employees in a South Carolina. The Uninsured Employers' Fund is not required to pay compensable, uninsured claims until this has been shown.

If you have questions or comments about the above, please call me on my direct line at 803-737-5707.

Sincerely,



Gary Smith, Director
Division of Coverage and Compliance

GLS/kwj

Enclosure:

Cc:

Matthew J. Story
Attorney at Law
304 Meeting Street
Charleston, SC 29401

(Side note to Mr. Story: Since your client Travelers is being deleted as a carrier of record in the database of the Commission, you in turn are being deleted as an attorney of record. I believe you may take the appropriate steps to close your file at this time.)

000303

026 CB ICU ARV7089 K CMT: Clifford Pasley INS: TRANS AGRI INC
 DOL: 01/17/2002 ST: SC CH/SUPV/NURSE: CAP/PLD/ INJ: Lumbar &/or Sacral Vertebrae (Vertebra NOC
 Trunk)

Date	Author	Topic	Subject	Free Form Subject
05/16/2002	VICKI CROUSE - 026	General	AMD DENIAL TEMPLATE	

Date: 05/14/2002

To : ICU-AAMD Case Manager : Vicki L Crouse
 Claim Office : Charlotte, NC

Re: Insured's Name: Trans Agri
 Policy Number : 803x4046
 Policy Term : 10/23/2001 to 10/23/2002
 SOA: North Carolina

Reporting Office : Charlotte
 Claim #: ARV7089
 Injured Worker's Name: Clifford Paisley
 Accident Date: 01/17/2002
 Accident State : South Carolina
 Benefit State : North Carolina

This is to confirm our discussion on 05/14/2002. Based on the facts presented, I do not believe the above referenced claim is covered under the above referenced policy. The primary facts that lead me to this conclusion are as follows:

Injured worker is requesting benefits for a state not covered on this policy.

If in the course of your on-going investigation you develop information which is inconsistent with the information set forth above, please contact me immediately, in that, these new facts may change our position on the lack of coverage for this claim. My phone number is 1-(877)-467-9546 ext. 3736.

Sincerely,
James M Carey
 AAMD Account Manager Underwriter

(This letter is PRIVILEGED & CONFIDENTIAL, for
 INTERNAL use only.)

cc: ICU Unit Manager: Valerie Buchanan
 Team Coordinator: Bitsy K Davis
 CL Law(Hartford): Mark Levine

000304

RECORDED CLAIMS STATEMENT

Insured Trans Agri Inc		Claim No. ATS7808H	File Name
Name of Person Giving Statement Clifford Pasley		Relationship to Accident Claimant	
Date Taken 1/28/02	Date of Loss 1/17/02	Interviewer Vicki Crouse	

Q: Vicki Crouse
A: Clifford Pasley
L: N/A

This is Vicki Crouse with Travelers Insurance in Charlotte, North Carolina. The date is Monday, January 28, 2002. The time is approximately 3:40 p.m.. I'm speaking with Mr. Clifford Pasley in reference to a worker's compensation claim.

- Q. Mr. Pasley, are you represented by an attorney?
- A. No ma'am.
- Q. Are you aware that I'm taking a recorded statement?
- A. Yes ma'am.
- Q. Do I have your permission to have the recorder on?
- A. Yes ma'am.
- Q. You do realize that this statement is being taken to determine if you are eligible for North Carolina worker's comp benefits?
- A. Yes ma'am.
- Q. Alright. Would you state your complete name please and spell your last name?
- A. Clifford Pasley P-A-S-L-E-Y.
- Q. What is your home mailing address including the city, state and zip code?
- A. 107 Broken Hill Road, Columbia, South Carolina 29212.

000305

Q. What is your home telephone number including the area code?

A. Area 803-750-9491.

Q. What is your Social Security number?

A. [REDACTED]

Q. What is your marital status?

A. Single.

Q. What is your date of birth?

A. [REDACTED] 61.

Q. That makes you how old?

A. 40.

Q. Do you have any dependent children under the age of eighteen?

A. Yes ma'am.

Q. How many?

A. Just one.

Q. What is that child's age?

A. He's nine.

Q. Nine. Have you ever been married?

A. Yes.

Q. Okay, so you are divorced?

A. Yes.

Q. Okay. How long have you been divorced?

A. About ten years.

000306

Q. Oh, okay. What is your height?

A. 5'8".

Q. What is your weight?

A. Approximately 170.

Q. Are you a high school graduate?

A. Yes ma'am.

Q. When did you graduate?

A. 1980.

Q. Do you have any college experience?

A. None.

Q. What are your activities and hobbies when you are not working?

A. Pretty much no activities. I work Monday through Friday and really there are no activities involved other than just going to church on Saturday morning and Sunday morning.

Q. Okay. Do you play ball of any kind basketball, football?

A. None at all.

Q. Okay. Do you golf, bowl?

A. None.

Q. Do you lift weights?

A. No ma'am.

Q. Do you have any home projects that are going on? Do you own your home?

A. Yes ma'am, just bought it but no project of any.

000307

Q. Tell me about your medical history. Have you ever been diagnosed with arthritis, tendonitis or bursitis?

A. No ma'am.

Q. Thyroid disease?

A. No ma'am.

Q. Diabetes?

A. No ma'am.

Q. Gout?

A. No ma'am.

Q. Obesity?

A. No ma'am.

Q. Hypertension?

A. No.

Q. Any other medical conditions that we've not talked about?

A. No ma'am.

Q. Have you ever had a worker's comp claim?

A. No ma'am, I haven't.

Q. Have you ever had any prior injuries to your back?

A. No ma'am.

Q. When did you move?

A. I've been here now about...I guess about going on two months I guess it is.

Q. Are you taking any prescription or over the counter medication?

A. Prescription drugs, yes ma'am.

Q. Alright, is that for this injury?

A. Yes ma'am.

Q. Okay, prior to the injury were you taking anything?

A. No ma'am.

Q. Do you use tobacco products?

A. None at all.

Q. Do you use alcoholic beverages?

A. No ma'am.

Q. Who is your family physician?

A. Dr. Suit.

Q. S-O-O-T?

A. S-U-I-T.

Q. S-U-I-T. Where is he located?

A. Lexington Medical Center in Lexington...I'm sorry,
(inaudible), South Carolina.

Q. Okay. When is the last time that you saw him prior to
this injury?

A. It may have been in the...maybe back in March.

Q. March of 2001?

A. Well, of last year.

Q. 2001.

A. Yes ma'am.

Q. Okay. What was that for?

000309

A. Colon polyps.

Q. Okay.

A. But at that particular time he wasn't the doctor. I can't remember the doctor's name that...

Q. Okay, but it was same facility?

A. Yes ma'am.

Q. Okay. At the time of this injury, who were you working for? Who is your employer?

A. Right now I drive a truck for Leonard Brown. He's leased to Trans Agri.

Q. So you drive for Leonard Brown?

A. Yes ma'am.

Q. What does it say on your paycheck? Are you paid by check?

A. Yes ma'am. Say about from him...it's Leonard or Doris Brown Trucking Incorporation.

Q. Okay. Leonard and Doris Brown Trucking Inc.?

A. Yes ma'am.

Q. Is that it?

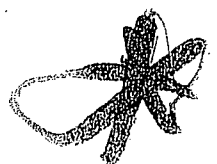
A. Yes ma'am.

Q. Okay. What is your average weekly wage?

A. Ma'am, I get paid a percentage of what the truck gross and that's...I get thirty-five percent of what the truck gross. It varies each week anywhere from twenty-two to about maybe twenty-four fifty each week.

Q. At twenty-two or twenty-four fifty what? Hundred...thousand...what?

000310



the way into my foot. And then that Tuesday morning I told dispatch that I needed to get back home because, you know, I pulled something in my back and it was hurting me really bad. So he told me well just go on home and you know once you talk to the doctor in the morning give me a call back....

Q. Alright. So which leg was the pain radiating down?

A. The right leg.

Q. And the right foot was getting numb?

A. Yes ma'am.

Q. Alright. Now, when did you report it?

A. I told him on Tuesday morning.

Q. The 22nd?

A. Yes ma'am.

Q. And that was to Leonard?

A. Well, I told...I mentioned it to Leonard on Monday but I told dispatch Tuesday morning, you know, after I delivered in Alabama. I told dispatch then that I needed to go back to...I needed to go home because my back and leg was bothering me really bad. But I mentioned it to Leonard that Monday afternoon.

Q. At any time while you were tightening the load was there anything unusual or out of the ordinary about you tightening the load?

A. No ma'am. I used the same procedure each time.

Q. Same procedure?

A. Yes ma'am.

Q. Did you slip, trip or fall while you were tightening the load?

000311

A. No ma'am.

Q. Was it raining or anything like that?

A. The conditions were dry.

Q. So you were doing your job in the same manner in the same way and you just felt pain in your low back?

A. Well, just whenever I...you know when I pulled down on the bar?

Q. Uh-huh.

A. Just when I pulled down on the bar I just... Like I said this particular load on that Monday, it was...

Q. Uh-huh.

A. A little bit more difficult to tie down than what the load was on that Thursday.

Q. Why?

A. The load on that Thursday, it was all just flat steel.

Q. Uh-huh.

A. And the load on that Monday, it was what they called coiled steel.

Q. Uh-huh.

A. And you just have to use more devices to tie the load down...secure the load with.

Q. Alright. Have you ever transported flat steel before?

A. Yes ma'am.

Q. With no problem?

A. No problem at all.

Q. Have you ever transported coiled steel before?

000312

A. Yes ma'am.

Q. Okay, so it's not unusual for you to do either type of load?

A. Right.

Q. You've done that before?

A. Yes ma'am.

Q. Both kinds?

A. Yes ma'am.

Q. With no problem?

A. Right.

Q. Okay. So there really was nothing out of the ordinary then about either load, right?

A. Right.

Q. Because you had worked with them before?

A. Yes ma'am.

Q. Alright. And you did not slip, trip or fall?

A. No ma'am.

Q. Did you lose your grip at anytime while you were loosening or tightening the load?

A. Not that I can remember. Like I say just on that particular Monday just putting more pressure on those coiled steel.

Q. Uh-huh.

A. I just...that's when I...I guess it just really, you know, it really gave away then. Because like I said I don't work on weekends.

000313

- Q. Uh-huh. On that Thursday, was it an immediate onset of pain or was it a gradual onset of pain since you were doing your normal job?
- A. Well, on that...when I was tying it down that Thursday, I felt it kind of pull. You know I felt it kind of, you know I felt a sharp pain, you know when I was tying it down.
- Q. Uh-huh.
- A. But then like I said I proceeded on. It kind of bothered me but you know I went on and you know finished securing the load.
- Q. Uh-huh.
- A. And then that Friday morning, you know, (inaudible) unstrapping the load. Kind of, you know, putting pressure on it to release the tension off the straps?
- Q. Uh-huh.
- A. I could feel it in my back then. But I noticed also that on that Monday that right hip muscle.
- Q. Uh-huh.
- A. It was somewhat swollen.
- Q. Had you been having any problems with your hip or your leg?
- A. No ma'am.
- Q. And no problems with your back?
- A. No ma'am.
- Q. And you've never been treated for back pain before?
- A. No ma'am.
- Q. Okay. Alright. What did the doctor say? Where did you go for medical treatment?

000314

A. Well, I went to that Lexington Medical Center.

Q. You went to your own doctor?

A. Yes ma'am.

Q. What day did you first go?

A. That Wednesday morning because I got in here late Tuesday afternoon. I went Wednesday morning...this past Wednesday morning.

Q. The 23rd?

A. Yes ma'am.

Q. Okay. And you went to Lexington Medical Center?

A. Yes ma'am.

Q. And that was in Irma?

A. Yes ma'am.

Q. What was the diagnosis?

A. He said...you know he had me to walk on my toes, my heel. He had me to bend over, which I couldn't go all the way down. And he said he was under the impression I may have had a slipped disk. But he set me an appointment for tomorrow night to have an MRI done. Then he told me he just wanted me to stay in the bed for the next ten days to see what, you know...because I couldn't...really I couldn't even stand up straight. Whenever I walk I just...

Q. He wrote you out of work for how many days?

A. On this paper he has no work from 1/23 until 2/1/02. I'm supposed to go back to him on the fourth. He said he wanted me to lie flat on my back, put a cushion under my legs and check back in ten days.

Q. Okay. What doctor saw you?

000315

A. Dr. Suit.

Q. What is his first name?

A. Ma'am, I'm not sure.

Q. Okay. Have you seen any other physicians?

A. No ma'am.

Q. Did he give you medication?

A. Yes ma'am.

Q. What did he give you?

A. He gave me a muscle relaxer.

Q. Do you know the name of it?

A. Yes ma'am. Zanaflex.

Q. Okay.

A. And he gave me...one was an anti-inflammatory pain medicine.

Q. Do you know the name of that one?

A. Yes ma'am. It's Hydrocodone...I'll spell it.

Q. Hydrocodone?

A. Yes ma'am.

Q. Okay. What else?

A. And then he gave me another one...E-T-O-D-O-L-A-C.

Q. E-T-O-D-O?

A. L-A-C.

Q. L-A-C.

000316

A. Yes ma'am.

Q. What was that for?

A. It was a pain medicine also. Because he said one was just strictly a pain medicine and the other one is like a pain and anti-inflammatory. But he said if I didn't need...if the pain wasn't...if one of them wasn't killing the pain...wasn't easing the pain to go ahead to the drug store and get the other one. And I really needed the third one because...the second pain killer because the first one wasn't really easing the pain.

Q. Okay. When was the last time that you took your medication?

A. About 8:00 this morning.

Q. Will that medication...does it affect your judgment while you are giving this statement do you think?

A. No ma'am, I don't think it would.

Q. Have you ever been involved in a motor vehicle accident?

A. No ma'am. Well, I have but it's been maybe fifteen years ago I guess.

Q. Okay.

A. It's been a while.

Q. Any injury?

A. No ma'am.

Q. Alright. Do you have anything else that you want to add to the statement?

No ma'am.

ve you answered all of my questions to the best of ability?

000317

A. Yes ma'am.

Q. Did you understand that I recorded the conversation?

A. Yes ma'am.

Q. I did have your permission to do so?

A. Yes ma'am.

Q. Do I now have your permission to turn the recorder off?

A. Yes ma'am.

Label

(See instructions on page 19.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See page 19.)

LABEL HERE

For the year Jan. 1–Dec. 31, 2001, or other tax year beginning , 2001, ending , 20		OMB No. 1545-0074
Your first name and initial CLIFFORD	Last name PASLEY	Your social security number [REDACTED]
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see page 19. 8100 BAYFIELD ROAD		Apt. no. 3J
City, town or post office, state, and ZIP code. If you have a foreign address, see page 19. COLUMBIA, SOUTH CAROLINA, 29229		

Important!
You must enter your SSN(s) above.

Note. Checking "Yes" will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want \$3 to go to this fund?
 You ☐ Yes ☒ No Spouse ☐ Yes ☐ No

Filing Status

Check only one box.

- 1 ☒ Single
- 2 ☐ Married filing joint return (even if only one had income)
- 3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶
- 4 ☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

If more than six dependents, see page 20.

6a ☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.

b ☐ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ☒ If qualifying child for child tax credit (see page 20)
				☐
				☐
				☐
				☐
				☐
				☐

d Total number of exemptions claimed **1**

No. of boxes checked on 6a and 6b

No. of your children on 6c who:

- lived with you
- did not live with you due to divorce or separation (see page 20)

Dependents on 6c not entered above

Add numbers entered on lines above **1**

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9	Ordinary dividends. Attach Schedule B if required	9	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22)	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	10270
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	Total IRA distributions	15a	
15b	Taxable amount (see page 23)	15b	
16a	Total pensions and annuities	16a	
16b	Taxable amount (see page 23)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits	20a	
20b	Taxable amount (see page 25)	20b	
21	Other income. List type and amount (see page 27)	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	10270

Adjusted Gross Income

23	IRA deduction (see page 27)	23	
24	Student loan interest deduction (see page 28)	24	
25	Archer MSA deduction. Attach Form 8853	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE	27	726
28	Self-employed health insurance deduction (see page 30)	28	
29	Self-employed SEP, SIMPLE, and qualified plans	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid b Recipient's SSN ▶	31a	
32	Add lines 23 through 31a	32	
33	Subtract line 32 from line 22. This is your adjusted gross income. ▶	33	9544

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 72.

Cat. No. 11320B

Form 1040 (2001)

000319

Tax and Credits**Standard Deduction for—**

• People who checked any box on line 35a or 35b or who can be claimed as a dependent, see page 31.

• All others:
Single, \$4,550
Head of household, \$6,650
Married filing jointly or Qualifying widow(er), \$7,600
Married filing separately, \$3,800

34	Amount from line 33 (adjusted gross income)	34	9544
35a	Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here	35a	
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here	35b	
36	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	36	4550
37	Subtract line 36 from line 34	37	4994
38	If line 34 is \$99,725 or less, multiply \$2,900 by the total number of exemptions claimed on line 6d. If line 34 is over \$99,725, see the worksheet on page 32	38	2900
39	Taxable income. Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-	39	2094
40	Tax (see page 33). Check if any tax is from a ☐ Form(s) 8814 b ☐ Form 4972	40	313
41	Alternative minimum tax (see page 34). Attach Form 6251	41	
42	Add lines 40 and 41	42	313
43	Foreign tax credit. Attach Form 1116 if required	43	
44	Credit for child and dependent care expenses. Attach Form 2441	44	
45	Credit for the elderly or the disabled. Attach Schedule R	45	
46	Education credits. Attach Form 8863	46	
47	Rate reduction credit. See the worksheet on page 36	47	105
48	Child tax credit (see page 37)	48	
49	Adoption credit. Attach Form 8839	49	
50	Other credits from: a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (specify)	50	
51	Add lines 43 through 50. These are your total credits	51	
52	Subtract line 51 from line 42. If line 51 is more than line 42, enter -0-	52	208

Other Taxes

53	Self-employment tax. Attach Schedule SE	53	1451
54	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	54	
55	Tax on qualified plans, including IRAs, and other tax-favored accounts. Attach Form 5329 if required	55	
56	Advance earned income credit payments from Form(s) W-2	56	
57	Household employment taxes. Attach Schedule H	57	
58	Add lines 52 through 57. This is your total tax	58	1659

Payments

If you have a qualifying child, attach Schedule EIC.

59	Federal income tax withheld from Forms W-2 and 1099	59	
60	2001 estimated tax payments and amount applied from 2000 return	60	
61a	Earned income credit (EIC)	61a	91
b	Nontaxable earned income	61b	
62	Excess social security and RRTA tax withheld (see page 51)	62	
63	Additional child tax credit. Attach Form 8812	63	
64	Amount paid with request for extension to file (see page 51)	64	
65	Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136	65	
66	Add lines 59, 60, 61a, and 62 through 65. These are your total payments	66	91

Refund

Direct deposit? See page 51 and fill in 68b, 68c, and 68d.

67	If line 66 is more than line 58, subtract line 58 from line 66. This is the amount you overpaid	67	
68a	Amount of line 67 you want refunded to you	68a	
b	Routing number	c Type: ☐ Checking ☐ Savings	
d	Account number		
69	Amount of line 67 you want applied to your 2002 estimated tax	69	

Amount You Owe

70	Amount you owe. Subtract line 66 from line 58. For details on how to pay, see page 52	70	1652
71	Estimated tax penalty. Also include on line 70	71	84

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 53)? ☐ Yes. Complete the following. ☐ No

Designee's name	Phone no.	Personal identification number (PIN)

Sign Here

Joint return? See page 19. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no.	

Form 1040

Department of the Treasury—Internal Revenue Service

U.S. Individual Income Tax Return 2004

(1) IRS Use Only—Do not write or staple in this space.

Label

(See instructions on page 16.)

Use the IRS label.

Otherwise, please print or type.

Presidential Election Campaign (See page 16.)

LABEL HERE

For the year Jan. 1-Dec. 31, 2004, or other tax year beginning

2004, ending

20

OMB No. 1545-0074

Your first name and initial.

