

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

Appellate Case No. 2018-0001526

Monica Murphy, Employee Appellant,

v.

Halocarbon Products Corporation, Employer, and Commerce & Industry
Insurance Company c/o AIG Claims, Inc., Carrier Respondents.

RECORD ON APPEAL

VOLUME 1

Frederick I. Hall, III
The Rick Hall Law Firm, LLC
301 Gibson Road
Lexington, SC 29072
(803) 957-5333
(803) 957-7717 facsimile
rick@sctrtrialattorneys.com
S.C. Bar No. 2591
Attorney for Appellant

Helen F. Hiser
McAngus Goudelock & Courie, LLC
P.O. Box 650007
Mount Pleasant, SC 29465
(843) 576-2900
S.C. Bar No. 76124
Attorney for Respondent

James Lichty
McAngus Goudelock & Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201
(803) 779-2300
Attorney for Respondent

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1511478

MONICA MURPHY,

Employee,

Claimant,

vs.

HALOCARBON PRODUCTS
CORPORATION,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY c/o AIG CLAIMS, INC.,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Aiken, South Carolina on April 27, 2017.

APPEARANCES:

Claimant appeared and represented by Frederick I. Hall, III,
Esquire of The Rick Hall Law Firm, LLC of Lexington,
South Carolina.

Defendants represented by James H. Lichty, Esquire of
McAngus Goudelock & Courie, L.L.C. of Columbia, South
Carolina.

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner Susan S. Barden

FILED:

March 12, 2018

STATEMENT OF CASE

This hearing was set to determine the issues raised on Forms 50 and 51. A hearing was initially scheduled for March 7, 2017, but was continued upon motion of the Claimant, whose attorney reported a personal emergency preventing his attendance. The hearing was rescheduled for April 27, 2017.

The Claimant alleges injury to (a) heart and lungs, (b) bones, (c) smell and taste and neurological system, and (d) mind/ psyche, after she “inhaled hydrofluoric acid (HF) fumes in the process area.” The Claimant alleges a date of accident on August 11, 2015. The Claimant requested medical treatment for all alleged injuries and TTD benefits from August 21, 2015, to the present and continuing. The Claimant further asks for reimbursement of all previously incurred medical treatment. The Claimant further asserted a determination of permanent disability is premature.

The Defendants admit HF vapors were present in the process area on the date in question, but deny the Claimant’s exposure to these vapors was (a) of sufficient duration and/ or (b) of sufficient concentration to cause any permanent injury. At worst, Defendants admit the Claimant experienced temporary respiratory discomfort as a result of her exposure which resolved within days and resulted in no compensable injury by accident. The Defendants also allege the Claimant was aware of the potential hazard posed by the HF vapors and invited her limited contact with the vapors, such that any injuries sustained as a result are not accidental but, rather, could be reasonably anticipated.

The hearing in this matter lasted approximately four hours and consisted of testimony from the Claimant, a former co-worker, and several employer representatives and witnesses. The documentary evidence submitted in this matter numbered in the hundreds of pages. The subject

matter involved establishes this as a medically complex case. After carefully considering all the testimony and evidence of record, the undersigned Commissioner rules in favor of the Defendants.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and the Regulations of the South Carolina Workers' Compensation Commission, the following records were admitted into evidence without objection:

Claimant's APA Submissions:

1. Timber R. Wages, P.A. and Julie N. Buird, P.A., Urgent MD, dated 11/20/14-08/26/15, pages 1-20;
2. Melania Velasquez, P.A., University Hospital, dated 08/13/15-08/21/15, pages 21-75;
3. Patrick Aquilina, M.D., University Cardiology Associates, dated 09/08/15-11/15/15, pages 76-124
4. William F. Alleyne, II, M.D., Carolina Pulmonary Physicians, P.A., dated 09/25/15-06/01/16, pages 125-155;
5. John Mitchell, M.D., Charleston Pulmonary Associates, dated 05/02/16, pages 155-159;
6. Jewel B. Duncan, M.D., Champion Orthopaedics, dated 07/23/16, pages 160-161;
7. Email from Claimant to Ken McDowell, dated 08/11/15, page 162;
8. Memo from Ken McDowell, dated 08/12/15, page 163;
9. Email from Ken McDowell to Mark Frey, Mark Harris, Mickey Brown, Chip Babb, Steve J. Harold, Tech, and EHS, dated 08/20/15 and 08/24/15, page 164;
10. Email from Ken McDowell to Mark Frey, Mark Harris, Mickey Brown, Chip Babb, Harold J. Steen, Tech, EHS and Emily Parish, sent 08/20/15 and 08/24/15, page 165;
11. Memo contained in an email from Ken McDowell, Memo sent 08/19/15 and 08/21/15, page 166;
12. Halocarbon Products Corporation Supervisor Incident Report and Management's review of Incident Report, dated 08/11/15 and 08/27/15, pages 167-168;
13. Halocarbon Products Corporation Supervisor Incident Report, dated 08/21/15, pages 169-178;
14. Statement from Chip Babb, dated 08/11/15, page 179;
15. Witness statement, dated 08/11/15, page 180;
16. Memo written by Ken McDowell, dated 08/19/15, page 181;
17. Email from Eric Schoellkopf to himself, dated 08/27/15, page 182;
18. MSDS Sheet for Hydrogen Fluoride, pages 183-198;
19. Email from Ken McDowell to Harold J. Steen, dated 02/10/16, page 199;
20. Contingency Plan, Revision 01/20/15, pages 200-212;

21. First Aid for Hydrofluoric Acid Exposure, pages 213-215;
22. Job Description; Revision 09/30/15, page 216
23. Photos taken 08/19/15 and 09/02/16-09/16/16; pages 217-219 and page 220-237;
24. Report of John F. Setaro, M.D., Yale University School of Medicine, dated 10/13/16, pages 238-242;
25. CV of John F. Setaro, pages 243-266;
26. Harriet Fowler, M.Ed., CRC, Vocational Report, 07/28/16; pages 267-288;
27. Robert Hooper, Ph.D, Psychological Report, pages 289-294
28. (blank)
29. Claimant's Social Security Administration Award Letter, dated 11/21/16, pages 303-306;
30. Claimant's payroll records, dated 07/05/14-08/15/15, pages 307-401;
31. Claimant's medical bills, pages 402-446;
32. (blank)
33. (blank)
34. (blank)
35. Aiken Regional Medical Center, dated 09/18/02, page 471;
36. David W. Cundey, Aiken Cardiovascular Associates, dated 03/29/07, page 472;
37. Aiken Regional Medical Center, dated 09/18/08, page 473;
38. Aiken Regional Medical Center, dated 05/18/10, page 474;
39. Augusta University Medical Center/ER Department, dated 07/17/16, pages 475-494;
40. Randy Cooper, M.D., University Surgical Associates, dated 03/24/16-09/20/16, pages 495-503;
41. Laura Carbone, M.D., dated 02/14/17, pages 504-508;
42. University Hospital, dated 03/01/17-03/02/17, pages 509-513;
43. Southern Ambulance Service, dated 08/21/15, page 514;
44. Revco Discount, dated 07/12/16-03/31/17, page 515;
45. Walgreens/prescriptions, dated 07/03/16-04/04/17, pages 516-522.

Defendants' APA Submissions

26. Michael A. MacKinnon, M.D. FCFP, dated 01/27/17, pages 391-394;
27. Gordon Early, M.D., Wellness Family Medicine, dated 11/23/15, pages 395-406;
28. John A. Mitchell, M.D., Charleston Pulmonary Associates, dated 05/02/16-05/29/16, pages 407-418;
29. Selwyn Spangenthal, M.D., Charlotte Lung & Health Center, dated 09/02/16-09/28/16, pages 419-423;
30. Barry Feldman, M.D., dated 09/21/16, pages 424-425;
31. Jewell B. Duncan, M.D., Champion Orthopaedics, dated 07/22/16, pages 426-429;
32. Witness statements from Employer, dated 09/04/15-01/30/17, pages 430-432;
33. Background publications and credentials for M.A. MacKinnon, M.D., pages 433-459;
34. Sample reported cases involving Dr. Setro, pages 460-470;
35. EEOC Determination Form, dated 01/31/17, page 471.

STIPULATIONS

1. That jurisdiction is proper with the South Carolina Workers' Compensation Commission.
2. That venue is proper in Aiken, S.C.
3. That the Commission file shall become a part of the record.
4. That Claimant's average weekly wage is \$1,074.24, yielding a compensation rate of \$766.05.

OBJECTIONS

1. The Defendants objected to Claimant's APA #28 upon grounds it was not timely submitted. This hearing was originally set for March 7, 2017. The undersigned Commissioner granted the Claimant's attorney's motion for a continuance on grounds he needed to be with his ill mother. The continuance was not granted to permit the parties to obtain additional evidence or to counter evidence submitted by the Defendants. A cursory glance at Claimant's APA #28 shows the information contained therein was both solicited and prepared after the date of the originally-scheduled hearing. Had the Claimant wished to submit this evidence for consideration, she could have withdrawn her hearing request and sought a hearing at a later date. The Claimant opted not to do so however, and the undersigned excluded Claimant's APA #28 on grounds it was not timely submitted.

EVIDENCE OF CASE

The Employer, Halocarbon Products, is a chemical manufacturing facility in North Augusta, South Carolina. The Claimant worked for the Employer as a Quality Control

Laboratory Technician, beginning in 2012. The Claimant's job included testing chemical samples and disposing of waste. When disposing of waste, the Claimant wore complete protective gear which included a lab coat, a sleeved apron reaching to her ankles, neoprene gloves, a hard hat with face shield, tight-fitting safety glasses, and safety shoes. The Claimant was sensitive to safety issues at work. She admitted she would frequently and consistently report issues she felt posed safety risks, admitting in her deposition she reported risks "all the time," although she had never before developed any permanent health issues in response to a perceived safety risk. She claims she encountered an injurious exposure to HF vapors while disposing of chemical waste on August 11, 2015.

Chemical waste is disposed of in a satellite area located on an outdoor patio. At approximately 8:00PM on the evening prior to the Claimant's exposure, an HF leak was discovered in a pipe on the patio near the flammable waste satellite area, approximately 12 feet from the door leading from the process area to the patio. The pipe carrying the HF solution was cleared and the leaking section of pipe secured. The HF remaining in the pipe was vented into a carboy located about 25 feet from the door leading to the patio. Vapor remained in the area because sections of the pipe containing the leak were surrounded with saturated insulation. Claimant's APA p.166. This was the condition of the patio at 5:00AM the following morning, when the Claimant encountered her exposure.

On the morning in question, the Claimant collected organic waste from the laboratory and exited through the control room into the process area, all of which are located inside the building. Both of these areas were on a second level, so the Claimant descended stairs outside the control room leading to the first level of the process area. From the bottom of the stairs, the Claimant exited the process area onto a patio containing the organic waste satellite area. This patio is

located outside the building containing the process area. From where she dumped the organic waste on the patio, the Claimant could see a co-worker, Lonnie Parsons, standing some distance down a central corridor, toward the flammable waste satellite area. Although Mr. Parsons was standing in the area the Claimant testified she saw had a carboy spewing visible vapor into the air, she claimed not to notice it while she was dumping the organic waste. The Claimant did not observe Mr. Parsons to be in any physical distress.

After dumping the organic waste, the Claimant returned to the laboratory to collect flammable waste, descended a different set of stairs within the process area, and then intended to exit a door on the other end of the building to access the flammable waste satellite area, which is also located on the patio. This was the door nearest the prior HF leak. As the Claimant was opening the door leading to the flammable waste satellite area, she smelled a sharp chemical odor in the air. She coughed and closed the door, taking no more than four breaths in the process. She never completely opened the door. She never stepped through the door to enter the patio.

The Claimant sought out Mr. Parsons for assistance. Although she claims she was in shock, she knew she could not leave the waste container behind and took it with her as she left the area. She held her breath and walked down an internal corridor towards the door leading to the organic waste satellite area, where she had been before. When she reached the door, she looked toward the flammable waste satellite area and observed a carboy venting white vapors she identified as HF fumes. The Claimant characterized these vapors as "billowing" from the carboy. She then heard Mr. Parsons descending some stairs leading from a second story of the patio. Despite having been seen earlier standing near the flammable waste satellite area, the Claimant did not note Mr. Parsons to be in any sort of physical distress. She told Mr. Parsons of her encounter at the other end of the patio and Mr. Parsons took the flammable waste from the

Claimant and walked to the flammable waste satellite area to dispose of the waste. Mr. Parsons returned the empty waste container to the Claimant. In dumping the waste and returning the container, the Claimant agrees Mr. Parsons had to walk past the venting carboy twice, yet he showed no signs of physical distress. The Claimant then left the patio to return to the laboratory. She claims she was still in shock and had to climb the stairs very slowly because she was coughing, her heart was pounding, and she was experiencing shortness of breath.

In the laboratory, the Claimant told her co-workers she had just inhaled HF and started to remove her protective gear. When told of the maintenance work on the patio near the flammable waste satellite area, the Claimant became angry and stated, “somebody is going to get killed down there the way – the way things are going. What’s it going to take for somebody to get killed?” The Claimant then went to the control room to report her experience to Chip Babb, the assistant production manager, and complete an incident report. After discussing her experience, Mr. Babb instructed the Claimant to seek fresh air. By this time, the Claimant says she was still in shock, her mouth and sinuses were burning, she was starting to have a headache, and she was coughing and felt like her throat was closing up. She drank some water and continued to speak with co-workers about her safety concerns.

After about thirty minutes, the Claimant told Mr. Babb she was feeling better and returned to the laboratory, where she wrote a letter to Emily Parish, her assistant supervisor, to let her know what had happened. Claimant’s APA #7. In the letter, the Claimant states she coughed upon opening the door but does not mention any ongoing symptoms. The letter requests an opportunity to speak with management and safety about her experience but does not request evaluation by a doctor, despite the Claimant believing she had been exposed to HF vapors, that she was suffering the symptoms of HF exposure, and that she was aware of the safety risks posed

by HF exposure. She testified she did not request a doctor because she was in shock. The Claimant left work when her shift ended.

The Claimant testified she had difficulty resting when she arrived home due to coughing and roughly six bouts of diarrhea. She experienced abdominal pain and weakness. She claimed burning and dryness in her throat and sinuses with an ongoing headache. Before reporting to work the following day, Ms. Parrish texted the Claimant and offered a medical evaluation. Ken McDowell, the Employer's Director of Regulatory Affairs, spoke with the Claimant and arranged to meet her at Urgent M.D. The report from this appointment documents cough, shortness of breath, and diarrhea were not present. Direct examination of the Claimant's nose, mouth, and throat were unremarkable. Evaluation of her lungs showed normal respiratory efforts. Her neurologic and psychiatric signs were normal. The results of the examination were discussed with the Claimant and documented the Claimant was happy with care and the management plan. The Claimant was instructed to use standard ibuprofen to treat her headache and to return to work without restriction. The report from this visit indicates Mr. McDowell provided information that the "HF was 40% concentration." Claimant's APA pp.5-8.

The Claimant reported to work following her doctor's appointment at Urgent M.D. According to her testimony, she was still experiencing the same symptoms she had experienced at home, including headache, a burning throat, nose, and sinuses, shortness of breath, and persistent coughing. Her symptoms deteriorated over the next several days to the point the Claimant could no longer lie down in her bed due to difficulty breathing. Her coughing became worse. Her weakness became worse. She returned to Urgent M.D. on August 13, 2015, for further evaluation and was referred to University Hospital for additional care. The physical examination documented on the August 13, 2015, report from University Hospital documents

normal cardiovascular rate and rhythm, normal breath sounds and no respiratory distress, and normal psychiatric mood and affect. The Claimant was told her labs were normal. After consulting poison control, University Hospital discharged the Claimant to follow up with a primary care physician. Claimant's APA pp. 21-26.

Between August 13, 2015, and August 19, 2015, the Claimant states her condition continued to worsen. In addition to the symptoms she was already experiencing, she began to develop femur bone pain and spasms in the musculature around her femur. She claims she had not had a bowel movement since the diarrhea she experienced on August 11, 2015. Nonetheless, the Claimant continued working during this time. On August 15, 2015, the Claimant returned to Urgent M.D. The report from this visit documents the Claimant reported "her sore throat, hoarseness, cough, and shortness of breath have all significantly improved." A respiratory examination noted no wheeze or shortness of breath and all auscultation was normal. A cardiovascular examination noted no chest pain or pressure or fluttering in chest with normal heart sounds and regular rate and rhythm. No gastrointestinal, musculoskeletal, or neurological deficits are noted. Claimant's APA pp. 12-13.

On August 19, 2015, the Claimant met with Mr. McDowell and Harold Steen, the Safety Coordinator, to discuss, at length, how upset she was with what had happened to her. She then performed her breathing treatments but noticed it was not helping the very high levels of pain she was in, which by now was running from her head, into her face, her jaw, her feet, her ankles, and her right toe and included a numbness on the bottom of her feet, in addition to all the symptoms she was already having. After lunch, the pain was overwhelming, according to the Claimant, and the Employer agreed to return the Claimant to Urgent M.D. The August 19, 2015, report from Urgent M.D. documents subjective complaints of headaches, intermittent diarrhea, nausea, "bone

pain” in her femur and pelvis, and bilateral foot pain. The Claimant also reported a lack of taste and smell, headaches, and tingling in her hands. The Claimant also noted very specific concerns of pulmonary edema and/ or cardiac arrhythmia due to HF exposure. Yet the physical examination noted easy respiratory effort and normal heart sounds with regular rate and rhythm. After noting that serial electrolyte measurements on August 11, August 13, and August 19 were all normal, Urgent M.D. recommended evaluation by ENT, pulmonology, and toxicology. The report suggests some of the Claimant’s symptoms were due to increased anxiety surrounding the exposure. And while noting a chest X-ray failed to reveal any pulmonary edema, the report states an EKG was suggestive of a chronic conduction abnormality, and follow up with a primary care physician was recommended. Claimant’s APA pp.14-17.

The Claimant’s appointment ended around the same time as her shift and she went home, where her symptoms continued to deteriorate, according to her testimony. On the following day, August 20, 2015, the Claimant awoke to significant weakness. She could not take a shower and she did the best she could to simply rest in her recliner. She called out of work. On August 21, 2015, the Claimant reported to work, although she still felt very weak and had to pull off the road at one point due to feeling faint. She had difficulty concentrating at work. After lunch, she began to feel as though she could not breathe and had chest pains. The Claimant stated these symptoms went beyond mere shortness of breath. She called Ms. Parrish to advise she was having distress and to request help and then she lay on the floor. Mr. McDowell responded and administered a nebulizer while the Claimant waited for an ambulance. The ambulance took the Claimant to University Hospital.

The Claimant testified she was unable to hold a full conversation by the time she reached the hospital, but the University Hospital report instead documents there was no evidence of

respiratory distress at the time of her admission. The report states “the patient was comfortable and history was given by the patient without difficulty.” Hr. Tr. p.102:2-7, Claimant’s APA p. 47. Another notation in the report time-stamped eleven minutes after the Claimant said she was admitted states, “she does not appear in any respiratory distress at this moment. She is able to speak in full sentences without difficulty, and her oxygen saturation is 100% on room air without any obvious respiratory difficulty.” Claimant’s APA p.49. During the Claimant’s hospital stay however, an EKG was positive for third degree atrioventricular heart block. While the Claimant attributed her symptoms to HF exposure, one part of the report states, “unclear if conduction issues are related to recent chemical exposure.” Claimant’s APA p.55. Later, in response to questions from the Claimant, cardiologist Dr. Lane advised “no known exposure that would cause this degree of heart block without electrolyte abnormality. This was not present.” Claimant’s APA p.66. On August 24, 2015, a dual chamber pacemaker was implanted by Dr. Aquilina. Claimant’s APA p.58. The Claimant testified Dr. Aquilina continues to follow her for her cardiac condition.

At the time of hearing the Claimant claimed to be under the ongoing care of Dr. Alleyne for her pulmonary issues and Dr. Lane and Dr. Aquilina for her cardiac issues.

At the time of the hearing the Claimant claimed some of her sense of smell had returned but then left, along with her sense of taste. She admitted to ongoing bone pain and muscle pain and difficulty with ambulation. She still coughs and has shortness of breath. She seeks psychiatric treatment. She claims she cannot work and was accepted for Social Security Disability benefits.

Todd Lawrence testified for the Claimant. Mr. Lawrence was formerly employed as an assistant shift supervisor for the Employer but was terminated due to irregular results on a drug

test. Mr. Lawrence also explained the Employer disputed his entitlement to unemployment benefits after he was terminated. He does not feel the Employer did right by him.

Mr. Lawrence testified generally about his familiarity with HF and the process of venting HF. Mr. Lawrence explained HF can be vented to a scrubber or a carboy. A scrubber has the ability to feed water or concentrate to neutralize vented HF and is an enclosed system so that no HF vapors escape. A carboy does not have the same advantage in that a carboy can become overwhelmed and begin fuming. Venting with a scrubber is preferred to venting with a carboy but the Employer used both methods because sometimes it wasn't possible to use a scrubber. Mr. Lawrence also testified he saw the Claimant lying on the floor on August 21, 2015, before she was taken to the hospital. Mr. Lawrence disagreed with the manner Mr. McDowell treated the Claimant that day in that he felt Mr. McDowell instructed the Claimant to sit up in a rude manner.

Mr. Lawrence stated high school was his highest level of education, and he has no certificates or degrees in industrial hygiene or a related field of study. He admitted he is currently facing a criminal charge for driving under the influence. With regard to his service with the Employer, Mr. Lawrence confirmed he has personally been involved in venting HF to a carboy many times yet could not identify any health conditions he believes are the result of his exposure to HF vapors. He also testified he never used a respirator when working around HF vapors, although he believes it is a good idea.

Mr. McDowell testified for the Defendants. As Director of Regulatory Affairs, Mr. McDowell is responsible for all direction guidance policies for environment, health, safety, and security. His position includes the Director of Safety as well. He is familiar with the Safety Data

Sheet pertaining to HF and has trained employees regarding exposures to HF. He is familiar with the problems created by HF exposure and the kinds of injuries that can result.

Mr. McDowell used pictures and generally described the layout of the north patio, where the waste satellite areas and HF leak were located. Using a photograph, Mr. McDowell testified an employee standing at the organic waste satellite area would be able to see the carboy venting vapors near the flammable waste satellite area. Claimant's APA p.224. Mr. McDowell also used pictures to describe the area near the door to the flammable waste satellite area, and confirmed that HF-soaked insulation would've been located approximately 12 feet from the door and the venting carboy would've been located approximately 25 feet from the door. Mr. McDowell then reviewed the Incident Report prepared following the Claimant's exposure. Claimant's APA p.167. He confirmed the report indicates only trace HF was present on the patio at the time of Claimant's exposure, meaning the quantity of HF was so low as to not be measurable. Mr. McDowell also stated no attempt was made to measure the amount of fumes present in the area. Mr. McDowell explained the small amount of HF present is due to the fact only vapors were being vented and those vapors were being at least partly neutralized by the carboy.

Mr. McDowell also identified Mr. Babb's prepared report from the incident. Claimant's APA #14. This report documents the Claimant reported feeling like something was in her throat making her want to cough, but no other symptoms following her accident. Mr. McDowell indicated the report was completed using information provided by the Claimant.

Mr. McDowell also identified the plant manager's prepared statement from the incident. Claimant's APA #17. This report confirms the concentration of HF in the solution in the pipe could have been as high as 40% but that it was likely less due to the presence of other solvents in

the solution. From this, Mr. McDowell surmised the concentration of HF vapors near the door at the time of the Claimant's exposure was definitely less than 40%.

Mr. McDowell also identified documentation he prepared to help monitor the developing situation with the Claimant. Claimant's APA p.163. In this document, he explains he considered the Claimant's post-exposure presentation unusual compared to other HF exposures he has dealt with because it took the Claimant over twelve hours to feel she needed medical care. He explained he would have expected the Claimant to have different symptoms immediately following the exposure and that the normal blood samples provided to Urgent M.D. were inconsistent with what he would expect from an industrial HF exposure. As an example, he mentioned an operator who was exposed to strong HF vapors and developed severe symptoms requiring immediate treatment. He also mentioned that none of the four or five prior employees exposed to HF developed symptoms that required them to resign their employment.

Mr. McDowell testified about his encounter with the Claimant in the office of Urgent M.D. the day following the exposure. He observed no redness about her face, coughing, or respiratory distress. According to Mr. McDowell, there did not appear to be anything wrong with the Claimant the day after the accident.

Mr. McDowell indicated that the Claimant was a competent employee, but presented some management challenges. She had difficulty getting along with her co-workers and had brought several purported safety concerns to his attention over the course of her employment. Although her concerns were investigated every time they were raised, he found most of her complaints to be suggestions and or misunderstandings, although some of her concerns were legitimate.

Mr. McDowell confirmed that appropriate protocol was followed in response to the HF leak discovered on the patio. Mr. McDowell testified that the appropriate response for an employee who inhales HF is to expose the employee to fresh air to see how they respond. In the absence of a suitable response, or if the employee is showing distress, the next step would be to administer a nebulizer or take the employee to the hospital. Mr. McDowell also addressed the Employer's protocol for Safe HF Handling, Claimant's APA #17. In the event of HF inhalation, the document states the victim should immediately be removed to fresh air and immediate transportation to the hospital arranged. Claimant's APA p.193. The document also states a nebulized solution of 2.5% calcium gluconate may be administered with oxygen. Mr. McDowell agreed this protocol was not initiated following the Claimant's alleged exposure but explained the acting supervisor did not note the degree of distress necessary to enact the protocol. He admitted that, were the same situation to arise again, the Employer would strive to do better in communicating the potential risk to other employees and barricading the area surrounding the leak.

George Campbell testified for the Employer. He is a chemical operator who maintains the units he is running and makes sure they operate properly. Mr. Campbell's job also requires him to dispose of waste chemicals. Mr. Campbell encountered the Claimant on the day of her alleged exposure near the door leading to the flammable waste satellite area. Mr. Campbell had just reentered the building after dumping flammable waste. He was exposed to the setting for two or three minutes and encountered HF vapors. His exposure to the vapors took his breath away, made his eyes burn, and caused him to cough. Upon reentering the building, he encountered the Claimant and advised her not to enter the patio. He did not recall specifically telling the Claimant there were HF vapors on the patio but presumed she would understand based on the symptoms

he was experiencing when he spoke to her. His symptoms resolved after about five minutes with exposure to fresh air and he developed no permanent injuries due to his exposure. The Claimant denies encountering Mr. Campbell.

Mr. Parsons testified on behalf of the Employer and, like Mr. Campbell, is a chemical operator. Mr. Parsons discussed his encounter with the Claimant on the date of her alleged accident. He was working on a piece of equipment on the patio, preparing it for maintenance. Specifically, he was working on the HF leak by venting residual HF vapors into the carboy. He was two to three feet from the carboy and even had occasion to stand over top of it at times. At other times he worked on an elevated platform on the patio called the mezzanine. He was also near insulation which was saturated with HF solution from the leak itself. The only protective equipment Mr. Parsons used was a face shield, safety glasses, jacket, gloves, and pants. He saw the Claimant approaching from the area near the organic waste satellite area and stopped her, telling her she needed to stay back. According to his report, at the time the carboy was still venting visible vapors. Claimant's APA #12. The Claimant was not exhibiting any signs of physical distress, not coughing, and was able to speak in an unlabored manner. The Claimant asked Mr. Parsons about the smell and he told her it was HF vapors. He then offered to dump the chemical waste the Claimant was carrying, which required him to walk past the venting carboy twice. Mr. Parsons estimates he was working in the area approximately eight hours yet never developed any respiratory issues, heart issues, or other adverse physical conditions. He testified there is no way he could have worked in proximity to the leak for that length of time if the concentration of HF vapors was harmful.

A great deal of medical evidence, including and expert opinion, was submitted.

The Defendants submitted a report from Dr. Michael McKinnon. Defendants' APA #26. Dr. McKinnon identified the largest controversy in this case as the degree of Claimant's exposure to HF, both in terms of the quantity and the length of exposure. Based on evidence, one of Claimant's co-workers was present in the exposure area for a much longer time than Claimant yet suffered no injury and required no medical treatment, Dr. McKinnon concluded there is no chance that HF exposure caused the many symptoms the Claimant complains of. Moreover, had she been exposed to HF to the degree necessary to cause her symptoms, she would have had many additional injuries, including skin burns to the head and neck and respiratory distress much more severe than just coughing. Dr. McKinnon concludes the Claimant's pulmonary dysfunction pre-existed her exposure. Dr. McKinnon also states the evidence does not support HF mediated heart block due to the delay between the exposure and the development of symptoms. In conclusion, Dr. McKinnon relies on his experience as a worldwide consultant for HF exposures to conclude the Claimant did not have a significant exposure to HF and that the multiple opinions connecting her exposure to her various symptoms are incorrect.