Clifford

Last name

Pasley

If a joint return, spouse's first name and initial

Last name

Your social security number

Spouse's social security number

Home address (number and street). If you have a P.O. box, see page 16.

Apt. no.

107 Broken Hill Road

City, town or post office, state, and ZIP code. If you have a foreign address, see page 16.

Columbia, SC 29212

Important!

You must enter your SSN(s) above.

Note. Checking "Yes" will not change your tax or reduce your refund.

Do you, or your spouse if filing a joint return, want \$3 to go to this fund?

You

Spouse

☐ Yes ☐ No ☐ Yes ☐ No

Filing Status

Check only one box.

1 ☒ Single2 ☐ Married filing jointly (even if only one had income)3 ☐ Married filing separately. Enter spouse's SSN above and full name here.4 ☐ Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here.5 ☐ Qualifying widow(er) with dependent child (see page 17)

Exemptions

If more than four dependents, see page 18.

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6ab ☐ Spouse

c Dependents:

(1) First name Last name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☒ If qualifying child for child tax credit (see page 18)

Boxes checked on 5a and 5b

No. of children on 5c who:

• lived with you

• did not live with you due to divorce or separation (see page 18)

Dependents on 5c not entered above

d Total number of exemptions claimed

Add numbers on lines above

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends (see page 20)

10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20)

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

16a Pensions and annuities

b Taxable amount (see page 22)

b Taxable amount (see page 22)

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

b Taxable amount (see page 24)

21 Other income. List type and amount (see page 24)

22 Add the amounts in the far right column for lines 7 through 21. This is your total income

Adjusted Gross Income

23 Educator expenses (see page 26)

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

25 IRA deduction (see page 26)

26 Student loan interest deduction (see page 28)

27 Tuition and fees deduction (see page 29)

28 Health savings account deduction. Attach Form 8889

29 Moving expenses. Attach Form 3903

30 One-half of self-employment tax. Attach Schedule SE

31 Self-employed health insurance deduction (see page 30)

32 Self-employed SEP, SIMPLE, and qualified plans

33 Penalty on early withdrawal of savings

34a Alimony paid b Recipient's SSN

35 Add lines 23 through 34a

36 Subtract line 35 from line 22. This is your adjusted gross income

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 75.

Cat. No. 11320B

Form 1040 (2004)

000321

Tax and Credits

Standard Deduction for—

• People who checked any box on line 38a or 38b or who can be claimed as a dependent, see page 31.

• All others:

Single or Married filing separately, \$4,850

Married (filing jointly or Qualifying widow(er)), \$9,700

Head of household, \$7,150

37	Amount from line 36 (adjusted gross income)	37	27,448	—
38a	Check ☐ You were born before January 2, 1940, ☐ Blind. ☐ Spouse was born before January 2, 1940, ☐ Blind. Total boxes checked ☐ 38a			
b	If your spouse itemizes on a separate return or you were a dual-status alien, see page 31 and check here ☐ 38b			
39	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	39	4,850	—
40	Subtract line 39 from line 37	40	22,598	—
41	If line 37 is \$107,025 or less, multiply \$3,100 by the total number of exemptions claimed on line 6d. If line 37 is over \$107,025, see the worksheet on page 33	41	3,100	—
42	Taxable income. Subtract line 41 from line 40. If line 41 is more than line 40, enter -0-	42	19,498	—
43	Tax (see page 33). Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972	43	2,564	—
44	Alternative minimum tax (see page 35). Attach Form 6251	44		
45	Add lines 43 and 44	45	2,564	—
46	Foreign tax credit. Attach Form 1116 if required	46		
47	Credit for child and dependent care expenses. Attach Form 2441	47		
48	Credit for the elderly or the disabled. Attach Schedule R	48		
49	Education credits. Attach Form 8863	49		
50	Retirement savings contributions credit. Attach Form 8880	50		
51	Child tax credit (see page 37)	51		
52	Adoption credit. Attach Form 8839	52		
53	Credits from: a ☐ Form 8396 b ☐ Form 8859	53		
54	Other credits. Check applicable box(es): a ☐ Form 3800 b ☐ Form 8801 c ☐ Specify	54		
55	Add lines 46 through 54. These are your total credits	55		
56	Subtract line 55 from line 45. If line 55 is more than line 45, enter -0-	56	2,564	—

Other Taxes

57	Self-employment tax. Attach Schedule SE	57		
58	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	58		
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59		
60	Advance earned income credit payments (from Form(s) W-2)	60		
61	Household employment taxes. Attach Schedule H	61		
62	Add lines 56 through 61. This is your total tax	62	2,564	—

Payments

If you have a qualifying child, attach Schedule EIC.

63	Federal income tax withheld from Forms W-2 and 1099	63	2,005	—
64	2004 estimated tax payments and amount applied from 2003 return	64		
65a	Earned Income credit (EIC)	65a		
b	Nontaxable combat pay election ☐ 65b	65b		
66	Excess social security and tier 1 RRTA tax withheld (see page 54)	66		
67	Additional child tax credit. Attach Form 8812	67		
68	Amount paid with request for extension to file (see page 54)	68		
69	Other payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885	69		
70	Add lines 63, 64, 65a, and 66 through 69. These are your total payments	70	2,005	—

Refund

Direct deposit? See page 54 and fill in 72b, 72c, and 72d.

71	If line 70 is more than line 62, subtract line 62 from line 70. This is the amount you overpaid	71		
72a	Amount of line 71 you want refunded to you	72a		
b	Routing number	c Type: ☐ Checking ☐ Savings		
d	Account number			
73	Amount of line 71 you want applied to your 2005 estimated tax	73		

Amount You Owe

74	Amount you owe. Subtract line 70 from line 62. For details on how to pay, see page 55	74	559	—
75	Estimated tax penalty (see page 55)	75		

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 56)? ☐ Yes. Complete the following. ☐ No

Designee's name Phone no. Personal identification number (PIN)

Sign Here

Joint return? See page 17. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature Date Your occupation Daytime phone number

Spouse's signature. If a joint return, both must sign. Date Spouse's occupation

Paid Preparer's Use Only

Preparer's signature Date Check if self-employed ☐ Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code EIN Phone no.

For the year Jan. 1-Dec. 31, 2005, or other tax year beginning 2005, ending 20 OMB No. 1545-0074

Label	L A B E L H E R E	Your first name and initial CLIFFORD	Last name PASLEY	Your social security number [REDACTED]
		If a joint return, spouse's first name and initial	Last name	Spouse's social security number
		Home address (number and street). If you have a P.O. box, see instructions. 8100 BAYFIELD ROAD APT 3J		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, see instructions. COLUMBIA SC 29229-0000		Checking a box below will not change your tax or refund.		
Presidential Election Campaign ▶ Check here if you, or your spouse if filing jointly, want \$3 to go to this fund ▶ ☐ You ☐ Spouse				

Filing Status

Check only one box.

1 ☒ Single

2 ☐ Married filing jointly (even if only one had income)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶

4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶

5 ☐ Qualifying widow(er) with dependent child

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a.

b ☐ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) X if qualifying child for child tax credit
				☐
				☐
				☐
				☐

Boxes checked on 6a and 6b: **1**

No. of children on 6c who:
 • lived with you: **0**
 • did not live with you due to divorce or separation: **0**

Dependents on 6c not entered above: **0**

Add numbers on lines above: **1**

d. Total number of exemptions claimed **1**

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9a	Ordinary dividends. Attach Schedule B if required	9a	
b	Qualified dividends	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	6235
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
b	Taxable amount	15b	
16a	Pensions and annuities	16a	
b	Taxable amount	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits	20a	
b	Taxable amount	20b	
21	Other income. List type and amount OCWEN. LOAN. SERVICE.	21	500
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	6735

Adjusted Gross Income

23	Educator expenses	23	
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25	Health savings account deduction. Attach Form 8889	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE	27	441
28	Self-employed SEP, SIMPLE, and qualified plans	28	
29	Self-employed health insurance deduction	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid b Recipient's SSN ▶	31a	
32	IRA deduction	32	
33	Student loan interest deduction	33	
34	Tuition and fees deduction	34	
35	Domestic production activities deduction. Attach Form 8903	35	
36	Add lines 23 through 31a and 32 through 35	36	441
37	Subtract line 36 from line 22. This is your adjusted gross income ▶	37	6294

Tax and Credits	38	Amount from line 37 (adjusted gross income)	38	6294
39a Check if:		☐ You were born before January 2, 1941, ☐ Blind.	Total boxes	
☐ Spouse was born before January 2, 1941, ☐ Blind.		checked	39a	
b If your spouse itemizes on a separate return or you were a dual-status filer, see instructions and check here			39b	
40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40			5000
41 Subtract line 40 from line 38	41			1294
42 If line 38 is over \$109,475, or you provided housing to a person displaced by Hurricane Katrina, see instructions. Otherwise, multiply \$3,200 by the total number of exemptions claimed on line 6d	42			3200
43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43			
44 Tax. Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972	44			
45 Alternative minimum tax. Attach Form 6251	45			
46 Add lines 44 and 45	46			
47 Foreign tax credit. Attach Form 1116 if required	47			
48 Credit for child and dependent care expenses. Attach Form 2441	48			
49 Credit for the elderly or the disabled. Attach Schedule R	49			
50 Education credits. Attach Form 8863	50			
51 Retirement savings contributions credit. Attach Form 8880	51			
52 Child tax credit. Attach Form 8901 if required	52			
53 Adoption credit. Attach Form 8839	53			
54 Credits from: a ☐ Form 8396 b ☐ Form 8859	54			
55 Other credits. Check applicable box(es): a ☐ Form 3800				
b ☐ Form 8801 c ☐ Form	55			
56 Add lines 47 through 55. These are your total credits	56			
57 Subtract line 56 from line 46. If line 56 is more than line 46, enter -0-	57			
58 Self-employment tax. Attach Schedule SE	58			881
59 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59			
60 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60			
61 Advance earned income credit payments from Form(s) W-2	61			
62 Household employment taxes. Attach Schedule H	62			
63 Add lines 57 through 62. This is your total tax	63			881
64 Federal income tax withheld from Forms W-2 and 1099	64			
65 2005 estimated tax payments and amount applied from 2004 return	65			
66a Earned income credit (EIC)	66a			399
b Nontaxable combat pay election	66b			
67 Excess social security and tier 1 RRTA tax withheld	67			
68 Additional child tax credit. Attach Form 8812	68			
69 Amount paid with request for extension to file	69			
70 Payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885	70			
71 Add lines 64, 65, 66a, and 67 through 70. These are your total payments	71			399
72 If line 71 is more than line 63, subtract line 63 from line 71. This is the amount you overpaid	72			
73a Amount of line 72 you want refunded to you	73a			
b Routing number				
c Type: ☐ Checking ☐ Savings				
d Account number				
74 Amount of line 72 you want applied to your 2006 estimated tax	74			
75 Amount you owe. Subtract line 71 from line 63. For details on how to pay, see instr	75			482
76 Estimated tax penalty	76			

Other Taxes	58	Self-employment tax. Attach Schedule SE	58	881
59	59	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59	
60	60	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60	
61	61	Advance earned income credit payments from Form(s) W-2	61	
62	62	Household employment taxes. Attach Schedule H	62	
63	63	Add lines 57 through 62. This is your total tax	63	881
Payments	64	Federal income tax withheld from Forms W-2 and 1099	64	
65	65	2005 estimated tax payments and amount applied from 2004 return	65	
66a	66a	Earned income credit (EIC)	66a	399
b	66b	Nontaxable combat pay election	66b	
67	67	Excess social security and tier 1 RRTA tax withheld	67	
68	68	Additional child tax credit. Attach Form 8812	68	
69	69	Amount paid with request for extension to file	69	
70	70	Payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885	70	
71	71	Add lines 64, 65, 66a, and 67 through 70. These are your total payments	71	399
Refund	72	If line 71 is more than line 63, subtract line 63 from line 71. This is the amount you overpaid	72	
73a	73a	Amount of line 72 you want refunded to you	73a	
b		Routing number		
c		Type: ☐ Checking ☐ Savings		
d		Account number		
74	74	Amount of line 72 you want applied to your 2006 estimated tax	74	
Amount You Owe	75	Amount you owe. Subtract line 71 from line 63. For details on how to pay, see instr	75	482
76	76	Estimated tax penalty	76	
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instr)? ☐ Yes. Complete the following. ☐ No			
Designee's name	Phone no.	Personal identification number (PIN)		
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Joint return? See instructions. Keep a copy for your records.	Your signature	Date	Your occupation	Daytime phone number
	Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	
Paid Preparer's Use Only	Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name for which you are self-employed, address, and ZIP code	H T HARRIS INCOME TAX SERVICE		EIN	58-1490450
	100 ASHLAND PARK LANE SUITE E		Phone no.	(803) 731-6064
	COLUMBIA SC 29210-0000			

For the year Jan. 1-Dec. 31, 2006, or other tax year beginning

2006, ending

20

OMB No. 1545-0074

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

L
A
B
E
L
H
E
R
E

Your first name and initial

CLIFFORD

Last name

PASLEY

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 16.

8100 BAYFIELD ROAD APT 3J

Apt. no.

City, town or post office, state, and ZIP code. If you have a foreign address, see page 16.

COLUMBIA, SC 29229-0000

Your social security number

[REDACTED]

Spouse's social security number

You must enter

your SSN(s) above.

Checking a box below will not change your tax or refund.

Presidential

Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 16) ▶

☐ You☐ Spouse

Filing Status

Check only one box.

1 ☒

Single

4

☐ Head of household (with qualifying person). (See page 17.)2 ☐

Married filing jointly (even if only one had income)

If the qualifying person is a child but not your dependent,

3 ☐

Married filing separately. Enter spouse's SSN above and full name here. ▶

enter this child's name here. ▶

5

☐ Qualifying widow(er) with dependent child. (See page 17)

6a

☒ Yourself. If someone can claim you as a dependent, do not check box 6a

Boxes checked on 6a and 6b

1

b

☐ Spouse

No. of children on 6c who:

c

Dependents:

(1) First Name

Last Name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☒ If qualifying child for child tax credit (see pg 19)

• lived with you

0

• did not live with you due to divorce or separation (see page 20)

0

Dependents on 6c not entered above

0

Add numbers on lines above ▶

1

Exemptions

If more than four dependents, see page 19.

d

Total number of exemptions claimed

Income

Attach Forms W-2 here. Also attach Form(s) W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 23.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

Adjusted Gross Income

7

Wages, salaries, tips, etc. Attach Form(s) W-2

7

8a

Taxable interest. Attach Schedule B if required

8a

b

Tax-exempt interest. Do not include on line 8a.

8b

9a

Ordinary dividends. Attach Schedule B if required

9a

b

Qualified dividends (see page 23)

9b

10

Taxable refunds, credits, or offsets of state and local income taxes (see page 24)

10

11

Alimony received

11

12

Business income or (loss). Attach Schedule C or C-EZ

12

17911

13

Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶

13

14

Other gains or (losses). Attach Form 4797

14

15a

IRA distributions

15a

b Taxable amount (see page 25)

15b

16a

Pensions and annuities

16a

b Taxable amount (see page 26)

16b

17

Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

17

18

Farm income or (loss). Attach Schedule F

18

19

Unemployment compensation

19

20a

Social security benefits

20a

b Taxable amount (see page 27)

20b

21

Other income. List type and amount (see page 29)

21

22

Add the amounts in the far right column for lines 7 - 21. This is your total income ▶

22

17911

23

Archer MSA deduction. Attach Form 8853

23

24

Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

24

25

Health savings account deduction. Attach Form 8889

25

26

Moving expenses. Attach Form 3903

26

27

One-half of self-employment tax. Attach Schedule SE

27

1266

28

Self-employed SEP, SIMPLE and qualified plans

28

29

Self-employed health insurance deduction (see page 29)

29

30

Penalty on early withdrawal of savings

30

31a

Alimony paid. b Recipient's SSN ▶

31a

32

IRA deduction (see page 31)

32

33

Student loan interest deduction (see page 33)

33

34

Jury duty pay you gave to your employer

34

35

Domestic production activities deduction. Attach Form 8903

35

36

Add lines 23 through 31a and 32 through 35

36

1266

37

Subtract line 36 from line 22. This is your adjusted gross income ▶

37

16645

16645

[illegible]

For the year Jan. 1-Dec. 31, 2007, or other tax year beginning

, 2007, ending

, 20

OMB No. 1545-0074

Label
(See
instructions
on page 12.)Use the IRS
label.
Otherwise,
please print
or type.

Label L A B E L H E R E	Your first name and initial CLIFFORD	Last name PASLEY
	If a joint return, spouse's first name and initial	Last name
	Home address (number and street). If you have a P.O. box, see page 12. 8100 BAYFIELD ROAD APT 3J	
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. COLUMBIA, SC 29229-0000	

Your social security number

Spouse's social security number

You must enter
▲ your SSN(s) above. ▲Checking a box below will not
change your tax or refund.

Presidential

Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 12) ▶

☐ You☐ Spouse

Filing Status

Check only
one box.

- 1 ☒ Single
- 2 ☐ Married filing jointly (even if only one had income)
- 3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
- 4 ☐ Head of household (with qualifying person). (See page 13.)
If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 ☐ Qualifying widow(er) with dependent child (see page 14)

Exemptions

If more than four
dependents,
see page 15.

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a	Boxes checked on 6a and 6b	1
b ☐ Spouse	No. of children on 6c who:	
c Dependents:	• lived with you	0
(1) First Name Last Name (2) Dependent's social security number (3) Dependent's relationship to you (4) X if qualifying child for child tax credit (see pg 15)	• did not live with you due to divorce or separation (see page 15)	0
	Dependents on 6c not entered above	0
d Total number of exemptions claimed	Add numbers on lines above ▶	1

Income

Attach Form(s)
W-2 here. Also
attach Forms
W-2G and
1099-R if tax
was withheld.If you did not
get a W-2,
see page 19.Enclose, but do
not attach, any
payment. Also,
please use
Form 1040-V.Adjusted
Gross
Income

7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	14868
8a Taxable interest. Attach Schedule B if required	8a	
b Tax-exempt interest. Do not include on line 8a.	8b	
9a Ordinary dividends. Attach Schedule B if required	9a	
b Qualified dividends (see page 19)	9b	
10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20)	10	
11 Alimony received	11	
12 Business income or (loss). Attach Schedule C or C-EZ	12	-277
13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶	13	
14 Other gains or (losses). Attach Form 4797	14	
15a IRA distributions	15a	
b Taxable amount (see page 21)	15b	
16a Pensions and annuities	16a	
b Taxable amount (see page 22)	16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation	19	
20a Social security benefits	20a	
b Taxable amount (see page 24)	20b	
21 Other income. List type and amount (see page 24)	21	
22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	14591
23 Educator expenses (see page 26)	23	
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25 Health savings account deduction. Attach Form 8889	25	
26 Moving expenses. Attach Form 3903	26	
27 One-half of self-employment tax. Attach Schedule SE	27	
28 Self-employed SEP, SIMPLE and qualified plans	28	
29 Self-employed health insurance deduction (see page 26)	29	
30 Penalty on early withdrawal of savings	30	
31a Alimony paid. b Recipient's SSN ▶	31a	
32 IRA deduction (see page 27)	32	
33 Student loan interest deduction (see page 30)	33	
34 Tuition and fees deduction. Attach Form 8917	34	
35 Domestic production activities deduction. Attach Form 8903	35	
36 Add lines 23 through 31a and 32 through 35.	36	
37 Subtract line 36 from line 22. This is your adjusted gross income ▶	37	14591

Form 1040 (2007)

49

Label (See instructions on page 14.) Use the IRS label. Otherwise, please print or type.

Label L A B E L H E R E Your first name and initial Last name CLIFFORD PASLEY If a joint return, spouse's first name and initial Last name Home address (number and street). If you have a P.O. box, see page 14. Apt. no. 8100 BAYFIELD ROAD APT 3J City, town or post office, state, and ZIP code. If you have a foreign address, see page 14. COLUMBIA, SC 29229-0000

Your social security number Spouse's social security number You must enter your SSN(s) above.

Checking a box below will not change your tax or refund.

Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14) You Spouse

Filing Status 1 X Single 4 Head of household (with qualifying person). (See page 15.) 2 Married filing jointly (even if only one had income) 3 Married filing separately. Enter spouse's SSN above and full name here. 5 Qualifying widow(er) with dependent child (see page 16)

Exemptions 6a X Yourself. If someone can claim you as a dependent, do not check box 6a 6b Spouse 6c Dependents: (1) First Name Last Name (2) Dependent's social security number (3) Dependent's relationship to you (4) X If qualifying child for child tax credit (see page 17) Boxes checked on 6a and 6b 1 No. of children on 6c who: lived with you 0 did not live with you due to divorce or separation (see page 18) 0 Dependents on 6c not entered above 0 Add numbers on lines above 1

Income 7 Wages, salaries, tips, etc. Attach Form(s) W-2. 7 26572 8a Taxable interest. Attach Schedule B if required. 8a 8b Tax-exempt interest. Do not include on line 8a. 8b 9a Ordinary dividends. Attach Schedule B if required. 9a 9b Qualified dividends (see page 21). 9b 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 22). 10 11 Alimony received. 11 12 Business income or (loss). Attach Schedule C or C-EZ. 12 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here. 13 14 Other gains or (losses). Attach Form 4797. 14 15a IRA distributions. 15a 15b Taxable amount (see page 23). 15b 16a Pensions and annuities. 16a 16b Taxable amount (see page 24). 16b 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E. 17 18 Farm income or (loss). Attach Schedule F. 18 19 Unemployment compensation. 19 20a Social security benefits. 20a 20b Taxable amount (see page 26). 20b 21 Other income. List type and amount (see page 28). 21 22 Add the amounts in the far right column for lines 7 through 21. This is your total income. 22 26572

Adjusted Gross Income 23 Educator expenses (see page 28). 23 24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ. 24 25 Health savings account deduction. Attach Form 8889. 25 26 Moving expenses. Attach Form 3903. 26 27 One-half of self-employment tax. Attach Schedule SE. 27 28 Self-employed SEP, SIMPLE and qualified plans. 28 29 Self-employed health insurance deduction (see page 29). 29 30 Penalty on early withdrawal of savings. 30 31a Alimony paid b Recipient's SSN. 31a 32 IRA deduction (see page 30). 32 33 Student loan interest deduction (see page 33). 33 34 Tuition and fees deduction. Attach Form 8917. 34 35 Domestic production activities deduction. Attach Form 8903. 35 36 Add lines 23 through 31a and 32 through 35. 36 37 Subtract line 36 from line 22. This is your adjusted gross income. 37 26572

Tax and Credits Standard Deduction for -

• People who checked any box on line 39a, 39b or 39c or who can be claimed as a dependent, see page 34.

• All others:

Single or Married filing separately, \$5,450

Married filing jointly or Qualifying widow(er), \$10,900

Head of household, \$8,000

38	Amount from line 37 (adjusted gross income)	38	26572
39a	Check ☐ You were born before January 2, 1944, ☐ Blind. Total boxes checked ☐ 39a		
	if: ☐ Spouse was born before January 2, 1944, ☐ Blind. checked ☐ 39b		
b	If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here	39b	
c	Check if standard deduction includes real estate taxes or disaster loss (see page 34)	39c	
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	8364
41	Subtract line 40 from line 38	41	18208
42	If line 38 is \$119,975 or you provided housing to a Midwestern displaced individual, see page 36. Otherwise, multiply \$3,500 by the total number of exemptions claimed on line 6d	42	3500
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	14708
44	Tax (See page 36). Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4872	44	1808
45	Alternative minimum tax. (see page 39). Attach Form 6251	45	
46	Add lines 44 and 45	46	1808
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Credit for the elderly or the disabled. Attach Schedule R	49	
50	Education credits. Attach Form 8863	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child Tax credit (see page 42). Attach Form 8901 if required	52	
53	Credits from form: a ☐ 8396 b ☐ 8839 c ☐ 5695	53	
54	Other Credits from Form: a ☐ 3800 b ☐ 8801 c ☐	54	
55	Add line 47 through 54. These are your total credits	55	
56	Subtract line 55 from line 46. If line 55 is more than line 46, enter -0-	56	1808
57	Self-employment tax. Attach Schedule SE	57	
58	Unreported social security and Medicare tax from Form: a ☐ 4137 b ☐ 8919	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60	Additional taxes: a ☐ AEIC payments b ☐ Household employment taxes. Attach Schedule H	60	
61	Add lines 56 through 60. This is your total tax	61	1808
62	Federal income tax withheld from Forms W-2 and 1099	62	3329
63	2008 estimated tax payments and amount applied from 2007 return	63	
64a	Earned income credit (EIC)	64a	
b	Nontaxable combat pay election	64b	
65	Excess social security and tier 1 RRTA tax withheld (see page 61)	65	
66	Additional child tax credit. Attach Form 8812	66	
67	Amount paid with request for extension to file (see page 61)	67	
68	Credits from Form: a ☐ 2439 b ☐ 4136 c ☐ 8801 d ☐ 8885	68	
69	First-time homebuyer credit. Attach Form 5405	69	
70	Recovery rebate credit (see worksheet on pages 62 and 63)	70	
71	Add lines 62 through 70. These are your total payments	71	3329
72	If line 71 is more than line 61, subtract line 61 from line 71. This is the amount you overpaid	72	1521
73a	Amount of line 72 you want refunded to you. If Form 8888 is attached, check here . ☐ 73a	73a	1521
b	Routing number ☐ X X X X X X X X X X c Type: ☐ Checking ☐ Savings		
d	Account number ☐ X X X X X X X X X X X X X X X X X X X X X X		
74	Amount of line 72 you want applied to your 2009 estimated tax	74	
75	Amount you owe. Subtract line 71 from line 61. For details on how to pay, see page 65	75	
76	Estimated tax penalty (see page 65.)	76	

Third Party

Designee

Designee's name **PREPARER**

Phone no. **803-731-6064**

Personal identification number (PIN) **250-57-4773**

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return? See page 15. Keep a copy for your records.

Your signature **PASLEY**

Date **04/15/09**

Your occupation **DRIVER**

Daytime phone number **803-556-0204**

Spouse's signature. If a joint return, both must sign.

Date

Spouse's occupation

Paid

Preparer's signature **PASLEY**

Date **04/15/09**

Check if self-employed ☒

Preparer's SSN or PTIN **250-57-4773**

Preparer's Use Only

Firm's name (or yours if self-employed), address, and ZIP code

**H T HARRIS INCOME TAX SERVICE
100 ASHLAND PARK LANE
COLUMBIA, SC 29210-0000**

EIN **58-1490450**

Phone no. **803-731-6064**

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Cliff Pasley
in accordance with the Federal Motor Carrier Safety Regulations
(49 CFR 391.41-391.49) and with knowledge of the driving
duties, I find this person is qualified; and, if applicable, only when:

- ☒ Meets standards in 49CFR 391.41; qualifies for 2 year certificate
☐ Does not meet standards
☒ Meets standards, but periodic evaluation required
Due to NTN driver qualified only for:
☐ 3 months ☐ 6 months ☐ 1 year ☐ other
☐ Temporarily disqualified due to (condition or medication) _____
☐ Return to medical examiner's office for follow up on _____
☐ Wearing corrective lenses
☐ Wearing hearing aid
☐ Accompanied by a _____ waiver/exemption
☐ Driving within an exempt intracity zone
☐ Skill Performance Evaluation (SPE) Certificate
☐ Qualified by operation of 49 CFR 391.64

Date 4/27/09
Medical Examiner's Signature [Signature]
Medical Examiner's Name (print) James Lawrence
Address 300 W. Dunbar Road West Columbia, SC 29170
Telephone Number (803) 755-3337
Licenses or Certification Number and State SC A11433
Signature of Driver Cliff Pasley
Driver's License Number [Redacted] State SC
Address of Driver 9100 Bayfield Rd 305 C-195 C.
Medical Certificate Expiration Date 4/27/10 29223

Rev. 7/18/06

000331

InMed

Diagnostic Services of S.C., LLC

6/11/2007

Dr. BARTH GREEN
1095 N W 14 TERRACE
MIAMI, FL 59974

RE: PASLEY, CLIFFORD

Date of Birth: [REDACTED] 961

Patient ID: 142098

Requesting Physician: Dr. BARTH GREEN 1095 N W 14 TERRACE MIAMI FL 59974

Reason for Study: PAI N TO LEFT HIP UPON PROLONGED STANDING/ PREV INJURY
2001

Date of Study: 06/06/2007

EXAMINATION: mri-hips(unilat) w/o contrast- left

TECHNIQUE: Multiplanar, multisequence imaging of the pelvis and hips was performed.

FINDINGS: The sacroiliac joints appear intact. The pubic symphysis appears intact. The hip joints appear symmetric. No effusions are demonstrated. The femoral head are well formed and appear intact. There are no cystic changes. Mild osteoarthritic type change is demonstrated with the right proximal femur, with small osteophytes apparent.

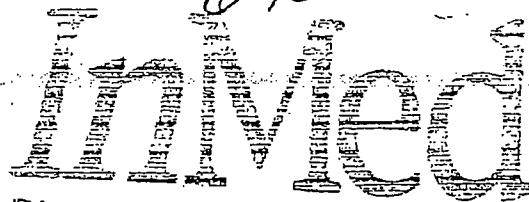
The gluteals appear intact. No trochanteric bursal fluid collections are seen. The hip abductors appear intact and are unremarkable. The ham strings origins appear normal. The iliopsoas tendons are normal.

The pelvic floor musculature appears intact.

The pelvis appears unremarkable.

IMPRESSION: Very early osteoarthritic changes involving the right hip. No changes of tendinosis or bursal fluid collections are demonstrated. There is no evidence of fracture.

Preliminary - PASLEY, CLIFFORD 233cc43f-6297-4f16-b8b0-265b47ab4bf4 - 1



Diagnostic Services of S.C., LLC

PATIENT NAME:
ACCOUNT NUMBER:
DATE OF BIRTH:
REFERRING PHYSICIAN:
DATE OF EXAMINATION:

CLIFFORD PASLEY

142000

DR. G. NEAL
10-12-05

MRI THORACIC SPINE

TECHNIQUE: MRI of the thoracic spine was performed using sagittal pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The C7-T1 disc level shows some very mild posterior disc osteophyte formation as seen on the sagittal images, but there is only mild generalized decrease in spinal canal dimensions.

There is some desiccation of the T1-T2, T2-T3, and T3-T4 disc levels, but no significant posterior disc protrusion. There is no spinal canal or neural foraminal stenosis at these levels.

The T4-T5 through the T10-T11 disc levels are within normal limits.

The T11-T12 disc level shows some desiccation, and some very mild posterior disc osteophyte formation, but no significant associated spinal canal or neural foraminal stenosis.

The T12-L1 disc level is within normal limits.

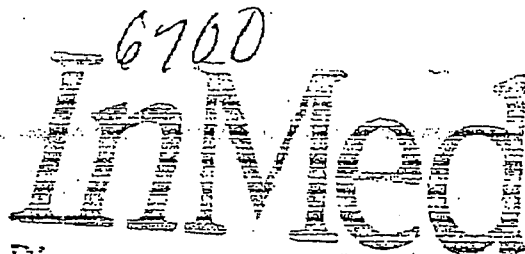
IMPRESSION: Mild desiccation and degenerative changes of the thoracic spine seen at only a few levels as described above. Note, there is no significant stenosis or disc protrusion at any level, and no evidence of any spinal cord or spinal nerve root impingement. The spinal cord also shows normal size, shape, and signal.

T. Daniel Silvestro, M.D.

TDS/skd

140 South Assembly Street, Columbia, SC 29201
T: 803-663-0022 F: 803-663-0075
Toll Free: 1-877-452-0022

000333



Diagnostic Services of S.C., LLC

PATIENT NAME:

ACCOUNT NUMBER:

DATE OF BIRTH:

REFERRING PHYSICIAN:

DATE OF EXAMINATION:

CLIFFORD PASLEY

142708

DR. G. NEAL

MRI LUMBAR SPINE

TECHNIQUE: MRI of the lumbar spine was performed using sagittal and axial pulse sequences with the 0.23 Tesla open MRI scanner.

HISTORY: Back pain.

FINDINGS: The L1-2, L2-3, L3-4, L4-5 disc levels are within normal limits.

The L5-S1 disc level shows discogenic degenerative change with loss of height and loss of T2 signal. There is also broad-based posterior disc protrusion. There is some Grade I spondylolisthesis of L5 on S1, which is related to bilateral L5 pars defects and facet degenerative changes. The axial images through the L5-S1 level do not show any significant spinal canal stenosis and there is no evidence of any nerve root impingement. Note is made that the right and left L5-S1 neural foramina are narrowed bilaterally and there appears to be flattening of the right and left L5 nerve roots as they extend through the neural foramina bilaterally.

IMPRESSION: Grade I spondylolisthesis of L5 on S1 related to bilateral L5 pars defects and facet degenerative changes of L5 with associated bilateral narrowing of the L5-S1 neural foramina and apparent flattening of the nerve roots as they extend through this region. Note, there is broad-based posterior and far posterior lateral disc osteophyte formation and disc protrusion at the L5-S1 level, which also contributes to the stenosis of the right and left neural foramina.

T. Daniel Silvester, M.D.

125 South Assembly Street, Columbia, SC 29201
T: 803-988-8882 F: 803-988-8895
Toll Free: 1-877-489-8882

000334

RETURN OFFICE VISIT

Clifford Pasley
(803) 447-1968

Chart No.: 6700
DOB: [REDACTED]

DOS: 10/5/05

VITAL SIGNS:

Temperature:	97
Pulse:	73
Respiration:	18
Blood Pressure:	122/75
Weight:	170
Blood Sugar:	mg %
Waist:	inches
SPO2:	

Subject: He's seen today doing fairly well at this particular point but has pain in his low back for the last week. Does not remember doing anything. It sounds like its degenerative arthritis at this point. His blood pressure is really doing well. He has a pressure today of 122/75. I'm very, very pleased with that. He's returned to work driving trucks. He has some pain on climbing in and out of the cab. He's currently on HCTZ 25 mg ½ tablet qd, Zocor 40 ½ tablet qd, and Foltx 1 qd. He's been using ibuprofen in the past for his back but I'm switching him to Aleve now. I want him to take 2 tablets qd. His rating for his cardiovascular system really hasn't changed any at all. I talked about doing another MRI of his back and another EMG/NCS if it was positive. I'm following through with a neurosurgical consult. I think I'll set him up for the MRI of the lower back at this point. I'll see him back in 4 weeks.

Return in 4 weeks.

Green B. Neal, M.D.

GBN: rpd 21(1)

000335

RETURN PHYSICAL EXAM

Cliff Pasley
107 Broken Hill Road
Columbia, SC 29212
(803) 447-1968

Chart No.: 6700
DOB: [REDACTED] /61

DOS: 9/8/05

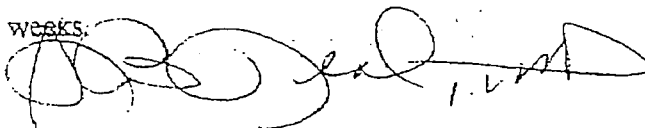
VITAL SIGNS:

Temperature:	97
Pulse:	59
Respiration:	18
Blood Pressure:	131/90
Weight:	170 ½
Blood Sugar:	99 mg %
Waist:	36 inches
SPO2:	

Subject: His blood pressure is a little up but he did not get to take his HCTZ this morning and that's probably the reason it's a little up. I initially saw him for an accident that happened on 1/7/02 and followed him through 2/18/03 when I released him. He complained of having low back pain at that particular time with pain that radiated to both feet. When I released him he tried to go back to work but was unable at that particular point and really didn't return to work until August '03. He was subsequently seen by Dr. McFadden at the VA Hospital, and was given physical therapy by the VA. He was continued on his high blood pressure at that point. He gradually got better at that point and was able to return to work. He's currently on HCTZ 25 mg ½ tablet qd, Zocor 40 mg ½ tablet qd. He still has the pain in the LS area of the back with radiation down the entire right leg. He also is on Foltx 1 qd for Homocysteine. He's had a colonoscopy, which was negative. I believe his high blood pressure is directly related to the level of pain he has. He has a sequela of chronic pain from his accident. He's been on Ibuprofen 100 mg bid prn for pain. It does give him pretty good relief. He has a rating to the ~~LS back of 15%~~. This is due to the fact he has chronic spasm and pain in this area. He has a L5 nerve root radiculopathy as noted to the clinical to the right leg. He has a permanent physical impairment rating to the cardiovascular system on the basis of his hypertension of 20%.

This letter is to confirm that Mr. Pasley is impaired as a result of his injury, and has really had no further involvement from a neurological standpoint. He really needs to be assessed at that particular time again with new MRIs of the back and EMG/NCS. If they are positive, then we need to follow through with a neurosurgical consult. If they are negative, he just has to live with it.

Return in 8 weeks.



000336

RETURN OFFICE VISIT

Cliff Pasley
107 Brocken Hill Road
Columbia, SC 29202

Chart No.: 6700
DOB: [REDACTED] /61

DOS: 2/18/03

VITAL SIGNS:

Temperature:	97.6
Pulse:	78
Respiration:	18
Blood Pressure:	122/94
Weight:	160
Blood Sugar:	

Subject: Mr. Pasley at this particular point is seen today and is doing about as well as can be expected at this point. I gave him permission to try to find some type of work on the previous visit. He is still having some tingling in the right arm, some pain in the right extremity, in the LS area of the back and in the shoulder area. I think at this particular point he's reached maximum medical improvement. He is going to be stick with some residual problem. He has a permanent physical impairment rating to the cervical neck and right upper extremity. In the cervical neck he has a 10% physical permanent physical impairment rating; to the right upper extremity he has a permanent physical rating of 10% as well. This is on the basis of traumatic fibromyositis and degenerative arthritis of the cervical spine. He has a permanent physical impairment rating of the LS area of the back and right extremity. The rating to the LS area of the back is 15% and involvement to the right leg is also 15%. This is basis of chronic pain. He degenerative disc disease; he has a disc — protrusion which is exerting traction on the LS nerve roots which is causing pain into the leg. This is not to the point where surgery is indicated at this point. He will have to stay on muscle relaxants and non-steroidal Motrin and Zanaflex. He does have a cholesterol problem that is not related to his current problem that is the accident. He does have hypertension and the hypertension is accident related because of the degree of pain that he has, the hypertension has manifested itself on this basis. Treatment of that now becomes a compensable cause related to the pain that he is in. He is treated with 4 CTZ 25 mgs 1/2 tablets Monday, Wednesday, and Friday. I noticed that his blood pressure is up today and we may have to look at this and re-evaluate it. My next step would be to place him on Diovan 160-12.5 1 qd, but I am having him monitor his pressure and see how he is doing. I am releasing from the accident as of today, but I will continue to follow his blood pressure problem and cholesterol problem if he wishes to continue seeing me.

Green B. Neal, M.D.

GBN:rpj (1.4)

000337

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700
DOB: [REDACTED]/61

DOS: 01/07/03

VITAL SIGNS:

Temperature: 97
Pulse: 78
Respiration: 18
Blood Pressure: 140/82
Weight: 164 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today for follow-up. I've allowed him to return to some type of work. He's not be able to get back to the driving yet. Primarily because of the job slow down or truck problems or whatever with his employer. He has tried some yard work. Has had some pain, some swelling, some tenderness in the right extremity of the LS area and shoulder. I'm going ahead at this particular time and let him continue his present medications. No changes. I'll see him back in eight weeks.. We'll release him on return.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.
GBN:mbt

000338

RETURN OFFICE VISIT

Mr. Clifford Parsley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700
DOB: [REDACTED]/61

DOS: 12/02/02

VITAL SIGNS:

Temperature: 98.1
Pulse: 82
Respiration: 18
Blood Pressure: 126/79
Weight: 168 lbs.
Blood Sugar:

Subject: He's doing extremely well considering the amount of improvement he's done. I will allow him to go back to work on light duty. Short runs. Only around the Carolina's, Georgia, etc. And see how he does over the next weeks. And then progress him on to full work, if he does okay. I have some reservations about the clutches in the truck, but he thinks that he maybe able to do it. The other thing is when they disconnect trailers I've asked him to use a large pipe to extend to give him more leverage so he doesn't have to struggle as hard. Other than that I think he should do quite well. I'll see him back in four weeks. No change in his medications. He's still having the soreness and the pain in the LS area. I think that if he got back to work it'll act as a hardening conditioning and will help him a lot.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood in the stools, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyromegaly or lymph adenopathy. No JVD. No pretibial edema.