The Claimant took the deposition of Dr. McKinnon to challenge his credentials and opinions. This deposition established Dr. McKinnon has a background in family medicine and has been retired for approximately ten years. His experience with HF exposures comes from working for 35 years as a physician for North America's largest HF manufacturer. In this capacity he developed the manufacturer's published protocol for treating HF exposure. He also published two papers on HF burn therapy and the HF chapter of a medical resource called "Dermatological Clinics." Dr. McKinnon would be made available to customers to train medical staff and safety personnel on how to respond to HF exposure. The final ten years of his career he presented webinars to attendees all over the world regarding the protocols for treating HF

exposures. He was also involved with a chemical response team, where he answered emergency calls from around the world involving HF exposures. He estimates he has been involved with responding to hundreds of HF exposures.

Dr. McKinnon stated his opinions were based on an understanding the Claimant's exposure was not significant but noted the presence of visible vapors could be a sign of significant exposure unless there was something else reacting with the fluorocarbon mixture. McKinnon Depo. P.30:1-5. Dr. McKinnon stated the question of whether HF mixed with other fluorocarbons would produce visible vapors at room temperature would require the opinion of a chemist. In his own testimony, Mr. McDowell addressed Dr. McKinnon's testimony that visible vapors are an indication of HF in high concentrations. Mr. McDowell stated he believes Dr. McKinnon to be among the foremost experts in the world regarding HF treatment and that his testimony regarding the significance of visible vapors could be explained if Dr. McKinnon was not aware that the venting carboy contained other chemicals which also billow vapors. There was no discussion of what other chemicals were being vented into the carboy during Dr. McKinnon's deposition. The record confirms other chemicals were present. Hearing Transcript p.139:16-19, p.166

Dr. McKinnon confirmed his belief a significant exposure to HF exposure would have resulted in cardiac symptoms in the first 24 to 48 hours after exposure due to the physiological mechanism by which HF exposure causes heart block. In this case, there was no evidence of cardiac symptoms until eight days after the exposure, at the earliest. Dr. McKinnon also stated a person exposed to enough HF to cause heart block would be aware of other symptoms within a few hours, including awareness of the heart not beating properly and burning of the skin.

Cardiology

The Defendants submitted a toxicologist report from Dr. Gordon Early. Defendants' APA #27. Dr. Early reviewed the medical reports, took the claimant's history, and performed a physical examination. After confirming the Claimant reported the typical symptoms of acute HF exposure, he addressed the lab/ electrolyte reports from University Hospital. Dr. Early was not surprised the reports did not show low levels of calcium or phosphate due to the nature of her exposure – an inhalation exposure for a short period of time. He stated it would be very unusual for these reports to show normal electrolytes 48 hours after exposure and then low phosphate levels on day ten and have this be due to HF exposure. Dr. Early stated the cardiac effects of HF are typically mediated in the first 24 hours after exposure. Dr. Early also pointed out that hyperphosphatemia is a typical response to HF exposure while the claimant suffered from hypophosphatemia. Defendant's APA p.400. Dr. Early concludes it is difficult to explain how the Claimant's HF exposure could have caused or aggravated her arrhythmia. He concluded it is far more likely the Claimant developed AV heart block because of atherosclerosis than a ten-day old delayed onset of HF induced toxicity. Dr. Early's opinion is that the claimant's August 21, 2015, arrhythmia and subsequent pacemaker are not attributable to, or aggravated by, her HF exposure.

The Claimant submitted the deposition testimony of Dr. Lane, who is a general cardiologist. Dr. Lane admitted to speaking with the Claimant's attorney for 30 to 40 minutes in advance of her deposition. Dr. Lane first examined the Claimant at University Hospital on August 23, 2015. Dr. Lane reviewed documentation from the Center for Disease Control confirming the effects of HF are dependent upon the concentration of HF, the duration of exposure, and the penetrability of the site of exposure. Dr. Lane testified the Claimant's exposure to HF caused her to develop heart block because the severe respiratory distress she encountered

following her exposure triggered an underlying vasovagal response. This opinion was based upon a presumption of an underlying vasovagal response discerned from the Claimant's reported history of fainting while pregnant with her son over twenty years ago and not based on any medical documentation confirming the diagnosis. After stating 20% to 30% of the population has an underlying vasovagal reflex, Dr. Lane states the process of respiratory distress triggering heart block is unusual but not unheard of and is not very frequent but states it is a described event that can occur.

The Defendants submitted the deposition of Dr. Aquilina, an electrophysiologist in the same practice as Dr. Lane. Electrophysiology is a subspecialty of cardiology and involves the management and treatment of rhythm disorders of the heart. Dr. Aquilina performed the surgery to implant the Claimant's pacemaker. Dr. Aquilina states there is no way to tell what caused the Claimant's heart block with any certainty. He stated he could not state with any certainty whether exposure to HF led the Claimant to develop heart block. Dr. Aquilina also stated there is no way for him to relate a vasovagal reflex to the development of heart block. For patients with a vasovagal reflex causing heart block, the effect is transient and does not indicate treatment with a pacemaker. In monitoring the Claimant's pacing since her surgery, she is 100% dependent on her pacemaker, which suggests the heart block is not vasovagal. Aquilina Depo. P.13:18 – 14:1.

The Defendants submitted a report from Dr. Feldman, a cardiologist. Defendants' APA #30. After reviewing the records, Dr. Feldman concludes there is no obvious physiological etiology for the Claimant's development of heart block. He believes the Claimant's heart block is more likely the result of primary conduction disease. Dr. Feldman also disagreed with Dr. Lane's conclusions, finding heart block due to a vasovagal event would be transient while post-implant interrogation has shown persistent ventricular pacing. He concludes it is physiologically

improbable that there is a causal relationship between the Claimant's HF exposure and her heart block.

Respiratory

The toxicology report of Dr. Early also addressed the Claimant's respiratory complaints. Defendants' APA #27. He reviewed the Claimant's post-accident pulmonary function tests (PFTs) and concluded they did not show changes typical of obstructive lung disease. Dr. Early also discussed the diagnostic criteria set forth by the authors who defined Reactive Airways Dysfunction Syndrome (RADS) and concluded the Claimant did not meet all the criteria. Because the Claimant had previously worked at Savannah River Site, Dr. Early was able to review PFTs from 2008-2011, pre-dating the Claimant's exposure. He concluded these studies confirmed a pre-existing restrictive lung disease, which needs to be considered in determining her impairment.

The Defendants submitted a report from Dr. John Mitchell, a pulmonologist. Defendants' APA #28. After review of the claimant's medical reports, taking a personal history, and examining the Claimant, Dr. Mitchell took issue with the conclusions of Dr. Alleyene. Dr. Mitchell pointed out the Claimant's PFTs suggest a restrictive lung disease, which is inconsistent with Dr. Alleyene's diagnosis of RADS, which typically manifests as an obstructive lung disease. Dr. Mitchell also reviewed the Claimant's history of PFTs and concludes the Claimant has a history of restrictive pulmonary impairment dating from 1993. Dr. Mitchell concludes the Claimant has a pulmonary impairment which predated her exposure on August 20, 2015.

The Claimant submitted the deposition of Dr. Mitchell, who carries board certifications in pulmonology, internal medicine, critical care, and sleep medicine. At the outset, Dr. Mitchell indicated he believes the Claimant's heart block is unrelated to her HF exposure but was willing

to defer to a cardiologist for a definitive opinion. With regard to her pulmonary complaints, Dr. Mitchell testified he does not believe the Claimant to suffer from RADS. In part, Dr. Mitchell bases his opinion on the Claimant's historical PFTs, which documents a restrictive pattern for years which she continues to demonstrate. The historical data shows a pre-existing condition and the data since the exposure continues to show a restrictive deficit while a RADS diagnosis would expect an obstructive deficit. Moreover, Dr. Mitchell says the evidence does not present a compelling argument the Claimant sustained an aggravation of a pre-existing condition based on her PFTs.

Medical records from Dr. Alleyne were submitted covering treatment from September 25, 2015, to June 1, 2016. Claimant's APA #4. The initial report states the Claimant presented for evaluation of dyspnea and cough. The Claimant reported a three minute exposure to HF vapors in her workplace. She reported exertional dyspnea, cough, and episodic wheezing. The initial physical examination notes normal auscultation and no cough. A PFT was performed at the initial visit and prompted Dr. Alleyne to assign the Claimant a Class IV impairment under the AMA Guides. He diagnosed the Claimant with reactive airway dysfunction syndrome (RADS) and recommended continued nebulized bronchodilator on a "when necessary" basis. Dr. Alleyne recommended the Claimant not return to work anywhere she would potentially be exposed to noxious fumes and chemicals. Subsequent reports document incomplete response to the medications prescribed. The most recent report documents the Claimant is maintained on Breo with, when necessary, Xopenex and Ipratropium via nebulizer.

The Claimant submitted the deposition testimony of Dr. Alleyne, who is board-certified in pulmonary disease, internal medicine, and critical care medicine. He admitted to three or four conferences with the Claimant's attorney prior to his deposition. He explained an obstructive

deficit involves problems expelling air from the lungs while a restrictive deficit involves problem bringing air into the lungs. Dr. Alleyne diagnosed the Claimant with RADS, which he states can be either a restrictive or obstructive disease. He testified the typical RADS patient does not have preexisting pulmonary issues and develops RADS after exposure to an irritant. Dr. Alleyne does not believe the Claimant's medical history documents any breathing problems prior to her exposure but also stated he believes the Claimant had a prior restrictive deficit caused by obesity. Dr. Alleyne also testified the Claimant has 30% impairment to each lung, will require ongoing use of bronchodilators, and is incapable of working in her current condition.

Dr. Alleyne testified the Claimant developed heart block as a result of her exposure to HF but acknowledged he is not a cardiologist. Despite this, and the fact he is not board-certified in cardiology, Dr. Alleyne indicated he would not defer to the opinion of a cardiologist on the question of causation. He further acknowledged the importance of learning the length of exposure and concentration of chemicals in determining the harmful effects of a chemical exposure, but then refused to acknowledge a minimum acceptable exposure limit for HF fumes.

The Defendants submitted a report from Dr. Selwyn Spangenthal. Defendants' APA #29. Dr. Spangenthal reviewed the Claimant's deposition testimony and medical records. Dr. Spangenthal concluded the medical evidence does not support Dr. Alleyne's diagnosis of RADS because the objective evidence fails to support a finding of obstructive air flow. He suspected silent reflux and morbid obesity could be considered as causes for her ongoing respiratory symptoms. Dr. Spangenthal concludes the Claimant's exposure to HF has not had a long-term negative impact on the Claimant's pulmonary system.

The Claimant submitted a vocational evaluation from Harriet Fowler. Claimant's APA #22. The report was prepared at the request of the Claimant's attorney. This reports documents

the Claimant has a bachelor's degree in Theology where her ending GPA was 3.9/4.0. This report documents the Claimant's prior vocational history as an admissions worker and discharge planner for outpatients at a health care facility, an EMT, and a laboratory technician. The Claimant reported prior employment with the U.S. Department of Energy from 1983 to 2011, rising to the level of Occupational Health and Safety Health Administration Safety coordinator. After a lengthy review of the medical reports, Ms. Fowler concluded the Claimant is unable to perform any type of substantial gainful employment. Ms. Fowler noted that some of the Claimant's physicians had recommended no restrictions, creating a dilemma that can only be resolved by judicial weighing of the medical opinions.

The Claimant submitted a psychiatric report from Dr. Hooper. Claimant's APA #23. The report documents a history of mental health treatment in the early 2000's related to the end of her first marriage. Multiple physical/ somatic symptoms are documented. The Claimant reported very difficult feelings regarding the management of the Employer and believes she was poorly protected before the incident and poorly cared for since. In interpreting the MMPI-2 test results, Dr. Hooper concluded her profile is probably valid but may reflect some exaggeration of symptoms. He further concluded the Claimant appears to be extremely angry and suspicious that others are taking advantage of her and is overly sensitive to criticism. She may be overtly paranoid. She tends to blame others and harbor grudges. Dr. Hooper indicates the Claimant sees the world as a threatening place. The report states the overall picture suggests a possibly aggravated reaction to perceived situational threat and that her psychological and emotional problems may likely continue even after stresses subside. On the basis of his evaluation, Dr. Hooper diagnosed the Claimant with Post-Traumatic Stress Disorder as a result of her alleged exposure. He recommended extended psychological and psychiatric treatment for some time

while noting the Claimant may not be the best or most willing candidate for psychological treatment.

FINDINGS OF FACT

Based on the greater weight and preponderance of the evidence submitted, including the medical reports and the claimant's testimony, the Undersigned makes the following findings of fact:

1. Claimant alleges that through an acute chemical exposure (specifically hydrofluoric acid, hereinafter "HF" or "exposure") on August 11, 2015, she (a) injured her "bones," heart, lungs, neurological system, and sense of smell and taste; and (b) sustained PTSD.
2. The parties received Order Instructions via email on August 22, 2017.
2. Claimant is 57 years of age (Hearing Transcript, page 14).
3. Claimant attended four years' of college, obtaining her B.A. with a GPA of 3.9 out of 4.0. She also obtained EMT certification (Defendants' APA #31, page 427; Claimant's APA #26, pages 268 and 270).
4. Claimant's employment history includes work as a lab technician, a hospital admissions representative (a sedentary job), a hospital discharge planner/utilization review coordinator, an office receptionist and medical records clerk, and an E.N.T. Prior to her employment with Employer, Claimant worked in a laboratory at Savannah River Site for 20-25 years, and worked at SRS in other capacities as well (Hearing Transcript, pages 18-19; Claimant's APA #26, pages 268-270).
5. On the date of the exposure, Claimant's job with Employer was Quality Control Laboratory Technician (Hearing Transcript, pages 14 and 16-17).

6. Claimant is described by a supervisor as competent in her duties, but a management challenge, as Claimant had difficulties getting along with some of her co-workers. Claimant “frequently and consistently” (“all the time,” according to her deposition testimony) perceived and reported various issues to management that she felt were safety risks. In a previous job, Claimant had been an Occupational Health and Safety coordinator. Claimant never developed any health issues as a result of the prior incidences she reported to Employer. Mr. McDowell is particularly credible in that he readily admitted at the hearing that some of Claimant’s many complaints were legitimate, and remedial measures taken where indicated (Hearing Transcript, pages 77-78 and 151-152; Claimant’s APA #26, page 269).
7. Claimant filed an EEOC claim against Employer which was dismissed (Defendants’ APA #35, page 471).
8. On the date of the accident in issue, Claimant (a) weighed 206 lbs. at 5 feet, 2½ inches tall, and (b) had a BMI of 37.22. Temporal medical evidence refers to Claimant as morbidly obese (*e.g.*, Claimant’s APA #1, pages 6 and 22; Claimant’s APA #2, page 42; *See also* Claimant’s APA #2, page 63; Claimant’s APA #39, page 481).
9. Claimant has pre-existing restrictive lung disease dating back to at least 1993; the degree of impairment varied from “mild” to “moderate,” as established by tests from Savannah River Site where Claimant previously worked for 28 years (1983-2011). Claimant’s PFT’s from 2008-2011 consistently showed restrictive lung disease with FVC and FEV1 in the 65-80% of expected. Therefore, Claimant’s counsel’s leading question-- regarding the fact that a hospital pulmonologist (Dr. Kulkarni) stated that Claimant “may have possible RADS” related to her exposure--is not dispositive or even persuasive, as this

physician had no records relating to Claimant's pre-employment lung testing. This same physician also wrote "no indication for bronchoscopy" (Defendants' APA #27, page 406; Defendants' APA #29, pages 420-421; Hearing Transcript, pages 18-19 and 112; Claimant's APA #2, pages 53 and 55; Claimant's APA #26, pages 268-270).

10. Prior to starting work for Employer, Claimant did not pass her PFT test. This evidence is unrefuted, and based on the credible testimony of Mr. McDowell (Hearing Transcript, pages 154-155).
11. Claimant has cats in her home. However, Claimant has told post-exposure providers that she avoids any irritants, and that she must wear a mask outside because of weather, air quality, and random exposure to irritants (e.g., Claimant's APA #4, page 126; Defendants' APA #28, page 408; Claimant's APA #27, page 292)
12. Given (a) Claimant's educational achievements and intellect, (b) the various jobs she previously held while employed with Savannah River Site, (c) the testing she underwent numerous times at Savannah River Site, (d) her E.M.T. training, (e) her ability to recount in great detail treatment she received from a cardiologist in 2007, (f) her ability to recount in great detail work-up she underwent for kidney stones in 2010, and (g) her general level of comfort discussing complex medical terminologies and medications, I do not find credible in the least Claimant's testimony that she was "not aware" of the fact that she had pre-existing restrictive lung disease, as such had been documented multiple times (Hearing Transcript, page 49).
13. Claimant also has pre-existing hypertension and osteoarthritis for which she was taking medications prior to the date of the accident in issue. Claimant has taken beta blockers for her hypertension. One of the medications she was taking on the date of the accident

(for hypertension) has diuretic properties. [Claimant also testified at the hearing that her legs swell]. The other medication Claimant was taking prior to the exposure was for muscle spasms/pain for her osteoarthritis (hip and SI joint). According to medical evidence, both prescriptions were ongoing and “active” when the exposure occurred. Claimant’s use of the words “resolved” and the past tense “was” (as to the ongoing hip/SI joint condition and use of medication) damages her credibility, particularly as she is requesting the Commission to order Defendants to pay for “bone pain,” “muscle spasms,” and “muscle pain,” all of which conditions were being actively treated. After the exposure, Claimant has similarly sought treatment for hip pain, femur (leg) pain, and pelvic pain (e.g., Claimant’s APA #1, page 1; Claimant’s APA #2, pages 21 and 71; Defendants’ APA #31, page 428; Claimant’s APA #1, page 14, showing that Claimant’s previous prescription of Flexeril (which treats muscle spasms) was active at the time of the exposure; Claimant’s APA #2, page 42—documenting that Claimant’s osteoarthritis is located in her pelvis and thigh as well; Cf. Hearing Transcript, pages 49-50, 72-73, and 110).

14. Claimant has pre-existing kidney disease according to medical evidence. One of Claimant’s own experts states that kidney disease is a risk factor for heart block (Defendants’ APA #31, page 427, stating that Claimant’s past medical history includes kidney disease; Claimant’s APA #40, page 501, documenting kidney scar formation and previous inflammatory process; Deposition of Dr. Lane, page 25).
15. Claimant has alleged to providers and testified that she has numbness and tingling in both hands which she also relates to the accident in issue. However, Claimant had prior numbness and tingling in one or both hands, such that she was previously assessed for

carpal tunnel syndrome. There is no evidence or opinion that Claimant's pre-existing condition was aggravated (Hearing Transcript, pages 52-53; medical evidence in its entirety, e.g., Claimant's APA #1, page 9; Claimant's APA #2, pages 21 and 44; Defendants' APA #29, page 419).

16. Claimant has pled a loss of sense of smell and taste, and subjectively reported this complaint to various providers including Dr. Alleyne. Inconsistently, Claimant has told both Dr. Mitchell and Dr. Hooper that she is sensitive to various odors because of the exposure. Claimant cannot have it both ways (Hearing Transcript, pages 50-51; Claimant's APA #4, pages 125; Cf. Defendants' APA #28, page 408).
17. Claimant underwent a work up in 2007 for an irregular heartbeat. In 2014, Claimant's hypertension medication (Atenolol) was changed due to bradycardia (Hearing Transcript, page 48; Defendants' APA #26, page 393; Deposition of Dr. Mitchell, pages 13-15; Claimant's APA #2, pages 54 and 71).
18. A CT scan of Claimant's abdomen from 2010 showed atherosclerotic vascular disease in the arteries of the abdomen. Although not dispositive, this evidence is uncontroverted. Claimant's 2016 (post exposure) abdominal CT for her unrelated gallbladder shows atherosclerotic vascular disease as well (Claimant's APA #40, page 501; Defendants' APA #30, page 424).
19. Claimant has a family history of hypertension, heart failure, and stroke/TIA (Claimant's APA #1, page 1; Claimant's APA #2, page 77).
20. Literature from the CDC states that effects from HF are dependent on the (a) concentration of the HF, (b) the duration and size of the exposure, and (c) the penetrability of the site of the exposure. Defendants' expert Dr. MacKinnon agrees that

the two most important factors are duration of exposure and concentration of the acid (See Deposition of Dr. Alleyne, page 46, citing a CDC article; Deposition of Dr. MacKinnon, pages 16 and 20-21; *See also* Deposition of Dr. Lane, page 15, lines 2-6).

21. In the mechanics of the accident, Claimant opened a door to the “patio” to dump waste, smelled HF in “*a draft of air [that] came in,*” and immediately closed the door back. Claimant never proceeded through the door which was not, according to her deposition testimony, opened very far [emphasis added] (Hearing Transcript, *e.g.*, pages 22-32, 38, 80-81, and 83-84; Claimant’s Deposition).
22. According to Claimant, she took a total of several breaths (“three, no more than four”); I therefore do not find believable Claimant’s statements to providers that she was exposed to HF for “three minutes” or even “one to three” minutes (Hearing Transcript, pages 25 and 81; Claimant’s APA #7, page 162; Defendants’ APA #27, page 395; Defendants’ APA #28, page 408; Deposition of Dr. Mitchell, page 48; Claimant’s APA #1, page 5).
23. The Safety Data Sheet’s first page (Hazard Statement) states that HF “may cause damage to organs through *prolonged or repeated exposure*” [emphasis added]. Claimant alleges that her exposure to HF damaged her heart (Claimant’s APA #18, page 183).
24. When Claimant opened the door to the patio, she was wearing safety glasses, acid gloves, an acid apron, safety shoes, and a face shield (Claimant’s APA #12, page 167; Claimant’s APA #14, page 179; Hearing Transcript, pages 20 and 28).
25. The “patio” is not fully enclosed, but rather open to the outside air on one side. Fumes can escape to the outside and are not enclosed within four walls, a floor, and a roof, *i.e.*, the area is ventilated (Hearing Transcript, pages 137-138, 156, and 195).

26. The source of the HF leak was a pinhole in an economizer carrying HF at up to 40% concentration along with two other chemicals. The economizer had been drained and some HF-saturated insulation remained on the outside of the economizer. The location of the HF-saturated insulation was approximately 12 feet from the door Claimant opened, and the nearest venting carboy was approximately 25 feet away from the door. McDowell explained to my satisfaction his use of "40% concentration" and he is, although not an expert, well-versed with HF in the workplace. At the time of the exposure, the leak had been contained and the economizer was being prepared for maintenance and the insulation was saturated (*e.g.*, Hearing Transcript, pages 139-145, 166, and 185; Claimant's APA #11, page 166; Claimant's APA #16; Claimant's APA #12; Claimant's APA #13).
27. After Claimant took three to four breaths and shut the door, another employee (Lonnie Parsons) offered to dump the waste for Claimant and she accepted his offer. In order to dump the waste, Mr. Parsons walked twice by the carboy venting the economizer. Claimant admits that Mr. Parsons was not in any physical distress when he returned the container to Claimant (Hearing Transcript, pages 32-33, 85-87, and 188).
28. Mr. Parsons did not wear a respirator. Mr. Parsons worked on the patio for approximately **eight hours** in the area where the HF leak was located but did not develop any adverse conditions including respiratory, heart, or otherwise. Sometimes he worked two to three feet away from the carboy, "even standing over top of it." Although the effect of HF on Mr. Parsons is not dispositive as to the effect on Claimant, I do give this evidence great weight *vis a vis* the three to four breaths Claimant took, as duration of

- exposure is a factor to consider (Hearing Transcript, pages 32, 40-41, 79-80, 140, 185-186, 188-189, and 196).
29. Mr. Parsons, a chemical operator and 11-year employee, is very credible. He testified that as far as Claimant is concerned, he remembers no coughing, observed no facial redness, observed that Claimant had no difficulty talking, and observed that Claimant appeared in no distress (Hearing Transcript, pages 184-185 and 187-189).
30. After the three to four breaths Claimant took, she went "straight to the lab" (and away from the fumes) where she told her co-workers she was "angry," and told her co-workers that "somebody is going to get somebody killed down there." Claimant then went to the control room (also in an area away from the fumes) for fresh air, and was monitored. According to Chip Babb, Claimant's symptoms in the control room were slight irritation in her throat and chest and "something in the back of her throat that was inducing a cough." Claimant displayed no symptoms which raised any concern; nor did she request medical care from a physician. The Safety Data Sheet states that appropriate treatment is to remove the person who inhaled HF to fresh air and to get medical attention "if you feel unwell." Claimant told the individuals in the control room that "What's it going to take, is somebody going to have to get killed in this place for people to do the right thing" and that "some things need[ed] to change around here before someone really gets hurt" (Claimant's APA #12, page 167; Hearing Transcript, pages 36-42 And 88-89; Claimant's APA #14, page 179; Claimant's APA #18, page 184).
31. I give greater weight to the testimony of Mr. Parsons than I give to Claimant. I base this finding on my observations of these witnesses' demeanor and on the delivery of their testimony.

32. Like Mr. Parsons, Mr. McDowell observed Claimant with no coughing and with no respiratory distress. Mr. McDowell also observed **no facial redness after the exposure**, as Claimant and even her husband have alleged to providers, and Claimant has so testified. I note that Claimant has a prior history of rosacea (Hearing Transcript, pages 42-43 and 149; Claimant's APA #2, page 52, which lists Claimant's prior medical conditions; Defendants' APA #28, page 408).
33. One of the potential effects of HF exposure is weight loss. Claimant, by contrast, has gained 15 lbs. since the date of exposure (Claimant's APA #18, page 185; Hearing Transcript, page 50).
34. I give great weight to the testimony of Mr. McDowell, a 28-year employee, based upon his demeanor and the straightforward delivery of his testimony. Boosting his credibility is the fact that Mr. McDowell gave answers against his employer's self-interest, such as when Mr. McDowell testified that even though the leak had been secured at the time the carboys were attached, the insulation on there would have been saturated with HF as well as sevoflurane and some HFIP. Mr. McDowell also admitted that in hindsight, better communication would have let all employees know about the leak, and/or barriers should have been in place. Mr. McDowell does not pretend that Claimant knew or should have known about the leak, which would have been far more expedient. According to Mr. McDowell, the amount of HF was "trace," and was not measurable as he explained at the hearing, testimony which dovetails with the fact that Mr. Parsons had a substantially greater duration of exposure than Claimant yet had no residual effects (Hearing Transcript, pages 134-171; Claimant's APA #8, page 163).

35. Mr. McDowell, who has dealt with several HF exposures regarding other employees in the past (both inhalation and skin), found it highly unusual that Claimant had none of the symptoms he would have expected in the control room where Claimant went after the accident. He also found it unusual that notwithstanding Claimant's later complaints to providers, her blood work was negative (Hearing Transcript, pages 146-148).
36. During Dr. MacKinnon's deposition, Claimant's counsel points out the fact that Claimant had testified under oath at her deposition that her face was red after the exposure as noticed by her co-workers, as if this testimony proves Claimant had such a reaction to the HF. However, there is no temporal medical record stating that Claimant's face was red after examinations of her skin or that she had a rash (in fact, the first medical record specifically states that Claimant had no rash). Further, Janice Tierney, the co-worker who allegedly said "your face is so red" was not at the hearing; Claimant did not call Ms. Tierney as a witness. Nor did Mr. McDowell or Mr. Parsons observe any facial redness as set forth *supra*, and I give their testimony greater weight than I give Claimant's (Deposition of Dr. MacKinnon, page 63; Claimant's APA #1, page 5; Hearing Transcript, page 42).
37. I also give great weight to the testimony of George Campbell, a chemical operator and 11-year employee. Mr. Campbell is extremely credible because he readily admits that his exposure to HF on the date of the accident made his eyes start burning, made him cough, and made it difficult for him to catch his breath. As it would have been far more expedient for Mr. Campbell to testify that he had no problems whatsoever after his own exposure, this testimony contains salient statements against Employer's interests. Like Mr. Parsons, Mr. Campbell did not wear a respirator, and was exposed to HF for two to

- three minutes as he dumped slops. Mr. Campbell testified that his physical symptoms cleared up after he got fresh air and, although not dispositive, Mr. Campbell has no lingering effects from the HF exposure (Hearing Transcript, pages 173-182).
38. Dr. Early (Defendants' expert toxicologist) states that the amount of HF needed to cause hypocalcemia or hypomagnesemia is "substantial," and most commonly occurs after dermal or oral ingestion. Although not dispositive, no HF touched Claimant's skin as she was wearing safety gloves; nor did Claimant swallow any HF, as she was wearing a face shield. Dr. Early also points to the fact that electrolyte abnormalities are noted in the first 24 hours. Claimant's labs were normal for more than a week, which Dr. Early states is not surprising given Claimant's limited exposure to HF (Defendants' APA #27, page 399).
39. Claimant's exposure to HF occurred between 5:25 a.m. and 5:40 a.m. before her shift ended (Claimant's APA #12, page 167; Claimant's APA #14, page 179; Hearing Transcript, pages 19-20).
40. Shortly after 6:00 a.m., Claimant returned from the control room to her office in the lab (Claimant's APA #14, page 179).
41. At 6:35 a.m., Mr. Babb checked on Claimant. She told him that she was doing better, and that the coughing had subsided. Mr. Babb's recollection dovetails with Mr. Campbell's experience after he got fresh air (Claimant's APA #14, page 179).
42. Although Claimant professes (a) to be well versed with HF, and (b) that she had a pounding heart after the exposure, she did not request to see a doctor (Hearing Transcript, pages 76 and 87-89).