Green B. Neal, M.D.

GBN:mbt

000339

RETURN OFFICE VISIT

Clifford Pasley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700

DOB: [REDACTED]

DOS: 10/23/02

Vital Signs:

Temperature: 96.7
Pulse: 74
Respiration: 18
Blood Pressure: 96/57/
Weight: 166 lbs.
Blood Sugar:

Subject: Mr. Pasley is seen today. He has improved a little, but he's still very cautious and protected of his injury site. I'm going ahead at this particular point and hold him off for four more weeks, at that point I'll try and return him to work. He's a truck driver, maybe he can do local runs and not wind up doing any long runs that'll keep him away. We'll see where we go from there. He can try some tricks such as using the extension pipe so that he don't have to pull as hard when cranking the landing gear, etc. Other than that he seems to be fairly stable. I think he is progressing well. He is on the Foltrix one q.d., on the Zocor 20 mg., one half tablet q.d. He really needs to go up to a whole tablet, but since he got that from the VA I'll let them decide where to go. We'll probably wind up doing a VAP Panel on him before it's all over to see whether or not his distribution is okay. I'd like to see him back in four weeks.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mbt

000340

RETURN OFFICE VISIT

Mr. Cliff Pasley
107 Broken Hill Road
Columbia, SC 29202

Chart No.: 6700

DOB: [REDACTED] 61

DOS: 8/28/02

Vital Signs:

Temperature: 97.9
Pulse: 66
Respiration: 18
Blood Pressure: 115/66
Weight:
Blood Sugar: 165/65

Subject: He's seen today for follow-up. His laboratory work is back (See Lab Reports in file). He has a nerve impingement at the LS area with severe pains. He certainly has high blood pressure and hematuria. At this particular point, I'm not making any changes in any of his medications. He's feeling better at this particular point. He's going to physical therapy at the VA right now. We'll see how he does at this particular point. He's not working. Has not been the work since January 17, 2002. He's working at Leonard Brown/Transgri. He had been employed about a year. He was tying down a load of steel with the tie down straps and using an iron bar to pull the straps tight, when he injured his back. I think that he is doing somewhat better today. We need to continue his therapy. At this point he's on ~~ACTZ~~ 25 1/2 tablet, 25 mg. q.d. He's doing okay today. No changes in any of his medications. Like to see him back in probably four weeks. I want him to finish his therapy out and then we'll see where we go from then.

Family History: Non-contributory
Past History: Non-contributory

Review of Systems: Denies any nausea, vomiting, diarrhea, blood the stool, black stools, constipation, hemorrhoids, chest pain, shortness of breath, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pains.

Physical Exam: Heart and lungs are clear. Heart has a RSR. No tracheal shift, thyroidmegaly, or lymph adenopathy. No JVD. No pretibial edema.

Plan:

Green B. Neal, M.D.

GBN:mbt

000341

FIRST OFFICE COMPREHENSIVE VISIT

Mr. Clifford Pasley
107 Broken Hill Road
Columbia, SC 29212

Chart No.: 6700
DOB: [REDACTED] 7/61

Social Security #: [REDACTED]
Telephone #: 803 731-5320
DOS: 08/13/02

VITAL SIGNS:

Temperature:
Pulse:
Respiration:
Blood Pressure:
Weight:
Height:
Blood Sugar:
See EKG and Hemo-dynamic Flow Study

Subject: Mr. Pasley has been referred by Attorney Mullis for a comprehensive examination. He wants to know how much permanent impairment he has. If I had to rate him at this time and what further medical treatment would I recommend at this time. A record from Urgent Care in Irmo was enclosed. The history as related by the patient and as received from the note from Urgent Care is as follows:

Incident: The patient is 40 years of age. He was an established patient of Urgent Care. Came in complaining of a six day history of right glottal pain radiating down the posterior aspect of the thigh. Laterally down into his leg and the top of the foot. He had never had pain like this before. He first started feeling this when he was stepping down from a trailer of a tracker trailer. When he stepped down off of a trailer of his tracker trailer on 01/17/02 and begin having pains. In talking to the patient I find that's not entirely correct. Actually what happen, he works for Leonard Brown Trucking which is Trans Agri. He's been employed there for approximately one year. He was hauling a load of steel and was in process of tying the steel down. They have ratchet binders and they use long pieces of metal in order to pull the ratchet tight so that the load does not shift. In the process of pulling and pushing on this ratchet he felt something pop in his back. He thought it would be okay in time. He just took it easy and continued to work. He even attempted to do a second load of steel the next day and that's when he realized he couldn't do it at all. He subsequently went to the doctor to be taken care of at Urgent Care, at that particular point, on the 23rd. The date of the initial injury was 01/17/02. It's true that his getting down out of the truck made his back hurt worse but that was not the initial time or thing that caused it. Actually using the ratchet bars was the culprit. At any rate the examination occurred. His b/p was up. And neurological at that particular point was abnormal. He was not able to

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walk on his heel on the right. Had a foot drop on the right. He was diagnosed as having a lumbo-sacral herniated nucleus pulposus with foot drop on the right indicating perineal nerve and fibular nerve palsy. MRI was ordered at that particular point. He was started on Loden and Zanaflex. Lortab 5 mgs. Was told to rest in a recumbent position with his back flat. With a cushion under his knees and he was to come back in about ten days. He went back within the ten day period. Was seen. Workmen's Comp did not authorize the MRI at that particular point. They never did and he wound up having to pay for it out of his pocket. The patient subsequently paid for MRI himself. He had no money to get any therapy done. The VA hospital did not authorize any treatment. He subsequently went the VA Hospital seeking assistance. He was in the US Army - 1980- 1983 with an honorable discharge. He did 2 1/2 years of National Guard duty with time in Desert Storm in 1991 - 1992. He currently not in the reserve at this time. He's currently having physical therapy at the VA Hospital at this time. He has not had an EMG and Nerve Conduction Study to determine whether or not he has a surgical impingement that needs decompression laminectomy. We'll get that done and determine where we go from there.

Review of Systems: Negative for diabetes, heart disease, VD, CA, kidney trouble, glaucoma, lung disease liver disease, gallbladder disease, TB, polio, sickle cell, bleeding dyscrasias, rheumatic fever, scarlet fever, typhoid fever, malaria. Denies any nausea, vomiting, diarrhea, constipation, hemorrhoids, chest pain, PND, wheezing, dyspnea on exertion, orthopnea, palpitations, syncope or seizures. Any dysuria, urgency, frequency or nocturia. No belly pain. Positive for aching feet. Muscle spasms. Back trouble or lumbago, high blood pressure which was found when he went to the VA. He's been put on a small pink pill, he takes once a day. He doesn't know the name of it. But his b/p this afternoon was absolutely normal. He's not had any sexual dysfunction as a result of it. He has a herniated ruptured disk. Has bloody or black stools. This was over a year ago. He does not now. He had a colonoscopy and had polyps removed. He has numbness and tingling in the right lateral foreleg and foot. It is not there constantly. It comes and goes. He's had all of the normal childhood immunizations. His colonoscopy with March of last year. He has weakness in the leg. Complains of back pains. He has no allergies to any food, drugs or plants. Does not smoke, does not consume alcoholic beverage and does not use any illicit drugs. Has difficulty on standing, walking any distance, climbing, crawling and things of that nature.

Medications: He has been on Motrin 800 mgs. three times a day for pain in his back. He's taking Robaxin 750 mgs. one/two three times a day as needed for pain.

Family History: His mother is still living. She's age 55. Suffers from high blood pressure. Grandmother has had cancer of the breast. Father is deceased. He was a diabetic. Was on renal dialysis. He died in his early 60's. He has one sister, age 38, in good health. Has no brothers. He's single. Has one child, age 9 years, male, in good health.

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Mr. Clifford Palsey

08/13/02

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Past History: He has not been able to return to work since the injury to his back. His b/p was elevated also when he was seen at Urgent Care, 152/102.

Physical Exam: **Head:** Black. Head is clean shaven, but the mustache is black. **Ears:** Shows no discharge or tophi. The drums are pearly gray. Hearing is intact. **Nose:** Nasal turbinate congestion with hyperemia and seromucous discharge. There's no paranasal or frontal sinus tenderness. **Eyes:** Brown **Fundoscopic:** Grade II Afro-Scartic renopathy. Pupils are round, regular and equal and reactive to light and accommodation. EOM are intact. Sclera is clear. Conjunctiva is pink. There is no ptosis, nystagmus or exophthalmos. Don't see any hypertensive changes in the eye. **Mouth:** Lips show no tremor or atrophy. Size is normal. There is no gum disease or leadline. Chewing surface is adequate. **Pharynx:** No hyperemia. The uvula is midline. There is no posterior or pharyngeal discharge. **Neck/Back:** Trachea is midline. Thyroid is not enlarged. No bruits. No JVD. ROM is normal. There's spasm and rigidity in right para-sacral area of the back. Positive ileo-sacral punch. **Lymph nodes:** No supraclavicular, submental, axillary or inguinal nodes. No submandibular lymph adenopathy or tenderness. **Lungs:** The AP diameter of the chest is normal. Lungs are clear to percussion and auscultation. There are no wheezes, rhonchi or rales. **Breast:** Symmetrical without dimpling, retraction, discharge or masses. **Heart:** PMI is in the 5th Intercostal space, within the MCL, localized and not sustained. No murmurs, gallops, heaves, thrills, lifts, rubs or clicks. **Abdomen:** Soft. Bowel sounds are active. No organomegaly. No rebounds or guarding noted. **Extremities:** Straight leg raising is positive at 15 degrees on the right, 60 degrees on the left. Heel punch is positive. Ankle jerk is absent on the right. Decrease in vibratory sensation on the right. Decrease in pinprick sensation on the lateral surface of the foreleg on the right. No edema. All pulses are equal and strong. There is no grinding or clicking or popping noted. **Neurological:** Intact.

Impression: At this particular point I concur that he has a herniated nucellus palphuses. Whether it will resolve by physical therapy or not depends on the therapy received. It is very late for him to be receiving physical therapy, almost some eight months after the initial injury. Because of the delay in his receiving his treatment he will have a significantly more difficult time of getting rid of residual damage that could have been limited had he had earlier treatment.

At this particular point I concur that he should stay on physical therapy at this point. I concur that the muscle relaxant and anti-inflammatory agents should be continued. My choice would be a different one, but since he's progressing and seems to be improving we'll let him continue on the ones that he's on. The Motrin and the Robaxin. His high blood pressure needs to be treated. I think that his hypertension, that he has, is directed related to the severe pain that he's had in his back since the injury and has resulted in damage to his heart, that is presently seen on his EKG at this time. Whether or not this will resolve will take time at

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Mr. Clifford Palsey
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this particular point. If I had to rate him at this particular point I would have to say that he is totally disabled at this particular point until he is completely rehab.

- A. He may have to have disk decompressive laminectomy to the LS area of the back in order to alleviate this.
- B. A short course of steroids may benefit his improvement as well.
- C. Longer acting muscle relaxants may benefit him at this particular point.
 - 1. He has hematuria. Has a 1+ blood in the urine at this particular point. This needs to be investigated. The cause of this could be stone disease either in the kidney or urethra or the bladder that causes the irritation.
 - 2. He may have nephro-sclerosis that has damaged the kidney from his hypertension. This needs to be thoroughly investigated at this particular point. An additional study should be undertaken including:
 - A. A CT Scan of the abdomen
 - B. An ultra sound of the urinary system
 - C. Performance of a PSA to make sure there is no prostate cancer involved
 - D. An urine culture to make sure there's no urinary tract infection
 - E. A probable referral to an urologist to make sure for consideration for cystoscopy looking for bladder causes of hematuria (blood in the urine)
 - F. He may need a neuro-surgical referral at this point. I don't have enough information to tell. We'll gather all of his old records including his MRI, etc. and we'll go from there.

Green B. Neal, M.D.
GBN:mbt

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Scott B. Boyd, MD
Brett C. Gunter, MD**OFFICE VISIT - NEW PATIENT**

Clifford Pasley

#45994

4/15/02

CHIEF COMPLAINT: Pain in the lower back and right leg.

HISTORY OF PRESENT ILLNESS: Mr. Clifford Pasley is a 40-year-old right-handed male who presents with a right-sided foot drop that presented after an on-the-job injury in January 2002. The foot drop lasted a month or month and a half. He then developed severe right hip and leg pain. He said his strength has continued to improve, but he still walks with a limp. He also has some consistent persistent pain.

PAST MEDICAL HISTORY, CURRENT MEDICATIONS, ALLERGIES, SOCIAL HISTORY, FAMILY HISTORY, AND REVIEW OF SYSTEMS: All are contained in the three page past history document. I reviewed this information which I signed today, and it is contained in the chart and considered a part of this note.

PHYSICAL EXAMINATION:**VITAL SIGNS:** Height 5'8", weight 165 pound.**GENERAL:** The patient is healthy appearing and appropriate for stated age.**HEAD:** Head is atraumatic and normocephalic.**NECK:** Neck is supple. There are no masses.**EYES:** Eyes are without conjunctival injection or scleral icterus. Pupils are briskly reactive.**ENT:** Hearing present in both ears. Significant for anatomically normal appearing ears, nose and throat.**LUNGS:** Lungs are clear to auscultation and percussion.**CARDIOVASCULAR:** Heart has a regular rate and rhythm without murmurs.**ABDOMEN:** Abdomen is soft and nondistended. No masses. Positive bowel sounds.**EXTREMITIES:** Warm, moist, and have good pulses. No cyanosis, clubbing or edema.**MUSCULOSKELETAL AND NEUROLOGICAL:****MENTAL STATUS:** Awake, alert, and oriented x 4. Speech is fluent and conversant. Content and quality of speech are appropriate.**CRANIAL NERVES:**

Cranial Nerve II: Vision present in both eyes.

Cranial Nerves III, IV, VI: Extraocular movements are intact.

Cranial Nerve V: Sensation on face intact FT/PP.

Cranial Nerve VII: Muscles of facial expression intact.

Cranial Nerve VIII: Hearing present in both ears.

Cranial Nerve IX, X: Oropharynx elevates symmetrically in the midline.

Cranial Nerve XI: Strength in the sternocleidomastoid and trapezius is intact.

Cranial Nerve XII: Tongue protrudes normally in the midline.

STRENGTH: His right extensor hallucis longus strength is reduced and graded 4/5. The tibialis

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COLUMBIA NEUROSURGICAL ASSOCIATES, P.A.

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Re: Clifford Pasley

4/15/02

antious is also graded 4/5. The remainder of the strength in his lower extremity is intact.

SENSORY: Fine touch and pinprick over face, trunk, and extremities intact.

CEREBELLAR: Gait, station, finger-to-nose, and heel-to-shin intact.

DEEP TENDON REFLEXES: Triceps, biceps, brachioradialis, patella and Achilles 2/4, no clonus, and toes are downgoing on Babinski.

RADIOGRAPHIC STUDIES: MRI of the lumbar spine dated 3/25/02 demonstrates a Grade L5-S1 spondylolisthesis that may produce some compression of the L5 nerve root.

ASSESSMENT: The patient has had a foot drop and L5 nerve root compression from what appears to be spondylolisthesis at L5-S1. He is making some significant improvement without any specific therapy and does not require any surgical intervention at this time.

PLAN:

1. Physical therapy of the lumbar spine.
2. Continue his anti-inflammatory drugs. Follow-up once he has completed the above.

Brett C. Gunter, M.D./meh

FAXED TO: Steve Suits, M.D.

000347

RADIOLOGY DEPARTMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 781-2480

PATIENT: PASLEY, CLIFFORD

UNIT/MR NO: M000083738
ACCT NO: H00008729642
SSN: [REDACTED]
REQ NO: 02-0030141
REPORT NO: 0328-0132

AGE: 40
DOB: [REDACTED] 961
SEX: M

FAMILY DR:
ATTENDING DR: G STEVEN SUITS, MD
ADMITTING DR: HMRI
ORDERED BY: G SUITS MD - [SUIGST EM]

DATE OF EXAM: 09/25/02
CLINICAL DATA: MAGNETIC RESONANCE IMAGING
LOW BACK PAIN EXTENDING INTO RIGHT LOWER EXTREMITY,
RIGHT FOOT DROP

MR LUMBAR SPINE (WITHOUT CONTRAST):

Sagittal T1 and fast T2 images of the entire lumbar spine were supplemented with axial images through the lower three lumbar discs.

Marrow signal is normal. The conus is unremarkable. Discs are well hydrated and symmetric in size with the exception of L5-S1 which is both narrow and desiccated. Grade I spondylolisthesis is present at L5-S1 without visible spondylolysis. Generalized disc bulge/protrusion is also seen at this level which results in apparent traction on both L-5 nerve roots, possibly more prominent on the right than the left.

IMPRESSION: Grade I L5-S1 spondylolisthesis associated with degenerative disc space narrowing and desiccation and disc bulge/protrusion that may exert traction on both L-5 nerve roots as described, possibly more pronounced on the right than the left. No frank disc herniation and no signs of spinal stenosis.

MAS

JOHN W HAYNES MD

REPORT STATUS: Signed

Report Lines: 27
EXAM TECH: DSHUL
DISC DATE:
DISC DIAG:
SIGNED COPY IN RADIOLOGY DEPARTMENT

Report Completed: 03/26/02 1203
PT LOC/ROOM: HMRV
PASLEY, CLIFFORD

*Refer to back specialist
if pt desires - neurosurgeon
if insurance will cover*

000348

LEXINGTON MEDICAL CENTER IRMO

7035 St. Andrews Road
Columbia, SC 29212
803-749-0924

PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

1D-01/23/2002
T: 1/23/02 8:14 AM /hw

PHYSICIAN: G STEVEN SUITS, MD
DATE OF VISIT: 01/23/02

URGENT CARE

S: The patient is a 40-year-old black male established patient who is complaining of a 6-day history of right gluteal pain radiating down the posterior aspect of his thigh laterally down into his leg and the top of his foot. He has not had pain like this before, though he has had back pain in the past more superior to where this is located. He said he first started feeling this when he was stepping down from the trailer of his tractor trailer on 01/17/02. He also does some working out, does not know if he aggravated it with that. He recalls the onset of the pain stepping down from the trailer. The patient states that his pain is intermittent. It is burning and throbbing. He rates it an 8 on a scale of 10. He states that his pain hurts him during the night. He sleeps on his back. He awakes with morning stiffness. His pain is aggravated by coughing and movement. He has some tingling in his right leg. He denies any constipation, bowel incontinence, numbness around the anus. Denies difficulty voiding, frequency of urination, burning of urination or incontinence of urine. He does not have any history of cancer, arthritis, osteoporosis or steroid use. He has had no recent febrile illnesses. After the exam, when I asked him if he had noticed any weakness in any particular area, he said his right foot. ROS: Otherwise, negative. PMH: Significant for back problems. PSH: None. PAST HOSPITALIZATIONS: None. CURRENT MEDICATIONS: Ibuprofen. DRUG ALLERGIES: None known. FH: Negative, at least the patient does not know of anything. SH: He is a truck driver. Denies alcohol, tobacco or marijuana use.