43. At 6:58 a.m., Claimant sent an e-mail she typed regarding the exposure incident, requesting a meeting with management and safety, but making no request for medical care for any ongoing injuries or symptoms (Claimant's APA #7, page 162; Hearing Transcript, pages 90-93).
44. Claimant's shift ended at approximately 7:00 a.m., and she went home (Hearing Transcript, pages 43-44).
45. Claimant went to Urgent MD (approximately 12 hours later) on August 11, 2015, where she was seen at approximately 7:20 p.m. Contrary to Claimant's (a) testimony at the hearing and (b) myriad statements to various providers (including her own experts), **providers at Urgent MD documented the fact that Claimant had no cough and no shortness of breath**. I give great weight to this evidence, which directly contradicts Claimant's testimony that she continued to have persistent coughing and shortness of breath. This medical record is co-signed by Dr. Payne (Claimant's APA #1, pages 5-8).
46. Contrary to Claimant's sworn testimony at the hearing that she felt a heart problem after the exposure (testimony: "my heart was pounding" and "my pounding heart" and "my heart is like pounding out of my chest"), medical evidence from Urgent MD documents the fact that Claimant actually **denied chest pressure or chest pain; nor did Claimant make any other chest complaint. A clinical examination found Claimant's chest, lungs, and breaths sounds all "normal."** Additionally, Claimant is specifically noted to have no rash; by contrast, Claimant has told providers she had lesions on her skin she attributes to the HF exposure. Nor is there any medical evidence that Claimant's face was "red," as she and her husband have told providers. Claimant was able to **"articulate well with normal speech /language, rate, volume and coherence,"** and Claimant had

- an appropriate mood and affect, clinical findings inconsistent with Claimant's testimony that she was disoriented and in shock/mental distress. Urgent MD found **no wheezing, no diarrhea, no nausea, and no vomiting**. Claimant's labs were normal (Claimant's APA #1, pages 5-8; Hearing Transcript, pages 27-28, 31, 36, and 93-94; Defendants' APA #27, page 402—however, Dr. Early states that gaseous HF exposure of this nature would not typically cause chronic skin abnormalities).
47. Claimant's testimony at the hearing that she had six bouts of diarrhea and abdominal pain that began approximately seven and one-half hours after the exposure (which condition Claimant relates to the exposure) is refuted by the Urgent Med records of 7:20 p.m. on the date of the exposure—more than 12 hours after the exposure. **Claimant specifically denied any diarrhea during this medical visit**. This inconsistency and Claimant's exaggeration (actually an outright untruth) greatly damage her credibility (Hearing Transcript, page 44; Claimant's APA #1, page 5).
48. Claimant told Urgent MD providers on the date of exposure (August 11, 2015) that she was exposed to HF for approximately 3 minutes (Claimant's APA #1, page 5).
49. At Urgent MD on the date of exposure, Claimant's actual complaints were headache, sore throat, and dry nose. After Claimant underwent an examination, she was instructed to use Ibuprofen for her headache, and was given no restrictions (Claimant's APA #1, pages 5-8).
50. Through her testimony and demeanor at the hearing, Claimant gave the impression of someone who is angry and indignant, about both the exposure and its aftermath. Claimant alleges that she requested calcium gluconate in the control room but was denied. Given the level of her symptoms in the control room, Claimant's testimony that

she requested calcium is not believable, as I must factor in her other untruths and exaggerations. **Nonetheless, Claimant's calcium levels were checked at Urgent MD on the date of the exposure, and were within normal limits. In fact, all Claimant's labs (including but not limited to magnesium) were within normal limits.** Claimant's calcium levels were checked again at the Emergency Room two days after the exposure, and were again documented within the range of normal (Claimant's APA #1, pages 5-8 and 12; Claimant's APA #2, pages 23 and 25; Hearing Transcript, pages 37-39, 41, 167, and 169-171).

51. Both Dr. Early and Dr. Mackinnon state that the cardiac effects of HF are typically revealed by severe reductions in calcium and magnesium levels within the first 24 hours after exposure. Claimant's testing was consistently normal for two weeks (Defendants' APA #26 and Defendants' APA #27; Deposition of Dr. MacKinnon in its entirety; See also Claimant's APA #1, page 7).
52. I give greater weight to the opinion of Defendants' experts who state that exposure to HF results in immediate symptoms that improve over time. As Claimant's symptoms were mild immediately after exposure (throat irritation) this opinion dovetails with (a) Claimant's condition in the control room, (b) Claimant's condition in her office when Mr. Babb went to check on her, and (c) the clinical findings on the date of the exposure at Urgent MD. Claimant's testimony at the hearing was essentially that her condition was bad, got better (*e.g.*, no longer having the pounding heart symptom), and then became worse (Claimant's APA #14, page 179; Hearing Transcript, *e.g.*, page 93).
53. Claimant sought treatment at a follow-up visit with Urgent MD on August 13, 2015 (two days after the exposure). At this visit, Claimant subjectively reported worsening of

symptoms including shortness of breath, sore throat, coughing, headache, nausea, weakness, and numbness in her fingers bilaterally. Claimant also told these providers that her voice “comes and goes.” Claimant again denied any chest pain or pressure. Notwithstanding these subjective complaints, Claimant’s chest, lung, and heart exams were normal. Additionally, Claimant was medically documented to have no difficulty speaking, no airway distress, no dizziness, no skin lesions, and no focal neurological symptoms. Claimant’s labs were again referred to as normal. However, Claimant’s subjective complaints were not ignored. Because she complained of an alleged worsening, Urgent MD recommended Claimant be transported to the Emergency Room. I find it somewhat telling that given Claimant’s supposedly severe condition and symptoms, Claimant declined the ambulance offered to her (Claimant’s APA #1, pages 9-11).

54. At the Emergency Room on August 13, 2015, notwithstanding Claimant’s subjective complaints regarding her exposure, providers documented Claimant’s **normal pulmonary/chest/lung exam, neurological exam, speech, cognition, and memory.** Claimant denied any chest pain/problem and weakness. Claimant was again “[n]egative for rash.” Claimant’s chest x-ray was **negative for pleural fluid or pneumothorax, and her labs were negative as well.** Although Claimant reported diarrhea to these providers, Claimant inconsistently testified at the hearing that she had not had a bowel movement since August 11, 2015, the date of exposure. Claimant testified that she reported “bone” pain and muscle spasms to these providers, which complaints are not found in these records; in fact, Claimant’s musculoskeletal exam

showed normal range of motion and no negative findings (Claimant's APA #2, pages 21-41; Hearing Transcript, pages 56-57 and 95-98).

55. Claimant returned to Urgent MD on August 15, 2015 (four days after the exposure), and presented as "mildly hoarse" with a "dry nose." Claimant's chest and lung exam was normal; her cardiovascular exam was normal as to rate and rhythm; her abdomen was normal; she had no edema in her legs; and had no impairment of recent or remote memory. Even Claimant reported that her sore throat, hoarseness, cough, and shortness of breath were "significantly improved." Claimant's lab levels were again found normal. Claimant's testimony at the hearing and her later statements to providers are inconsistent with these clinical findings. The last page of this report, containing the signature of the providers, was not provided to the undersigned by Claimant (Claimant's APA #1, pages 12-13; Hearing Transcript, pages 99-100).

56. Claimant returned to Urgent MD on August 19, 2015, complaining of diarrhea, headache, nausea, bone pain (femurs, pelvis and bilateral foot pain), hand tingling, constant cough, weakness, and a loss of sense of taste and smell. Nonetheless, Claimant's **lung and heart exams were normal**. Claimant is documented as giving **"poor effort on strength testing of bilateral hip flexors and quadriceps."** Further, providers noticed and documented that Claimant complained even with a light touch of her lower legs, which presentation providers found **"disproportionate to exam findings."** Claimant's lab findings were again documented as normal, and her EKG suggested "chronic" conduction abnormality, "i.e., non-industrial." In addition to these inconsistencies on presentation, these providers documented the fact that Claimant *"will not answer clearly if the albuterol and ipratropium jet nebulizer treatments improve her condition."* By

contrast, Claimant testified at the hearing unequivocally that the nebulizer helped. These medical records were also co-signed by Dr. Payne (Claimant's APA #1, pages 14-17; Hearing Transcript, pages 58-60).

57. At the hospital on August 21, 2015, Claimant's examination upon arrival and shortly before admission showed that Claimant **"does not appear to have any evidence of respiratory distress" and was able to give all history without any difficulty.** Her oxygen saturation is 100% on room air, not requiring any oxygen. On examination today there is no evidence of any wheezing or rhonchi. Chest x-ray shows no evidence of any significant changes" [emphasis added]. Claimant's PFT showed a "mild" to "moderate" restrictive defect (Claimant's APA #2, particularly page 51; See also Claimant's APA #3, pages 83-84).

58. On August 21, 2015, during hospitalization for Claimant's complaints she attributed to the exposure, Claimant was found to have a heart block, and a pacemaker was surgically implanted to provide pacing for her heart. Claimant told hospital personnel that her heart problem was caused by HF exposure (Claimant's APA #2, pages 53 and 64; Deposition of Dr. Aquilina, pages 5-6).

59. I find that this is a medically complex case. I therefore rely primarily upon the opinions from experts. I also find the testimony of Defendants' witnesses to be very reliable and credible for the reasons set forth in this Order.

60. Defendants are not required to disprove the compensability of a denied workers' compensation claim. Nor are they required to disprove any alleged injuries from an admitted accident. In this case, however, Defendants have in fact disproven Claimant's claims regarding any injury to her "bones," heart, neurological system, ability to smell

and taste, and any ongoing injury to her lungs. I base this finding primarily on the medical opinions and/or testimony of Drs. Feldman and Mitchell, and secondarily upon those of Drs. Aquilina, Early, and MacKinnon.

61. I give great weight to the findings of toxicologist Dr. Early (MD,MPH), who believes that Claimant's dyslipidemia, hypertension, and obesity are "much more likely" the cause of AV block than the alleged 10-day delayed onset of HF-induced toxicity. Dr. Early's report in its entirety is persuasive (Defendants' APA #27, including but not limited to page 401).

62. I give great weight to the entirety of the report from Dr. MacKinnon, as contained in Defendants' APA #26. Dr. MacKinnon has published and lectured throughout North America on the subject of HF exposures, injuries, and treatments. He also has been a telephone consultant worldwide for those individuals possibly exposed to HF, and has dispensed medical advice to other physicians, hospitals, and clinics. He worked for 35 years as a physician in a plant that manufactured HF. He has handled hundreds of cases of HF injuries. After reviewing all the evidence, I must agree with his finding that there are "many areas of contradiction" in this case. Dr. MacKinnon cannot be faulted for accepting Claimant's complaints at face value (he states that his patients generally tell the truth so he does not doubt Claimant has PTSD), because he was not at the hearing and has therefore not had the opportunity to review all the evidence, including but not limited to the credible testimony of Defendants' witnesses (Defendants' APA #33, as to Dr. MacKinnon's credentials; Deposition of Dr. MacKinnon in its entirety, including but not limited to pages 9-13 and 61).

63. As to the alleged heart injury, I give the greatest weight to the opinions and conclusions of Dr. Feldman (M.D., MHCM, FACC). Dr. Feldman states that Claimant's electrolytes were normal on three different blood draws after the exposure, and that it is "physiologically improbable that there is a causal relationship between HF and high grade heart block." I give great weight to Dr. Feldman's report in its entirety (Defendants' APA #30, including but not limited to page 425).
64. As to the alleged heart injury, I give great weight to the testimony and treatment records of Dr. Aquilina, Claimant's own treating cardiologist. As to causes of heart block, Dr. Aquilina, who readily admits that he is not an expert on HF, states that **most causes of heart block are unknown**. Most blocks are degenerative related to getting older, but sometimes develop in patients with heart disease, muscle dysfunction, coronary disease and a "whole host of different things, but there's never any test you can do to say 100 percent why someone develops complete heart block." Dr. Aquilina goes on to say that "we do see heart block in all age groups throughout patients' lives and we don't really know what causes them most of the time." Dr. Aquilina **signed a statement on Claimant's short term disability application indicating that he does not know whether Claimant's heart block is related to a sickness or injury arising out of her employment; as to causation, he checked the box "unknown."** Dr. Aquilina terms Claimant's exposure to HF as only a "possible" reason. Dr. Aquilina states that hypophosphatemia does not usually cause an irregular rhythm, "**not that I've ever seen actually.**" Finally, Dr. Aquilina states that vasovagal reflex is "not related at all" to AV heart block. I give this evidence great weight (Claimant's APA #3, page 109; Deposition of Dr. Aquilina, in its entirety, including but not limited to pages 4-21).

65. As to the alleged heart injury, I considered the opinion of Claimant's expert, Dr. Lane (a cardiologist), but do not give Dr. Lane's ultimate conclusions as much weight as I give Dr. Feldman's. Nonetheless, even Dr. Lane does not believe that Claimant's brief HF exposure directly caused Claimant's heart block: Dr. Lane writes in a treatment note that there is "[n]o known exposure that would cause this degree of heart block without an electrolyte abnormality" [emphasis added]; Claimant had no electrolyte abnormality as evidenced by multiple post-exposure blood tests. Instead, Dr. Lane bases her causation opinion in large part upon a single syncopal episode that occurred 26 years ago when Claimant was pregnant, which Dr. Lane believes is an underlying vasovagal effect which combined in some way with Claimant's "severe" respiratory problems (including "wheezing") from the exposure. **This theory, however is notably nowhere to be found in any of Dr. Lane's treatment records, and does not appear until after she met with Claimant's counsel and sat for a deposition.** I find Dr. Lane's opinion/testimony lacking for several reasons: (a) Dr. Lane admits that she has never reviewed even a single medical record regarding the sole and remote syncopal episode upon which she bases her opinion; (b) Dr. Lane's opinion is premised upon the allegedly "*severe coughing,*" "*extreme coughing,*" "*severe respiratory issues,*" and "*wheezing*" Claimant had after the exposure, that Claimant was "*so ill with the respiratory effects,*" and "*[p]rimarily because of the ten-day history [Claimant] had been giving us of the initial severe episodes of shortness of breath and coughing and wheezing and gasping,*" none of which are supported by temporal (and multiple) clinical exams; (c) Dr. Lane, who states that **hypertension and kidney disease are risk factors for heart block**, issued an opinion unaware that Claimant has a history of hypertension ("I can't recall" and "I don't

recall the details. I don't"), until she was reminded of Claimant's history; (d) Dr. Lane may also be unaware that Claimant has a history of kidney disease, as documented in Defendants' APA #31, page 427, and Claimant's APA #40, page 501; (e) Dr. Lane is unaware of Claimant's pre-existing respiratory issues including her PFT testing ("[n]ot that I remember in hearing her history"); and (f) Dr. Lane was "unaware" that Claimant had been on a beta blocker Atenolol in 2014, the year prior to the exposure ("I don't remember that"). Dr. Lane's opinion is frankly not impressive. However, given the subjective complaints that Claimant has made to Dr. Lane regarding the exposure and alleged symptoms after the exposure (refuted by multiple Urgent MD and hospital records), as well as the omissions (*e.g.*, Claimant's pre-existing restrictive lung disease, and her clinic exams at Urgent MD), Dr. Lane's opinion is not really surprising (Deposition of Dr. Lane in its entirety, including but not limited to pages 7-8, 15-16, 18-27, 32-41, and 44-48; Claimant's APA #2, pages 54 and 66).

66. As to the alleged heart injury, although Dr. MacKinnon defers to a cardiologist as to the ultimate question/causation of a heart block, Dr. Mackinnon notes that exposure can cause a heart problem "very early on" because of rapid and severe reductions in calcium levels. Multiple tests over the course of a week showed Claimant's calcium levels to be normal. Dr. MacKinnon believes that Claimant's block was due to arteriosclerotic **heart disease and not HF exposure** based upon the nature and duration of Claimant's exposure (Defendants' APA #26, page 393; Claimant' APA #1; Claimant's APA #2; Deposition of Dr. MacKinnon in its entirety, including but not limited to pages 62-63).

67. As to the alleged heart injury, I considered the opinion of Dr. Setaro but do not find it as persuasive as Dr. Feldman's. Dr. Setaro writes that "no other conceivable reason was

found or has been offered” as to causation, a statement which is not borne out by the other medical opinions and evidence. Nor does Dr. Setaro acknowledge that Claimant is morbidly obese, has kidney disease, and has abdominal arteriosclerosis/atherosclerosis (Claimant’s APA #24). Defendants’ APA #30, page 424.

68. As to pulmonologists, I give great weight to the opinions/testimony of Dr. Mitchell, a board certified pulmonologist (who is also board certified in internal medicine, critical care, and sleep medicine). Dr. Mitchell opines that the HF exposure did not result in permanent injury to Claimant’s lungs; Claimant’s pulmonary function testing produced similar results as those before the exposure. I give great weight to Dr. Mitchell’s testimony regarding Claimant’s chest x-ray (which was clear), ruling out chemical pneumonitis, and his explanation regarding this issue. Further, during his clinical exam, Dr. Mitchell found no wheezing; Claimant’s lungs were clear bilaterally. Claimant told Dr. Mitchell that she continues to have a cough, which was not the case during the four hour hearing (referenced infra). Finally, Dr. Mitchell also opines that there is no causal relationship to the exposure and the AV block Claimant suffered two weeks later, although Dr. Mitchell to his credit ultimately defers to a cardiologist on the issue of heart block as he is a pulmonologist and not a cardiologist (Deposition of Dr. Mitchell in its entirety including but not limited to, pages 6-12, 21, 33-34, 44, and 52; Defendants’ APA #28 in its entirety; observations of the undersigned at the hearing).
69. According to Dr. Mitchell, a lot of people develop complete heart block for unknown reasons. This statement is consistent with the testimony of Dr. Aquilina. Even Dr. Lane admits that heart block can occur from entirety natural reasons (Deposition of Dr. Mitchell, page 7; Deposition of Dr. Lane, page 35).

70. Dr. Mitchell states that Claimant is at maximum medical improvement from the exposure, and has no restrictions as a result of the exposure. As far as treatment for any pulmonary problem, Claimant needs to lose weight. Dr. Mitchell sees “no indication” for the inhaled medications Claimant uses (Defendants’ APA #28, pages 417-418).
71. As to pulmonologists, I also give great weight to the report of Dr. Spangenthal, who opines that Claimant’s exposure to HF has had no long term negative impact on her pulmonary system. Dr. Spangenthal believes the fact that Claimant’s weight (approximately 220 lbs. currently) and morbidly obesity could account for shortness of breath with exertion. However, Dr. Spangenthal specifically states that Claimant’s exposure has had no long-term negative impact on Claimant’s pulmonary system.
72. Dr. Spangenthal opines that Claimant has reached maximum medical improvement, has no physical restrictions, and requires no additional medical treatment (Defendants’ APA #29, page 423).
73. As to pulmonologists in this case, I considered the opinions/testimony of Dr. Alleyne. However, Dr. Alleyne states that a patient’s “history is really the key to the diagnosis,” and states that all Claimant’s alleged problems developed “immediately” after the exposure. By contrast, Claimant’s own theory of the case is that there was delayed onset regarding her heart; regardless, Urgent MD documented no wheezing, no breathing problems, no abnormal labs, and no heart issues or complaints for more than a week after the exposure. Even Dr. Alleyne states that chest pain and wheezing start typically within 24 hours; Urgent MD records document the fact that there was no wheezing and no shortness of breath; Claimant’s heart issues did not occur until a week to 10 days after the exposure according to medical evidence. When confronted on cross examination with

the fact that Claimant's post-exposure RADS (Dr. Alleyne's diagnosis) is "moderate"—the same as Claimant's pre-existing baseline from the previous employment—Dr. Alleyne's actual response is "[b]ecause when you talk to the patient, her history is classic for RADS and, in addition to the RADS, she also sustained some other injuries as a result of the hydrogen fluoride exposure." This is not a persuasive "explanation." Further, and just as concerning, Dr. Alleyne states that normal FEV1/FVC should be between 70 and 90; below 70 would be obstruction; above 90 would be restriction. Claimant's testing shows 75 (the normal range), yet Dr. Alleyne actually states that he "do[es] not see her working in the future," even in a sedentary capacity within which Claimant has worked in the past. One of Dr. Alleyne's reasons is ostensibly in part because he says Claimant is sensitive to odors—odors which Claimant has told other providers and the undersigned that she cannot detect). I cannot help but contrast Dr. Alleyne's statement—that Claimant is not capable of working—with Dr. Aquilina's post-pacemaker medical record of April 2016 documenting that Claimant has been "*doing well over the past six months*" other than her (unrelated) gallbladder and some "*occasional*" bronchospasm; and that Claimant "*continues to do her activity without any new limitations*" [emphasis added]. Dr. Aquilina found Claimant's lungs clear with no wheezes. I similarly do not find persuasive Dr. Alleyne's testimony that "RADS is really based on your [subjective] history" and "based primarily on your [subjective] history" as opposed to based upon pulmonary function tests. Dr. Alleyne also states that Claimant's previous restrictive defect was most likely based on her obesity; in fact, Claimant is, as of the date of the hearing 15 lbs. heavier. Dr. Alleyne does not opine that Claimant's preexisting lung condition was aggravated (Deposition, pages 22-23), as he will not really acknowledge

that she had one. As to heart block, Dr. Alleyne, unlike Dr. Mitchell, refuses to defer to a cardiologist. Dr. Alleyne is not a cardiologist; nor has he ever been a cardiologist. Dr. Alleyne bases his opinions on the assumption that Claimant had no breathing issues prior to August 11, 2015, and that all her problems developed “immediately.” Dr. Alleyne does not acknowledge the fact that Urgent MD found no breathing problems including wheezing from the exposure on August 11, 2015. Further, in his testimony Dr. Alleyne states the Claimant “entered a room” where the HF was, when Claimant never entered the room. Additionally, I cannot ignore the fact that **Dr. Alleyne admitted at his deposition to having discussed the case with Claimant’s counsel “at least” three or four times prior to the deposition.** Finally, Dr. Alleyne admits that he does not know what the acceptable limit of HF exposure, and then states that there is no acceptable limit. That testimony would seem to suggest that Mr. Lawrence (who has inhaled HF during his employment with Employer, as he is familiar with its odor), Mr. Parsons, and Mr. Campbell should all have fallen ill. Of all the experts in this case, Dr. Alleyne’s testimony comes across as the most outcome-determinative of any, and for the reasons set forth in this finding, I lend his ultimate conclusions little credence or weight (Deposition of Dr. Alleyne in its entirety, including but not limited to pages 9-12, 14, 16-17, 19, 23, 27, and 32-43; Claimant’s APA #3, page 116, but also see pages 104 and 106 (“no wheezes, rales, rhonchi”; Hearing Transcript, page 50).

74. Claimant’s counsel is correct when he points out that Dr. Mitchell’s report contains a mistake regarding exposure to HCL rather than HF, and a mistake in one portion of a record that refers to Claimant’s weight as 241 (another portion of the report correctly records Claimant’s weight as 221). The body of Dr. Mitchell’s report in large part

compares/contrasts Claimant's pre- and post-exposure lung condition, and is not an opinion regarding the hazards of HF, as Dr. Mitchell readily admits in his deposition that he cannot recall ever seeing a patient exposed to HF and that he is not an expert in HF. Dr. Mitchell clearly states at his deposition that it was HF to which Claimant was exposed; there is no confusion or equivocality. As far as any error as to Claimant's weight, Claimant was already medically documented as morbidly obese on the date of the exposure and has gained 15 lbs. since. However, any such mistakes in Dr. Mitchell's report pale in comparison to the flaws in Dr. Alleyne's opinions as set forth *supra* (Defendants' APA #28; Deposition of Dr. Alleyne, pages 27-28; Deposition of Dr. Mitchell, in its entirety including but not limited to pages 5, 10, 16, and 37; *See also* Claimant's APA #2, page 63, dated 10 days after the date of exposure as to "morbid obesity").

75. As to the testimony given at the hearing, I find that Defendants' witnesses gave credible, straightforward answers, sometimes saliently against Employer's interests. The substance of these witnesses' testimony (couple with their demeanor) eliminated any concern I had that they might either be "cowed" (worried about losing their jobs or facing other punitive measures) or simply looking to serve their employer at the hearing. I base this finding on the credible testimony of Mr. McDowell, Mr. Parsons, and Mr. Campbell.
76. By contrast, Claimant's testimony is laced with exaggeration and untruths.
77. Further, Claimant's presentation at the hearing (approximately four hours in duration) was inconsistent and uneven given the injuries alleged and her subjective statements to providers. Claimant's contention that her voice "comes and goes" could have been believable, but not based upon how Claimant's voice came and went (not within words or

sentences), but particularly at the beginning of cross examination (Hearing Transcript, page 76). However, Claimant was inconsistently able to raise the volume of her voice on command). These discrepancies were neither subtle nor convincing. **I also note that on August 13, 2015 (two days after the date of exposure), Claimant was “negative for voice change.”** Additionally, given the nature of the (a) contentions alleged and (b) the complaints Claimant has made to providers, I was surprised that Claimant did not cough any more often or differently than anyone else in the room (Claimant’s counsel actually coughed the most of anyone in the room, and even asked for water as reflected in the transcript). My observations (the virtual absence of any coughing by Claimant) led me to ask Claimant if her cough had resolved. Claimant responded that it had not. Nor did Claimant ever leave the courtroom coughing. Claimant told Dr. Mitchell that she continues to have a cough, but Claimant inconsistently told a rheumatologist that two months before the hearing that her only respiratory complaint is “shortness of breath.” Nor did Claimant have any chest pain or palpitations. Moreover, **Claimant’s recall/memory at the hearing was nothing short of impressive.** By contrast, Claimant has told myriad providers (*e.g.*, Dr. Mitchell and Dr. Carbone’s practice) that she has memory problems stemming from her exposure to HF and/or her alleged PTSD. Nothing could be further from the truth. At the hearing, Claimant remembered the name (both first and last) of the Physician’s Assistants who treated Claimant at each post-exposure medical visit **1½ years ago**, corrected her attorney who thought one of the physician’s assistant’s name was “Baird,” and even correctly spelled the name (“B-U-I-R-D”) for the court reporter. Claimant remembered that Dr. Kulkarni is an associate of Dr. Brannen, and corrected the defense attorney when he referred to Dr. Brannen as “Dr. Brennan.”

Further, Claimant remembered the first and last name of the attending physician who treated her at the hospital, and knew that Dr. Chand was a hospitalist who discharged her (she first stated that she did not remember being treated by Dr. Chand, and then explained that he had never treated her). This list of examples is not exhaustive. I additionally note that Claimant's attorney sent her for a psychological evaluation; notwithstanding Claimant's memory complaints to the evaluator, the evaluator found that Claimant demonstrated **"no evident memory problems or recall difficulties" during the interview [emphasis added]**. Finally, for reasons only known to Claimant, she was evasive—in both words and demeanor--when asked on cross examination who referred her to Dr. Alleyne, whose office is two hours away from her home (*See e.g.*, Hearing Transcript, pages 38, 45, 52, 59, 73, 76-77, 92, 102-104, 109-113, and 198; Claimant's APA #27, page 290; Claimant's APA #41, page 505; Defendants' APA #28, page 408; Claimant's APA #2, page 21—"negative" for "voice change;" page 22 —"**Cognition and memory are normal**").

78. Claimant is inconsistent in her complaints to providers. Although Claimant has told some providers that she "never" had GI issues before the exposure, and attributes her GI issues to the exposure, Claimant has inconsistently denied any constipation, diarrhea, vomiting, and nausea to Dr. Alleyne at multiple visits. She also denied any gastrointestinal problem ("no vomiting, diarrhea, or abdominal pain") to Dr. Duncan. [I note as an aside that Claimant has various pre-existing allergies (including but not limited to lactose) which can cause diarrhea.] Claimant has complained of constipation to some physicians, and denied it to others. Claimant has reported constant headaches to some providers (including but not limited to the psychologist to whom Claimant was sent by

her attorney), and denied having headaches to others. Claimant told the pulmonologist to whom she was sent by her attorney that she has episodic wheezing; at a cardiology visit just the day before with Claimant's treating cardiologist, no wheezing was documented (Claimant also told her cardiologist that she was "currently involved in a legal case regarding Workmen's [sic] Compensation"). Claimant has complained of shortness of breath and cough to some providers, but in a review of systems with a non-workers' compensation physician (one year after the exposure), Claimant denied any shortness of breath or cough. As to psyche, a non-workers' compensation physician documented Claimant's normal mood and affect, evidence to which I give greater weight than the report of a one-time visit to a psychologist arranged by Claimant's attorney in anticipation of litigation. In contrast to the normal mood and affect documented by the non-workers' compensation physician, Claimant displayed "extreme" symptoms to the psychologist to whom she was sent by her attorney. When Claimant sought treatment with a rheumatologist for pain she attributed to the exposure, the rheumatologist found "No joint swelling in any joints." At the hearing, Claimant attributed her hand/arm tingling to the exposure. By contrast, Claimant told her treating rheumatologist two months prior to the hearing that she has "No numbness, No tingling." I give greater weight to these inconsistencies than I give to any "sworn testimony" from Claimant (e.g., Claimant's APA #2, page 64; Claimant's APA #3, pages 104, 106, and 118; Claimant's APA #4, pages 127, 134-135, 143, and 148; Claimant's APA #40, pages 499 and 503; Defendants' APA #31, page 428; Claimant's APA #2, page 69; Claimant's APA #41, pages 505-506; Claimant's APA #27, page 291; Hearing Transcript, page 53; Claimant's APA #39, pages 477-478).

79. I give great weight to a medical record of July 2016 (approximately one year after the exposure), generated when Claimant sought treatment for left ear pain and swelling from a possible insect bite. This physician was not a workers' compensation physician. In a review of systems, Claimant is documented as having “[n]o shortness of breath, no cough.” Claimant’s **respiratory exam was normal**. As to Claimant’s counsel sending Claimant for a psych evaluation, the medical note from the July 2016 insect bite documents an **appropriate mood and affect with no psychological problem noted**. This medical record refutes Claimant’s (a) hearing testimony and (b) statements to various providers (Claimant’s APA #39, pages 477-478).
80. At the rheumatology appointment in February 2017, providers found Claimant’s lungs clear to auscultation with **non-labored respirations** (Claimant’s APA #41, page 506).
81. I considered the testimony of Todd Lawrence (not an expert; he has a high school diploma), but find that he has an “ax to grind” (or at least a potential ax to grind) with Employer, as Mr. Lawrence was terminated for failing a drug test (Mr. Lawrence’s urine was, as he testified, “diluted, diluted. They say diluted”). Employer therefore denied unemployment benefits, and Mr. Lawrence subsequently obtained a note from a physician stating that Mr. Lawrence’s urine was diluted because he drinks a lot of water with medication. Nonetheless, even Mr. Lawrence himself has been exposed to HF (he testified as to its “strong pungent odor”) but admitted that he did not wear a respirator around the chemical on Employer’s premises; nor does Mr. Lawrence attribute any heart or lung injury to his inhalation exposures of HF. Mr. Lawrence is “not sure” as to whether his **hernia** was caused by exposure; that testimony alone does not serve him

well. Mr. Lawrence's testimony as a whole hurts Claimant's case more than it helps it. I do not find him very believable for the most part (Hearing Transcript, pages 114-132).

82. I considered Defendants' argument that Claimant's exposure was not an accident (the theory being that Claimant was explicitly warned or instructed not to open the door). However, Defendants' witnesses state that the door was yet to be barricaded and was not roped off. Further, Mr. Campbell's statement to Claimant that "I wouldn't go out that door" is not tantamount to a prohibition. Other written evidence shows that the door was not barricaded (Claimant's APA #12, pages 167-168; Defendants' APA #32, pages 430-431; Hearing Transcript, pages 175-176, 180-181, and 193; Claimant's APA #8, page 163; Claimant's APA #11, page 166; Claimant's APA #16; Claimant's APA #17).

83. Claimant's heart condition is not compensable. I base this on the reasons set forth in this Order. It is not likely the Claimant's exposure to HF caused her heart problem. The objective data from immediately after the accident fails to support a mechanism of injury involving an electrolyte imbalance, which is the mechanism by which HF causes injury to the heart. Even Dr. Lane, whom the Claimant relied on for support, denied the heart injury was caused by HF exposure. The other primary theory advanced by the Claimant, which is that a severe respiratory response to HF exposure triggered a vasovagal reflex which triggered AV heart block, does not find tremendous support in the record. Only Dr. Lane holds this theory to be plausible while her partner, Dr. Aquilina, who as an electrophysiologist is perhaps the most qualified expert to address issues involving the electrical impulses of the heart, unequivocally states the vasovagal reflex has nothing to do with the Claimant's development of AV heart block. Dr. Aquilina's opinion was based on both his treatment of the Claimant in addition to his continued monitoring of the

Claimant's pacemaker. The burden is the Claimant's to prove the facts which support a finding of compensability and she has failed to convincingly do so. And while it is not the burden of Defendants to disprove the Claimant's allegations, they have effectively done so in this instance. The undersigned does not need to determine what caused the Claimant to develop AV heart block – only whether it was caused by her accident – yet the greater weight and preponderance of the evidence would suggest no causal relationship between the Claimant's exposure and her development of AV heart block to within a reasonable degree of medical certainty.

84. I have no doubt that Claimant experienced an irritation, and therefore an injury, to her nose, mouth, lungs, and throat when she was briefly exposed to HF, as the Safety Data Sheet states that breathing HF “can irritate the lungs.” There is no question that HF in its pure form can be deadly. However, in this case I find that any injuries Claimant sustained were very minor, a finding I base on the location of the HF, the fact that the patio was open on one side, the fact that the HF was diluted and present only in trace amounts, the fact that Claimant's exposure was brief, the fact the Claimant never even entered that part of the patio where the HF leak was located, the fact that Mr. Parsons worked in the patio for eight hours with no permanent effects, and the fact that even Claimant's own lay witness testified that he has smelled HF (just like Claimant) without experiencing any residual effects relating to his lungs or heart. The greater weight and preponderance of evidence simply does not establish that Claimant was exposed to HF in a quantity or for a duration that would result in any permanent injury. I cannot rely on Claimant's subjective complaints to providers, or on her testimony, as she is not credible for the reasons set forth in this Order. See Claimant's APA #18, page 185.

85. Claimant did not prove the compensability of any loss of sense of smell and/or taste. I base this finding on the opinion of Dr. Spangenthal. For me to believe Claimant, I would additionally have to ignore the fact that Claimant has inconsistently told (a) Dr. Mitchell that she has “*sensitivity to various odors.*” and (b) Dr. Hooper that she avoids people because of the effect their “odors” have on her lungs [emphasis added] (Defendants’ APA #28, page 408; Defendants’ APA #29, page 422; Claimant’s APA #27, page 292; See Hearing Transcript, pages 50-51).
86. As to Claimant’s “bones,” Dr. Mitchell opines that Claimant’s exposure to HF did not result in injury to Claimant’s bones. Additionally, Dr. Duncan writes in a medical note that Claimant “*doesn’t really have orthopedic issues,*” and that he could “*see no distinctive pattern*” [emphasis added] (Defendants’ APA #28, page 417; Defendants’ APA #31, pages 427-428).
87. As to alleged injury to the “neurological system,” Dr. Mitchell states that Claimant has no injury to her “neurological system” (Defendants’ APA #28, page 417).
88. As to any alleged PTSD, the condition is not compensable. Although Claimant testified that she was in shock and mental distress after the exposure, in fact Claimant’s mood and affect were documented as appropriate with no concerns or complaints on the date of exposure. Further, Claimant’s speech/language, rate, volume, coherence, and ability to articulate were normal. I further note that at the second Urgent MD visit, Claimant presented as anxious (“tearful”). However, when Claimant went to the hospital the same day (declining an ambulance), hospital personnel recorded psychiatric/behavioral condition as “negative” as to agitation, with no psychological problems noted. In the hospital on August 21, 2015, Claimant denied she was worried about HF. When

Claimant sought treatment for left ear pain/swelling and headache in July 2016 (a year after the exposure) with a non-workers' compensation physician, Claimant is described as having an **"appropriate mood and affect" with no psychiatric/psychological problem noted**. At best, Claimant is inconsistent. **I give greater weight to the inconsistencies in the medical records than I give to the conclusions as set forth by the psychologist to whom Claimant was sent by her attorney**. Additionally, at the hearing, Claimant described **no current PTSD effects of any description**. (Claimant's APA #1, pages 6 and 10; Claimant's APA #2, pages 22 and 64; Claimant's APA #39, page 478; Claimant's APA #27, page 292; Hearing Transcript in its entirety).

89. Defendants' objection to Claimant's APA #28 (Report/CV of Dr. Edelman) is sustained.

The originally-scheduled hearing was set to be heard on Claimant's Form 50 (*i.e.*, Claimant's request for hearing) on March 7, 2017. Upon receipt of Claimant's counsel's request for a postponement, I re-set the hearing for April 27, 2017, **specifically for the sole purpose of accommodating his need to be with his ill mother**. Notwithstanding the pleading, the continuance was not granted in order for Claimant to obtain more evidence to prove/substantiate her case and to counter Defendants' evidence in the case; Claimant could have withdrawn her Form 50 for that purpose. The information contained within Claimant's APA #28 was both solicited and prepared after the date of the originally-scheduled hearing—not before. Claimant's counsel could have withdrawn the Form 50 for the purpose of obtaining additional evidence, but he chose not to do so. Claimant's APA #28 was therefore not considered by the undersigned, and was removed from the submissions.

90. I reviewed Claimant's vocational report for background information only, such as employment history, as Claimant specifically requested no finding of permanency be made (Claimant's APA #26).
91. I decline to require Defendants to pay for Claimant's pre-existing conditions including but not limited to osteoarthritis, muscle spasms, bilateral hand numbness/tingling, GI problems, and rosacea, none of which were caused or aggravated by Claimant's exposure. Nor am I inclined or persuaded to require Defendants to pay for Claimant's gall bladder polyp, fatty liver, neck pain, or shoulder pain from a previous shoulder surgery. There is no competent medical opinion stating that Claimant's pre-existing osteoarthritis was aggravated; and Claimant will not even admit to having an ongoing pre-existing problem that could be aggravated (*See* Claimant's APA #40, pages 499 and 502-503; Claimant's APA #41, pages 504-508—Claimant reported "widespread body pain" following the exposure, including Claimant's shoulder; however, Claimant denied shoulder pain to another provider—see Claimant's APA #40, page 499; Claimant's APA #1, page 12 as to Claimant's prior right shoulder surgery).
92. One month prior to the date of the originally scheduled hearing, Claimant told a rheumatologist that her shoulder, gluteal, and thigh pain began after the date of the exposure ("Most of her pain is focused on her lower extremities which [sic] right shoulder pain"), when in fact Claimant had a history of leg, SI, pelvic, and hip pain and problems for which she was taking Flexeril on the date of the exposure. Claimant also underwent a right shoulder surgery prior to the date of the exposure. Claimant's untrue statement to the rheumatologist serves as an example as to why a claimant's statements to

providers are never dispositive in any workers' compensation claim (Claimant's APA #41, pages 504-505).

93. My impressions at the hearing--that Claimant is very angry with Employer--were confirmed by my post-hearing review of the evidence. Although I do not agree with the PTSD conclusion by the psychologist to whom Claimant was sent by her attorney for an evaluation in anticipation of litigation, some of his notes are instructive: Claimant has "very difficult feelings" regarding Employer, and "*believes she was poorly protected before the incident* (lack of precaution, warnings, signage, etc.) and *poorly cared for since*, primarily in the interest of the company 'always pushing for money'" [emphasis added]. Claimant's "extreme symptoms" as revealed by the MMPI showed Claimant to be "**extremely angry and suspicious ...**" and "overly sensitive to criticism." Claimant is also described as "rigidly moralistic, at times potentially using projection and rationalizing to deal with her problems," "blaming others," being **possibly overtly paranoid**, and "**harboring grudges**." Some of these descriptions came through loud and clear at the hearing. This presentation, along with the many inconsistencies, gives the impression that Claimant wants to "stick it" to Employer by having Employer pay for all Claimant's unrelated health conditions, and other conditions, some of which she does not even appear to have (Claimant's APA #27, pages 291-292; observations of the undersigned at the hearing and after reviewing all the evidence).
94. Claimant's own psychological evaluator admits that Claimant's MMPI showed some exaggeration of symptoms. Interestingly, he does not state that Claimant's testing is valid, but "probably valid." I find that Claimant's psychological evaluator's report is also inconsistent in a salient way: during the interview, he found that Claimant appeared

- “somewhat” anxious and “mildly” depressed. However, his ultimate conclusion is that suffers from significant PTSD (Claimant’s APA #27, including but not limited to pages 290 and 292-293).
95. This case is not just a “battle of the experts.” Given the salient inconsistencies in Claimant’s subjective complaints to providers and her presentation at the hearing (the alleged “memory problems” alone were refuted by Claimant’s impressive ability to recall the names/spellings of providers she saw two years earlier), her contentions as to the sequelae of the exposure do not ring true.
96. Claimant’s social security status is not dispositive in any workers’ compensation case. *See Soloman v. WB Easton*, 415 S.E.2d 841 (Ct. App. 1992) citing Larsons (“[a]wards and records of the Social Security Administration ordinarily cannot be relied upon to support or deny a workers’ compensation claim”). Further, Claimant did not include the basis for which she applied; the portion of the record Claimant did submit states that “We based our decision on information you gave us” [emphasis added] (Claimant’s APA #29; Hearing Transcript, page 74).
97. Of all the evidence, I give the greatest weight to the credible opinions/statements of Drs. Feldman, Mitchell, MacKinnon (except for his assumption that Claimant is telling the truth about her emotional condition, as he has not had access to all the records as has the undersigned), Aquilina, and Early. I also give weight to the treatment record by a non-workers’ compensation physician.
98. I find that the only memory problems that Claimant has involve trying to keep straight her inconsistent presentations to providers. I base this on her testimony and the entirety of the medical evidence.

99. **If a claimant's sworn testimony and/or complaints to providers were dispositive, every workers' compensation claim would be compensable.**
100. Claimant has admittedly read up on HF, and complains of most if not all of every conceivable side effect—except for weight loss.
101. Claimant's request for benefits under the Act beyond the treatment already provided by Defendants is denied.
103. Claimant's average weekly wage is \$1,074.24, yielding a compensation rate of \$766.05 (stipulation of the parties).

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Undersigned makes the following conclusions of law:

1. S.C. Code Ann. Sec. 42-1-160 defines "injury" as only injury by accident arising out of and in the course of employment and does not include a disease of any kind. Moreover, in medically complex cases, the Claimant is required to establish that an injury arises from the employment using medical evidence. This is a medically complex case and both parties submitted medical evidence, the greater weight and preponderance of which establishes the Claimant's brief exposure to trace amounts of HF vapors did not result in any permanent injury. As to the pulmonary injuries, the evidence suggests an immediate and short-term response which was expected to resolve and, according to medical evidence, did resolve. Additional evidence suggested a chronic pulmonary condition which remained unchanged following the exposure and created no additional disability that did not pre-exist the accident. As to the cardiologic injuries, the evidence suggests the delayed onset of AV heart block is wholly inconsistent with the mechanism of injury

to be expected from HF exposure, which is an immediate onset coupled with evidence of electrolyte imbalance, neither of which were present in this claim. As to the other injuries to the bones, neurological system, sense of smell and taste, and PTSD, the Claimant failed to develop convincing evidence to explain how these conditions could be related when taken in context of all the medical evidence and contradictions in the Claimant's testimony and history to her providers. To the extent medical evidence was developed in this regard, it is hard to reconcile the extent to which this evidence relied on the Claimant's oral history against the numerous inconsistencies between the Claimant's testimony and the medical evidence. As such, the undersigned concludes the Claimant did not sustain a compensable injury as contemplated by the Act.

2. S.C. Code Ann. Sec. 42-1-120 defines "disability" as incapacity due to injury to earn the wages the employee was earning at the time of the accident in the same or any other employment. Workers' Compensation benefits are awarded not for a physical injury as such, but for "disability" produced by such injury as measured by the employee's capacity or incapacity to earn the wages he was receiving at the time of the accident. Corbett v. City of Columbia, 348 S.E.2d 191 (S.C. App. 1986). The evidence of this claim supports finding the Claimant was exposed to HF vapors and experienced immediate symptoms involving shortness of breath and coughing. The objective medical reports show these immediate symptoms resolved within days, even though the Claimant's subjective testimony stands to the contrary. The Claimant was capable of performing her job in the aftermath of her exposure however, and was only incapacitated from employment when she developed AV heart block, which the undersigned finds to be an unrelated condition. Moreover, the Claimant alleges her ongoing incapacity for

employment is related to chronic pulmonary disability which, while potentially true, is also unrelated to her injury as this disability was shown to pre-exist her injury. Thus, the Claimant failed to establish disability as contemplated by the Act.

3. The burden is on the Claimant to prove the facts that render the injury compensable. An award of benefits under the Act cannot be based on surmise, conjecture, or speculation. Kennedy v. Williamsburg County, 131 S.E.2d 512 (1963). If the evidence is conflicting upon the issues, such conflicts can only be resolved by the Workers' Compensation Commission, the fact finding body. Black v. Barnwell County, 143 S.E.2d 753 (S.C. 1964). The credibility and weight of a doctor's testimony is for the trier of facts. Chapman v. Foremost Dairies, 154 S.E.2d 845 (S.C. 1967). The evidence in this matter is conflicting on the issues but, for the reasons discussed in-depth above, the undersigned weighs the evidence in such a manner as to conclude the Claimant has not carried her burden of proof. Considering the testimony of the witnesses, the exhibits, and the medical evidence, the greater weight and preponderance of the evidence does not support a finding of compensability.
4. "Substantial evidence" necessary to support a decision of the Commission is not a mere scintilla of evidence nor evidence viewed from one side, but such evidence when, when the whole record is considered, as would allow reasonable minds to reach the conclusion the Commission reached. Whigham v. Jackson Dawson Communications, 763 S.E.2d 420 (S.C. 2014). For the undersigned to rule in favor of the Claimant would require the evidence to be viewed entirely from her side. The Defendants submitted ample and convincing evidence to support the conclusion the Claimant did not sustain a compensable injury by accident. Not only did various medical reports and opinions

provide direct evidence establishing the Claimant's mechanism of injury is not consistent with HF exposure, anecdotal testimony provided by employer witnesses provided circumstantial evidence allowing the undersigned to conclude the concentration and duration of exposure encountered by Claimant was insufficient to cause the injuries she alleges.

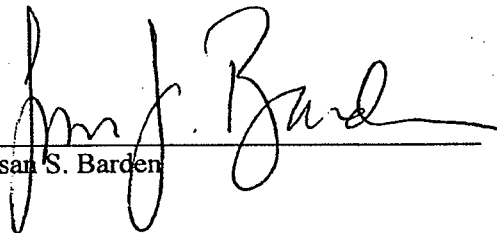
5. Nothing in the Act suggests our legislature intended to compensate an employee for aches, pains, or other conditions that do not interfere with his ability to do his job, even if those conditions are work-related. King v. International Knife & Saw, 718 S.E.2d 227 (S.C. App. 2011). Although the Claimant was exposed to HF vapors in the course of her employment, the evidence of record supports the conclusion the symptoms to arise from this exposure did not interfere with the Claimant's ability to do her job. Accordingly, the accident sustained by the Claimant is not of the sort that would give rise to compensation under the Act.
6. S.C. Code Ann. Sec. 42-15-60 allows an employer to provide medical treatment for a period not exceeding ten weeks to effect a cure or give relief. There is no liability on the part of an employer to furnish medical treatment beyond ten weeks unless it will tend to lessen the claimant's period of disability. Dykes v. Daniel Const. Co., 202 S.E.2d 646 (S.C. 1974). The undersigned has determined the Claimant developed short-term symptoms as a result of her accident and orders the employer to pay for treatment rendered in addressing those symptoms. As these symptoms resolved without producing disability, as discussed above, the employer has no liability for medical treatment beyond that which they have already provided.

7. S.C. Code Ann. Sec. 42-9-10; Sec. 42-9-20; Sec. 42-9-30; and S.C. Reg. 67-1101 all address compensation schemes for permanent disability caused by an injury by accident. Because the undersigned declines to find the Claimant sustained an injury by accident, no benefits are awarded under these statutes and/ or regulations.
8. S.C. Code Ann. Sec. 42-15-60 addresses entitlement to medical treatment which is the result of a compensable injury. Because the undersigned declines to find the Claimant sustained a compensable injury by accident, no benefits are awarded under this statute.

ORDER

Based on the above Findings of Fact and Conclusions of Law, it is hereby Ordered that, upon careful consideration of the evidence of record, the greater weight and preponderance of evidence submitted suggests the Claimant failed to sustain a permanent injury by accident arising out of and in the course and scope of her employment when she was exposed to HF vapors on August 11, 2015. The evidence suggests she experienced temporary symptoms which resolved without causing permanent injury. The evidence also suggests the mechanism of injury alleged by Claimant is not consistent with HF exposure, which produces injury within 24 to 48 hours, not two to three weeks. Having considered all evidence of record and entering the above Findings of Fact and Conclusions of Law, the undersigned hereby denies the Claimant's request for benefits.

AND IT IS SO ORDERED!



Susan S. Barden

CERTIFICATE OF SERVICE

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

By Barbara Skarbek on March 12, 2018

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

W.C.C. FILE NO: 1511478

Monica Murphy

EMPLOYEE,
CLAIMANT/RESPONDENT

VS.

Halocarbon Products Corporation

EMPLOYER,

AND

Commerce & Industry Insurance Company c/o
AIG Claims, Inc.

CARRIER,
DEFENDANTS/APPELLANTS,

Appellate Panel Review held in Columbia, South
Carolina, on June 18, 2018 per notices timely
And properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

July 23, 2018

APPEARANCES: Claimant/Appellant represented by Frederick I. Hall, III, Esquire
Defendants/Respondents represented by James H. Lichty

STATEMENT OF CASE

The original hearing was set to determine the issues raised on Forms 50 and 51. A hearing was initially scheduled for March 7, 2017, but was continued upon motion of the Claimant, whose attorney reported a personal emergency preventing his attendance. The hearing was then rescheduled for April 27, 2017.

The Claimant alleges injury to (a) heart and lungs, (b) bones, (c) smell and taste and neurological system, and (d) mind/ psyche, after she "inhaled hydrofluoric acid (HF) fumes in the process area." The Claimant alleges a date of accident on August 11, 2015. The Claimant requested medical treatment for all alleged injuries and TTD benefits from August 21, 2015, to the present and continuing. The Claimant further asks for reimbursement of all previously incurred medical treatment. The Claimant further asserted a determination of permanent disability is premature.

The Defendants admit HF vapors were present in the process area on the date in question, but deny the Claimant's exposure to these vapors was (a) of sufficient duration and/ or (b) of sufficient concentration to cause any permanent injury. At worst, Defendants admit the Claimant experienced temporary respiratory discomfort as a result of her exposure which resolved within days and resulted in no compensable injury by accident. The Defendants also allege the Claimant was aware of the potential hazard posed by the HF vapors and invited her limited contact with the vapors, such that any injuries sustained as a result are not accidental but, rather, could be reasonably anticipated.

The original hearing in this matter lasted approximately four hours and consisted of testimony from the Claimant, a former co-worker, and several employer representatives and witnesses. The documentary evidence submitted in this matter numbered in the hundreds of

pages. The subject matter involved establishes this as a medically complex case. After carefully considering all the testimony and evidence of record, the single Commissioner ruled in favor of the Defendants. This appeal followed and the Full Panel affirms the Order of the Single Commissioner, with amendments.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and the Regulations of the South Carolina Workers' Compensation Commission, the following records were admitted into evidence without objection:

Claimant's APA Submissions:

1. Timber R. Wages, P.A. and Julie N. Buird, P.A., Urgent MD, dated 11/20/14-08/26/15, pages 1-20;
2. Melania Velasquez, P.A., University Hospital, dated 08/13/15-08/21/15, pages 21-75;
3. Patrick Aquilina, M.D., University Cardiology Associates, dated 09/08/15-11/15/15, pages 76-124
4. William F. Alleyne, II, M.D., Carolina Pulmonary Physicians, P.A., dated 09/25/15-06/01/16, pages 125-155;
5. John Mitchell, M.D., Charleston Pulmonary Associates, dated 05/02/16, pages 155-159;
6. Jewel B. Duncan, M.D., Champion Orthopaedics, dated 07/23/16, pages 160-161;
7. Email from Claimant to Ken McDowell, dated 08/11/15, page 162;
8. Memo from Ken McDowell, dated 08/12/15, page 163;
9. Email from Ken McDowell to Mark Frey, Mark Harris, Mickey Brown, Chip Babb, Steve J. Harold, Tech, and EHS, dated 08/20/15 and 08/24/15, page 164;
10. Email from Ken McDowell to Mark Frey, Mark Harris, Mickey Brown, Chip Babb, Harold J. Steen, Tech, EHS and Emily Parish, sent 08/20/15 and 08/24/15, page 165;
11. Memo contained in an email from Ken McDowell, Memo sent 08/19/15 and 08/21/15, page 166;
12. Halocarbon Products Corporation Supervisor Incident Report and Management's review of Incident Report, dated 08/11/15 and 08/27/15, pages 167-168;
13. Halocarbon Products Corporation Supervisor Incident Report, dated 08/21/15, pages 169-178;
14. Statement from Chip Babb, dated 08/11/15, page 179;
15. Witness statement, dated 08/11/15, page 180;
16. Memo written by Ken McDowell, dated 08/19/15, page 181;
17. Email from Eric Schoellkopf to himself, dated 08/27/15, page 182;
18. MSDS Sheet for Hydrogen Fluoride, pages 183-198;

19. Email from Ken McDowell to Harold J. Steen, dated 02/10/16, page 199;
20. Contingency Plan, Revision 01/20/15, pages 200-212;
21. First Aid for Hydrofluoric Acid Exposure, pages 213-215;
22. Job Description; Revision 09/30/15, page 216
23. Photos taken 08/19/15 and 09/02/16-09/16/16; pages 217-219 and page 220-237;
24. Report of John F. Setaro, M.D., Yale University School of Medicine, dated 10/13/16, pages 238-242;
25. CV of John F. Setaro, pages 243-266;
26. Harriet Fowler, M.Ed., CRC, Vocational Report, 07/28/16; pages 267-288;
27. Robert Hooper, Ph.D, Psychological Report, pages 289-294
28. (blank)
29. Claimant's Social Security Administration Award Letter, dated 11/21/16, pages 303-306;
30. Claimant's payroll records, dated 07/05/14-08/15/15, pages 307-401;
31. Claimant's medical bills, pages 402-446;
32. (blank)
33. (blank)
34. (blank)
35. Aiken Regional Medical Center, dated 09/18/02, page 471;
36. David W. Cundey, Aiken Cardiovascular Associates, dated 03/29/07, page 472;
37. Aiken Regional Medical Center, dated 09/18/08, page 473;
38. Aiken Regional Medical Center, dated 05/18/10, page 474;
39. Augusta University Medical Center/ER Department, dated 07/17/16, pages 475-494;
40. Randy Cooper, M.D., University Surgical Associates, dated 03/24/16-09/20/16, pages 495-503;
41. Laura Carbone, M.D., dated 02/14/17, pages 504-508;
42. University Hospital, dated 03/01/17-03/02/17, pages 509-513;
43. Southern Ambulance Service, dated 08/21/15, page 514;
44. Revco Discount, dated 07/12/16-03/31/17, page 515;
45. Walgreens/prescriptions, dated 07/03/16-04/04/17, pages 516-522.

Defendants' APA Submissions

26. Michael A. MacKinnon, M.D. FCFP, dated 01/27/17, pages 391-394;
27. Gordon Early, M.D., Wellness Family Medicine, dated 11/23/15, pages 395-406;
28. John A. Mitchell, M.D., Charleston Pulmonary Associates, dated 05/02/16-05/29/16, pages 407-418;
29. Selwyn Spangenthal, M.D., Charlotte Lung & Health Center, dated 09/02/16-09/28/16, pages 419-423;
30. Barry Feldman, M.D., dated 09/21/16, pages 424-425;
31. Jewell B. Duncan, M.D., Champion Orthopaedics, dated 07/22/16, pages 426-429;
32. Witness statements from Employer, dated 09/04/15-01/30/17, pages 430-432;
33. Background publications and credentials for M.A. MacKinnon, M.D., pages 433-459;
34. Sample reported cases involving Dr. Setro, pages 460-470;
35. EEOC Determination Form, dated 01/31/17, page 471.

STIPULATIONS

1. That jurisdiction is proper with the South Carolina Workers' Compensation Commission.
2. That venue is proper in Aiken, S.C.
3. That the Commission file shall become a part of the record.
4. That Claimant's average weekly wage is \$1,074.24, yielding a compensation rate of \$766.05.