O: VITAL SIGNS: Stable, blood pressure 152/102. BACK: Visible scoliosis of spine secondary to tight muscle spasms of the right lumbar paravertebral muscles. No tenderness over the paravertebral muscles, however. No tenderness over SI joints bilaterally. Tender over right gluteal area. Decreased ROM of lumbo-thoracic spine in all directions, but most marked in right lateral flexion and extension as well as right rotation. NEUROLOGIC: Able to toe walk. He is not able to heel walk with the right foot having a foot drop on the right. Squats and up without difficulty. Individual motor testing including hip flexors, hip abductors, hip adductors, knee flexors, extensors, foot flexors, dorsal flexors, inverters and evertors are all intact except for right foot dorsal flexors. This was tested with him in both sitting and supine positions. Sensation testing for light touch, pinprick position and vibration intact throughout lower extremities paying particular attention to the lateral aspect of the right leg and dorsum of the right foot. Deep tendon reflexes 2+ physiologic and symmetrical.

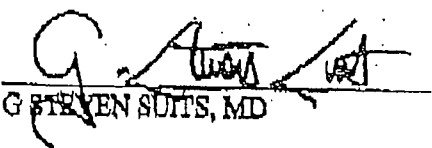
A: Lumbosacral herniated nucleus pulposus (herniated disc) with foot drop on right, indicating a peroneal nerve or fibular nerve palsy.

URGENT CARE - IRMO
PAGE 1 OF 2

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PATIENT: PASLEY, CLIFFORD
M.R. #: 24716

P: Because of the foot drop, we will get an MRI. He will be started on Rx Lodine 400 mg q.8h. Rx Zanaflex 4 mg q.8h. for 5 days then q.i.s. Rx Lortab 5 q.6h. p.r.n. pain. He is to rest flat on his back with a cushion under his knees. Recheck here in 10 days.


G STEVEN SUITS, MD

cc:

URGENT CARE - IRMO
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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0202022

Clifford Pasley,)
)
 Claimant,)
)
 vs.)
)
 Trans Agri, Inc./Leonard)
 Enterprises, Employer,)
)
 and)
)
 South Carolina Uninsured)
 Employers Fund and Travelers)
 Insurance,)
)
 Defendants.)
)

TRANSCRIPT OF PROCEEDINGS

June 27, 2012

This hearing was held before Commissioner Gene McCaskill, reported by Kimberly T. Power, Court Reporter and Notary Public in and for the State of South Carolina; said proceedings were held at the South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Hearing Room B, Columbia, South Carolina, on Wednesday, June 27, 2012.

APPEARANCES

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EXHIBITS

CLAIMANT'S

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Exhibit No. 2 Paystub

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1 THE COURT: Today's date is June 27, 2012.
2 This is the case of Clifford Pasley vs. Trans Agri, Inc.
3 The Workers' Compensation Commission File Number on this
4 case is 0202022. I didn't make that up. The claimant is
5 represented by J. Marvin Mullis, Jr. The defendants are
6 represented by -- for the UEF, Terri J. Morrill and for
7 Travelers Insurance Company, R. Daniel Addison.

8 The average weekly wage appears to be in
9 dispute in this case. Would that be correct?

10 MR. ADDISON: Yes, sir.

11 MS. MORRILL: That's correct, Commissioner.

12 THE COURT: That's what I thought. And this
13 is a denied claim. Are there any objections to
14 jurisdiction, venue, or any APA submissions?

15 MR. MULLIS: No, sir.

16 MR. ADDISON: None from defense, Commissioner.

17 MS. MORRILL: None from the UEF, Commissioner.

18 MR. ADDISON: Commissioner, let me make sure I
19 get the record straight. It's none from Defendant
20 Travelers Insurance on behalf of EBI of Royal & Sun
21 Alliance only.

22 THE COURT: I understand. All right. The
23 Commission file becomes a part of the record with the
24 exception of self-serving declarations and unstipulated
25 medical reports.

1 Mr. Mullis, would you please state your
2 client's position for the record?

3 MR. MULLIS: Yes, sir. My client was injured
4 on January the 17th, '02 working for Trans Agri who was
5 at that time subcontracting to another corporation,
6 Leodore. We think that there's clearly coverage under
7 the Act to begin with. They were taking money out of
8 Mr. Pasley's pay to pay for the workers' comp. He was
9 hired in South Carolina. He was working in South
10 Carolina. He was injured in South Carolina. And, of
11 course, he's remained in South Carolina since being
12 injured.

13 He hurt himself tying down some steel on a
14 truck. He went -- from the beginning they refused
15 medical care. We got him to a doctor, Dr. Neal, who will
16 treat people that don't have money. Dr. Neal treated
17 him. Dr. Neal had him go back to work in about a year,
18 released him to go back to work. It turned out
19 Mr. Pasley had a ruptured disc.

20 Mr. Pasley tried to go back to work as a truck
21 driver on at least three occasions. He was unable to do
22 that, and he will go into the details of why driving a
23 commercial truck effects your ruptured disc. He was able
24 to get a job at the V.A. He's now working at the V.A.
25 We think that speaks well of him, that he's gone to work.

1 We're here for an award on his permanency and
2 to have the medical bills paid. We have the average
3 weekly wage as \$636.18. The comp rate is \$424.12. No 20
4 has been filed. This came out of his tax returns.
5 Unless you have some question, that's all I have.

6 THE COURT: All right. Thank you, sir.
7 Ms. Morrill, you want to go first?

8 MS. MORRILL: Thank you, Commissioner. On
9 behalf of the South Carolina Uninsured Employer's Fund,
10 of course this is an alleged injury on January 17, 2002.
11 The first issue and as the claimant's attorney was
12 advised by Mr. Smith is for the Commission to address
13 whether it even has jurisdiction, whether there was an
14 employer who regularly employed four or more employees in
15 South Carolina as subject to the Act. It's the position
16 of the South Carolina Uninsured Employer's Fund that the
17 employer of the claimant at the time he claims this
18 injury was a gentleman named Leonard Brown and that the
19 record is replete with evidence reflecting that Mr. Brown
20 owned three trucks for which he had three drivers and
21 then in return leased those drivers to a company called
22 Trans Agri who employed no one regularly in the State of
23 South Carolina.

24 The claimant's own testimony and his statement
25 given to an adjuster, his testimony in two depositions

1 and the statement given by Mr. Brown were that he
2 regularly employed only three employees. So that's the
3 first issue we would ask you to address, jurisdiction.

4 If for some reason you do find jurisdiction,
5 you will see in reviewing the record, including the APA
6 submissions that the claimant in fact worked fairly
7 regularly after late 2002. You will also see from
8 reviewing the record that this claimant had pre-existing
9 spondylolisthesis. It is the position of the SCUEF that
10 this injury was a temporary aggravation of that
11 condition.

12 In fact, the claimant was released to full
13 duty by December 12, 2002, and he was released by
14 Dr. Neal on February 18, 2003. We would submit that any
15 treatment after that time is a result of the claimant
16 working for other employers. And, in fact, there's a
17 report of Dr. Neal in 2005 that the claimant reported
18 pain after getting out of the cab of a truck for another
19 company.

20 We would also ask the Commissioner to take
21 note of the fact that this claimant has, despite a
22 statement that he never had any prior back problems, is
23 currently receiving a 30 percent disability for his lower
24 back from the V.A. Hospital for his prior service and, in
25 fact, is receiving medical treatment and care through the

1 V.A. Hospital for lower back pain which is in essentially
2 the same area in which he's claiming an injury in this
3 case.

4 So we would submit any benefit -- first, if
5 you find jurisdiction, any benefits are owed, those
6 should end at the end of 2002 and that any claim for
7 benefits after that time the claimant is already
8 receiving disability from the Veterans Administration as
9 well as medical care.

10 THE COURT: Mr. Addison.

11 MR. ADDISON: Commissioner, first and foremost
12 on behalf of Travelers Insurance for EBI of Royal & Sun
13 Alliance is that there is no coverage in the State of
14 South Carolina for the policy that they issued to Trans
15 Agri, Inc., an employer in the State of North Carolina.
16 That policy was issued through the assigned risk system
17 of Traveler/EBI of Royal & Sun Alliance was assigned to
18 that particular -- to that particular policy. There is
19 essentially no underwriting done by the carrier in that
20 regard. It's all done by NCCI and then assigned to
21 whatever carrier comes up next to the cue. I'll have
22 Mr. Smith explain all that to you as we go through this..
23 Once that's done, they basically just had a policy in
24 place and they bring in by the existing employer.

25 Mr. Mullis has made a big deal out of the fact

1 that these drivers all allege that they were paying money
2 to Trans Agri. That does not mean they were paying money
3 to Travelers Insurance. The only way he can link up any
4 coverage for Travelers Insurance if Travelers was
5 specifically getting paid or was aware of any monies
6 being paid for said coverage in North Carolina to somehow
7 link it to coverage in South Carolina. It still doesn't
8 get you to that point. The cases Mr. Mullis has cited or
9 I'm sure intends to cite all deals with where there's
10 coverage in actually South Carolina in place and an
11 employer or the carrier on behalf of the employer
12 received premium for a particular employee. You cannot
13 stop -- you are estopped from denying coverage for that
14 particular employee if coverage already exists in the
15 State of South Carolina.

16 The point here that we have consistently made
17 is that there is no coverage in South Carolina and this
18 Commission does not have jurisdiction over my carrier for
19 this particular case. There's no evidence that there was
20 any policy ever issued in the State of South Carolina on
21 behalf of Trans Agri by Travelers or anybody else. They
22 didn't have coverage. Mr. Smith did an investigation to
23 see if they actually ever had coverage before here. They
24 did not. That's what his letter states. We submitted to
25 the Commission through our pre-hearing brief and APA

1 submissions three separate coverage compliance
2 investigative reports done by Mr. Smith over the years as
3 this case has existed. Each one of those has
4 consistently stated that there is no coverage in the
5 State of South Carolina for Trans Agri.

6 At one point in 2002, Trans Agri -- excuse me,
7 Travelers Insurance on behalf of EBI of Royal & Sun
8 Alliance was actually removed from the case by Mr. Smith
9 per his indication to the Commission that there was no
10 coverage for this employer -- excuse me, for this carrier
11 in the State of South Carolina and that they should not
12 be a party defendant. So that is the first place that we
13 have -- that you as the Commissioner is going to have to
14 go is, is there coverage for this particular carrier in
15 the State of South Carolina. We have never denied there
16 is coverage in North Carolina. We have consistently
17 denied there is coverage in South Carolina.

18 Mr. Smith will speak to some details in one of
19 his letters in 2007 about how you potentially can assert
20 additional coverage from certain things that have to come
21 into play. That's all in his letter. I would just cite
22 for you that those things didn't take place. The carrier
23 has to be aware of at the time of the creation of the
24 policy that somebody is outside the state, and there are
25 all kinds of conditions that have to be met. Basically

1 I'll go through those with Mr. Smith for you. But I
2 wanted you to be aware of the fact that we understand
3 there is some potential, but we have also looked at the
4 facts and the facts are not there to suggest that there
5 would be coverage in the State of South Carolina for this
6 policy.

7 I do not represent Trans Agri. I have tried
8 to make that as clear as possible throughout the history
9 of this case. I've sent letters to everyone. I do not
10 represent Trans Agri. I only represent the carrier for
11 purposes of its being brought into this matter in South
12 Carolina.

13 As to the contention by the claimant that
14 we've done nothing that we're supposed to do, well, we
15 weren't supposed to do anything. There's no order
16 anywhere stating that my carrier was ever responsible for
17 anything in the State of South Carolina. To the
18 contrary, we had specific statements by the Commission
19 that we had no responsibilities in the State of South
20 Carolina for this particular incident. As such we have
21 basically done nothing but say we don't have coverage.
22 In that ten and a half year period, the claimant has had
23 ample opportunity to bring this case before the
24 Commission and has not done so. There has never been
25 anything that kept the claimant from proceeding. He

1 wasn't in prison. He wasn't off fighting a war
2 somewhere. He was living and working in the State of
3 South Carolina. At no point did he have some inability
4 to pursue this case in front of the Commission. That is
5 why we've raised the laches defense. I've put that in
6 there just because -- it's in there because of the facts
7 of the case.

8 Our primary focus is on the jurisdictional
9 aspect. If jurisdiction doesn't attach, I don't have to
10 do anything else and we really haven't tried to do a
11 whole lot of anything else. As to the details of the
12 case itself, I'm not sure that I necessarily need to
13 provide a defense at this point. However, we will do so
14 today for purposes of judicial economy. I would,
15 however, Commissioner, state just so you understand, I
16 mean, our position is jurisdiction has to be -- I mean, a
17 decision basically has to be made on jurisdiction before
18 we even really get to the guts of the case.

19 THE COURT: I'm going to rule on that in my
20 order, so we're going forward.

21 MR. ADDISON: Okay. You know, I'll certainly
22 ask questions of everyone as we go forward on the guts of
23 the case itself, but our position is we have no
24 jurisdiction on this case.

25 THE COURT: All right. Very good.

1 MS. MORRILL: Commissioner, just a
2 housekeeping. I think you may have handed back our APAs
3 the last time.

4 THE COURT: If you have APAs to hand up --
5 we've got a file here, Ms. Morrill. I think it's in
6 here.

7 MS. MORRILL: All right, sir. Maybe after the
8 hearing if we can just check and make sure.

9 THE COURT: Sure.

10 MS. MORRILL: Thank you.

11 MR. ADDISON: I left you with all the -- I
12 know I gave you all the deposition copies of the
13 claimant, Commissioner.

14 I had one other point, Commissioner, on comp
15 rate calculations. And, I'm sorry, I was trying to look
16 up the case and I will certainly provide it to you, but
17 there is a case that specifically deals with a truck
18 driver and how you calculate the compensation rate for
19 the claimant. For the life of me, I can't think of the
20 name of it now. But it basically says if the only
21 evidence that you have -- the only competent evidence you
22 have is a tax return, that you should use the tax return.
23 Then it's the whole issue of what do you count, what do
24 you not count because truck drivers tend to take so much
25 stuff off on their taxes. And what the court ruling said

1 which followed a North Carolina ruling --

2 MR. MULLIS: We would like to object to that.
3 If he's not representing the employer, this is not an
4 issue that involves him.

5 MR. ADDISON: Well, until there's something
6 that says I'm out, I have to make this position in front
7 of the Commission.

8 MR. MULLIS: I mean, he's arguing out of both
9 sides of his mouth which he has been for the last six
10 months.

11 THE COURT: Be that as it may, Mr. Mullis, I'm
12 going to allow him to make the point.

13 MR. ADDISON: Just basically, Commissioner,
14 you're supposed to look at the tax returns and see what
15 they actually reported as the reporting income after they
16 take all the various things out as expenses for
17 operating. The tax return that was submitted by
18 Mr. Brown -- I mean, by Mr. Pasley for the year 2001
19 shows gross income for that year of \$10,270. And since
20 this injury occurred in January, obviously that would be
21 the operative 52 weeks, would be the full year 2001 as to
22 what his earnings may have been. I have not sat and done
23 the math, but I certainly can do that for you if you need
24 me to to give you an AWW and comp rate that we would
25 think would apply. Would you like me to do that, sir?

1 MS. MORRILL: And we would join in that as
2 well, Commissioner.

3 THE COURT: That would be fine.

4 MR. MULLIS: We would like to see their
5 figures and submit other documentation if they're
6 objecting to it. We don't think that they are at liberty
7 to do that at this time because they didn't never submit
8 a Form 20. I mean, they had every right to submit that
9 form.

10 MR. ADDISON: Based on his tax return for that
11 year, Commissioner, for the year 2001 his average weekly
12 wage would be \$197.50 with a corresponding compensation
13 rate of \$131.67.

14 THE COURT: Give me that one more time,
15 please.

16 MR. ADDISON: \$197.50 with a comp rate of
17 \$131.67. This is based on his tax return from the year
18 2001, Commissioner, on Page 38 of the APA submissions of
19 the UEF. It shows -- I'm sorry, Page 37. In the
20 business income or loss section on number -- or line item
21 12 on his tax return for the year 2001, it shows an
22 income of \$10,270.

23 THE COURT: All right. Very good.
24 Mr. Mullis, I know you object to that. I'm taking that
25 just as information from them. Any comment you want to

1 make about that?

2 MR. MULLIS: Yeah. We'd like -- I'm not sure
3 how we calculated it. We didn't know it was going to be
4 contested since there was no Form 20. I would like to
5 get my mathematician down here that figured it up and see
6 what we got.

7 THE COURT: At the conclusion of this hearing,
8 I'm going to leave the record open for you to submit that
9 documentation. For no other reason but just for that.
10 Can you do that within 30 days?

11 MR. MULLIS: I can do that within a week.

12 THE COURT: Within a week. We'll submit that
13 within a week. And if you have any further comment on
14 average weekly wage or comp rate from either Ms. Morrill
15 or Mr. Addison, if y'all want to submit that within a
16 week, that will be fine.

17 MR. ADDISON: Yes, sir.

18 MS. MORRILL: Thank you.

19 THE COURT: All right. Anything else,
20 Mr. Mullis?

21 MR. MULLIS: Yes, sir. My opponent has said
22 that this is only a jurisdictional question and in almost
23 all cases like this he would be correct except this case
24 is somewhat unusual because they collected workers' comp
25 premiums from the worker here in the state and we think

1 they are estopped from asserting any defense. You can't
2 take a person's money and not provide him with coverage.
3 Now, the fact they want coverage in North Carolina we
4 think is impractical and not in -- it doesn't correspond
5 to the law because the injured parties here, he's got to
6 be supported here. That's why the workers' comp is
7 statewide. Thank you.

8 THE COURT: All right. Anything else, Ms.
9 Morrill?

10 MS. MORRILL: Nothing, Commissioner.

11 THE COURT: Anything else, Mr. Addison?

12 MR. ADDISON: Commissioner, I just want to
13 make sure that the record is clear. Mr. Mullis keeps
14 referring to us as "they." I am not "they." I am one
15 entity. I am Travelers Insurance on behalf of EBI-Royal
16 & Sun Alliance. There's no evidence that's been
17 submitted in this record by anyone that will suggest that
18 Travelers Insurance or EBI-Royal & Sun Alliance collected
19 one penny from anyone for coverage in this regard, nor is
20 there any evidence that Trans Agri is an agent of the
21 company Travelers Insurance or Royal & Sun Alliance or
22 EBI.

23 MR. MULLIS: We think that that argument is
24 borderline ridiculous. If they didn't have coverage,
25 they wouldn't be here. I mean, they received the money.

1 Is he now saying they didn't receive the money for the
2 insurance?

3 MR. ADDISON: I've never received a penny from
4 Leonard Brown or any of these drivers. There's no proof
5 in the record that we have, Commissioner. I've made it
6 very clear that this is an assigned risk pool coverage
7 for Trans Agri in North Carolina by Travelers/EBI/Royal &
8 Sun Alliance which was an arm's length deal created by
9 NCCI. There was no direct dealing with that employer at
10 any point by my carrier. If Trans Agri did something
11 with these drivers, that was their deal. It was not
12 ours. We had nothing to do with it. We have no
13 coverage. You can't assert the actions of that employer.
14 If they're going to make those accusations in their
15 self-serving testimony, you can't assert that to my
16 carrier without evidence that the carrier actually
17 received money received from these employees or that they
18 were ever informed that these employees supposedly
19 existed. That's the standard. It's not just that
20 somebody transferred money to somebody. That means I
21 could give you five bucks right now and say you had to
22 cover me for something like auto insurance at some point
23 down the road. That doesn't affect coverage. You have
24 to affect coverage by actually taking an action directly
25 with that carrier to bring that carrier into the state.

1 I don't know whether Trans Agri is possibly supposed to
2 be here or not. That's really the purview of Ms. Morrill
3 and what she's doing with the UEF as to whether or not
4 they had coverage or Mr. Brown had coverage in the state
5 as an employer that was required to have it. The
6 question here is whether or not Travelers Insurance and
7 its former -- the company that is handling on behalf of
8 this actually had any coverage in the State of South
9 Carolina or whether Mr. Mullis and his client can assert
10 estoppel for somehow Travelers Insurance collecting
11 premium from these individuals. His position is that
12 monies that were paid after the fact somehow was added to
13 the money that was paid for the initial premium that was
14 paid for the assigned risk pool policy that was issued by
15 NCCI with the name of EBI-Royal & Sun Alliance on it.
16 There's no evidence here that says that anybody paid
17 anything to my client.