OBJECTIONS

1. The Defendants objected to Claimant's APA #28 upon grounds it was not timely submitted. This hearing was originally set for March 7, 2017. The Single Commissioner granted the Claimant's attorney's motion for a continuance on grounds he needed to be with his ill mother. The continuance was not granted to permit the parties to obtain additional evidence or to counter evidence submitted by the Defendants. A cursory glance at Claimant's APA #28 shows the information contained therein was both solicited and prepared after the date of the originally-scheduled hearing. Had the Claimant wished to submit this evidence for consideration, she could have withdrawn her hearing request and sought a hearing at a later date. The Claimant opted not to do so however, and the Single excluded Claimant's APA #28 on grounds it was not timely submitted.

EVIDENCE OF CASE

The Employer, Halocarbon Products, is a chemical manufacturing facility in North Augusta, South Carolina. The Claimant worked for the Employer as a Quality Control

Laboratory Technician, beginning in 2012. The Claimant's job included testing chemical samples and disposing of waste. When disposing of waste, the Claimant wore complete protective gear which included a lab coat, a sleeved apron reaching to her ankles, neoprene gloves, a hard hat with face shield, tight-fitting safety glasses, and safety shoes. The Claimant was sensitive to safety issues at work. She admitted she would frequently and consistently report issues she felt posed safety risks, admitting in her deposition she reported risks "all the time," although she had never before developed any permanent health issues in response to a perceived safety risk. She claims she encountered an injurious exposure to HF vapors while disposing of chemical waste on August 11, 2015.

Chemical waste is disposed of in a satellite area located on an outdoor patio. At approximately 8:00PM on the evening prior to the Claimant's exposure, an HF leak was discovered in a pipe on the patio near the flammable waste satellite area, approximately 12 feet from the door leading from the process area to the patio. The pipe carrying the HF solution was cleared and the leaking section of pipe secured. The HF remaining in the pipe was vented into a carboy located about 25 feet from the door leading to the patio. Vapor remained in the area because sections of the pipe containing the leak were surrounded with saturated insulation. Claimant's APA p.166. This was the condition of the patio at 5:00AM the following morning, when the Claimant encountered her exposure.

On the morning in question, the Claimant collected organic waste from the laboratory and exited through the control room into the process area, all of which are located inside the building. Both of these areas were on a second level, so the Claimant descended stairs outside the control room leading to the first level of the process area. From the bottom of the stairs, the Claimant exited the process area onto a patio containing the organic waste satellite area. This patio is

located outside the building containing the process area. From where she dumped the organic waste on the patio, the Claimant could see a co-worker, Lonnie Parsons, standing some distance down a central corridor, toward the flammable waste satellite area. Although Mr. Parsons was standing in the area the Claimant testified she saw had a carboy spewing visible vapor into the air, she claimed not to notice it while she was dumping the organic waste. The Claimant did not observe Mr. Parsons to be in any physical distress.

After dumping the organic waste, the Claimant returned to the laboratory to collect flammable waste, descended a different set of stairs within the process area, and then intended to exit a door on the other end of the building to access the flammable waste satellite area, which is also located on the patio. This was the door nearest the prior HF leak. As the Claimant was opening the door leading to the flammable waste satellite area, she smelled a sharp chemical odor in the air. She coughed and closed the door, taking no more than four breaths in the process. She never completely opened the door. She never stepped through the door to enter the patio.

The Claimant sought out Mr. Parsons for assistance. Although she claims she was in shock, she knew she could not leave the waste container behind and took it with her as she left the area. She held her breath and walked down an internal corridor towards the door leading to the organic waste satellite area, where she had been before. When she reached the door, she looked toward the flammable waste satellite area and observed a carboy venting white vapors she identified as HF fumes. The Claimant characterized these vapors as "billowing" from the carboy. She then heard Mr. Parsons descending some stairs leading from a second story of the patio. Despite having been seen earlier standing near the flammable waste satellite area, the Claimant did not note Mr. Parsons to be in any sort of physical distress. She told Mr. Parsons of her encounter at the other end of the patio and Mr. Parsons took the flammable waste from the

Claimant and walked to the flammable waste satellite area to dispose of the waste. Mr. Parsons returned the empty waste container to the Claimant. In dumping the waste and returning the container, the Claimant agrees Mr. Parsons had to walk past the venting carboy twice, yet he showed no signs of physical distress. The Claimant then left the patio to return to the laboratory. She claims she was still in shock and had to climb the stairs very slowly because she was coughing, her heart was pounding, and she was experiencing shortness of breath.

In the laboratory, the Claimant told her co-workers she had just inhaled HF and started to remove her protective gear. When told of the maintenance work on the patio near the flammable waste satellite area, the Claimant became angry and stated, "somebody is going to get killed down there the way – the way things are going. What's it going to take for somebody to get killed?" The Claimant then went to the control room to report her experience to Chip Babb, the assistant production manager, and complete an incident report. After discussing her experience, Mr. Babb instructed the Claimant to seek fresh air. By this time, the Claimant says she was still in shock, her mouth and sinuses were burning, she was starting to have a headache, and she was coughing and felt like her throat was closing up. She drank some water and continued to speak with co-workers about her safety concerns.

After about thirty minutes, the Claimant told Mr. Babb she was feeling better and returned to the laboratory, where she wrote a letter to Emily Parish, her assistant supervisor, to let her know what had happened. Claimant's APA #7. In the letter, the Claimant states she coughed upon opening the door but does not mention any ongoing symptoms. The letter requests an opportunity to speak with management and safety about her experience but does not request evaluation by a doctor, despite the Claimant believing she had been exposed to HF vapors, that she was suffering the symptoms of HF exposure, and that she was aware of the safety risks posed

by HF exposure. She testified she did not request a doctor because she was in shock. The Claimant left work when her shift ended.

The Claimant testified she had difficulty resting when she arrived home due to coughing and roughly six bouts of diarrhea. She experienced abdominal pain and weakness. She claimed burning and dryness in her throat and sinuses with an ongoing headache. Before reporting to work the following day, Ms. Parrish texted the Claimant and offered a medical evaluation. Ken McDowell, the Employer's Director of Regulatory Affairs, spoke with the Claimant and arranged to meet her at Urgent M.D. The report from this appointment documents cough, shortness of breath, and diarrhea were not present. Direct examination of the Claimant's nose, mouth, and throat were unremarkable. Evaluation of her lungs showed normal respiratory efforts. Her neurologic and psychiatric signs were normal. The results of the examination were discussed with the Claimant and documented the Claimant was happy with care and the management plan. The Claimant was instructed to use standard ibuprofen to treat her headache and to return to work without restriction. The report from this visit indicates Mr. McDowell provided information that the "HF was 40% concentration." Claimant's APA pp.5-8.

The Claimant reported to work following her doctor's appointment at Urgent M.D. According to her testimony, she was still experiencing the same symptoms she had experienced at home, including headache, a burning throat, nose, and sinuses, shortness of breath, and persistent coughing. Her symptoms deteriorated over the next several days to the point the Claimant could no longer lie down in her bed due to difficulty breathing. Her coughing became worse. Her weakness became worse. She returned to Urgent M.D. on August 13, 2015, for further evaluation and was referred to University Hospital for additional care. The physical examination documented on the August 13, 2015, report from University Hospital documents

normal cardiovascular rate and rhythm, normal breath sounds and no respiratory distress, and normal psychiatric mood and affect. The Claimant was told her labs were normal. After consulting poison control, University Hospital discharged the Claimant to follow up with a primary care physician. Claimant's APA pp. 21-26.

Between August 13, 2015, and August 19, 2015, the Claimant states her condition continued to worsen. In addition to the symptoms she was already experiencing, she began to develop femur bone pain and spasms in the musculature around her femur. She claims she had not had a bowel movement since the diarrhea she experienced on August 11, 2015. Nonetheless, the Claimant continued working during this time. On August 15, 2015, the Claimant returned to Urgent M.D. The report from this visit documents the Claimant reported "her sore throat, hoarseness, cough, and shortness of breath have all significantly improved." A respiratory examination noted no wheeze or shortness of breath and all auscultation was normal. A cardiovascular examination noted no chest pain or pressure or fluttering in chest with normal heart sounds and regular rate and rhythm. No gastrointestinal, musculoskeletal, or neurological deficits are noted. Claimant's APA pp.12-13.

On August 19, 2015, the Claimant met with Mr. McDowell and Harold Steen, the Safety Coordinator, to discuss, at length, how upset she was with what had happened to her. She then performed her breathing treatments but noticed it was not helping the very high levels of pain she was in, which by now was running from her head, into her face, her jaw, her feet, her ankles, and her right toe and included a numbness on the bottom of her feet, in addition to all the symptoms she was already having. After lunch, the pain was overwhelming, according to the Claimant, and the Employer agreed to return the Claimant to Urgent M.D. The August 19, 2015, report from Urgent M.D. documents subjective complaints of headaches, intermittent diarrhea, nausea, "bone

pain” in her femur and pelvis, and bilateral foot pain. The Claimant also reported a lack of taste and smell, headaches, and tingling in her hands. The Claimant also noted very specific concerns of pulmonary edema and/ or cardiac arrhythmia due to HF exposure. Yet the physical examination noted easy respiratory effort and normal heart sounds with regular rate and rhythm. After noting that serial electrolyte measurements on August 11, August 13, and August 19 were all normal, Urgent M.D. recommended evaluation by ENT, pulmonology, and toxicology. The report suggests some of the Claimant’s symptoms were due to increased anxiety surrounding the exposure. And while noting a chest X-ray failed to reveal any pulmonary edema, the report states an EKG was suggestive of a chronic conduction abnormality, and follow up with a primary care physician was recommended. Claimant’s APA pp.14-17.

The Claimant’s appointment ended around the same time as her shift and she went home, where her symptoms continued to deteriorate, according to her testimony. On the following day, August 20, 2015, the Claimant awoke to significant weakness. She could not take a shower and she did the best she could to simply rest in her recliner. She called out of work. On August 21, 2015, the Claimant reported to work, although she still felt very weak and had to pull off the road at one point due to feeling faint. She had difficulty concentrating at work. After lunch, she began to feel as though she could not breathe and had chest pains. The Claimant stated these symptoms went beyond mere shortness of breath. She called Ms. Parrish to advise she was having distress and to request help and then she lay on the floor. Mr. McDowell responded and administered a nebulizer while the Claimant waited for an ambulance. The ambulance took the Claimant to University Hospital.

The Claimant testified she was unable to hold a full conversation by the time she reached the hospital, but the University Hospital report instead documents there was no evidence of

respiratory distress at the time of her admission. The report states "the patient was comfortable and history was given by the patient without difficulty." Hr. Tr. p.102:2-7, Claimant's APA p. 47. Another notation in the report time-stamped eleven minutes after the Claimant said she was admitted states, "she does not appear in any respiratory distress at this moment. She is able to speak in full sentences without difficulty, and her oxygen saturation is 100% on room air without any obvious respiratory difficulty." Claimant's APA p.49. During the Claimant's hospital stay however, an EKG was positive for third degree atrioventricular heart block. While the Claimant attributed her symptoms to HF exposure, one part of the report states, "unclear if conduction issues are related to recent chemical exposure." Claimant's APA p.55. Later, in response to questions from the Claimant, cardiologist Dr. Lane advised "no known exposure that would cause this degree of heart block without electrolyte abnormality. This was not present." Claimant's APA p.66. On August 24, 2015, a dual chamber pacemaker was implanted by Dr. Aquilina. Claimant's APA p.58. The Claimant testified Dr. Aquilina continues to follow her for her cardiac condition.

At the time of hearing the Claimant claimed to be under the ongoing care of Dr. Alleyne for her pulmonary issues and Dr. Lane and Dr. Aquilina for her cardiac issues.

At the time of the hearing the Claimant claimed some of her sense of smell had returned but then left, along with her sense of taste. She admitted to ongoing bone pain and muscle pain and difficulty with ambulation. She still coughs and has shortness of breath. She seeks psychiatric treatment. She claims she cannot work and was accepted for Social Security Disability benefits.

Todd Lawrence testified for the Claimant. Mr. Lawrence was formerly employed as an assistant shift supervisor for the Employer but was terminated due to irregular results on a drug

test. Mr. Lawrence also explained the Employer disputed his entitlement to unemployment benefits after he was terminated. He does not feel the Employer did right by him.

Mr. Lawrence testified generally about his familiarity with HF and the process of venting HF. Mr. Lawrence explained HF can be vented to a scrubber or a carboy. A scrubber has the ability to feed water or concentrate to neutralize vented HF and is an enclosed system so that no HF vapors escape. A carboy does not have the same advantage in that a carboy can become overwhelmed and begin fuming. Venting with a scrubber is preferred to venting with a carboy but the Employer used both methods because sometimes it wasn't possible to use a scrubber. Mr. Lawrence also testified he saw the Claimant lying on the floor on August 21, 2015, before she was taken to the hospital. Mr. Lawrence disagreed with the manner Mr. McDowell treated the Claimant that day in that he felt Mr. McDowell instructed the Claimant to sit up in a rude manner.

Mr. Lawrence stated high school was his highest level of education, and he has no certificates or degrees in industrial hygiene or a related field of study. He admitted he is currently facing a criminal charge for driving under the influence. With regard to his service with the Employer, Mr. Lawrence confirmed he has personally been involved in venting HF to a carboy many times yet could not identify any health conditions he believes are the result of his exposure to HF vapors. He also testified he never used a respirator when working around HF vapors, although he believes it is a good idea.

Mr. McDowell testified for the Defendants. As Director of Regulatory Affairs, Mr. McDowell is responsible for all direction guidance policies for environment, health, safety, and security. His position includes the Director of Safety as well. He is familiar with the Safety Data

Sheet pertaining to HF and has trained employees regarding exposures to HF. He is familiar with the problems created by HF exposure and the kinds of injuries that can result.

Mr. McDowell used pictures and generally described the layout of the north patio, where the waste satellite areas and HF leak were located. Using a photograph, Mr. McDowell testified an employee standing at the organic waste satellite area would be able to see the carboy venting vapors near the flammable waste satellite area. Claimant's APA p.224. Mr. McDowell also used pictures to describe the area near the door to the flammable waste satellite area, and confirmed that HF-soaked insulation would've been located approximately 12 feet from the door and the venting carboy would've been located approximately 25 feet from the door. Mr. McDowell then reviewed the Incident Report prepared following the Claimant's exposure. Claimant's APA p.167. He confirmed the report indicates only trace HF was present on the patio at the time of Claimant's exposure, meaning the quantity of HF was so low as to not be measurable. Mr. McDowell also stated no attempt was made to measure the amount of fumes present in the area. Mr. McDowell explained the small amount of HF present is due to the fact only vapors were being vented and those vapors were being at least partly neutralized by the carboy.

Mr. McDowell also identified Mr. Babb's prepared report from the incident. Claimant's APA #14. This report documents the Claimant reported feeling like something was in her throat making her want to cough, but no other symptoms following her accident. Mr. McDowell indicated the report was completed using information provided by the Claimant.

Mr. McDowell also identified the plant manager's prepared statement from the incident. Claimant's APA #17. This report confirms the concentration of HF in the solution in the pipe could have been as high as 40% but that it was likely less due to the presence of other solvents in

the solution. From this, Mr. McDowell surmised the concentration of HF vapors near the door at the time of the Claimant's exposure was definitely less than 40%.

Mr. McDowell also identified documentation he prepared to help monitor the developing situation with the Claimant. Claimant's APA p.163. In this document, he explains he considered the Claimant's post-exposure presentation unusual compared to other HF exposures he has dealt with because it took the Claimant over twelve hours to feel she needed medical care. He explained he would have expected the Claimant to have different symptoms immediately following the exposure and that the normal blood samples provided to Urgent M.D. were inconsistent with what he would expect from an industrial HF exposure. As an example, he mentioned an operator who was exposed to strong HF vapors and developed severe symptoms requiring immediate treatment. He also mentioned that none of the four or five prior employees exposed to HF developed symptoms that required them to resign their employment.

Mr. McDowell testified about his encounter with the Claimant in the office of Urgent M.D. the day following the exposure. He observed no redness about her face, coughing, or respiratory distress. According to Mr. McDowell, there did not appear to be anything wrong with the Claimant the day after the accident.

Mr. McDowell indicated that the Claimant was a competent employee, but presented some management challenges. She had difficulty getting along with her co-workers and had brought several purported safety concerns to his attention over the course of her employment. Although her concerns were investigated every time they were raised, he found most of her complaints to be suggestions and or misunderstandings, although some of her concerns were legitimate.

Mr. McDowell confirmed that appropriate protocol was followed in response to the HF leak discovered on the patio. Mr. McDowell testified that the appropriate response for an employee who inhales HF is to expose the employee to fresh air to see how they respond. In the absence of a suitable response, or if the employee is showing distress, the next step would be to administer a nebulizer or take the employee to the hospital. Mr. McDowell also addressed the Employer's protocol for Safe HF Handling. Claimant's APA #17. In the event of HF inhalation, the document states the victim should immediately be removed to fresh air and immediate transportation to the hospital arranged. Claimant's APA p.193. The document also states a nebulized solution of 2.5% calcium gluconate may be administered with oxygen. Mr. McDowell agreed this protocol was not initiated following the Claimant's alleged exposure but explained the acting supervisor did not note the degree of distress necessary to enact the protocol. He admitted that, were the same situation to arise again, the Employer would strive to do better in communicating the potential risk to other employees and barricading the area surrounding the leak.

George Campbell testified for the Employer. He is a chemical operator who maintains the units he is running and makes sure they operate properly. Mr. Campbell's job also requires him to dispose of waste chemicals. Mr. Campbell encountered the Claimant on the day of her alleged exposure near the door leading to the flammable waste satellite area. Mr. Campbell had just reentered the building after dumping flammable waste. He was exposed to the setting for two or three minutes and encountered HF vapors. His exposure to the vapors took his breath away, made his eyes burn, and caused him to cough. Upon reentering the building, he encountered the Claimant and advised her not to enter the patio. He did not recall specifically telling the Claimant there were HF vapors on the patio but presumed she would understand based on the symptoms

he was experiencing when he spoke to her. His symptoms resolved after about five minutes with exposure to fresh air and he developed no permanent injuries due to his exposure. The Claimant denies encountering Mr. Campbell.

Mr. Parsons testified on behalf of the Employer and, like Mr. Campbell, is a chemical operator. Mr. Parsons discussed his encounter with the Claimant on the date of her alleged accident. He was working on a piece of equipment on the patio, preparing it for maintenance. Specifically, he was working on the HF leak by venting residual HF vapors into the carboy. He was two to three feet from the carboy and even had occasion to stand over top of it at times. At other times he worked on an elevated platform on the patio called the mezzanine. He was also near insulation which was saturated with HF solution from the leak itself. The only protective equipment Mr. Parsons used was a face shield, safety glasses, jacket, gloves, and pants. He saw the Claimant approaching from the area near the organic waste satellite area and stopped her, telling her she needed to stay back. According to his report, at the time the carboy was still venting visible vapors. Claimant's APA #12. The Claimant was not exhibiting any signs of physical distress, not coughing, and was able to speak in an unlabored manner. The Claimant asked Mr. Parsons about the smell and he told her it was HF vapors. He then offered to dump the chemical waste the Claimant was carrying, which required him to walk past the venting carboy twice. Mr. Parsons estimates he was working in the area approximately eight hours yet never developed any respiratory issues, heart issues, or other adverse physical conditions. He testified there is no way he could have worked in proximity to the leak for that length of time if the concentration of HF vapors was harmful.

A great deal of medical evidence, including and expert opinion, was submitted.

The Defendants submitted a report from Dr. Michael McKinnon. Defendants' APA #26. Dr. McKinnon identified the largest controversy in this case as the degree of Claimant's exposure to HF, both in terms of the quantity and the length of exposure. Based on evidence, one of Claimant's co-workers was present in the exposure area for a much longer time than Claimant yet suffered no injury and required no medical treatment, Dr. McKinnon concluded there is no chance that HF exposure caused the many symptoms the Claimant complains of. Moreover, had she been exposed to HF to the degree necessary to cause her symptoms, she would have had many additional injuries, including skin burns to the head and neck and respiratory distress much more severe than just coughing. Dr. McKinnon concludes the Claimant's pulmonary dysfunction pre-existed her exposure. Dr. McKinnon also states the evidence does not support HF mediated heart block due to the delay between the exposure and the development of symptoms. In conclusion, Dr. McKinnon relies on his experience as a worldwide consultant for HF exposures to conclude the Claimant did not have a significant exposure to HF and that the multiple opinions connecting her exposure to her various symptoms are incorrect.

The Claimant took the deposition of Dr. McKinnon to challenge his credentials and opinions. This deposition established Dr. McKinnon has a background in family medicine and has been retired for approximately ten years. His experience with HF exposures comes from working for 35 years as a physician for North America's largest HF manufacturer. In this capacity he developed the manufacturer's published protocol for treating HF exposure. He also published two papers on HF burn therapy and the HF chapter of a medical resource called "Dermatological Clinics." Dr. McKinnon would be made available to customers to train medical staff and safety personnel on how to respond to HF exposure. The final ten years of his career he presented webinars to attendees all over the world regarding the protocols for treating HF

exposures. He was also involved with a chemical response team, where he answered emergency calls from around the world involving HF exposures. He estimates he has been involved with responding to hundreds of HF exposures.

Dr. McKinnon stated his opinions were based on an understanding the Claimant's exposure was not significant but noted the presence of visible vapors could be a sign of significant exposure unless there was something else reacting with the fluorocarbon mixture. McKinnon Depo. P.30:1-5. Dr. McKinnon stated the question of whether HF mixed with other fluorocarbons would produce visible vapors at room temperature would require the opinion of a chemist. In his own testimony, Mr. McDowell addressed Dr. McKinnon's testimony that visible vapors are an indication of HF in high concentrations. Mr. McDowell stated he believes Dr. McKinnon to be among the foremost experts in the world regarding HF treatment and that his testimony regarding the significance of visible vapors could be explained if Dr. McKinnon was not aware that the venting carboy contained other chemicals which also billow vapors. There was no discussion of what other chemicals were being vented into the carboy during Dr. McKinnon's deposition. The record confirms other chemicals were present. Hearing Transcript p.139:16-19, p.166

Dr. McKinnon confirmed his belief a significant exposure to HF exposure would have resulted in cardiac symptoms in the first 24 to 48 hours after exposure due to the physiological mechanism by which HF exposure causes heart block. In this case, there was no evidence of cardiac symptoms until eight days after the exposure, at the earliest. Dr. McKinnon also stated a person exposed to enough HF to cause heart block would be aware of other symptoms within a few hours, including awareness of the heart not beating properly and burning of the skin.

Cardiology

The Defendants submitted a toxicologist report from Dr. Gordon Early. Defendants' APA #27. Dr. Early reviewed the medical reports, took the claimant's history, and performed a physical examination. After confirming the Claimant reported the typical symptoms of acute HF exposure, he addressed the lab/ electrolyte reports from University Hospital. Dr. Early was not surprised the reports did not show low levels of calcium or phosphate due to the nature of her exposure – an inhalation exposure for a short period of time. He stated it would be very unusual for these reports to show normal electrolytes 48 hours after exposure and then low phosphate levels on day ten and have this be due to HF exposure. Dr. Early stated the cardiac effects of HF are typically mediated in the first 24 hours after exposure. Dr. Early also pointed out that hyperphosphatemia is a typical response to HF exposure while the claimant suffered from hypophosphatemia. Defendant's APA p.400. Dr. Early concludes it is difficult to explain how the Claimant's HF exposure could have caused or aggravated her arrhythmia. He concluded it is far more likely the Claimant developed AV heart block because of atherosclerosis than a ten-day old delayed onset of HF induced toxicity. Dr. Early's opinion is that the claimant's August 21, 2015, arrhythmia and subsequent pacemaker are not attributable to, or aggravated by, her HF exposure.

The Claimant submitted the deposition testimony of Dr. Lane, who is a general cardiologist. Dr. Lane admitted to speaking with the Claimant's attorney for 30 to 40 minutes in advance of her deposition. Dr. Lane first examined the Claimant at University Hospital on August 23, 2015. Dr. Lane reviewed documentation from the Center for Disease Control confirming the effects of HF are dependent upon the concentration of HF, the duration of exposure, and the penetrability of the site of exposure. Dr. Lane testified the Claimant's exposure

to HF caused her to develop heart block because the severe respiratory distress she encountered following her exposure triggered an underlying vasovagal response. This opinion was based upon a presumption of an underlying vasovagal response discerned from the Claimant's reported history of fainting while pregnant with her son over twenty years ago and not based on any medical documentation confirming the diagnosis. After stating 20% to 30% of the population has an underlying vasovagal reflex, Dr. Lane states the process of respiratory distress triggering heart block is unusual but not unheard of and is not very frequent but states it is a described event that can occur.

The Defendants submitted the deposition of Dr. Aquilina, an electrophysiologist in the same practice as Dr. Lane. Electrophysiology is a subspecialty of cardiology and involves the management and treatment of rhythm disorders of the heart. Dr. Aquilina performed the surgery to implant the Claimant's pacemaker. Dr. Aquilina states there is no way to tell what caused the Claimant's heart block with any certainty. He stated he could not state with any certainty whether exposure to HF led the Claimant to develop heart block. Dr. Aquilina also stated there is no way for him to relate a vasovagal reflex to the development of heart block. For patients with a vasovagal reflex causing heart block, the effect is transient and does not indicate treatment with a pacemaker. In monitoring the Claimant's pacing since her surgery, she is 100% dependent on her pacemaker, which suggests the heart block is not vasovagal. Aquilina Depo. P.13:18 – 14:1.

The Defendants submitted a report from Dr. Feldman, a cardiologist. Defendants' APA #30. After reviewing the records, Dr. Feldman concludes there is no obvious physiological etiology for the Claimant's development of heart block. He believes the Claimant's heart block is more likely the result of primary conduction disease. Dr. Feldman also disagreed with Dr. Lane's conclusions, finding heart block due to a vasovagal event would be transient while post-implant

interrogation has shown persistent ventricular pacing. He concludes it is physiologically improbable that there is a causal relationship between the Claimant's HF exposure and her heart block.

Respiratory

The toxicology report of Dr. Early also addressed the Claimant's respiratory complaints. Defendants' APA #27. He reviewed the Claimant's post-accident pulmonary function tests (PFTs) and concluded they did not show changes typical of obstructive lung disease. Dr. Early also discussed the diagnostic criteria set forth by the authors who defined Reactive Airways Dysfunction Syndrome (RADS) and concluded the Claimant did not meet all the criteria. Because the Claimant had previously worked at Savannah River Site, Dr. Early was able to review PFTs from 2008-2011, pre-dating the Claimant's exposure. He concluded these studies confirmed a pre-existing restrictive lung disease, which needs to be considered in determining her impairment.

The Defendants submitted a report from Dr. John Mitchell, a pulmonologist. Defendants' APA #28. After review of the claimant's medical reports, taking a personal history, and examining the Claimant, Dr. Mitchell took issue with the conclusions of Dr. Alleyene. Dr. Mitchell pointed out the Claimant's PFTs suggest a restrictive lung disease, which is inconsistent with Dr. Alleyene's diagnosis of RADS, which typically manifests as an obstructive lung disease. Dr. Mitchell also reviewed the Claimant's history of PFTs and concludes the Claimant has a history of restrictive pulmonary impairment dating from 1993. Dr. Mitchell concludes the Claimant has a pulmonary impairment which predated her exposure on August 20, 2015.

The Claimant submitted the deposition of Dr. Mitchell, who carries board certifications in pulmonology, internal medicine, critical care, and sleep medicine. At the outset, Dr. Mitchell

indicated he believes the Claimant's heart block is unrelated to her HF exposure but was willing to defer to a cardiologist for a definitive opinion. With regard to her pulmonary complaints, Dr. Mitchell testified he does not believe the Claimant to suffer from RADS. In part, Dr. Mitchell bases his opinion on the Claimant's historical PFTs, which documents a restrictive pattern for years which she continues to demonstrate. The historical data shows a pre-existing condition and the data since the exposure continues to show a restrictive deficit while a RADS diagnosis would expect an obstructive deficit. Moreover, Dr. Mitchell says the evidence does not present a compelling argument the Claimant sustained an aggravation of a pre-existing condition based on her PFTs.

Medical records from Dr. Alleyne were submitted covering treatment from September 25, 2015, to June 1, 2016. Claimant's APA #4. The initial report states the Claimant presented for evaluation of dyspnea and cough. The Claimant reported a three minute exposure to HF vapors in her workplace. She reported exertional dyspnea, cough, and episodic wheezing. The initial physical examination notes normal auscultation and no cough. A PFT was performed at the initial visit and prompted Dr. Alleyne to assign the Claimant a Class IV impairment under the AMA Guides. He diagnosed the Claimant with reactive airway dysfunction syndrome (RADS) and recommended continued nebulized bronchodilator on a "when necessary" basis. Dr. Alleyne recommended the Claimant not return to work anywhere she would potentially be exposed to noxious fumes and chemicals. Subsequent reports document incomplete response to the medications prescribed. The most recent report documents the Claimant is maintained on Breo with, when necessary, Xopenex and Ipratropium via nebulizer.

The Claimant submitted the deposition testimony of Dr. Alleyne, who is board-certified in pulmonary disease, internal medicine, and critical care medicine. He admitted to three or four

conferences with the Claimant's attorney prior to his deposition. He explained an obstructive deficit involves problems expelling air from the lungs while a restrictive deficit involves problem bringing air into the lungs. Dr. Alleyne diagnosed the Claimant with RADS, which he states can be either a restrictive or obstructive disease. He testified the typical RADS patient does not have preexisting pulmonary issues and develops RADS after exposure to an irritant. Dr. Alleyne does not believe the Claimant's medical history documents any breathing problems prior to her exposure but also stated he believes the Claimant had a prior restrictive deficit caused by obesity. Dr. Alleyne also testified the Claimant has 30% impairment to each lung, will require ongoing use of bronchodilators, and is incapable of working in her current condition.

Dr. Alleyne testified the Claimant developed heart block as a result of her exposure to HF but acknowledged he is not a cardiologist. Despite this, and the fact he is not board-certified in cardiology, Dr. Alleyne indicated he would not defer to the opinion of a cardiologist on the question of causation. He further acknowledged the importance of learning the length of exposure and concentration of chemicals in determining the harmful effects of a chemical exposure, but then refused to acknowledge a minimum acceptable exposure limit for HF fumes.

The Defendants submitted a report from Dr. Selwyn Spangenthal. Defendants' APA #29. Dr. Spangenthal reviewed the Claimant's deposition testimony and medical records. Dr. Spangenthal concluded the medical evidence does not support Dr. Alleyne's diagnosis of RADS because the objective evidence fails to support a finding of obstructive air flow. He suspected silent reflux and morbid obesity could be considered as causes for her ongoing respiratory symptoms. Dr. Spangenthal concludes the Claimant's exposure to HF has not had a long-term negative impact on the Claimant's pulmonary system.

The Claimant submitted a vocational evaluation from Harriet Fowler. Claimant's APA #22. The report was prepared at the request of the Claimant's attorney. This reports documents the Claimant has a bachelor's degree in Theology where her ending GPA was 3.9/4.0. This report documents the Claimant's prior vocational history as an admissions worker and discharge planner for outpatients at a health care facility, an EMT, and a laboratory technician. The Claimant reported prior employment with the U.S. Department of Energy from 1983 to 2011, rising to the level of Occupational Health and Safety Health Administration Safety coordinator. After a lengthy review of the medical reports, Ms. Fowler concluded the Claimant is unable to perform any type of substantial gainful employment. Ms. Fowler noted that some of the Claimant's physicians had recommended no restrictions, creating a dilemma that can only be resolved by judicial weighing of the medical opinions.

The Claimant submitted a psychiatric report from Dr. Hooper. Claimant's APA #23. The report documents a history of mental health treatment in the early 2000's related to the end of her first marriage. Multiple physical/ somatic symptoms are documented. The Claimant reported very difficult feelings regarding the management of the Employer and believes she was poorly protected before the incident and poorly cared for since. In interpreting the MMPI-2 test results, Dr. Hooper concluded her profile is probably valid but may reflect some exaggeration of symptoms. He further concluded the Claimant appears to be extremely angry and suspicious that others are taking advantage of her and is overly sensitive to criticism. She may be overtly paranoid. She tends to blame others and harbor grudges. Dr. Hooper indicates the Claimant sees the world as a threatening place. The report states the overall picture suggests a possibly aggravated reaction to perceived situational threat and that her psychological and emotional problems may likely continue even after stresses subside. On the basis of his evaluation, Dr.

Hooper diagnosed the Claimant with Post-Traumatic Stress Disorder as a result of her alleged exposure. He recommended extended psychological and psychiatric treatment for some time while noting the Claimant may not be the best or most willing candidate for psychological treatment.

FINDINGS OF FACT

Based on the greater weight and preponderance of the evidence submitted, including the medical reports and the claimant's testimony, the Full Panel adopts the following findings of fact, with amendments:

1. Claimant alleges that through an acute chemical exposure (specifically hydrofluoric acid, hereinafter "HF" or "exposure") on August 11, 2015, she (a) injured her "bones," heart, lungs, neurological system, and sense of smell and taste; and (b) sustained PTSD.
2. The parties received Order Instructions from the Single Commissioner via email on August 22, 2017.
2. Claimant is 57 years of age (Hearing Transcript, page 14).
3. Claimant attended four years' of college, obtaining her B.A. with a GPA of 3.9 out of 4.0. She also obtained EMT certification (Defendants' APA #31, page 427; Claimant's APA #26, pages 268 and 270).
4. Claimant's employment history includes work as a lab technician, a hospital admissions representative (a sedentary job), a hospital discharge planner/utilization review coordinator, an office receptionist and medical records clerk, and an E.N.T. Prior to her employment with Employer, Claimant worked in a laboratory at Savannah River Site for

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- 20-25 years, and worked at SRS in other capacities as well (Hearing Transcript, pages 18-19; Claimant's APA #26, pages 268-270).
5. On the date of the exposure, Claimant's job with Employer was Quality Control Laboratory Technician (Hearing Transcript, pages 14 and 16-17).
 6. Claimant is described by a supervisor as competent in her duties, but a management challenge, as Claimant had difficulties getting along with some of her co-workers. Claimant "frequently and consistently" ("all the time," according to her deposition testimony) perceived and reported various issues to management that she felt were safety risks. In a previous job, Claimant had been an Occupational Health and Safety coordinator. Claimant never developed any health issues as a result of the prior incidences she reported to Employer. Mr. McDowell is particularly credible in that he readily admitted at the hearing that some of Claimant's many complaints were legitimate, and remedial measures taken where indicated (Hearing Transcript, pages 77-78 and 151-152; Claimant's APA #26, page 269).
 7. Claimant filed an EEOC claim against Employer which was dismissed (Defendants' APA #35, page 471).
 8. On the date of the accident in issue, Claimant (a) weighed 206 lbs. at 5 feet, 2½ inches tall, and (b) had a BMI of 37.22. Temporal medical evidence refers to Claimant as morbidly obese (e.g., Claimant's APA #1, pages 6 and 22; Claimant's APA #2, page 42; *See also* Claimant's APA #2, page 63; Claimant's APA #39, page 481).
 9. Claimant has pre-existing restrictive lung disease dating back to at least 1993; the degree of impairment varied from "mild" to "moderate," as established by tests from Savannah River Site where Claimant previously worked for 28 years (1983-2011). Claimant's

PFT's from 2008-2011 consistently showed restrictive lung disease with FVC and FEV1 in the 65-80% of expected. Therefore, Claimant's counsel's leading question-- regarding the fact that a hospital pulmonologist (Dr. Kulkarni) stated that Claimant "may have possible RADS" related to her exposure--is not dispositive or even persuasive, as this physician had no records relating to Claimant's pre-employment lung testing. This same physician also wrote "no indication for bronchoscopy" (Defendants' APA #27, page 406; Defendants' APA #29, pages 420-421; Hearing Transcript, pages 18-19 and 112; Claimant's APA #2, pages 53 and 55; Claimant's APA #26, pages 268-270).

10. Prior to starting work for Employer, Claimant did not pass her PFT test. This evidence is unrefuted, and based on the credible testimony of Mr. McDowell (Hearing Transcript, pages 154-155).
11. Claimant has cats in her home. However, Claimant has told post-exposure providers that she avoids any irritants, and that she must wear a mask outside because of weather, air quality, and random exposure to irritants (e.g., Claimant's APA #4, page 126; Defendants' APA #28, page 408; Claimant's APA #27, page 292)
12. Given (a) Claimant's educational achievements and intellect, (b) the various jobs she previously held while employed with Savannah River Site, (c) the testing she underwent numerous times at Savannah River Site, (d) her E.M.T. training, (e) her ability to recount in great detail treatment she received from a cardiologist in 2007, (f) her ability to recount in great detail work-up she underwent for kidney stones in 2010, and (g) her general level of comfort discussing complex medical terminologies and medications, I do not find credible in the least Claimant's testimony that she was "not aware" of the fact that she

had pre-existing restrictive lung disease, as such had been documented multiple times (Hearing Transcript, page 49).

13. Claimant also has pre-existing hypertension and osteoarthritis for which she was taking medications prior to the date of the accident in issue. Claimant has taken beta blockers for her hypertension. One of the medications she was taking on the date of the accident (for hypertension) has diuretic properties. [Claimant also testified at the hearing that her legs swell]. The other medication Claimant was taking prior to the exposure was for muscle spasms/pain for her osteoarthritis (hip and SI joint). According to medical evidence, both prescriptions were ongoing and “active” when the exposure occurred. Claimant’s use of the words “resolved” and the past tense “was” (as to the ongoing hip/SI joint condition and use of medication) damages her credibility, particularly as she is requesting the Commission to order Defendants to pay for “bone pain,” “muscle spasms,” and “muscle pain,” all of which conditions were being actively treated. After the exposure, Claimant has similarly sought treatment for hip pain, femur (leg) pain, and pelvic pain (e.g., Claimant’s APA #1, page 1; Claimant’s APA #2, pages 21 and 71; Defendants’ APA #31, page 428; Claimant’s APA #1, page 14, showing that Claimant’s previous prescription of Flexeril (which treats muscle spasms) was active at the time of the exposure; Claimant’s APA #2, page 42—documenting that Claimant’s osteoarthritis is located in her pelvis and thigh as well; Cf. Hearing Transcript, pages 49-50, 72-73, and 110).

14. Claimant has pre-existing kidney disease according to medical evidence. One of Claimant’s own experts states that kidney disease is a risk factor for heart block (Defendants’ APA #31, page 427, stating that Claimant’s past medical history includes

kidney disease; Claimant's APA #40, page 501, documenting kidney scar formation and previous inflammatory process; Deposition of Dr. Lane, page 25).

15. Claimant has alleged to providers and testified that she has numbness and tingling in both hands which she also relates to the accident in issue. However, Claimant had prior numbness and tingling in one or both hands, such that she was previously assessed for carpal tunnel syndrome. There is no evidence or opinion that Claimant's pre-existing condition was aggravated (Hearing Transcript, pages 52-53; medical evidence in its entirety, *e.g.*, Claimant's APA #1, page 9; Claimant's APA #2, pages 21 and 44; Defendants' APA #29, page 419).
16. Claimant has pled a loss of sense of smell and taste, and subjectively reported this complaint to various providers including Dr. Alleyne. Inconsistently, Claimant has told both Dr. Mitchell and Dr. Hooper that she is sensitive to various odors because of the exposure. Claimant cannot have it both ways (Hearing Transcript, pages 50-51; Claimant's APA #4, pages 125; *Cf.* Defendants' APA #28, page 408).
17. Claimant underwent a work up in 2007 for an irregular heartbeat. In 2014, Claimant's hypertension medication (Atenolol) was changed due to bradycardia (Hearing Transcript, page 48; Defendants' APA #26, page 393; Deposition of Dr. Mitchell, pages 13-15; Claimant's APA #2, pages 54 and 71).
18. A CT scan of Claimant's abdomen from 2010 showed atherosclerotic vascular disease in the arteries of the abdomen. Although not dispositive, this evidence is uncontroverted. Claimant's 2016 (post exposure) abdominal CT for her unrelated gallbladder shows atherosclerotic vascular disease as well (Claimant's APA #40, page 501; Defendants' APA #30, page 424).

19. Claimant has a family history of hypertension, heart failure, and stroke/TIA (Claimant's APA #1, page 1; Claimant's APA #2, page 77).
20. Literature from the CDC states that effects from HF are dependent on the (a) concentration of the HF, (b) the duration and size of the exposure, and (c) the penetrability of the site of the exposure. Defendants' expert Dr. MacKinnon agrees that the two most important factors are duration of exposure and concentration of the acid (See Deposition of Dr. Alleyne, page 46, citing a CDC article; Deposition of Dr. MacKinnon, pages 16 and 20-21; See also Deposition of Dr. Lane, page 15, lines 2-6).
21. In the mechanics of the accident, Claimant opened a door to the "patio" to dump waste, smelled HF in "*a draft of air [that] came in,*" and immediately closed the door back. Claimant never proceeded through the door which was not, according to her deposition testimony, opened very far [emphasis added] (Hearing Transcript, e.g., pages 22-32, 38, 80-81, and 83-84; Claimant's Deposition).
22. According to Claimant, she took a total of several breaths ("three, no more than four"); I therefore do not find believable Claimant's statements to providers that she was exposed to HF for "three minutes" or even "one to three" minutes (Hearing Transcript, pages 25 and 81; Claimant's APA #7, page 162; Defendants' APA #27, page 395; Defendants' APA #28, page 408; Deposition of Dr. Mitchell, page 48; Claimant's APA #1, page 5).
23. The Safety Data Sheet's first page (Hazard Statement) states that HF "may cause damage to organs through *prolonged or repeated exposure*" [emphasis added]. Claimant alleges that her exposure to HF damaged her heart (Claimant's APA #18, page 183).

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24. When Claimant opened the door to the patio, she was wearing safety glasses, acid gloves, an acid apron, safety shoes, and a face shield (Claimant's APA #12, page 167; Claimant's APA #14, page 179; Hearing Transcript, pages 20 and 28).
25. The "patio" is not fully enclosed, but rather open to the outside air on one side. Fumes can escape to the outside and are not enclosed within four walls, a floor, and a roof, *i.e.*, the area is ventilated (Hearing Transcript, pages 137-138, 156, and 195).
26. The source of the HF leak was a pinhole in an economizer carrying HF at up to 40% concentration along with two other chemicals. The economizer had been drained and some HF-saturated insulation remained on the outside of the economizer. The location of the HF-saturated insulation was approximately 12 feet from the door Claimant opened, and the nearest venting carboy was approximately 25 feet away from the door. McDowell explained to our satisfaction his use of "40% concentration" and he is, although not an expert, well-versed with HF in the workplace. At the time of the exposure, the leak had been contained and the economizer was being prepared for maintenance and the insulation was saturated (*e.g.*, Hearing Transcript, pages 139-145, 166, and 185; Claimant's APA #11, page 166; Claimant's APA #16; Claimant's APA #12; Claimant's APA #13).
27. After Claimant took three to four breaths and shut the door, another employee (Lonnie Parsons) offered to dump the waste for Claimant and she accepted his offer. In order to dump the waste, Mr. Parsons walked twice by the carboy venting the economizer. Claimant admits that Mr. Parsons was not in any physical distress when he returned the container to Claimant (Hearing Transcript, pages 32-33, 85-87, and 188).

28. Mr. Parsons did not wear a respirator. Mr. Parsons worked on the patio for approximately **eight hours** in the area where the HF leak was located but did not develop any adverse conditions including respiratory, heart, or otherwise. Sometimes he worked two to three feet away from the carboy, "even standing over top of it." Although the effect of HF on Mr. Parsons is not dispositive as to the effect on Claimant, we do give this evidence great weight *vis a vis* the three to four breaths Claimant took, as duration of exposure is a factor to consider (Hearing Transcript, pages 32, 40-41, 79-80, 140, 185-186, 188-189, and 196).
29. Mr. Parsons, a chemical operator and 11-year employee, is very credible. He testified that as far as Claimant is concerned, he remembers no coughing, observed no facial redness, observed that Claimant had no difficulty talking, and observed that Claimant appeared in no distress (Hearing Transcript, pages 184-185 and 187-189).
30. After the three to four breaths Claimant took, she went "straight to the lab" (and away from the fumes) where she told her co-workers she was "angry," and told her co-workers that "somebody is going to get somebody killed down there." Claimant then went to the control room (also in an area away from the fumes) for fresh air, and was monitored. According to Chip Babb, Claimant's symptoms in the control room were slight irritation in her throat and chest and "something in the back of her throat that was inducing a cough." Claimant displayed no symptoms which raised any concern; nor did she request medical care from a physician. The Safety Data Sheet states that appropriate treatment is to remove the person who inhaled HF to fresh air and to get medical attention "if you feel unwell." Claimant told the individuals in the control room that "What's it going to take, is somebody going to have to get killed in this place for people to do the right thing" and

that “some things need[ed] to change around here before someone really gets hurt” (Claimant’s APA #12, page 167; Hearing Transcript, pages 36-42 And 88-89; Claimant’s APA #14, page 179; Claimant’s APA #18, page 184).

31. We give greater weight to the testimony of Mr. Parsons than we give to Claimant. We base this finding on our observations of these witnesses’ demeanor and on the delivery of their testimony.
32. Like Mr. Parsons, Mr. McDowell observed Claimant with no coughing and with no respiratory distress. Mr. McDowell also observed no facial redness after the exposure, as Claimant and even her husband have alleged to providers, and Claimant has so testified. We note that Claimant has a prior history of rosacea (Hearing Transcript, pages 42-43 and 149; Claimant’s APA #2, page 52, which lists Claimant’s prior medical conditions; Defendants’ APA #28, page 408).
33. One of the potential effects of HF exposure is weight loss. Claimant, by contrast, has gained 15 lbs. since the date of exposure (Claimant’s APA #18, page 185; Hearing Transcript, page 50).
34. We give great weight to the testimony of Mr. McDowell, a 28-year employee, based upon his demeanor and the straightforward delivery of his testimony. Boosting his credibility is the fact that Mr. McDowell gave answers against his employer’s self-interest, such as when Mr. McDowell testified that even though the leak had been secured at the time the carboys were attached, the insulation on there would have been saturated with HF as well as sevoflurane and some HFIP. Mr. McDowell also admitted that in hindsight, better communication would have let all employees know about the leak, and/or barriers should have been in place. Mr. McDowell does not pretend that Claimant

knew or should have known about the leak, which would have been far more expedient. According to Mr. McDowell, the amount of HF was "trace," and was not measurable as he explained at the hearing, testimony which dovetails with the fact that Mr. Parsons had a substantially greater duration of exposure than Claimant yet had no residual effects (Hearing Transcript, pages 134-171; Claimant's APA #8, page 163).

35. Mr. McDowell, who has dealt with several HF exposures regarding other employees in the past (both inhalation and skin), found it highly unusual that Claimant had none of the symptoms he would have expected in the control room where Claimant went after the accident. He also found it unusual that notwithstanding Claimant's later complaints to providers, her blood work was negative (Hearing Transcript, pages 146-148).
36. During Dr. MacKinnon's deposition, Claimant's counsel points out the fact that Claimant had testified under oath at her deposition that her face was red after the exposure as noticed by her co-workers, as if this testimony proves Claimant had such a reaction to the HF. However, there is no temporal medical record stating that Claimant's face was red after examinations of her skin or that she had a rash (in fact, the first medical record specifically states that Claimant had no rash). Further, Janice Tierney, the co-worker who allegedly said "your face is so red" was not at the hearing; Claimant did not call Ms. Tierney as a witness. Nor did Mr. McDowell or Mr. Parsons observe any facial redness as set forth *supra*, and we give their testimony greater weight than we give Claimant's (Deposition of Dr. MacKinnon, page 63; Claimant's APA #1, page 5; Hearing Transcript, page 42).
37. We also give great weight to the testimony of George Campbell, a chemical operator and 11-year employee. Mr. Campbell is extremely credible because he readily admits that his

exposure to HF on the date of the accident made his eyes start burning, made him cough, and made it difficult for him to catch his breath. As it would have been far more expedient for Mr. Campbell to testify that he had no problems whatsoever after his own exposure, this testimony contains salient statements against Employer's interests. Like Mr. Parsons, Mr. Campbell did not wear a respirator, and was exposed to HF for two to three minutes as he dumped slops. Mr. Campbell testified that his physical symptoms cleared up after he got fresh air and, although not dispositive, Mr. Campbell has no lingering effects from the HF exposure (Hearing Transcript, pages 173-182).

38. Dr. Early (Defendants' expert toxicologist) states that the amount of HF needed to cause hypocalcemia or hypomagnesemia is "substantial," and most commonly occurs after dermal or oral ingestion. Although not dispositive, no HF touched Claimant's skin as she was wearing safety gloves; nor did Claimant swallow any HF, as she was wearing a face shield. Dr. Early also points to the fact that electrolyte abnormalities are noted in the first 24 hours. Claimant's labs were normal for more than a week, which Dr. Early states is not surprising given Claimant's limited exposure to HF (Defendants' APA #27, page 399).
39. Claimant's exposure to HF occurred between 5:25 a.m. and 5:40 a.m. before her shift ended (Claimant's APA #12, page 167; Claimant's APA #14, page 179; Hearing Transcript, pages 19-20).
40. Shortly after 6:00 a.m., Claimant returned from the control room to her office in the lab (Claimant's APA #14, page 179).

41. At 6:35 a.m., Mr. Babb checked on Claimant. She told him that she was doing better, and that the coughing had subsided. Mr. Babb's recollection dovetails with Mr. Campbell's experience after he got fresh air (Claimant's APA #14, page 179).
42. Although Claimant professes (a) to be well versed with HF, and (b) that she had a pounding heart after the exposure, she did not request to see a doctor (Hearing Transcript, pages 76 and 87-89).
43. At 6:58 a.m., Claimant sent an e-mail she typed regarding the exposure incident, requesting a meeting with management and safety, but making no request for medical care for any ongoing injuries or symptoms (Claimant's APA #7, page 162; Hearing Transcript, pages 90-93).
44. Claimant's shift ended at approximately 7:00 a.m., and she went home (Hearing Transcript, pages 43-44).
45. Claimant went to Urgent MD (approximately 12 hours later) on August 11, 2015, where she was seen at approximately 7:20 p.m. Contrary to Claimant's (a) testimony at the hearing and (b) myriad statements to various providers (including her own experts), **providers at Urgent MD documented the fact that Claimant had no cough and no shortness of breath.** We give great weight to this evidence, which directly contradicts Claimant's testimony that she continued to have persistent coughing and shortness of breath. This medical record is co-signed by Dr. Payne (Claimant's APA #1, pages 5-8).
46. Contrary to Claimant's sworn testimony at the hearing that she felt a heart problem after the exposure (testimony: "my heart was pounding" and "my pounding heart" and "my heart is like pounding out of my chest"), medical evidence from Urgent MD documents the fact that Claimant actually **denied chest pressure or chest pain; nor did Claimant**

make any other chest complaint. A clinical examination found Claimant's chest, lungs, and breaths sounds all "normal." Additionally, Claimant is specifically noted to have no rash; by contrast, Claimant has told providers she had lesions on her skin she attributes to the HF exposure. Nor is there any medical evidence that Claimant's face was "red," as she and her husband have told providers. Claimant was able to "articulate well with normal speech /language, rate, volume and coherence," and Claimant had an appropriate mood and affect, clinical findings inconsistent with Claimant's testimony that she was disoriented and in shock/mental distress. Urgent MD found **no wheezing, no diarrhea, no nausea, and no vomiting.** Claimant's labs were normal (Claimant's APA #1, pages 5-8; Hearing Transcript, pages 27-28, 31, 36, and 93-94; Defendants' APA #27, page 402—however, Dr. Early states that gaseous HF exposure of this nature would not typically cause chronic skin abnormalities).

47. Claimant's testimony at the hearing that she had six bouts of diarrhea and abdominal pain that began approximately seven and one-half hours after the exposure (which condition Claimant relates to the exposure) is refuted by the Urgent Med records of 7:20 p.m. on the date of the exposure—more than 12 hours after the exposure. Claimant specifically **denied any diarrhea during this medical visit.** This inconsistency and Claimant's exaggeration (actually an outright untruth) greatly damage her credibility (Hearing Transcript, page 44; Claimant's APA #1, page 5).
48. Claimant told Urgent MD providers on the date of exposure (August 11, 2015) that she was exposed to HF for approximately 3 minutes (Claimant's APA #1, page 5).
49. At Urgent MD on the date of exposure, Claimant's actual complaints were headache, sore throat, and dry nose. After Claimant underwent an examination, she was instructed to

use Ibuprofen for her headache, and was given no restrictions (Claimant's APA #1, pages 5-8).

50. Through her testimony and demeanor at the hearing, Claimant gave the impression of someone who is angry and indignant, about both the exposure and its aftermath. Claimant alleges that she requested calcium gluconate in the control room but was denied. Given the level of her symptoms in the control room, Claimant's testimony that she requested calcium is not believable, as we must factor in her other untruths and exaggerations. Nonetheless, Claimant's calcium levels were checked at Urgent MD on the date of the exposure, and were within normal limits. In fact, all Claimant's labs (including but not limited to magnesium) were within normal limits. Claimant's calcium levels were checked again at the Emergency Room two days after the exposure, and were again documented within the range of normal (Claimant's APA #1, pages 5-8 and 12; Claimant's APA #2, pages 23 and 25; Hearing Transcript, pages 37-39, 41, 167, and 169-171).

51. Both Dr. Early and Dr. Mackinnon state that the cardiac effects of HF are typically revealed by severe reductions in calcium and magnesium levels within the first 24 hours after exposure. Claimant's testing was consistently normal for two weeks (Defendants' APA #26 and Defendants' APA #27; Deposition of Dr. MacKinnon in its entirety; See also Claimant's APA #1, page 7).

52. We give greater weight to the opinion of Defendants' experts who state that exposure to HF results in immediate symptoms that improve over time. As Claimant's symptoms were mild immediately after exposure (throat irritation) this opinion dovetails with (a) Claimant's condition in the control room, (b) Claimant's condition in her office when Mr.

Babb went to check on her, and (c) the clinical findings on the date of the exposure at Urgent MD. Claimant's testimony at the hearing was essentially that her condition was bad, got better (*e.g.*, no longer having the pounding heart symptom), and then became worse (Claimant's APA #14, page 179; Hearing Transcript, *e.g.*, page 93).

53. Claimant sought treatment at a follow-up visit with Urgent MD on August 13, 2015 (two days after the exposure). At this visit, Claimant subjectively reported worsening of symptoms including shortness of breath, sore throat, coughing, headache, nausea, weakness, and numbness in her fingers bilaterally. Claimant also told these providers that her voice "comes and goes." Claimant again denied any chest pain or pressure. Notwithstanding these subjective complaints, Claimant's chest, lung, and heart exams were normal. Additionally, Claimant was medically documented to have no difficulty speaking, no airway distress, no dizziness, no skin lesions, and no focal neurological symptoms. Claimant's labs were again referred to as normal. However, Claimant's subjective complaints were not ignored. Because she complained of an alleged worsening, Urgent MD recommended Claimant be transported to the Emergency Room. We find it somewhat telling that given Claimant's supposedly severe condition and symptoms, Claimant declined the ambulance offered to her (Claimant's APA #1, pages 9-11).

54. At the Emergency Room on August 13, 2015, notwithstanding Claimant's subjective complaints regarding her exposure, providers documented Claimant's **normal pulmonary/chest/lung exam, neurological exam, speech, cognition, and memory.** Claimant denied any chest pain/problem and weakness. Claimant was again "[n]egative for rash." Claimant's chest x-ray was negative for pleural fluid or

pneumothorax, and her labs were negative as well. Although Claimant reported diarrhea to these providers, Claimant inconsistently testified at the hearing that she had not had a bowel movement since August 11, 2015, the date of exposure. Claimant testified that she reported “bone” pain and muscle spasms to these providers, which complaints are not found in these records; in fact, Claimant’s musculoskeletal exam showed normal range of motion and no negative findings (Claimant’s APA #2, pages 21-41; Hearing Transcript, pages 56-57 and 95-98).

55. Claimant returned to Urgent MD on August 15, 2015 (four days after the exposure), and presented as “mildly hoarse” with a “dry nose.” Claimant’s chest and lung exam was normal; her cardiovascular exam was normal as to rate and rhythm; her abdomen was normal; she had no edema in her legs; and had no impairment of recent or remote memory. Even Claimant reported that her sore throat, hoarseness, cough, and shortness of breath were “significantly improved.” Claimant’s lab levels were again found normal. Claimant’s testimony at the hearing and her later statements to providers are inconsistent with these clinical findings. The last page of this report, containing the signature of the providers, was not provided to the Single Commissioner by Claimant (Claimant’s APA #1, pages 12-13; Hearing Transcript, pages 99-100).

56. Claimant returned to Urgent MD on August 19, 2015, complaining of diarrhea, headache, nausea, bone pain (femurs, pelvis and bilateral foot pain), hand tingling, constant cough, weakness, and a loss of sense of taste and smell. Nonetheless, Claimant’s lung and heart exams were normal. Claimant is documented as giving “poor effort on strength testing of bilateral hip flexors and quadriceps.” Further, providers noticed and documented that Claimant complained even with a light touch of her lower legs,

which presentation providers found “disproportionate to exam findings.” Claimant’s lab findings were again documented as normal, and her EKG suggested “chronic” conduction abnormality, “i.e., non-industrial.” In addition to these inconsistencies on presentation, these providers documented the fact that Claimant “*will not answer clearly if the albuterol and ipratropium jet nebulizer treatments improve her condition.*” By contrast, Claimant testified at the hearing unequivocally that the nebulizer helped. These medical records were also co-signed by Dr. Payne (Claimant’s APA #1, pages 14-17; Hearing Transcript, pages 58-60).