18 MR. MULLIS: We think it's very likely that
19 that fight with all this rigmarole Mr. Addison stipulates
20 to only those things that help him and then he sort of
21 backs off of the things that hurt him. Now, we know that
22 he received a premium, his company. The question is,
23 where does he have to pay for it. And I assume he's
24 still asserting that I'm not proving that they had
25 insurance. Well, he just stipulated that it was

1 insurance under the assigned risk.

2 MR. ADDISON: In North Carolina.

3 MR. MULLIS: He can't have his cake and eat it
4 too.

5 MR. ADDISON: In North Carolina. Only in
6 North Carolina which does not attach jurisdiction in the
7 State of South Carolina.

8 MR. MULLIS: We would suggest, then, that the
9 Travelers and Trans Agri sue each other in North Carolina
10 and have that fight up there. But we think here when you
11 have an insurance company that's received money and an
12 employer, they for all practical purposes are really
13 treated as the same. I don't think we have to get to
14 that point here, but because we have coverage in the
15 state as we will prove.

16 THE COURT: All right. You both articulated
17 your positions on this point eloquently and repeatedly
18 and I've got it and it's in the record now. So let's --
19 let's move on. Anything else, Mr. Mullis?

20 MR. MULLIS: No.

21 THE COURT: Anything else, Ms. Morrill?

22 MS. MORRILL: No, Commissioner.

23 THE COURT: Anything else, Mr. Addison?

24 MR. ADDISON: No, sir.

25 THE COURT: All right. Mr. Mullis, you want

1 MR. ADDISON: Commissioner, I would like to
2 say Gary told me this morning that he was actually
3 leaving and that this was going to be his last hearing.
4 And I think you actually were -- I think I did your very
5 first hearing with the Commission as well. So I'm glad
6 to know that I'm the Alpha and the Omega. Appreciate all
7 the help you've given over the years. You've been a
8 great employee of the Commission and been a big help to
9 the legal community of the state. I appreciate all your
10 time.

11 THE COURT: Mr. Mullis, next witness?

12 MR. MULLIS: We'd like to call -- well, could
13 we have a short recess?

14 THE COURT: Sure. How long you need?

15 MR. MULLIS: Ten minutes. Sure. We'll take
16 ten minutes.

17 (Off the record.)

18 MR. MULLIS: We would like to call Mr. Pasley
19 to the stand.

20 THE COURT: You've been present for my please
21 speak loudly enough and say yes or no, so I won't rehash
22 that. I'm going to swear you in and then have you put
23 your name on the record. Okay?

24 THE WITNESS: Yes, sir.

25 (CLIFFORD PASLEY, being duly sworn to tell the

1 whole truth and nothing but the truth, testified as
2 follows:)

3 THE COURT: Please state and spell your full
4 name for the record.

5 THE WITNESS: Clifford Pasley.
6 C-L-I-F-F-O-R-D, P-A-S-L-E-Y.

7 THE COURT: Mr. Mullis.

8 DIRECT EXAMINATION

9 BY MR. MULLIS:

10 Q. Where do you live, Mr. Pasley?

11 A. Gaston, South Carolina.

12 Q. How long have you lived there?

13 A. About two and a half years.

14 Q. Where did you live before that?

15 A. Parkland Apartments in Columbia.

16 Q. You know the gentleman that testified here?

17 A. Yes, sir.

18 Q. And you know the next two?

19 A. Yes, sir.

20 Q. Let me direct your attention to January the
21 17th of '02. Were you injured on that date?

22 A. Yes, sir.

23 Q. How were you injured?

24 A. I was tying down a load of steel on a flatbed
25 trailer which requires straps, chains. This particular

1 day I was tying down the load -- tying down the load and
 2 I was pulling down on the bar and then pushed down on it.
 3 And at that particular time, I felt kind of like a pinch
 4 in my back and continued to tie the load down and the
 5 pain through my right leg and my low back just got worse.

6 Q. And did you receive medical care after that?

7 A. Yes, sir.

8 Q. Did you report being hurt to your employer?

9 A. Yes, sir.

10 Q. Did they ever provide you with any medical
 11 treatment?

12 A. No, sir.

13 Q. Who did we get to treat you?

14 A. I went to Dr. Neal and also went to the V.A.

15 Q. Could you afford to pay Dr. Neal?

16 A. No, sir.

17 Q. Were you working at that time?

18 A. When I was going to Dr. Neal?

19 Q. Yes.

20 A. No, sir.

21 Q. How long was he out of work -- how long were
 22 you out of work?

23 A. Maybe 12, 13 months.

24 Q. Were you following Dr. Neal's instructions as
 25 far as working and not working?

1 A. Yes, sir.

2 Q. And he released you to go back to work?

3 A. Yes, sir.

4 Q. You asked him to let you go back to work?

5 A. Well, I did. Yes, sir, I did.

6 Q. Were you having financial problems during that
7 time?

8 A. Yes, sir.

9 Q. What financial problems were you having?

10 A. Well, I had -- I just bought a house and
11 didn't have income to pay my mortgage, light, phone,
12 water. I also had a pickup that I was paying for. I had
13 that as well.

14 Q. Did you lose it?

15 A. No, sir.

16 Q. Did you lose the house?

17 A. I did. Yes, sir.

18 Q. What treatment did you get after that?

19 A. Dr. Neal prescribed me medication. Over at
20 the V.A., they give me physical therapy and medication as
21 well.

22 Q. How long did you go to the V.A.?

23 A. For just the physical therapy, maybe three or
24 four months. But there were times that throughout the
25 years I've gone to the ER for -- for other -- you know,

1 still for my back and radiation through my leg.

2 Q. What ER did you go to?

3 A. I went to the V.A.

4 Q. Did you try to go back to being a truck
5 driver?

6 A. Yes, I did for a little while.

7 Q. How many different truck driving jobs did you
8 try to do?

9 A. Maybe three, four. I'm not sure. Between
10 three and four. I'm not exactly sure about that.

11 Q. Were you able to drive a truck with your back
12 in that condition?

13 A. Honestly, not really. I just kind of toughed
14 through it because I needed work.

15 Q. What do you do now?

16 A. Housekeeping over at the V.A.

17 Q. Why are you doing that?

18 A. For one, I just -- the gentleman that I was
19 driving for sold his truck and as well I -- even driving,
20 it -- my back was still hurting putting -- you know,
21 mashing the clutch and the gas to the brakes.

22 Q. Go through the things that make your back hurt
23 driving a commercial truck. Is a strain on your back in
24 a truck different than riding around in a car?

25 A. Yes, sir.

1 Q. Tell the Commissioner why.

2 A. Well, for one, start pulling off, you know,
3 mash the clutch and it's a lot of pressure on the clutch,
4 you know. Going from the gas to the brakes. Stepping in
5 and out of the truck. The continuous riding. I took a
6 local job so I could be home at night. Sometimes I would
7 have to soak my back and take medication three times a
8 day.

9 Q. Are you taking medication now?

10 A. Yes, sir.

11 Q. You've been taking medication since this thing
12 happened?

13 A. Yes, sir.

14 Q. You're back working at the V.A. full-time?

15 A. Yes, sir.

16 Q. And you were out of work from the date of the
17 accident until August of 2003; is that correct?

18 A. That sounds about right. Yes, sir.

19 Q. If that's what your payroll records show, then
20 that's correct?

21 A. Yes, sir.

22 Q. You don't differ from that?

23 A. No, sir.

24 Q. Do you feel that you have some loss of use to
25 your back?

1 A. Yes, sir.

2 Q. Let's go through a couple of things. How long
3 were you in the military?

4 A. I did right at seven years. Three years
5 regular Army and about three and a half years National
6 Guard.

7 Q. Opposing counsel seems to be implying that
8 you're bringing this workers' comp case under something
9 that happened in the military. Tell the Commissioner
10 when you were hurt in the military.

11 A. In, I guess, '82, I went to sick hall maybe
12 twice for a sore back, sore lower back. It was nothing
13 major. I guess just, you know, march and carrying those
14 rucksacks. But I was able to through my military career
15 without any problems.

16 Q. You went through a whole career after that
17 back injury?

18 A. Yes, sir. Did -- even did three months, I
19 think it was, Desert Storm. So I was able to go through
20 the whole seven years without any -- you know, without
21 any issues with my back. Just a sore back at the time I
22 went on sick hall.

23 Q. And then you went to work driving a truck
24 approximately when?

25 A. Maybe in '85, I think it was. I got out in

1 '83 in -- regular Army in '83, so I think I started
2 driving around '84 or '85.

3 Q. To the best of your knowledge was there
4 anything wrong with your back that prevented you from
5 being a truck driver from that time up until the time you
6 were injured?

7 A. Oh, no, sir.

8 Q. Okay. Now, it is true that you're getting
9 some kind of disability?

10 A. Yes, sir.

11 Q. And when was that put in effect?

12 A. Approximately three years ago. I'm not
13 exactly sure about the date. It's been between two to
14 three years ago.

15 Q. And where was that put in effect?

16 A. At the V.A. Dorn Medical Center.

17 Q. And was that the result of this truck accident
18 also?

19 A. Yes, sir. I'm sorry. Yes, sir. It did.
20 Yes, sir. Because, like I said, even with the injury, I
21 couldn't get any help otherwise. So the V.A. took me on.

22 Q. And they changed your disability rating back
23 because you had a record of something in the military in
24 your back?

25 A. Yes, sir.

1 Q. How much do you make at the V.A.?

2 A. Every two weeks I bring home maybe 630, 635
3 roughly.

4 Q. Do you know how much you make at the V.A.
5 before taxes? What's your gross pay?

6 A. About 930, 950. It's about 930 every two
7 weeks.

8 Q. \$930 every two weeks?

9 A. Yes, sir.

10 Q. And then they subtract Social Security and
11 taxes out of that?

12 A. Yes, sir.

13 Q. Compared to what you would make as a truck
14 driver, is that higher or lower than you would make as a
15 truck driver?

16 A. It's lower.

17 Q. You think you could ever be a truck driver
18 again?

19 A. No, sir.

20 Q. Do you think you could ever do heavy to medium
21 manual labor again?

22 A. No, sir.

23 Q. You have been working at the V.A. how long?

24 A. This coming February will be two years.

25 Q. And you will continue to work there?

1 A. Yes, sir.

2 Q. Now, during the time we were processing this
3 claim, opposing counsel, despite the fact they were
4 notified, took your deposition, had they taken a recorded
5 statement from you?

6 A. Yes, sir.

7 Q. So you told them everything you knew about the
8 case early on after it happened?

9 A. Yes. As far as I know, I did. Yes, sir.

10 Q. Or you tried to?

11 A. Yes, sir.

12 Q. After this accident happened and we got your
13 treatment from Dr. Neal, during that time was part of the
14 time you were moving around?

15 A. Yes, sir.

16 Q. And we had trouble getting in touch with you
17 during that time?

18 A. Yes, sir.

19 Q. Also your ability to work was changing?

20 A. Yes, sir.

21 Q. When did they find the ruptured disc in your
22 back?

23 A. During the accident -- well, after the
24 accident on the 17th, I went to Lexington Medical Center
25 and had an MRI done which I paid for out of my pocket and

1 they said I had a herniated disc. Well, they said it was
2 a herniated disc, a pinched nerve, and a pulled muscle.

3 Q. Have you ever had any operation?

4 A. No, sir.

5 Q. We need to go sort of how this effects you now
6 to figure out what permanent injury you have. Does this
7 effect your ability to sleep?

8 A. Yes, sir. Yes, sir.

9 Q. Tell the Commissioner about it.

10 A. Well, now at night, well, I take ibuprofen
11 sometimes two to three times a day. At night I have to
12 put a pillow between my legs which one of the doctors at
13 Lexington Medical Center prescribed me to do so to keep
14 some of the pressure off of my low back. There are times
15 I wake up late at night after getting off I wake up with
16 my back sore, even hurting or either radiation through
17 my -- through my leg going into my foot.

18 Q. Are you still having radiating pain into your
19 foot?

20 A. Yes, sir.

21 Q. Has anybody done an operation on you for
22 anything?

23 A. No, sir.

24 Q. Have they suggested that?

25 A. Dr. Donald Johnson suggested --

1 MS. MORRILL: Objection to anything a doctor
2 said.

3 THE COURT: You can't tell me what the doctor
4 told you. You can tell me what you understand.

5 BY MR. MULLIS:

6 Q. We already have a copy of that in the record.

7 A. Okay. No, sir. No, no.

8 Q. How about doing yard work? Can you do yard
9 work?

10 A. Not now. No, sir.

11 Q. Do you have somebody do that for you?

12 A. Yes, sir.

13 Q. Can you lift anything heavy?

14 A. No, sir.

15 Q. What happens when you drive long distances?

16 A. My low back stiffens up. I still get
17 radiation in the low part of my leg. It skips the thigh
18 part. Have the radiation into my right leg and into my
19 foot.

20 Q. Does that make it numb?

21 A. It does.

22 Q: Would that limit your ability to lift with
23 that leg when it hurts?

24 A. Yes, sir.

25 Q. During the time -- during the time you were

1 working for Trans Agri, were they taking money out of
2 your paycheck?

3 A. Yes, money was taken out.

4 Q. And did they explain to you what they were
5 taking it out for?

6 A. Yes, sir.

7 Q. What did they say?

8 A. Workers' comp.

9 Q. Any rate, so did you think you had workers'
10 comp coverage?

11 A. I thought I did.

12 Q. And you were paying for workers' comp
13 coverage?

14 A. Yes, sir.

15 Q. We have some paystubs here. Are these
16 paystubs applying to you?

17 A. Yes, sir. This one on top is where I had my
18 truck under lease with them, and then the second one was
19 when I was a driver for Leonard Brown and the workers'
20 comp was taken out \$30 a week.

21 Q. Did you know who that was going to?

22 A. I did not. I thought maybe it was just going
23 to Trans Agri. I wasn't sure. I didn't know.

24 Q. Did you think it was for workers' comp
25 coverage in South Carolina?

1 A. I thought it was for North Carolina. I mean,
2 I wasn't sure. They was just taking the money out and I
3 figured it was workers' comp. I didn't know exactly
4 who -- whether it went to South Carolina or North
5 Carolina.

6 Q. Is this a paystub of yours showing money being
7 taken out?

8 A. Yes, sir.

9 MR. MULLIS: We'd like to move that both of
10 those be placed into evidence.

11 MS. MORRILL: Commissioner, I think the
12 testimony of the claimant was at least the first stub was
13 to his truck leased to Trans Agri which was actually
14 before he went to work with Leonard Brown, so I don't
15 think that one would be relevant if they're trying to
16 somehow submit --

17 MR. MULLIS: That part of it isn't relevant.

18 MS. MORRILL: Okay. We would just ask that
19 that portion be removed because that was when he was
20 directly leased to --

21 MR. MULLIS: I think it's just on the same
22 page and it's not relevant because it was when he was
23 working for somebody else, wasn't it?

24 THE WITNESS: Yes, sir.

25 MR. MULLIS: She's correct.

1 THE COURT: Do y'all have any other objections
2 to that coming in?

3 MS. MORRILL: No, sir.

4 (Claimant's Exhibit No. 1 & 2, Paystubs, was
5 marked and entered into evidence.)

6 BY MR. MULLIS:

7 Q. Now, a couple of things. You were working for
8 Leonard Brown?

9 A. Yes, sir.

10 Q. And you were driving a truck for him?

11 A. Yes, sir.

12 Q. Did Leonard Brown ever drive a truck himself?

13 A. In the case of emergency. Yes, sir.

14 Q. How often was that? You got any idea?

15 A. It may have been maybe once a week. It's kind
16 of hard to say. It varied really. I'll say once a week,
17 yes, sir, because one of the drivers need to be off or
18 was sick, whatever the case may have been, he would fill
19 in.

20 Q. Now, did Leonard Brown continue to supervise
21 you?

22 A. Yes, sir.

23 Q. On what kind of things would he supervise you?

24 A. Just sometime loads, breakdowns.

25 Q. Explain to the Commissioner what happened.

1 A. You know, sometimes we call and let him
2 know -- you know, I will call and let him know I'm
3 loaded, where I'm going or where I'm coming from. I had
4 a blown tire, brake chamber went out. It wasn't on a
5 daily basis, but it was more than two or three times a
6 week.

7 Q. And you would check with him by phone?

8 A. Yes, sir.

9 Q. There were certain things you knew you had to
10 tell him by phone?

11 A. Oh, yes, sir.

12 Q. What kind of things were those?

13 A. Sometime like if I got a cash advance. Again,
14 if I was able to load both ways. I was coming back empty
15 if I wasn't able to get a load coming back. That's all I
16 can think of right now.

17 Q. Problems with tires?

18 A. Yes, sir.

19 Q. With brakes, with how the trucks ran?

20 A. Yes, sir. Sometime the oil would need to be
21 changed, you know, and he would tell me to stop.

22 Q. How many miles were on your truck; do you
23 remember?

24 A. I have no idea. I don't remember.

25 Q. A lot of miles?

1 A. Yes, sir.

2 Q. Now, you had logbooks?

3 A. Yes, sir.

4 Q. As a driver?

5 A. Yes, sir.

6 Q. Did you turn those in?

7 A. Daily.

8 Q. And who did you turn them in to?

9 A. Leonard Brown.

10 Q. And so what did Leonard Brown do with them?

11 A. I don't even --

12 MS. MORRILL: Object to the -- well, I think
13 he's answering it. I was going to object that he
14 probably does not have knowledge of that and he just
15 answered it. So I withdraw the objection.

16 THE COURT: All right.

17 BY MR. MULLIS:

18 Q. Do you know what Leonard Brown did with him?

19 A. No, sir, I don't. I mean, I just turned them
20 in to him. Whether he kept a copy -- I know for a fact
21 he had to send a copy to Trans Agri because of safety
22 purposes. Yes, sir.

23 Q. So he would at least send a copy to Trans
24 Agri?

25 A. Yes, sir. I would think so. He would have

1 to.

2 Q. And was this on a daily basis?

3 A. If not daily, perhaps weekly because sometimes
4 I was able to -- a lot of times I would turn loads in if
5 I met him out on the road and I would turn into him all
6 the paperwork that I would have. So sometime maybe two
7 or three times a week or just weekly.

8 Q. Is it fair to say he handled all the paperwork
9 directed with the company?

10 A. Oh, yes, sir.

11 MR. MULLIS: We have no further questions.

12 THE COURT: All right. Ms. Morrill.

13 MS. MORRILL: Thank you, Commissioner.

14 CROSS-EXAMINATION

15 BY MS. MORRILL:

16 Q. Mr. Pasley, I'm Terri Morrill. We've met a
17 couple of times over the years. First I'd like to ask
18 you about some of the things your lawyer asked you. You
19 had indicated that you did have some problems with your
20 back going to sick bay a couple times in the military; is
21 that correct?

22 A. Yes, ma'am.

23 Q. Do you remember giving a recorded statement to
24 an insurance adjuster on January 28, 2002, actually less
25 than two weeks after you claim you were injured?

1 A. I may have, ma'am. I had like four
2 depositions, so...

3 Q. What I'm asking about is a recorded statement.
4 It didn't involve lawyers. It was by an insurance
5 adjuster. Do you remember doing that?

6 A. I spoke with someone from Travelers Insurance
7 by phone.

8 Q. Okay. And I think that's exactly what we're
9 talking about.

10 MS. MORRILL: And, Commissioner, that's Tab
11 No. 6 under South Carolina Uninsured Employer's Fund.

12 BY MS. MORRILL:

13 Q. Do you recall telling that adjuster on Page 19
14 that you had never had any prior injuries to your back?

15 A. I don't remember telling him, ma'am.

16 Q. You don't remember telling him that?

17 A. No.

18 Q. But, in fact, you admit that you actually had
19 been to sick bay in the military a couple times for your
20 back?

21 A. Yes, ma'am.

22 Q. And you admit that you're now receiving
23 30 percent disability from the military for your back?

24 A. Yes, ma'am.

25 Q. In fact, you told us in another deposition?

1 A. Yes, ma'am.

2 Q. Okay. And you also indicated in your direct
3 testimony here today that you thought some of the
4 30 percent that the military was paying for your back
5 included this injury; is that correct?