57. At the hospital on August 21, 2015, Claimant’s examination upon arrival and shortly before admission showed that Claimant “does not appear to have any evidence of respiratory distress” and was able to give all history without any difficulty. Her oxygen saturation is 100% on room air, not requiring any oxygen. On examination today there is no evidence of any wheezing or rhonchi. Chest x-ray shows no evidence of any significant changes” [emphasis added]. Claimant’s PFT showed a “mild” to “moderate” restrictive defect (Claimant’s APA #2, particularly page 51; See also Claimant’s APA #3, pages 83-84).

58. On August 21, 2015, during hospitalization for Claimant’s complaints she attributed to the exposure, Claimant was found to have a heart block, and a pacemaker was surgically implanted to provide pacing for her heart. Claimant told hospital personnel that her heart problem was caused by HF exposure (Claimant’s APA #2, pages 53 and 64; Deposition of Dr. Aquilina, pages 5-6).

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59. We find that this is a medically complex case. We therefore rely primarily upon the opinions from experts. We also find the testimony of Defendants' witnesses to be very reliable and credible for the reasons set forth in this Order.
60. Defendants are not required to disprove the compensability of a denied workers' compensation claim. Nor are they required to disprove any alleged injuries from an admitted accident. In this case, however, Defendants have in fact disproven Claimant's claims regarding any injury to her "bones," heart, neurological system, ability to smell and taste, and any ongoing injury to her lungs. We base this finding primarily on the medical opinions and/or testimony of Drs. Feldman and Mitchell, and secondarily upon those of Drs. Aquilina, Early, and MacKinnon.
61. We give great weight to the findings of toxicologist Dr. Early (MD, MPH), who believes that Claimant's dyslipidemia, hypertension, and obesity are "much more likely" the cause of AV block than the alleged 10-day delayed onset of HF-induced toxicity. Dr. Early's report in its entirety is persuasive (Defendants' APA #27, including but not limited to page 401).
62. We give great weight to the entirety of the report from Dr. MacKinnon, as contained in Defendants' APA #26. Dr. MacKinnon has published and lectured throughout North America on the subject of HF exposures, injuries, and treatments. He also has been a telephone consultant worldwide for those individuals possibly exposed to HF, and has dispensed medical advice to other physicians, hospitals, and clinics. He worked for 35 years as a physician in a plant that manufactured HF. He has handled hundreds of cases of HF injuries. After reviewing all the evidence, we must agree with his finding that there are "many areas of contradiction" in this case. Dr. MacKinnon cannot be faulted

for accepting Claimant's complaints at face value (he states that his patients generally tell the truth so he does not doubt Claimant has PTSD), because he was not at the hearing and has therefore not had the opportunity to review all the evidence, including but not limited to the credible testimony of Defendants' witnesses (Defendants' APA #33, as to Dr. MacKinnon's credentials; Deposition of Dr. MacKinnon in its entirety, including but not limited to pages 9-13 and 61).

63. As to the alleged heart injury, we give the greatest weight to the opinions and conclusions of Dr. Feldman (M.D., MHCM, FACC). Dr. Feldman states that Claimant's electrolytes were normal on three different blood draws after the exposure, and that it is "physiologically improbable that there is a causal relationship between HF and high grade heart block." we give great weight to Dr. Feldman's report in its entirety (Defendants' APA #30, including but not limited to page 425).

64. As to the alleged heart injury, we give great weight to the testimony and treatment records of Dr. Aquilina, Claimant's own treating cardiologist. As to causes of heart block, Dr. Aquilina, who readily admits that he is not an expert on HF, states that **most causes of heart block are unknown**. Most blocks are degenerative related to getting older, but sometimes develop in patients with heart disease, muscle dysfunction, coronary disease and a "whole host of different things, but there's never any test you can do to say 100 percent why someone develops complete heart block." Dr. Aquilina goes on to say that "we do see heart block in all age groups throughout patients' lives and we don't really know what causes them most of the time." Dr. Aquilina signed a statement on Claimant's short term disability application indicating that he does not know whether Claimant's heart block is related to a sickness or injury arising out of her

employment; as to causation, he checked the box “unknown.” Dr. Aquilina terms Claimant’s exposure to HF as only a “possible” reason. Dr. Aquilina states that hypophosphatemia does not usually cause an irregular rhythm, “not that I’ve ever seen actually.” Finally, Dr. Aquilina states that vasovagal reflex is “not related at all” to AV heart block. We give this evidence great weight (Claimant’s APA #3, page 109; Deposition of Dr. Aquilina, in its entirety, including but not limited to pages 4-21).

65. As to the alleged heart injury, we considered the opinion of Claimant’s expert, Dr. Lane (a cardiologist), but do not give Dr. Lane’s ultimate conclusions as much weight as we give Dr. Feldman’s. Nonetheless, even Dr. Lane does not believe that Claimant’s brief HF exposure directly caused Claimant’s heart block: Dr. Lane writes in a treatment note that there is “[n]o known exposure that would cause this degree of heart block without an electrolyte abnormality” [emphasis added]; Claimant had no electrolyte abnormality as evidenced by multiple post-exposure blood tests. Instead, Dr. Lane bases her causation opinion in large part upon a single syncopal episode that occurred 26 years ago when Claimant was pregnant, which Dr. Lane believes is an underlying vasovagal effect which combined in some way with Claimant’s “severe” respiratory problems (including “wheezing”) from the exposure. **This theory, however is notably nowhere to be found in any of Dr. Lane’s treatment records, and does not appear until after she met with Claimant’s counsel and sat for a deposition.** We find Dr. Lane’s opinion/testimony lacking for several reasons: (a) Dr. Lane admits that she has never reviewed even a single medical record regarding the sole and remote syncopal episode upon which she bases her opinion; (b) Dr. Lane’s opinion is premised upon the allegedly “severe coughing,” “extreme coughing,” “severe respiratory issues,” and “wheezing”

Claimant had after the exposure, that Claimant was *"so ill with the respiratory effects,"* and *"[p]rimarily because of the ten-day history [Claimant] had been giving us of the initial severe episodes of shortness of breath and coughing and wheezing and gasping,"* none of which are supported by temporal (and multiple) clinical exams; (c) Dr. Lane, who states that **hypertension and kidney disease are risk factors for heart block**, issued an opinion unaware that Claimant has a history of hypertension ("I can't recall" and "I don't recall the details. I don't"), until she was reminded of Claimant's history; (d) Dr. Lane may also be unaware that Claimant has a history of kidney disease, as documented in Defendants' APA #31, page 427, and Claimant's APA #40, page 501; (e) Dr. Lane is unaware of Claimant's pre-existing respiratory issues including her PFT testing ("[n]ot that I remember in hearing her history"); and (f) Dr. Lane was "unaware" that Claimant had been on a beta blocker Atenolol in 2014, the year prior to the exposure ("I don't remember that"). Dr. Lane's opinion is frankly not impressive. However, given the subjective complaints that Claimant has made to Dr. Lane regarding the exposure and alleged symptoms after the exposure (refuted by multiple Urgent MD and hospital records), as well as the omissions (e.g., Claimant's pre-existing restrictive lung disease, and her clinic exams at Urgent MD), Dr. Lane's opinion is not really surprising (Deposition of Dr. Lane in its entirety, including but not limited to pages 7-8, 15-16, 18-27, 32-41, and 44-48; Claimant's APA #2, pages 54 and 66).

66. As to the alleged heart injury, although Dr. MacKinnon defers to a cardiologist as to the ultimate question/causation of a heart block, Dr. Mackinnon notes that exposure can cause a heart problem "very early on" because of rapid and severe reductions in calcium levels. Multiple tests over the course of a week showed Claimant's calcium levels to be

normal. Dr. MacKinnon believes that Claimant's block was due to arteriosclerotic heart disease and not HF exposure based upon the nature and duration of Claimant's exposure (Defendants' APA #26, page 393; Claimant' APA #1; Claimant's APA #2; Deposition of Dr. MacKinnon in its entirety, including but not limited to pages 62-63).

67. As to the alleged heart injury, we considered the opinion of Dr. Setaro but do not find it as persuasive as Dr. Feldman's. Dr. Setaro writes that "no other conceivable reason was found or has been offered" as to causation, a statement which is not borne out by the other medical opinions and evidence. Nor does Dr. Setaro acknowledge that Claimant is morbidly obese, has kidney disease, and has abdominal arteriosclerosis/atherosclerosis (Claimant's APA #24). Defendants' APA #30, page 424.

68. As to pulmonologists, we give great weight to the opinions/testimony of Dr. Mitchell, a board certified pulmonologist (who is also board certified in internal medicine, critical care, and sleep medicine). Dr. Mitchell opines that the HF exposure did not result in permanent injury to Claimant's lungs; Claimant's pulmonary function testing produced similar results as those before the exposure. We give great weight to Dr. Mitchell's testimony regarding Claimant's chest x-ray (which was clear), ruling out chemical pneumonitis, and his explanation regarding this issue. Further, during his clinical exam, Dr. Mitchell found no wheezing; Claimant's lungs were clear bilaterally. Claimant told Dr. Mitchell that she continues to have a cough, which was not the case during the four hour hearing (referenced infra). Finally, Dr. Mitchell also opines that there is no causal relationship to the exposure and the AV block Claimant suffered two weeks later, although Dr. Mitchell to his credit ultimately defers to a cardiologist on the issue of heart block as he is a pulmonologist and not a cardiologist (Deposition of Dr. Mitchell in its

entirety including but not limited to, pages 6-12, 21, 33-34, 44, and 52; Defendants' APA #28 in its entirety; observations of the Single Commissioner at the hearing).

69. According to Dr. Mitchell, a lot of people develop complete heart block for unknown reasons. This statement is consistent with the testimony of Dr. Aquilina. Even Dr. Lane admits that heart block can occur from entirely natural reasons (Deposition of Dr. Mitchell, page 7; Deposition of Dr. Lane, page 35).

70. Dr. Mitchell states that Claimant is at maximum medical improvement from the exposure, and has no restrictions as a result of the exposure. As far as treatment for any pulmonary problem, Claimant needs to lose weight. Dr. Mitchell sees "no indication" for the inhaled medications Claimant uses (Defendants' APA #28, pages 417-418).

71. As to pulmonologists, we also give great weight to the report of Dr. Spangenthal, who opines that Claimant's exposure to HF has had no long term negative impact on her pulmonary system. Dr. Spangenthal believes the fact that Claimant's weight (approximately 220 lbs. currently) and morbidly obesity could account for shortness of breath with exertion. However, Dr. Spangenthal specifically states that Claimant's exposure has had no long-term negative impact on Claimant's pulmonary system.

72. Dr. Spangenthal opines that Claimant has reached maximum medical improvement, has no physical restrictions, and requires no additional medical treatment (Defendants' APA #29, page 423).

73. As to pulmonologists in this case, we considered the opinions/testimony of Dr. Alleyne. However, Dr. Alleyne states that a patient's "history is really the key to the diagnosis," and states that all Claimant's alleged problems developed "immediately" after the exposure. By contrast, Claimant's own theory of the case is that there was delayed onset

regarding her heart; regardless, Urgent MD documented no wheezing, no breathing problems, no abnormal labs, and no heart issues or complaints for more than a week after the exposure. Even Dr. Alleyne states that chest pain and wheezing start typically within 24 hours; Urgent MD records document the fact that there was no wheezing and no shortness of breath; Claimant's heart issues did not occur until a week to 10 days after the exposure according to medical evidence. When confronted on cross examination with the fact that Claimant's post-exposure RADS (Dr. Alleyne's diagnosis) is "moderate"—the same as Claimant's pre-existing baseline from the previous employment—Dr. Alleyne's actual response is "[b]ecause when you talk to the patient, her history is classic for RADS and, in addition to the RADS, she also sustained some other injuries as a result of the hydrogen fluoride exposure." This is not a persuasive "explanation." Further, and just as concerning, Dr. Alleyne states that normal FEV1/FVC should be between 70 and 90; below 70 would be obstruction; above 90 would be restriction. Claimant's testing shows 75 (the normal range), yet Dr. Alleyne actually states that he "do[es] not see her working in the future," even in a sedentary capacity within which Claimant has worked in the past. One of Dr. Alleyne's reasons is ostensibly in part because he says Claimant is sensitive to odors—odors which Claimant told other providers and the Single Commissioner that she cannot detect). We cannot help but contrast Dr. Alleyne's statement--that Claimant is not capable of working—with Dr. Aquilina's post-pacemaker medical record of April 2016 documenting that Claimant has been "*doing well over the past six months*" other than her (unrelated) gallbladder and some "*occasional*" bronchospasm; and that Claimant "*continues to do her activity without any new limitations*" [emphasis added]. Dr. Aquilina found Claimant's lungs clear with no

wheezes. We similarly do not find persuasive Dr. Alleyne's testimony that "RADS is really based on your [subjective] history" and "based primarily on your [subjective] history" as opposed to based upon pulmonary function tests. Dr. Alleyne also states that Claimant's previous restrictive defect was most likely based on her obesity; in fact, Claimant is, as of the date of the hearing 15 lbs. heavier. Dr. Alleyne does not opine that Claimant's preexisting lung condition was aggravated (Deposition, pages 22-23), as he will not really acknowledge that she had one. As to heart block, Dr. Alleyne, unlike Dr. Mitchell, refuses to defer to a cardiologist. Dr. Alleyne is not a cardiologist; nor has he ever been a cardiologist. Dr. Alleyne bases his opinions on the assumption that Claimant had no breathing issues prior to August 11, 2015, and that all her problems developed "immediately." Dr. Alleyne does not acknowledge the fact that Urgent MD found no breathing problems including wheezing from the exposure on August 11, 2015. Further, in his testimony Dr. Alleyne states the Claimant "entered a room" where the HF was, when Claimant never entered the room. Additionally, we cannot ignore the fact that Dr. Alleyne admitted at his deposition to having discussed the case with Claimant's counsel "at least" three or four times prior to the deposition. Finally, Dr. Alleyne admits that he does not know what the acceptable limit of HF exposure, and then states that there is no acceptable limit. That testimony would seem to suggest that Mr. Lawrence (who has inhaled HF during his employment with Employer, as he is familiar with its odor), Mr. Parsons, and Mr. Campbell should all have fallen ill. Of all the experts in this case, Dr. Alleyne's testimony comes across as the most outcome-determinative of any, and for the reasons set forth in this finding, we lend his ultimate conclusions little credence or weight (Deposition of Dr. Alleyne in its entirety, including

but not limited to pages 9-12, 14, 16-17, 19, 23, 27, and 32-43; Claimant's APA #3, page 116, but also see pages 104 and 106 ("no wheezes, rales, rhonchi"; Hearing Transcript, page 50).

74. Claimant's counsel is correct when he points out that Dr. Mitchell's report contains a mistake regarding exposure to HCL rather than HF, and a mistake in one portion of a record that refers to Claimant's weight as 241 (another portion of the report correctly records Claimant's weight as 221). The body of Dr. Mitchell's report in large part compares/contrasts Claimant's pre- and post-exposure lung condition, and is not an opinion regarding the hazards of HF, as Dr. Mitchell readily admits in his deposition that he cannot recall ever seeing a patient exposed to HF and that he is not an expert in HF. Dr. Mitchell clearly states at his deposition that it was HF to which Claimant was exposed; there is no confusion or equivocality. As far as any error as to Claimant's weight, Claimant was already medically documented as morbidly obese on the date of the exposure and has gained 15 lbs. since. However, any such mistakes in Dr. Mitchell's report pale in comparison to the flaws in Dr. Alleyne's opinions as set forth *supra* (Defendants' APA #28; Deposition of Dr. Alleyne, pages 27-28; Deposition of Dr. Mitchell, in its entirety including but not limited to pages 5, 10, 16, and 37; *See also* Claimant's APA #2, page 63, dated 10 days after the date of exposure as to "morbid obesity").

75. As to the testimony given at the hearing, we find that Defendants' witnesses gave credible, straightforward answers, sometimes saliently against Employer's interests. The substance of these witnesses' testimony (couple with their demeanor) eliminated any concern we had that they might either be "cowed" (worried about losing their jobs or

facing other punitive measures) or simply looking to serve their employer at the hearing. we base this finding on the credible testimony of Mr. McDowell, Mr. Parsons, and Mr. Campbell.

76. By contrast, Claimant's testimony is laced with exaggeration and untruths.
77. Further, Claimant's presentation at the hearing (approximately four hours in duration) was inconsistent and uneven given the injuries alleged and her subjective statements to providers. Claimant's contention that her voice "comes and goes" could have been believable, but not based upon how Claimant's voice came and went (not within words or sentences), but particularly at the beginning of cross examination (Hearing Transcript, page 76). However, Claimant was inconsistently able to raise the volume of her voice on command). These discrepancies were neither subtle nor convincing. **We also note that on August 13, 2015 (two days after the date of exposure), Claimant was "negative for voice change."** Additionally, given the nature of the (a) contentions alleged and (b) the complaints Claimant has made to providers, we was surprised that Claimant did not cough any more often or differently than anyone else in the room (Claimant's counsel actually coughed the most of anyone in the room, and even asked for water as reflected in the transcript). Our observations (the virtual absence of any coughing by Claimant) led us to ask Claimant if her cough had resolved. Claimant responded that it had not. Nor did Claimant ever leave the courtroom coughing. Claimant told Dr. Mitchell that she continues to have a cough, but Claimant inconsistently told a rheumatologist that two months before the hearing that her only respiratory complaint is "shortness of breath." Nor did Claimant have any chest pain or palpitations. Moreover, **Claimant's recall/memory at the hearing was nothing short of impressive.** By contrast, Claimant

has told myriad providers (e.g., Dr. Mitchell and Dr. Carbone's practice) that she has memory problems stemming from her exposure to HF and/or her alleged PTSD. Nothing could be further from the truth. At the hearing, Claimant remembered the name (both first and last) of the Physician's Assistants who treated Claimant at each post-exposure medical visit 1½ years ago, corrected her attorney who thought one of the physician's assistant's name was "Baird," and even correctly spelled the name ("B-U-I-R-D") for the court reporter. Claimant remembered that Dr. Kulkarni is an associate of Dr. Brannen, and corrected the defense attorney when he referred to Dr. Brannen as "Dr. Brennan." Further, Claimant remembered the first and last name of the attending physician who treated her at the hospital, and knew that Dr. Chand was a hospitalist who discharged her (she first stated that she did not remember being treated by Dr. Chand, and then explained that he had never treated her). This list of examples is not exhaustive. We additionally note that Claimant's attorney sent her for a psychological evaluation; notwithstanding Claimant's memory complaints to the evaluator, the evaluator found that Claimant demonstrated "no evident memory problems or recall difficulties" during the interview [emphasis added]. Finally, for reasons only known to Claimant, she was evasive—in both words and demeanor--when asked on cross examination who referred her to Dr. Alleyne, whose office is two hours away from her home (See e.g., Hearing Transcript, pages 38, 45, 52, 59, 73, 76-77, 92, 102-104, 109-113, and 198; Claimant's APA #27, page 290; Claimant's APA #41, page 505; Defendants' APA #28, page 408; Claimant's APA #2, page 21—"negative" for "voice change;" page 22—"Cognition and memory are normal").

78. Claimant is inconsistent in her complaints to providers. Although Claimant has told some providers that she "never" had GI issues before the exposure, and attributes her GI issues to the exposure, Claimant has inconsistently denied any constipation, diarrhea, vomiting, and nausea to Dr. Alleyne at multiple visits. She also denied any gastrointestinal problem ("no vomiting, diarrhea, or abdominal pain") to Dr. Duncan. [I note as an aside that Claimant has various pre-existing allergies (including but not limited to lactose) which can cause diarrhea.] Claimant has complained of constipation to some physicians, and denied it to others. Claimant has reported constant headaches to some providers (including but not limited to the psychologist to whom Claimant was sent by her attorney), and denied having headaches to others. Claimant told the pulmonologist to whom she was sent by her attorney that she has episodic wheezing; at a cardiology visit just the day before with Claimant's treating cardiologist, no wheezing was documented (Claimant also told her cardiologist that she was "currently involved in a legal case regarding Workmen's [sic] Compensation"). Claimant has complained of shortness of breath and cough to some providers, but in a review of systems with a non-workers' compensation physician (one year after the exposure), Claimant denied any shortness of breath or cough. As to psyche, a non-workers' compensation physician documented Claimant's normal mood and affect, evidence to which I give greater weight than the report of a one-time visit to a psychologist arranged by Claimant's attorney in anticipation of litigation. In contrast to the normal mood and affect documented by the non-workers' compensation physician, Claimant displayed "extreme" symptoms to the psychologist to whom she was sent by her attorney. When Claimant sought treatment with a rheumatologist for pain she

attributed to the exposure, the rheumatologist found "No joint swelling in any joints." At the hearing, Claimant attributed her hand/arm tingling to the exposure. By contrast, Claimant told her treating rheumatologist two months prior to the hearing that she has "No numbness, No tingling." We give greater weight to these inconsistencies than I give to any "sworn testimony" from Claimant (e.g., Claimant's APA #2, page 64; Claimant's APA #3, pages 104, 106, and 118; Claimant's APA #4, pages 127, 134-135, 143, and 148; Claimant's APA #40, pages 499 and 503; Defendants' APA #31, page 428; Claimant's APA #2, page 69; Claimant's APA #41, pages 505-506; Claimant's APA #27, page 291; Hearing Transcript, page 53; Claimant's APA #39, pages 477-478).

79. We give great weight to a medical record of July 2016 (approximately one year after the exposure), generated when Claimant sought treatment for left ear pain and swelling from a possible insect bite. This physician was not a workers' compensation physician. In a review of systems, Claimant is documented as having "[n]o shortness of breath, no cough." Claimant's respiratory exam was normal. As to Claimant's counsel sending Claimant for a psych evaluation, the medical note from the July 2016 insect bite documents an **appropriate mood and affect with no psychological problem noted**. This medical record refutes Claimant's (a) hearing testimony and (b) statements to various providers (Claimant's APA #39, pages 477-478).

80. At the rheumatology appointment in February 2017, providers found Claimant's lungs clear to auscultation with **non-labored respirations** (Claimant's APA #41, page 506).

81. We considered the testimony of Todd Lawrence (not an expert; he has a high school diploma), but find that he has an "ax to grind" (or at least a potential ax to grind) with Employer, as Mr. Lawrence was terminated for failing a drug test (Mr. Lawrence's urine

was, as he testified, "diluted, diluted. They say diluted"). Employer therefore denied unemployment benefits, and Mr. Lawrence subsequently obtained a note from a physician stating that Mr. Lawrence's urine was diluted because he drinks a lot of water with medication. Nonetheless, even Mr. Lawrence himself has been exposed to HF (he testified as to its "strong pungent odor") but admitted that he did not wear a respirator around the chemical on Employer's premises; nor does Mr. Lawrence attribute any heart or lung injury to his inhalation exposures of HF. Mr. Lawrence is "not sure" as to whether his hernia was caused by exposure; that testimony alone does not serve him well. Mr. Lawrence's testimony as a whole hurts Claimant's case more than it helps it. We do not find him very believable for the most part (Hearing Transcript, pages 114-132).

82. We considered Defendants' argument that Claimant's exposure was not an accident (the theory being that Claimant was explicitly warned or instructed not to open the door). However, Defendants' witnesses state that the door was yet to be barricaded and was not roped off. Further, Mr. Campbell's statement to Claimant that "I wouldn't go out that door" is not tantamount to a prohibition. Other written evidence shows that the door was not barricaded (Claimant's APA #12, pages 167-168; Defendants' APA #32, pages 430-431; Hearing Transcript, pages 175-176, 180-181, and 193; Claimant's APA #8, page 163; Claimant's APA #11, page 166; Claimant's APA #16; Claimant's APA #17).

83. Claimant's heart condition is not compensable. We base this on the reasons set forth in this Order. It is not likely the Claimant's exposure to HF caused her heart problem. The objective data from immediately after the accident fails to support a mechanism of injury involving an electrolyte imbalance, which is the mechanism by which HF causes injury to

the heart. Even Dr. Lane, whom the Claimant relied on for support, denied the heart injury was caused by HF exposure. The other primary theory advanced by the Claimant, which is that a severe respiratory response to HF exposure triggered a vasovagal reflex which triggered AV heart block, does not find tremendous support in the record. Only Dr. Lane holds this theory to be plausible while her partner, Dr. Aquilina, who as an electrophysiologist is perhaps the most qualified expert to address issues involving the electrical impulses of the heart, unequivocally states the vasovagal reflex has nothing to do with the Claimant's development of AV heart block. Dr. Aquilina's opinion was based on both his treatment of the Claimant in addition to his continued monitoring of the Claimant's pacemaker. The burden is the Claimant's to prove the facts which support a finding of compensability and she has failed to convincingly do so. And while it is not the burden of Defendants to disprove the Claimant's allegations, they have effectively done so in this instance. The Commission does not need to determine what caused the Claimant to develop AV heart block – only whether it was caused by her accident – yet the greater weight and preponderance of the evidence would suggest no causal relationship between the Claimant's exposure and her development of AV heart block to within a reasonable degree of medical certainty.

84. We have no doubt that Claimant experienced an irritation, and therefore an injury, to her nose, mouth, lungs, and throat when she was briefly exposed to HF, as the Safety Data Sheet states that breathing HF "can irritate the lungs." There is no question that HF in its pure form can be deadly. However, in this case we find that any injuries Claimant sustained were very minor, a finding we base on the location of the HF, the fact that the patio was open on one side, the fact that the HF was diluted and present only in trace

amounts, the fact that Claimant's exposure was brief, the fact the Claimant never even entered that part of the patio where the HF leak was located, the fact that Mr. Parsons worked in the patio for eight hours with no permanent effects, and the fact that even Claimant's own lay witness testified that he has smelled HF (just like Claimant) without experiencing any residual effects relating to his lungs or heart. The greater weight and preponderance of evidence simply does not establish that Claimant was exposed to HF in a quantity or for a duration that would result in any permanent injury. We cannot rely on Claimant's subjective complaints to providers, or on her testimony, as she is not credible for the reasons set forth in this Order. See Claimant's APA #18, page 185.

85. Claimant did not prove the compensability of any loss of sense of smell and/or taste. We base this finding on the opinion of Dr. Spangenthal. For us to believe Claimant, we would additionally have to ignore the fact that Claimant has inconsistently told (a) Dr. Mitchell that she has "*sensitivity to various odors*," and (b) Dr. Hooper that she avoids people because of the effect their "odors" have on her lungs [emphasis added] (Defendants' APA #28, page 408; Defendants' APA #29, page 422; Claimant's APA #27, page 292; See Hearing Transcript, pages 50-51).

86. As to Claimant's "bones," Dr. Mitchell opines that Claimant's exposure to HF did not result in injury to Claimant's bones. Additionally, Dr. Duncan writes in a medical note that Claimant "*doesn't really have orthopedic issues*," and that he could "*see no distinctive pattern*" [emphasis added] (Defendants' APA #28, page 417; Defendants' APA #31, pages 427-428).

87. As to alleged injury to the "neurological system," Dr. Mitchell states that Claimant has no injury to her "neurological system" (Defendants' APA #28, page 417).

88. As to any alleged PTSD, the condition is not compensable. Although Claimant testified that she was in shock and mental distress after the exposure, in fact Claimant's mood and affect were documented as appropriate with no concerns or complaints on the date of exposure. Further, Claimant's speech/language, rate, volume, coherence, and ability to articulate were normal. We further note that at the second Urgent MD visit, Claimant presented as anxious ("tearful"). However, when Claimant went to the hospital the same day (declining an ambulance), hospital personnel recorded psychiatric/behavioral condition as "negative" as to agitation, with no psychological problems noted. In the hospital on August 21, 2015, Claimant denied she was worried about HF. When Claimant sought treatment for left ear pain/swelling and headache in July 2016 (a year after the exposure) with a non-workers' compensation physician, Claimant is described as having an "appropriate mood and affect" with no psychiatric/psychological problem noted. At best, Claimant is inconsistent. We give greater weight to the inconsistencies in the medical records than We give to the conclusions as set forth by the psychologist to whom Claimant was sent by her attorney. Additionally, at the hearing, Claimant described no current PTSD effects of any description. (Claimant's APA #1, pages 6 and 10; Claimant's APA #2, pages 22 and 64; Claimant's APA #39, page 478; Claimant's APA #27, page 292; Hearing Transcript in its entirety).