6 A. Well, the 30 percent that they give me in the
7 military was kind of like for the sore back. It dated
8 back to the sore back. I guess -- I don't know if it all
9 go hand in hand. I'm not sure. I guess, like I said,
10 three years ago -- two or three years ago when they did
11 my evaluation examination and from the evaluation and
12 looking at the medical reports, they came up with the
13 30 percent. I don't know if I answered your question
14 correctly.

15 Q. So you don't know if it includes this injury
16 or not, but you think it might?

17 A. I think, yes, ma'am.

18 Q. Okay. Now, you had indicated in your direct
19 testimony to the Commissioner that you had only worked as
20 a truck driver for a little while after the incident in
21 2002; is that correct?

22 A. The only time I worked in '02 was the day that
23 I got hurt, I was able to take the load on to Alabama.

24 Q. I'm not specifically asking about 2002, and
25 maybe I misunderstood your answer. When you said a

1 little while, you didn't mean from 2002 to the present
2 time?

3 A. I didn't work at all in '02 after the injury..

4 Q. But you said you only worked as a truck driver
5 for a little while?

6 MR. MULLIS: We request she let him finish
7 answering the question.

8 MS. MORRILL: I don't think he's understanding
9 the question, Commissioner.

10 MR. MULLIS: Well, that doesn't give her the
11 right to interrupt him. He gets to answer the way she
12 asks it.

13 MS. MORRILL: Well, I think he has to answer
14 the question that I ask him.

15 THE COURT: Restate your question and please
16 wait for her to finish and then answer.

17 MS. MORRILL: Thank you, Commissioner.

18 BY MS. MORRILL:

19 Q. Mr. Pasley, I'm not trying to confuse you. I
20 understood you to say in your direct testimony that you
21 only worked as a truck driver for a little while after
22 you had this injury?

23 A. Okay. After '02 -- after '02 and I went back
24 to work in '03, that's when I started back as a truck
25 driver.

1 Q. So when do you mean you worked only for a
2 little while?

3 A. Well, from I think I went to work in August of
4 '03 until '09, I think it is.

5 Q. So you kept working as a truck driver from
6 2003, and if the records reflect that you actually worked
7 for A.R. Skipper until 2010?

8 A. January of '10. It was little odd jobs, local
9 jobs, that I was able to do.

10 Q. So that seven years is not what you're calling
11 a little while?

12 A. That's what I'm talking about.

13 Q. Okay. Well, we actually have submitted into
14 evidence your tax records, at least the ones that you
15 were able to produce for -- to us for several years, and
16 those records reflect that some years including in 2004
17 you made \$27,000?

18 A. I'm not sure of the amount.

19 Q. You don't deny that these are your tax
20 records?

21 A. Oh, no.

22 Q. And that that is --

23 A. I mean, I don't know what you're looking at
24 there.

25 Q. Okay. But your attorney submitted to us per

1 our subpoena. You don't deny that you're the Clifford
2 Pasley who provided us these tax records?

3 A. Yes, ma'am. If he give them to you. Yes,
4 ma'am.

5 Q. So if you're saying you worked as a truck
6 driver for seven years, you're calling that a little
7 while?

8 A. Well, I'm just saying that's the time span I
9 was saying from the time I got hurt -- well, I'm sorry.
10 When I started work in '03 up until I stopped driving for
11 A.R. Skipper.

12 Q. Okay. And you, in fact, worked for A.R.
13 Skipper for about two and a half years?

14 A. Pretty much. Yes, ma'am. It was local. Yes,
15 ma'am.

16 Q. And you had indicated that in your -- I
17 believe in your deposition 2007 that you were working for
18 A.R. Skipper?

19 A. Yes, ma'am. Yes, ma'am.

20 Q. And, in fact, you continued working for them
21 until he sold the truck you were driving?

22 A. Yes, ma'am. I had some problems with my back
23 as well. Yes, ma'am.

24 Q. Okay. But the reason you stopped driving for
25 him is he sold the truck you were driving?

1 A. Yes, ma'am.

2 Q. All right. Now, at your -- you just testified
3 here today, let me make sure I understood you, that
4 you're taking medication for what you claim is your
5 injured back in 2002; is that correct?

6 A. Yes, ma'am.

7 Q. At your deposition in 2007, you told us the
8 only medication you were taking was ibuprofen?

9 A. Yes, ma'am.

10 Q. Is that still the only medication you're
11 taking?

12 A. I'm on high blood pressure medicine now, but
13 other than that.

14 Q. But for your back you take only ibuprofen?

15 A. Yes, ma'am. As far as I know, yes, ma'am,
16 that's the only thing I take. Yes, ma'am.

17 Q. Now, you also testified here that you didn't
18 go back to work until August of 2003. But, in fact,
19 Dr. Neal released you to work driving local drives in
20 October of 2002, didn't he, or you don't remember?

21 A. No, he released me in '03.

22 Q. Okay. So you don't remember --

23 MS. MORRILL: And, Commissioner, that's under
24 Dr. Neal's records the report of August -- August -- no,
25 I'm sorry, October 23, 2002. Could do local runs.

1 BY MS. MORRILL:

2 Q. And you didn't remember that he released you
3 to your regular job on December 2, 2002?

4 A. The only -- only release -- only release form
5 that I know of and I have record is January of '03 to
6 return to full duty.

7 Q. January '03 to return to full duty?

8 A. Yes, ma'am.

9 Q. And you didn't return to work until August of
10 2003?

11 A. Yes, ma'am. Because I applied -- did
12 applications and couldn't get hired because on the
13 application it would ask have you had any loss time of
14 work and for what. So I had to state, you know, why I
15 was out of work.

16 Q. Okay. So just to make sure I'm clear. You
17 did understand you were released to full duty by January
18 2003?

19 A. Yes, ma'am.

20 Q. And just were having a hard time finding a
21 job?

22 A. Yes, ma'am.

23 Q. Okay. And then you also admit that Dr. Neal
24 released you from his care shortly after that time?

25 A. Yes, ma'am. It was '03. Yes, ma'am.

1 MS. MORRILL: Okay. Just to cover a few
2 additional things, Commissioner.

3 BY MS. MORRILL:

4 Q. Mr. Pasley, you're actually a high school
5 graduate?

6 A. Yes.

7 Q. And you've served both active military and
8 reserve; is that correct?

9 A. Yes, ma'am.

10 Q. And you received an honorable discharge?

11 A. Yes, ma'am.

12 Q. So you have some other skills?

13 A. Yes, ma'am.

14 Q. And other training. And we've already covered
15 a little bit of your tax records that are in the
16 evidence. The Commissioner can look at those and see
17 what you've earned over the years. I think you've had a
18 couple periods of time, and I believe that's also in
19 evidence, where you've been out of work and you've had to
20 draw unemployment?

21 A. Yes, ma'am.

22 Q. And when you've drawn unemployment, you had to
23 certify to the Employment Security Commission that you
24 are willing and able to work?

25 A. Yes, ma'am.

1 Q. They require that you do that when you apply
2 for unemployment?

3 A. Yes, ma'am.

4 Q. So you don't deny any period of time it shows
5 you received unemployment that you indicated you were
6 willing and able to work?

7 A. Oh, no, ma'am.

8 Q. Okay. Now, you've had a couple MRIs or over
9 the years. Were you aware that an MRI as recently as
10 2007 basically made the same findings as the one back in
11 2002?

12 A. Yes, ma'am.

13 Q. You were aware of that. And did anybody use
14 the term to you "spondylolisthesis" or "degenerative disc
15 disease?"

16 A. Yes, ma'am.

17 Q. So you were aware that there are some things
18 that were going on with your back before this incident
19 occurred?

20 A. Well, I didn't know, I mean, whatever that
21 word you used just now. I mean, I just --

22 Q. You didn't know until they told you?

23 A. Right.

24 Q. You know now because they told you they saw
25 your MRI?

1 A. Right.

2 Q. Okay. And further reviewing medical records,
3 Mr. Pasley, that we've submitted into evidence,
4 Commissioner, it looks like you didn't see Dr. Neal for a
5 couple of years and that you did go back to him you had
6 indicated to him that you had some pain getting out of
7 the cab of a truck?

8 A. Yes, ma'am.

9 Q. And then again -- his reports again indicate
10 that you had the spondylolisthesis that they found back
11 in 2002? Were you aware of that?

12 A. Yes, ma'am.

13 Q. And you kept taking and passing your CDL for
14 many years after 2002?

15 A. Yes, ma'am.

16 Q. Once you received your disability from the
17 military, that enabled you to go to the V.A. Hospital for
18 treatment through the military; is that correct?

19 A. Yes, ma'am.

20 Q. So the treatment that you've been receiving at
21 the V.A. Hospital recently has been as a result of your
22 getting disability from them?

23 A. Well, it's from where I was hurt back in '02,
24 from that injury when I went in for physical therapy, I
25 was being treated for that lower back. That's the only

1 thing --

2 Q. That was in 2002?

3 A. Yes, ma'am. That was --

4 Q. And you said you were released in 2003?

5 MR. MULLIS: I would request she let him
6 finish answering the question. She's interrupting him
7 every time.

8 MS. MORRILL: I'll let him finish that,
9 Commissioner, and then I'll narrow it.

10 MR. MULLIS: We're requesting a ruling, not
11 what you're going to let him do.

12 THE COURT: She said what she's going to do.
13 Let's move along.

14 THE WITNESS: Okay. The injury -- can you
15 restate the question, please?

16 BY MS. MORRILL:

17 Q. I'll try, Mr. Pasley. And we might have to
18 have the court reporter read it back to us. I believe
19 that my initial question was the treatment you are
20 currently receiving at the V.A. Hospital is based on the
21 disability that the military awarded you about three
22 years ago for the 30 percent of your back?

23 A. Well, it's for the injury that I sustained in
24 '02.

25 Q. Okay. And how do you separate that out if

1 you've been awarded 30 percent disability for your back
2 by the military?

3 A. Well, in '02 from -- I'm sorry. From the time
4 I got hurt in '82 until '02, I mean, I was fine. I was
5 able to go through my military career, do other odd --
6 you know, drive a truck. And then after the injury that
7 I received in '02, that's when they, you know, they
8 started treating me at the V.A.

9 Q. Okay. And that was the treatment that
10 continued up until your release by Dr. Neal in 2003?

11 A. Yes, ma'am.

12 Q. Okay. And then you've recently gone back to
13 the V.A. Hospital and that's been since you've received
14 disability; is that correct?

15 A. Yes, ma'am.

16 Q. From the military?

17 A. Yes, ma'am.

18 Q. Now, you also had indicated in your deposition
19 in 2007 that your back had actually gotten better since
20 2002?

21 A. Somewhat. Yes, ma'am.

22 Q. So you don't dispute that it has improved?

23 A. Just a little because I've been able to get up
24 and about now. At the time I got hurt, I mean, I could
25 hardly walk.

1 MS. MORRILL: Well, I appreciate your answers,
2 Mr. Pasley. That's all I have at this point,
3 Commissioner.

4 THE COURT: Mr. Addison.

5 MR. ADDISON: One second, please.

6 CROSS-EXAMINATION

7 BY MR. ADDISON:

8 Q. You were asked by Mr. Mullis, Mr. Pasley, if
9 you had given a recorded statement to Travelers Insurance
10 way back in the day. You said you had. You remember
11 doing that?

12 A. Yes, sir. I think this was before Mr. Mullis
13 took my case. Yes, sir.

14 Q. He took your case in 2002, didn't he?

15 A. Yes, sir. I think it was around maybe April,
16 I guess. I'm not sure of the exact date.

17 Q. But it was 2002?

18 A. Yes, sir. Yes, sir.

19 Q. You went and saw Dr. Green because Mr. Mullis
20 sent you to Dr. Green, right?

21 A. Yes, sir.

22 Q. All right. Dr. Green notes that in his
23 records that you were sent there by Mr. Mullis?

24 A. Yes, sir.

25 Q. Okay. At any point in 2002, did anybody from

1 Travelers Insurance or on their behalf tell you they were
2 going to accept your case?

3 A. I spoke with -- no, sir, they didn't.

4 Q. They told you they were going to deny your
5 case, didn't they?

6 A. Yes, sir.

7 Q. That's when you went and hired Mr. Mullis?

8 A. What happened, the gentleman from Trans Agri
9 contacted me, the owner. Actually, he was willing to pay
10 my medical insurance, but someone told him not to do it
11 because they didn't know the extent of my injury. I
12 spoke with someone from Travelers, and I can't remember
13 the lady's names, and she told me that they would -- they
14 would deny my claim.

15 Q. They sent you a letter saying they were going
16 to deny your claim; is that right?

17 A. I spoke with her on the phone. They may have
18 sent a letter. I'm not sure. I remember talking to her
19 on the phone.

20 Q. If there's a letter in the file indicating
21 that they denied your claim, then that would be -- you
22 would have no reason to dispute that, right?

23 A. No, sir.

24 Q. From that point forward has anybody told you
25 anything different from Travelers, any of the lawyers

1 that have been involved? I'm not the first lawyer
2 involved. I'm the second lawyer involved from Travelers.
3 Has anybody told you anything different other than your
4 case was denied?

5 A. As far as I know, no, sir. I just spoke with
6 that one lady as far as I know of.

7 Q. And as you heard me go through with Mr. Brown,
8 you've not been in jail any point in the last ten and a
9 half years, have you?

10 A. No, sir.

11 Q. And you've been living in the Columbia, South
12 Carolina area pretty much the entire ten and a half
13 years?

14 A. Yes, sir. Yes, sir.

15 Q. Have you been overseas with the military at
16 all in the past ten and a half years?

17 A. No, sir.

18 Q. Have you been involved in the military duty
19 over the past ten and a half years?

20 A. No, sir, other than working at the V.A.

21 Q. I'm talking about actual military, either
22 reserves, guard, or active service?

23 A. Oh, no, sir.

24 Q. You actually left in '92? That was the last
25 time you were in service?

1 A. '91, '92.

2 Q. Have you been in any type of mental
3 institution in the past ten and a half years where you
4 were kept away and not able to go do something?

5 A. No, sir.

6 Q. Have you been housebound where you are not
7 able to get out and drive a car and do anything in the
8 past ten and a half years?

9 A. No, sir.

10 MR. ADDISON: All right. Commissioner, that's
11 all.

12 THE COURT: All right. Mr. Mullis.

13 REDIRECT EXAMINATION

14 BY MR. MULLIS:

15 Q. Have you done everything to cooperate with
16 what the other side asked or required you to do?

17 A. Yes, sir. As far as I know I did. Yes, sir.

18 Q. Did you appear for depositions?

19 A. Yes, sir.

20 Q. Did you tell them what your situation was?

21 A. Yes, sir.

22 Q. When was that; do you recall?

23 A. I had about three or four depositions over the
24 past ten years, so I'm not exactly sure. I know she said
25 one was in '07, '02. I don't remember the year of the

1 other two.

2 Q. So during all this time, you've given them
3 depositions?

4 A. Yes, sir.

5 Q. Have you told them that you were hurt during
6 that whole time?

7 A. Yes, sir.

8 Q. You told them you were injured on the job
9 during this whole time?

10 A. Yes, sir.

11 Q. And have you told them that you were still
12 having problems with your back and leg this entire time?

13 A. Yes, sir.

14 Q. Have they requested you immediately come to
15 any hearing?

16 A. No, sir.

17 Q. If they would have, would you have come?

18 A. Yes, sir.

19 Q. Now, during a lot -- a good part of this time
20 you were hard to get in touch with?

21 A. Maybe once or twice there, yes, sir, because
22 my moving around. Yes, sir.

23 Q. You had to move around because they were
24 taking your house?

25 A. Yes, sir.

1 Q. Now, when you signed up for unemployment in
2 these breaks between these jobs, did they ever ask you
3 specifically if you could drive an 18-wheeler?

4 A. I don't remember. I don't remember if they
5 did.

6 Q. But you were willing to try to do any kind of
7 work they offered you?

8 A. Yes, sir.

9 Q. As far as the V.A. is concerned, before --
10 when did they give you the 30 percent to your back?

11 A. Maybe two or three years ago. I'm not sure
12 about the exact date.

13 Q. Okay. Did they pay you any back amount?

14 A. Just from the time I filed. No, not going
15 back to '82 or '83. Just if I file -- say, for instance,
16 if I file like two months ago, they would just go back to
17 the time -- the present time I filed up until then.

18 Q. So they've only gone back paying you any kind
19 of disability about --

20 A. Two months from the time I filed the claim.
21 Yes, sir.

22 Q. Which is a total of three or four years back
23 maybe?

24 A. They didn't go back that far. No, sir. It
25 was just if I file a claim, say, like maybe two months

1 ago, just for an example, and they -- they approve the
2 case, then they will just pay me two months back pay.

3 Q. They were treating you from '02?

4 A. Yes, sir.

5 Q. Were you receiving treatment from the V.A. at
6 the same time you were getting treatment from Dr. Neal?

7 A. Yes, sir.

8 Q. And they continued to treat you?

9 A. Yes, sir.

10 Q. And it wasn't based on your disability?

11 A. No, sir.

12 Q. On deposition -- let me ask you to read this.
13 Just read the marked parts and I'll ask you about it.

14 A. Okay.

15 Q. That was a recorded statement you gave them?

16 A. Yes, sir.

17 Q. And they asked if you had filed any previous
18 workers' comp claim?

19 A. Yes, sir.

20 Q. Had you?

21 A. I don't think. I don't remember I did. No.

22 Q. And how old are you?

23 A. Fifty.

24 Q. And they asked if you had had any prior back
25 injuries. Did you consider the military incident an

1 injury to your back?

2 A. I didn't think it was. I thought it was just,
3 like I said, maybe just a sore back because they gave me
4 a little medication. What they give me, I don't
5 remember. It wasn't an injection or physical therapy or
6 anything like that.

7 Q. What would you do to bring on a sore back or
8 what were you doing in that case to bring it on?

9 A. Well -- well, doing basic training. You have
10 a rucksack you have to carry all your field gear, weapon.
11 Just P.T. It could be any number of things.

12 MR. MULLIS: Thank you.

13 THE COURT: Ms. Morrill?

14 MS. MORRILL: Nothing further, Commissioner.

15 THE COURT: Mr. Addison?

16 MR. ADDISON: Nothing, Commissioner.

17 THE COURT: All right, sir. You may step
18 down. Next witness, Mr. Mullis?

19 MR. MULLIS: We'd like to call Mr. Surjiner.

20 THE COURT: In just a moment I'm going to
21 swear you in, ask you to state and spell your full name
22 for the record. A couple of requests I have. This young
23 lady is making a record of this proceeding. It's
24 imperative that she, the attorneys, and I all hear you.
25 So please speak loudly enough so that we can do that.

1 And if you're asked a yes or no question, please respond
2 with yes or no. Shaking or nodding your head requires
3 more work on her part, and uh-huh and unh-unh sometimes
4 get misunderstood. So if you don't have any questions
5 for me, let's raise your right hand.

6 (LEON DARRYL SURJINER, being duly sworn to
7 tell the whole truth and nothing but the truth, testified
8 as follows:)

9 THE COURT: Please state and spell your full
10 name for the record, sir.

11 THE WITNESS: Leon Darryl Surjiner. L-E-O-N,
12 D-A-R-R-Y-L, S-U-R-J-I-N-E-R.

13 THE COURT: Thank you. Mr. Mullis.

14 DIRECT EXAMINATION

15 BY MR. MULLIS:

16 Q. Where do you live, sir?

17 A. Columbia, South Carolina.

18 Q. How long have you lived here?

19 A. About 45 years.

20 Q. Do you know my client in this case,
21 Mr. Clifford Pasley?

22 A. Yes.

23 Q. Will you tell the Commissioner what you
24 observed around '02 as far as his physical condition is
25 concerned?

1 A. Around '02 I noticed Mr. Pasley was moving
2 slowly and stiffly while we were in church service.

3 Q. And what were you doing for him during that
4 time?

5 A. During that time I maintained his property,
6 cut his grass, edge his bushes.

7 Q. Did he pay you during that time?

8 A. Yes, he did.

9 Q. Did he continue to pay you the whole time you
10 did his yard?

11 A. No, he did not.

12 Q. Why did you do it for nothing?

13 A. I met him at church and we built a
14 relationship.

15 Q. Did you have any question about the fact he
16 could not do it?

17 A. I don't doubt it.

18 Q. Do you know what his condition is at this
19 time? Do you still see him some?

20 A. At church, yes.

21 Q. And what have you observed about his condition
22 at this time?

23 A. He's getting around. He's still slow getting
24 around, but he's doing better.

25 Q. Do you think he's improved some?

1 A. Yes, sir.

2 Q. But he is still slow. Does he walk stiff at
3 times?

4 A. Yes, sir.

5 Q. Would you give him a job doing yard work now?

6 A. No.

7 MR. MULLIS: We have no further questions.

8 THE COURT: Ms. Morrill.

9 MS. MORRILL: Thank you, Commissioner.

10 CROSS-EXAMINATION

11 BY MS. MORRILL:

12 Q. Just one for Mr. Surjiner. Were you aware
13 that Mr. Pasley has been awarded 30 percent disability of
14 his back from the military?

15 A. When?

16 Q. That's not the question. Were you aware that
17 he's been awarded 30 percent --

18 A. Now, yes.

19 MS. MORRILL: That's all I have.

20 THE COURT: Mr. Addison?

21 MR. ADDISON: No questions.

22 THE COURT: Anything else, Mr. Mullis?

23 MR. MULLIS: No, sir.

24 THE COURT: You may step down. Thank you,
25 sir. Witness, Mr. Mullis?

1 MR. MULLIS: Yes, sir. We have one more quick
2 witness, Mr. Davis.

3 THE COURT: In just a second I'm going to
4 swear you in and ask you to state and spell your full
5 name for the record. Two requests. One, this young lady
6 is making a record of this proceeding. Please speak
7 loudly enough so that she, the attorneys and I can all
8 hear you. And if you are asked a yes or no question,
9 please respond with yes or no. Shaking or nodding your
10 head requires extra work on her part, and uh-huh and
11 unh-unh sometimes get misunderstood.

12 (WILLIAM DAVIS, being duly sworn to tell the
13 whole truth and nothing but the truth, testified as
14 follows:)

15 THE COURT: Please state and spell your full
16 name for the record.

17 THE WITNESS: My name is William Davis. It's
18 spelled W-I-L-L-I-A-M, D-A-V-I-S.

19 THE COURT: Thank you, sir. Mr. Mullis.

20 DIRECT EXAMINATION

21 BY MR. MULLIS:

22 Q. Where do you live, Mr. Davis?

23 A. Hopkins.

24 Q. How long have you lived there?

25 A. All my life.

1 Q. How old are you?

2 A. Sixty-seven.

3 Q. What do you do for a living now?

4 A. I'm retired.

5 Q. And what did you do before you retired?

6 A. Truck driver.

7 Q. How long did you drive a truck for?

8 A. Twenty-something years.

9 Q. You know Mr. Clifford Pasley?

10 A. Yes, sir.

11 Q. How often do you see him?

12 A. I see him just about every week.

13 Q. Do you know what his condition is at this
14 time?

15 A. Well, he just move a little slow and, you
16 know, stiff, stuff like that.

17 Q. You've noticed him being stiff?

18 A. Yes.

19 Q. You've noticed him moving slowly?

20 A. Yes.

21 Q. Do you think he could do heavy to medium
22 manual labor at this time?

23 A. Well, I don't think so.

24 MR. ADDISON: Commissioner, I'm going to have
25 to object. I think that calls for a conclusion. I think

1 if he explains what heavy to medium labor means from a
2 general standpoint, that's fine. But if he's trying to
3 get him to testify as to what it means from a workers'
4 comp vocational standpoint, that's not because there's no
5 foundation laid as to the expertise of this individual to
6 be able to give that type of testimony.

7 MR. MULLIS: Well, the claimant told him
8 permanently disability. We're only claiming that he has
9 loss of use to his back and leg. So we don't think the
10 objection applies to this case.

11 MR. ADDISON: All I'm asking is if he would
12 lay a foundation if he understands what heavy to medium
13 means.

14 THE COURT: Would you expound on that?

15 MR. MULLIS: I'll do that.

16 BY MR. MULLIS:

17 Q. Assuming heavy to medium manual labor is
18 lifting 45 to 50 pounds or continuously working lifting
19 things, moving things or climbing things, do you think he
20 could do that kind of work?

21 A. No.

22 MR. MULLIS: We have no further questions.

23 THE COURT: Ms. Morrill?

24 MS. MORRILL: Thank you.

25 CROSS-EXAMINATION

1 BY MS. MORRILL:

2 Q. Mr. Davis, I'm Terri Morrill and I'm here for
3 the South Carolina Uninsured Employer's Fund. Knowing
4 Mr. Pasley at the present time, you're aware that he's
5 working at the V.A. Hospital?

6 A. Yes, ma'am.

7 Q. And do you believe he's able to do that job
8 and continue to do that job?

9 A. I wouldn't be able to make that decision.

10 Q. Okay. But you do know that he's working there
11 and earning his keep?

12 A. Yes.

13 Q. Were you aware that he's also receiving
14 disability from the military for his back?

15 A. Yes, we talked about that.

16 Q. You are aware that he is?

17 A. Yes.

18 Q. That they're paying him money for his back?

19 A. Yes.

20 MS. MORRILL: Okay. That's all I have.

21 THE COURT: Mr. Addison?

22 MR. ADDISON: No questions.

23 THE COURT: Anything else, Mr. Mullis?

24 MR. MULLIS: We have no further questions of
25 this gentleman.

1 THE COURT: All right, sir. You may step
2 down. Thank you very much. Any other witnesses,
3 Mr. Mullis?

4 MR. MULLIS: No, sir.

5 THE COURT: All right. Ms. Morrill, any
6 witnesses?

7 MS. MORRILL: None, Commissioner.

8 THE COURT: Any witnesses, Mr. Addison?

9 MR. ADDISON: Commissioner, we rely on the
10 testimony that was given by Mr. Garry Smith of the
11 Commission on direct examination by the claimant.

12 THE COURT: All right. Just a reminder, we
13 are going to leave the record open for a week. If you
14 have any input as to average weekly wage and comp rate,
15 any of you can submit it during that time. And then when
16 we conclude, Ms. Morrill, we want to make sure your APAs
17 are here.

18 MS. MORRILL: Yes, sir.

19 MR. ADDISON: Commissioner, while we're still
20 on the record. Earlier I stated I couldn't remember the
21 name of the case. We actually figured it out. The name
22 of the case on the average weekly wage comp calculation
23 is Stevens vs. Avins Construction. That's A-V-I-N-S
24 Construction.

25 THE COURT: All right.

1 MS. MORRILL: And I'm a bit embarrassed
2 because I'm the one who argued it and won it before the
3 Court of Appeals, but I couldn't think of the name.

4 THE COURT: You're entitled.

5 MR. MULLIS: We would be willing to send them
6 a copy of anything we send you on average weekly wage and
7 so on. We would like to request that they do the same.

8 THE COURT: Yes. If y'all will forward to
9 Mr. Mullis anything you submit to me.

10 MS. MORRILL: No problem.

11 THE COURT: All right. That concludes this
12 hearing.

13 (The hearing was concluded.)
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South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723

www.wcc.sc.gov



AMENDED

File #: 0202022

Carrier File #:

Carrier Code #:

Employer FEIN #:

Claimant's Name: Clifford Pasley

SSN: [REDACTED]

Employer's Name: Trans Agri, Inc./Leonard Enterprises

Address: 107 Broken Hill Road

Address: 371 W Hill Street

City: Columbia

State: SC

Zip: 29212

City: Goldsboro, NC 27534

State: SC

Zip: [REDACTED]

Home Phone: (803) [REDACTED]

Work Phone: () [REDACTED]

Insurance Carrier: Travelers Insurance

Preparer's Name: J. Marvin Mullis Jr.

Law Firm:

Mullis Law Firm

Preparer's Phone #: (803) 799-9577

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

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

Date of Injury or Illness: Jan 17, 2002

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to 4 (Part(s) of Body Injured) on 1/17/02 (Month/Day/Year) in Berkley county, state of SC.

1b. Body part(s) affected are: See 1 in Addendum

Briefly describe how the accident occurred. Injured while tying down a load on the truck.

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

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

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

5. Notice of the accidental injury was given to the Employer on 1/17/02 (Month/Day/Year) in the following manner: Reported to Supervisor, Leonard Brown

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

☒ (a) medical examination and treatment for: See 1a above

☐ (b) additional medical examination and treatment for: _____

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: See 2 in Addendum

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

☒ (1) General Disability:

☒ Total

☒ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☒ Partial

☒ Partial

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

10a. At the time of the injury, the Claimant was paid weekly wages of \$ 500, 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: See 3 in Addendum

11a. Further grounds or unusual aspects of claim: See 4 in Addendum

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Lexington Medical Center; South Eastern Spine; Dr. Daniel Westerkam; Dr. Green B. Neal. V/A. Hospital

11c. To the best of your knowledge, did you have any prior permanent disability? yes
If yes, describe: back injury 1982

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

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

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

14. Estimated time needed for hearing: 1 hour

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

Preparer's Signature

Title

Email

Date

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

WCC Form # 50

Revised 9/07

50
000419

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

Addendum

1. back, right leg, right foot, left leg, nervous condition and any and all other areas of the body directly/indirectly effected.
2. temporary total for two and a half years, from the date of accident until August 2003, when Claimant found other work elsewhere. From August 2003 and continuing, Claimant is entitled to permanent partial disability benefits. Claimant is also entitled to benefits for the loss of use to his back and legs.
3. R.L. Briggs and Sons, Columbia SC; Leonard Brown, Columbia SC; Seaco, Columbia SC; Commodity Express, Columbia SC; A.R. Skipper and Sons, Columbia SC; Veteran's Administration, Columbia SC.
4. Claimant is entitled to benefits for temporary total disability, temporary partial disability; permanent partial disability; total and permanent disatibility, medical benefits (past, present, and future, i.e., lifetime) and all other benefits applicable under the Act, including but not limited to permanency.

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0202022
Carrier File # 026-CB-ARV7089-K
Carrier Code #
Employer FEIN 561901957

Clifford Pasley

Claimant's Name

SSN

197 Broken Hill Road, Columbia, SC 29212

Address City State Zip

Home Phone

Work Phone

Trans Agri, Inc.,

Employer's Name

371 W. Hill Street Goldshoro, NC 27534

Address City State Zip

St. Paul/Travelers

Insurance Carrier

R. Daniel Addison

Preparer's Name

803-727-1201

Phone #

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part.
The employer-insurance carrier in answer to the claim, respectfully shows:

1. It is **denied** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Deny that claimant sustained any accident by injury arising out of and in the course of any employment that would entitle him to any benefits. Deny that claimant was ever an employee of Trans Agri, Inc., and that any coverage existed under Travelers insurance coverage of Trans Agri, Inc. for any injuries alleged and/or suffered by claimant. Deny that claimant is entitled to any benefits. Specifically deny any coverage in South Carolina for policy issued by Travelers to Trans Agri, Inc.
2. It is **denied** that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: See No. 1 above.
3. It is **denied** that the relationship of employer and employee existed at the time in question. The reasons for denial are: See No. 1 above.
4. It is **denied** that at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: See No. 1 above.
5. It is **denied** that notice of injury was given the employer. The reasons for denial are: See No. 1 above.
6. It is **denied** that the employee (needs) (is entitled to additional) medical care as a result of injury. The reasons for denial are: No facts to substantiate. See No. 1 above.
7. It is **denied** that the employee is entitled to TTD for the period(s) of: No facts to substantiate. Upon information and belief, claimant has been working for other employers since the time of alleged injury.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: No facts to substantiate. See No. 1 and No. 7 above.
9. It is (denied) that the employee has a serious disfigurement
Claimant not an employee, this defendant has no payroll information applies, according to attached accounting
10. It is contended that an average weekly wage of \$ of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Any and all defenses available to Employer/Carrier in workers' compensation cases, including specifically, but not limited to, any and all affirmative defenses as set forth in R.67-603. The Defendants reserve the right to amend this Form 51 upon complete investigation of claim. Specifically deny the claimant was ever an employee or statutory employee of Trans Agri, Inc. subjecting this defendant to any coverage or liability. Defense of laches for Claimant's failure to pursue this claim in a timely manner subsequent to his alleged injuries in 2002. Specifically deny any coverage in South Carolina for policy issued by Travelers to Trans Agri, Inc.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to

J. Marvin Mullis, Jr.

Name

Post Office Box 7757, Columbia, South Carolina 29202; Terri M. Lynch, 126 Seven Farms Drive, Suite 200, Charleston, SC 29492

Address

on the 7th day of November, 2011 by ☒ first class mail; ☐ personal service; ☐ certified mail.

R. Daniel Addison

Preparer's Signature

Attorney for the Employer/Carrier

Title

November 7, 2011

Date

Refer to R.67-205 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715

****AMENDED****

SC File # 0202022

Carrier File #

Carrier Code #

Employer FEIN

Clifford Pasley

Claimant's Name

SSN

107 Broken Hill Road Columbia, SC 29212

Address City State Zip

() ()

Home Phone #

Work Phone #

J. Marvin Mullis, Jr.

Preparer's Name

Trans Agri, Inc. / Leonard Enterprises

Employer's Name

371 W Hill Street Goldsboro, NC 27534

Address City State Zip

Travelers/EBI/Royal&SunAlliance/Unins. Employers Fund

Insurance Carrier

((803)) 799-9577

Phone #

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

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

1 a. The claimant sustained an accidental injury to See 1 in Addendum on 01/17/02 in
part of body hurt month day year

Berkley County, State of South Carolina

1 b. Describe briefly how the accident occurred Injured while tying down a load on the truck.

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

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

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

5. Notice of the accidental injury was given to the employer on 01/17/02 in the following manner:
month day year

Reported to Leonard Brown, Supervisor

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

☐ (a) medical examination and treatment for

☒ (b) additional medical examination and treatment for See 1a above.

☒ 7. Due to Injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: TO BE SUBMITTED

☐ 8. Due to the Injury, the claimant has permanent disability of the following nature and extent: (check one)

☐ (1) General Disability: ☐ Total

☐ (2) Specific Disability: ☐ Total

☐ Partial

☐ Partial

Body part(s) affected are: _____

☐ 9. Due to the Injury, the claimant has a serious bodily disfigurement consisting of _____

10a. At the time of Injury, the claimant was paid weekly wages of \$ TO BE SUBMITTED; and demands accounting of days worked and wages earned as provided by law.

10 b. Give names and addresses of all employers for whom the claimant has worked since the date of the accident. _____

11 a. Further grounds of claim: See 2 in Addendum

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

11 c. To the best of your knowledge, did you have any prior permanent disability? _____

If yes, describe: _____

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

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

☒ 13 b. I am requesting a hearing.

J. Marvin Mullis, Jr.
Signature of Claimant/Representative

SCWCC
AUG 06 2002
08/05/02
Date

Refer to R.67-205, R.67-206, R.67-207, and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department.

WCC Form # 50.

Rev. Date 9/90

50
000422

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

Addendum

1. back (with radiation down through leg and foot), nervous condition and any and all other areas of the body directly/indirectly effected.
2. Claimant is entitled to temporary total, medical benefits and all other benefits applicable under the Act. Believe Claimant to have permanency but we are not requesting permanency at this time.

Clifford Pasley v TransAgri, Inc/Leonard Enterprise-WCC#0202022

SCWGG
JUG 06 2022
JUDICIAL

000423

South Carolina Workers' Compensation Commission
P.O. Box 1715 1612 Marion Street
Columbia, South Carolina 29202-1715

WCC File No. 0202022
Carrier File No. UEF 04175
Carrier Code No.
Employer FEIN

CLIFFORD PASLEY

Claimant's Name SSN
107 BROKEN HILL ROAD, COLUMBIA, SC 29212
Address City State Zip

TRANS AGRI, INC.

Employer's Name
371 W. HILL ST., GOLDSBURG, NC 27534
Address City State Zip

Home Phone

Work Phone

ROBERT M. COOK II
Preparer's Name

(803) 798-2722
Phone

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The South Carolina Uninsured Employers' Fund in answer to the claim, respectfully shows:

1. It is denied that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are:
General; there has been no proof.
2. It is denied that both the employer and employee were subject to the Worker's Compensation Act at the time in question. The reasons for denial are:
3. It is denied that the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is denied that at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
5. It is denied that the notice of injury was given the employer. The reasons for denial are:
6. It is denied that the employee (needs)(is entitled to additional) medical care as a result of injury. The reasons for denial are:
7. It is denied that the employee is entitled to temporary total disability for the period(s) of:
8. It is denied that the employee is permanently disabled. The reasons for denial are:
9. It is denied that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$(unknown) applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are:
See Attachment.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to

See Attached Certificate Of Service

Robert M. Cook II
Preparer's Signature

220 Executive Center Drive, Suite 119 Columbia, South Carolina 29210

Address

GENERAL COUNSEL

Title

Date

Refer to R.67-205 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days of filing this form.

8-8-02
SCWCC
AUG 09 2002
JUDICIAL

11. The Uninsured Employers' Fund is informed and believes that no capitulation or other order has been issued by the South Carolina Workers' Compensation Commission finding that the employer is subject to Title 42 and is operating without insurance or as an unqualified self-insurer. The Uninsured Employers' Fund is not a proper party to this action and is not subject to the jurisdiction of the South Carolina Workers' Compensation Commission in this case.

All affirmative and specific defenses (see Reg. 67-603), including but not limited to Sections 42-9-60, 42-15-20, 42-15-40, 42-17-90; and fraud in the application for employment; fraud in the inducement to sign Form 15; fraud in the initiation of the claim for benefits; pre-existing disability to allegedly injured members; election of remedies; intervening trauma; no compensable injury by accident under Section 42-1-160; degree of disability, if any, attributable to this injury speculative; claimant's problems personal in nature and not work related.

Fund reserves the right to amend this Answer and plead additional defenses. This form is filed to comply with the South Carolina Workers' Compensation Commission regulations.

This responds to Amended Form 50 dated 8-5-02.

The South Carolina Uninsured Employers' Fund is not a carrier as alleged.

Upon information and belief, the correct name for the alleged direct employer is "Leo-Dor Enterprises, Inc."

UEF DOES NOT REPRESENT THE UNINSURED EMPLOYER
UEF IS NOT AN AGENT FOR THE UNINSURED EMPLOYER
UEF IS NOT A CARRIER FOR THE UNINSURED EMPLOYER

000425

SCWCC
AUG 09 2002
11 11 11 11 11

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Administrative Law Court
The Honorable G. Thomas Cooper, Jr., Judge

Appellate Case No. 2016-000422

RECEIVED
JUL 13 2018
SC Court of Appeals

Clifford Pasley, Employee,.....Appellant,

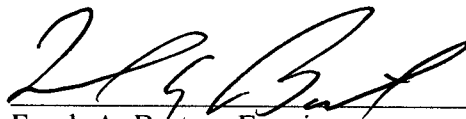
v.

TransAgri, Inc./Leonard Enterprises, Employer, and
South Carolina Uninsured Employer's Fund, Carrier,.....Respondents.

CERTIFICATE OF COUNSEL

The undersigned counsel does hereby certify the Corrected Record on Appeal
contains all material designated by both parties and no other materials.

West Columbia, South Carolina
July 13, 2018



Frank A. Barton, Esquire
ATTORNEY AT LAW, P.A.
Post Office Box 3972
West Columbia, South Carolina 29170
803-739-1824 / fax 803-739-1888
ATTORNEY FOR APPELLANT