89. Defendants' objection to Claimant's APA #28 (Report/CV of Dr. Edelman) is sustained. The originally-scheduled hearing was set to be heard on Claimant's Form 50 (i.e., Claimant's request for hearing) on March 7, 2017. Upon receipt of Claimant's counsel's request for a postponement, the hearing was re-set for April 27, 2017, specifically for the sole purpose of accommodating his need to be with his ill mother. Notwithstanding

the pleading, the continuance was not granted in order for Claimant to obtain more evidence to prove/substantiate her case and to counter Defendants' evidence in the case; Claimant could have withdrawn her Form 50 for that purpose. The information contained within Claimant's APA #28 was both solicited and prepared after the date of the originally-scheduled hearing—not before. Claimant's counsel could have withdrawn the Form 50 for the purpose of obtaining additional evidence, but he chose not to do so. Claimant's APA #28 was therefore not considered by the Commission, and was removed from the submissions.

90. We reviewed Claimant's vocational report for background information only, such as employment history, as Claimant specifically requested no finding of permanency be made (Claimant's APA #26).

91. We decline to require Defendants to pay for Claimant's pre-existing conditions including but not limited to osteoarthritis, muscle spasms, bilateral hand numbness/tingling, GI problems, and rosacea, none of which were caused or aggravated by Claimant's exposure. Nor are we inclined or persuaded to require Defendants to pay for Claimant's gall bladder polyp, fatty liver, neck pain, or shoulder pain from a previous shoulder surgery. There is no competent medical opinion stating that Claimant's pre-existing osteoarthritis was aggravated; and Claimant will not even admit to having an ongoing pre-existing problem that could be aggravated (*See* Claimant's APA #40, pages 499 and 502-503; Claimant's APA #41, pages 504-508—Claimant reported "widespread body pain" following the exposure, including Claimant's shoulder; however, Claimant denied shoulder pain to another provider—see Claimant's APA #40, page 499; Claimant's APA #1, page 12 as to Claimant's prior right shoulder surgery).

92. One month prior to the date of the originally scheduled hearing, Claimant told a rheumatologist that her shoulder, gluteal, and thigh pain began after the date of the exposure ("Most of her pain is focused on her lower extremities which [sic] right shoulder pain"), when in fact Claimant had a history of leg, SI, pelvic, and hip pain and problems for which she was taking Flexeril on the date of the exposure. Claimant also underwent a right shoulder surgery prior to the date of the exposure. Claimant's untrue statement to the rheumatologist serves as an example as to why a claimant's statements to providers are never dispositive in any workers' compensation claim (Claimant's APA #41, pages 504-505).
93. Our impressions at the hearing--that Claimant is very angry with Employer--were confirmed by our post-hearing review of the evidence. Although we do not agree with the PTSD conclusion by the psychologist to whom Claimant was sent by her attorney for an evaluation in anticipation of litigation, some of his notes are instructive: Claimant has "very difficult feelings" regarding Employer, and "*believes she was poorly protected before the incident* (lack of precaution, warnings, signage, etc.) and *poorly cared for since*, primarily in the interest of the company 'always pushing for money'" [emphasis added]. Claimant's "extreme symptoms" as revealed by the MMPI showed Claimant to be "extremely angry and suspicious ..." and "overly sensitive to criticism." Claimant is also described as "rigidly moralistic, at times potentially using projection and rationalizing to deal with her problems," "blaming others," being **possibly overtly paranoid**, and "**harboring grudges**." Some of these descriptions came through loud and clear at the hearing. This presentation, along with the many inconsistencies, gives the impression that Claimant wants to "stick it" to Employer by having Employer pay for all

Claimant's unrelated health conditions, and other conditions, some of which she does not even appear to have (Claimant's APA #27, pages 291-292; observations of the Single Commissioner at the hearing and after reviewing all the evidence).

94. Claimant's own psychological evaluator admits that Claimant's MMPI showed some exaggeration of symptoms. Interestingly, he does not state that Claimant's testing is valid, but "probably valid." We find that Claimant's psychological evaluator's report is also inconsistent in a salient way: during the interview, he found that Claimant appeared "somewhat" anxious and "mildly" depressed. However, his ultimate conclusion is that suffers from significant PTSD (Claimant's APA #27, including but not limited to pages 290 and 292-293).

95. This case is not just a "battle of the experts." Given the salient inconsistencies in Claimant's subjective complaints to providers and her presentation at the hearing (the alleged "memory problems" alone were refuted by Claimant's impressive ability to recall the names/spellings of providers she saw two years earlier), her contentions as to the sequelae of the exposure do not ring true.

96. Claimant's social security status is not dispositive in any workers' compensation case. See Soloman v. WB Easton, 415 S.E.2d 841 (Ct. App. 1992) citing Larsons ("[a]wards and records of the Social Security Administration ordinarily cannot be relied upon to support or deny a workers' compensation claim"). Further, Claimant did not include the basis for which she applied; the portion of the record Claimant did submit states that "We based our decision on information you gave us" [emphasis added] (Claimant's APA #29; Hearing Transcript, page 74).

97. Of all the evidence, we give the greatest weight to the credible opinions/statements of Drs. Feldman, Mitchell, MacKinnon (except for his assumption that Claimant is telling the truth about her emotional condition, as he has not had access to all the records as has the Commission), Aquilina, and Early. We also give weight to the treatment record by a non-workers' compensation physician.
98. We find that the only memory problems that Claimant has involve trying to keep straight her inconsistent presentations to providers. We base this on her testimony and the entirety of the medical evidence.
99. **If a claimant's sworn testimony and/or complaints to providers were dispositive, every workers' compensation claim would be compensable.**
100. Claimant has admittedly read up on HF, and complains of most if not all of every conceivable side effect—except for weight loss.
101. Claimant's request for benefits under the Act beyond the treatment already provided by Defendants is denied.
103. Claimant's average weekly wage is \$1,074.24, yielding a compensation rate of \$766.05 (stipulation of the parties).
104. The hearing in this matter was originally scheduled for March 7, 2018. Prior to the hearing, the Claimant moved for a continuance on grounds a.) the Claimant's attorney's mother was ill and he needed to tend to her treatment and recovery and b.) additional discovery was necessary. The Claimant's motion was granted to allow the Claimant's attorney to be with his mother and was not granted to allow for additional discovery. This is evidenced from the fact the Single Commissioner did not allow the Claimant's attorney to submit newly developed evidence when the hearing was reconvened on April 27,

2017. Had the Single Commissioner granted the continuance to allow for additional discovery, she would not have refused to allow this additional evidence into the record when the hearing was reconvened. Accordingly, the Appellate Panel finds as fact that the adjournment granted on March 7, 2017, was not granted to allow for additional discovery and that the Single Commissioner did not abuse her discretion in refusing to allow this evidence into the record. See, also, Finding of Fact #89.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Full Panel makes the following conclusions of law:

1. S.C. Code Ann. Sec. 42-1-160 defines "injury" as only injury by accident arising out of and in the course of employment and does not include a disease of any kind. Moreover, in medically complex cases, the Claimant is required to establish that an injury arises from the employment using medical evidence. This is a medically complex case and both parties submitted medical evidence, the greater weight and preponderance of which establishes the Claimant's brief exposure to trace amounts of HF vapors did not result in any permanent injury. As to the pulmonary injuries, the evidence suggests an immediate and short-term response which was expected to resolve and, according to medical evidence, did resolve. Additional evidence suggested a chronic pulmonary condition which remained unchanged following the exposure and created no additional disability that did not pre-exist the accident. As to the cardiologic injuries, the evidence suggests the delayed onset of AV heart block is wholly inconsistent with the mechanism of injury to be expected from HF exposure, which is an immediate onset coupled with evidence of electrolyte imbalance, neither of which were present in this claim. As to the other injuries

to the bones, neurological system, sense of smell and taste, and PTSD, the Claimant failed to develop convincing evidence to explain how these conditions could be related when taken in context of all the medical evidence and contradictions in the Claimant's testimony and history to her providers. To the extent medical evidence was developed in this regard, it is hard to reconcile the extent to which this evidence relied on the Claimant's oral history against the numerous inconsistencies between the Claimant's testimony and the medical evidence. As such, the Commission concludes the Claimant did not sustain a compensable injury as contemplated by the Act.

2. S.C. Code Ann. Sec. 42-1-120 defines "disability" as incapacity due to injury to earn the wages the employee was earning at the time of the accident in the same or any other employment. Workers' Compensation benefits are awarded not for a physical injury as such, but for "disability" produced by such injury as measured by the employee's capacity or incapacity to earn the wages he was receiving at the time of the accident. Corbett v. City of Columbia, 348 S.E.2d 191 (S.C. App. 1986). The evidence of this claim supports finding the Claimant was exposed to HF vapors and experienced immediate symptoms involving shortness of breath and coughing. The objective medical reports show these immediate symptoms resolved within days, even though the Claimant's subjective testimony stands to the contrary. The Claimant was capable of performing her job in the aftermath of her exposure however, and was only incapacitated from employment when she developed AV heart block, which the Commission finds to be an unrelated condition. Moreover, the Claimant alleges her ongoing incapacity for employment is related to chronic pulmonary disability which, while potentially true, is

also unrelated to her injury as this disability was shown to pre-exist her injury. Thus, the Claimant failed to establish disability as contemplated by the Act.

3. The burden is on the Claimant to prove the facts that render the injury compensable. An award of benefits under the Act cannot be based on surmise, conjecture, or speculation. Kennedy v. Williamsburg County, 131 S.E.2d 512 (1963). If the evidence is conflicting upon the issues, such conflicts can only be resolved by the Workers' Compensation Commission, the fact finding body. Black v. Barnwell County, 143 S.E.2d 753 (S.C. 1964). The credibility and weight of a doctor's testimony is for the trier of facts. Chapman v. Foremost Dairies, 154 S.E.2d 845 (S.C. 1967). The evidence in this matter is conflicting on the issues but, for the reasons discussed in-depth above, the Commission weighs the evidence in such a manner as to conclude the Claimant has not carried her burden of proof. Considering the testimony of the witnesses, the exhibits, and the medical evidence, the greater weight and preponderance of the evidence does not support a finding of compensability.
4. "Substantial evidence" necessary to support a decision of the Commission is not a mere scintilla of evidence nor evidence viewed from one side, but such evidence when, when the whole record is considered, as would allow reasonable minds to reach the conclusion the Commission reached. Whigham v. Jackson Dawson Communications, 763 S.E.2d 420 (S.C. 2014). For the Commission to rule in favor of the Claimant would require the evidence to be viewed entirely from her side. The Defendants submitted ample and convincing evidence to support the conclusion the Claimant did not sustain a compensable injury by accident. Not only did various medical reports and opinions provide direct evidence establishing the Claimant's mechanism of injury is not consistent

with HF exposure, anecdotal testimony provided by employer witnesses provided circumstantial evidence allowing the Commission to conclude the concentration and duration of exposure encountered by Claimant was insufficient to cause the injuries she alleges.

5. Nothing in the Act suggests our legislature intended to compensate an employee for aches, pains, or other conditions that do not interfere with his ability to do his job, even if those conditions are work-related. King v. International Knife & Saw, 718 S.E.2d 227 (S.C. App. 2011). Although the Claimant was exposed to HF vapors in the course of her employment, the evidence of record supports the conclusion the symptoms to arise from this exposure did not interfere with the Claimant's ability to do her job. Accordingly, the accident sustained by the Claimant is not of the sort that would give rise to compensation under the Act.
6. S.C. Code Ann. Sec. 42-15-60 allows an employer to provide medical treatment for a period not exceeding ten weeks to effect a cure or give relief. There is no liability on the part of an employer to furnish medical treatment beyond ten weeks unless it will tend to lessen the claimant's period of disability. Dykes v. Daniel Const. Co., 202 S.E.2d 646 (S.C. 1974). The Commission has determined the Claimant developed short-term symptoms as a result of her accident and orders the employer to pay for treatment rendered in addressing those symptoms. As these symptoms resolved without producing disability, as discussed above, the employer has no liability for medical treatment beyond that which they have already provided.
7. S.C. Code Ann. Sec. 42-9-10; Sec. 42-9-20; Sec. 42-9-30; and S.C. Reg. 67-1101 all address compensation schemes for permanent disability caused by an injury by accident.

Because the Commission declines to find the Claimant sustained an injury by accident, no benefits are awarded under these statutes and/ or regulations.

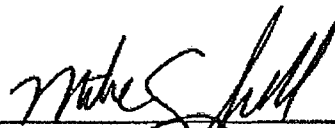
8. S.C. Code Ann. Sec. 42-15-60 addresses entitlement to medical treatment which is the result of a compensable injury. Because the Commission declines to find the Claimant sustained a compensable injury by accident, no benefits are awarded under this statute.
9. S.C. Reg. 67-613 sets forth the Commission's right to postpone or adjourn a scheduled hearing. The regulation states a Commissioner may postpone a hearing for good cause, including but not limited to, illness and the need for additional discovery (emphasis provided). The hearing commissioner has discretion similar to a trial judge when determining whether to adjourn a hearing. Hallums v. Michelin Tire Corp., 419 S.E.2d 235 (S.C. App. 1992). Insufficient evidence was introduced to establish an abuse of discretion on the part of the single commissioner, as had the Claimant believed exclusion of the evidence would have a prejudicial effect, Claimant had the option to withdraw her hearing request and seek to have the evidence considered at a later date.

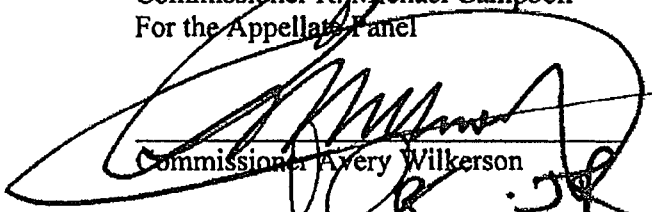
ORDER

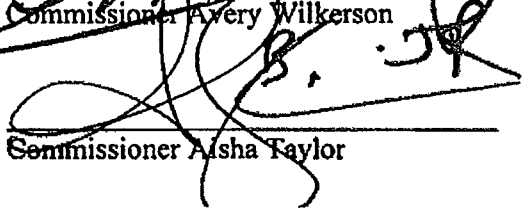
Based on the above Findings of Fact and Conclusions of Law, it is hereby Ordered that, upon careful consideration of the evidence of record, the greater weight and preponderance of evidence submitted suggests the Claimant failed to sustain a permanent injury by accident arising out of and in the course and scope of her employment when she was exposed to HF vapors on August 11, 2015. The evidence suggests she experienced temporary symptoms which resolved without causing permanent injury. The evidence also suggests the mechanism of injury alleged by Claimant is not consistent with HF exposure, which produces injury within 24 to 48 hours, not two to three weeks. Having considered all evidence of record and entering the above Findings of Fact and Conclusions of Law, the Full Panel of the Commission hereby affirms the decision of the Single Commissioner, with amendments.

SO ORDERED.

WE CONCUR:


Commissioner R. Michael Campbell
For the Appellate Panel


Commissioner Avery Wilkerson


Commissioner Aisha Taylor

CERTIFICATE OF SERVICE

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

By Eugenia on July 23, 2018



25 2015

File #: 1511478
Carrier File #: _____
Carrier Code #: 00321
Employer FEIN #: _____

Claimant's Name: Monica Murphy SSN: [REDACTED] Employer's Name: Halocarbon Products Corporation
Address: 3991 Wood Valley Drive Address: 887 Kinderkomack Road
City: Aiken State: SC Zip: 29803 City: River Edge State: NJ Zip: 07661
Home Phone: [REDACTED] Work Phone: () - Insurance Carrier: AIG Claims
Preparer's Name: Frederick I. Hall, III Law Firm: The Rick Hall Law Firm, LLC Preparer's Phone #: (803) 957 - 5333

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 08/11/2015

☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

1. The claimant sustained an injury to heart and lungs, bones, smell and taste and neurological system (Part(s) of Body Injured) on 08/11/2015 (Month/Day/Year) in Aiken County, state of SC.
2. Body part(s) affected are: heart and lungs, bones, smell and taste and neurological system.
Briefly describe how the accident occurred. Claimant inhaled hydrofluoric acid fumes in the process area, which she was not warned about.
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on 08/11/2015 (Month/Day/Year) in the following manner:
Verbal notice was given to claimant's employer

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

☒ (a) medical examination and treatment for: heart and lungs, bones, smell and taste and neurological system.

☐ (b) additional medical examination and treatment for:

☒ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
08/22/2015 to present.

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

☐ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

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

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
None

10a. At the time of the injury, the Claimant was paid weekly wages of \$1,019.23, 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:

11. Further grounds or unusual aspects of claim:

Claimant reserves the right to claim any future disability or impairment not yet assigned.

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

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

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

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

14. Estimated time needed for hearing: 1 hour

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

☐ Mediation

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Commerce & Industry Insurance Co., AIGCS-WC Board Mail, PO Box 305903, Nashville, TN 37230 on the 11 day of September, 2015, by ☐ first class postage ☒ certified mail ☐ personal service.

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

Preparer's Signature: [Signature] Title: attorney for claimant Email: rick@sctrilattorneys.com Date: 09-11-15

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

ATTACHMENT A TO FORM 50

Monica Murphy

WCC File No. 1511478

1. Urgent MD/North Augusta
1201 West Avenue
North Augusta, SC 29841
2. University Hospital
1350 Walton Way
Augusta, GA 30901
3. Patrick Aquilina, MD
818 St. Sebastian Way
Suite 311
Augusta, GA 30901

COPY

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

AIG CLAIMS,

CARRIER,

DEFENDANTS.

COPY

CERTIFICATE OF SERVICE

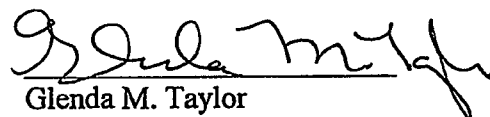
The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 11th day of September, 2015, served the individual named below with a copy of the document described herein, by depositing a copy in the U.S. Mail, postage prepaid, certified, return receipt requested to the person(s) listed below:

PERSON SERVED: Halocarbon Products Corporation
887 Kinderkomack Road
River Edge, NJ 07661

Commerce & Industry Ins. Co.
AIGCS-WC Board Mail
PO Box 305903
Nashville, TN 37230

DOCUMENTS: Form 50

Lexington, SC


Glenda M. Taylor



WCC File #: **1511478**
Carrier File #: _____
Carrier Code #: **00321**
Employer FEIN #: _____

Claimant's Name: Monica Murphy SSN: [REDACTED] Employer's Name: Halocarbon Products Corporation
Address: 3991 Wood Valley Drive Address: 887 Kinderkomack Road
City: Aiken State: SC Zip: 29803 City: River Edge State: NJ Zip: 07661
Home Phone: [REDACTED] Work Phone: () - Insurance Carrier: AIG Claims
Preparer's Name: Frederick I. Hall, III Law Firm: The Rick Hall Law Firm, LLC Preparer's Phone #: (803) 957 - 5333

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1. The claimant sustained an injury to heart and lungs, bones, smell and taste and neurological system, mind/psyche (Part(s) of Body Injured) on 08/11/2015 (Month/Day/Year) in Aiken County, state of SC.
2. Body part(s) affected are: heart and lungs, bones, smell and taste and neurological system, mind/psyche
Briefly describe how the accident occurred. Claimant inhaled hydrofluoric acid fumes in the process area, which she was not warned about.
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
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Verbal notice was given to claimant's employer

x7. Due to injury, the claimant is in need of (check one):

x(a) medical examination and treatment for: heart and lungs, bones, smell and taste and neurological system, mind/psyche

x(b) additional medical examination and treatment for:

x8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
08/22/2015 to present.

x9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

x(1) General Disability: ☐ Total ☐ Partial x(2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

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

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
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10a. At the time of the injury, the Claimant was paid weekly wages of \$1,019.23, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
None

11. Further grounds or unusual aspects of claim:

Claimant reserves the right to claim any future disability or impairment not yet assigned.

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

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

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

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

14. Estimated time needed for hearing: 3 hours

x13b. I am requesting a hearing. A \$25 fee is required.

☐ Mediation

☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.

☐ b. Mediation is required pursuant to Reg. 67-1802.

☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to James Lichty, Esquire, 1320 Main Street, Meridian, 10th Floor, Columbia, SC 29201 on the 14th day of November, 2016, by ☒ first class postage ☐ certified mail ☐ personal service.

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

Preparer's Signature: [Signature] attorney for claimant Title: rick@sctrtrialattorneys.com Email: 11-14-2016 Date

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801. AMENDED FORM 50

**AMENDED
FORM 50**

Employee's Notice of Claim and/or
Request Hearing

ATTACHMENT A TO AMENDED FORM 50
MONICA MURPHY

1. South Star EMS
2. Urgent MD
3. University Hospital
1350 Walton Way
Augusta, GA 30901
4. Carolina Pulmonary
124 Glenwood Drive
Rock Hill, SC 29732
5. Augusta Lung Associates
6. Patrick Aquilina, MD
University Cardiology Associates
818 St. Sebastian Way, Ste. 311
Augusta, GA 30901
7. M.Gordon Early, MD
Wellness Family Medicine
1241 Boiling Springs Hwy.
Spartanburg, SC 29303
8. John Mitchell, M.D.
Charleston Pulmonary Associates
125 Doughty Street, Suite 200
Charleston, SC 29403
9. Randy Cooper, MD
University Surgical Associates
818 St. Sebastian Way #408
Augusta, GA 30901
10. Frank Mondschein, MD
Internal Medicine Associates
102 Summerwood Way
Aiken, SC 29803
11. Jonathan H. Anderson, MD

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

COPY

CERTIFICATE OF SERVICE

RECEIVED

NOV 21 2016

(FRONT DESK)

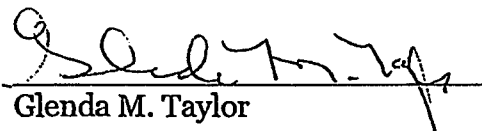
SC Workers' Comp O

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 14th day of November, 2016, served the individual named below with a copy of the document described herein, by depositing a copy in the U.S. Mail, postage prepaid, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Curry
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Amended Form 50

Lexington, SC


Glenda M. Taylor

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

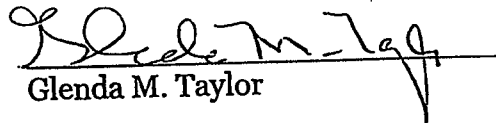
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 5th day of December, 2016, served the individual named below with a copy of the document described herein, by delivering a copy by personal delivery, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Courie
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Amended Form 50

Lexington, SC


Glenda M. Taylor

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803)737-5723 www.wcc.sc.gov



WCC File #: 1511478

Carrier File #: 555-185578

Carrier Code #:

Employer FEIN #:

Claimant's Name: Monica Murphy SSN: [REDACTED]Address: 3991 Wood Valley DriveAiken, South Carolina 29803Home Phone: [REDACTED] Work Phone # Date of Injury: 8/11/15Preparer's Name: James H. LichtyLaw Firm: McAngus Goudelock & CourieDate of Injury or Illness: 8/11/15Estimated time for hearing: 1 hourInsurance Carrier: Commerce & Industry Insurance Companyc/o AIG Claims, Inc.Preparer's Phone #: (803) 227-2288**Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer-Carrier in answer to the claim, respectfully shows:**

1. It is ☐ **Admitted** ☒ **Denied** the employee sustained an injury or illness on or about the date set forth in the application. The reasons for denial are: Defendants admit the Claimant developed minor temporary symptoms affecting her respiratory system which resolved without producing any disability. The Defendants acknowledge the Claimant alleges these temporary symptoms are the result of an occupational exposure and admit the Claimant could have been exposed to chemical fumes but denies this exposure was of such a degree to cause any lasting effects.
2. It is ☒ **Admitted** ☐ **Denied** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
3. It is ☒ **Admitted** ☐ **Denied** the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is ☒ **Admitted** ☐ **Denied** at the time in question the employee was performing service arising out of and in the course of employment. The reasons for denial are:
5. It is ☒ **Admitted** ☐ **Denied** notice of injury was given the employer. The reasons for denial are:
6. It is ☐ **Admitted** ☒ **Denied** the employee ☐ **needs** ☐ **is entitled to additional** medical care as a result of injury or illness. The reasons for denial are: See No. 1 above.
7. It is ☐ **Admitted** ☒ **Denied** the employee is entitled to temporary total disability for the period(s) of: All periods alleged by Claimant.
8. It is ☐ **Admitted** ☒ **Denied** the employee is permanently disabled. The reasons for denial are: See No. 1 above.
9. It is ☐ **Admitted** ☒ **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$1,033.12** applies, according to attached Form 20 as provided by law
11. Further contentions, grounds of defense, or unusual aspects are: The Defendants reserve the right to amend its answer to allege any defenses available under the Act and other applicable law, including but not limited to, the affirmative defenses set forth in Regulation 67-603, as determined appropriate through the course of further discovery.

☒ **Mediation**

- ☒ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67.1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

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

Preparer's Signature

Attorney for Employer/Carrier

Title

jlichty@mcclaw.com

Email

October 9, 2015

Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's 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.

WCC Form # 51

Revised 7/13

51**Employer's Answer to Request for Hearing**

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1511478

MONICA MURPHY,

Employee,

Claimant,

vs.

HALOCARBON PRODUCTS CORPORATION,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.,

Carrier,

Defendants.

**CERTIFICATE
OF
SERVICE**

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Rule 67-211 of the South Carolina Workers' Compensation Commission, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

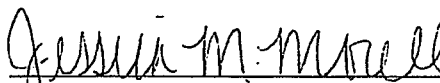
TO: Frederick I. Hall, III, Esquire
The Rick Hall Law Firm, LLC
Post Office Box 1898
Lexington, South Carolina 29071

VIA HAND DELIVERY

South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 · Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Form 51

DATE OF
MAILING: October 9, 2015


Jessica M. Morell
Legal Assistant to James H. Lichty



WCC File #: 1511478
Carrier File #: 555-185578
Carrier Code #:
Employer FEIN #:

Claimant's Name: Monica Murphy SSN 247-33-0840 Employer's Name: Halocarbon Products Corporation
Address: 3991 Wood Valley Drive Post Office Box 6369
Aiken, South Carolina 29803 Address: North Augusta, South Carolina 29861
Home Phone: [REDACTED] Work Phone # _____
Date of Injury: 8/11/15 Insurance Carrier: Commerce & Industry Insurance Company
c/o AIG Claims, Inc.
Preparer's Name: James H. Lichty Law Firm McAngus Goudelock & Courie Preparer's Phone #: (803) 227-2288

Date of Injury or Illness: 8/11/15 Estimated time for hearing: 1 hour

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

1. It is ☐ Admitted ☒ Denied the employee sustained an injury or illness on or about the date set forth in the application. The reasons for denial are: Defendants admit the Claimant developed minor temporary symptoms affecting her respiratory system which resolved without producing any disability. The Defendants acknowledge the Claimant alleges these temporary symptoms are the result of an occupational exposure and admit the Claimant could have been exposed to chemical fumes but denies this exposure was of such a degree to cause any lasting effects.
2. It is ☒ Admitted ☐ Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
3. It is ☒ Admitted ☐ Denied the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is ☒ Admitted ☐ Denied at the time in question the employee was performing service arising out of and in the course of employment. The reasons for denial are:
5. It is ☒ Admitted ☐ Denied notice of injury was given the employer. The reasons for denial are:
6. It is ☐ Admitted ☒ Denied the employee ☐ needs ☐ is entitled to additional medical care as a result of injury or illness. The reasons for denial are: See No. 1 above.
7. It is ☐ Admitted ☒ Denied the employee is entitled to temporary total disability for the period(s) of: All periods alleged by Claimant.
8. It is ☐ Admitted ☒ Denied the employee is permanently disabled. The reasons for denial are: See No. 1 above.
9. It is ☐ Admitted ☒ Denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$1,033.12 applies, according to attached Form 20 as provided by law
11. Further contentions, grounds of defense, or unusual aspects are: The Defendants reserve the right to amend its answer to allege any defenses available under the Act and other applicable law, including but not limited to, the affirmative defenses set forth in Regulation 67-603, as determined appropriate through the course of further discovery.

☒ **Mediation**

- ☒ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67.1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

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

James H. Lichty

Preparer's Signature

Attorney for Employer/Carrier
Title

jlichty@mcclaw.com
Email

January 5, 2017
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's 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

W.C.C. FILE NO: 1511478

MONICA MURPHY,	}	
	}	
Employee,	}	
	}	
Claimant,	}	
	}	
vs.	}	
	}	
HALOCARBON PRODUCTS CORPORATION,	}	
	}	
Employer,	}	
	}	
AND	}	
	}	
COMMERCE & INDUSTRY INSURANCE COMPANY	}	
C/O AIG CLAIMS, INC.,	}	
	}	
Carrier,	}	
	}	
Defendants.	}	
	}	

**CERTIFICATE
OF
SERVICE**

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Frederick I. Hall, III, Esquire
The Rick Hall Law Firm, LLC
Post Office Box 1898
Lexington, South Carolina 29071

VIA HAND DELIVERY

S. C. WORKERS' COMPENSATION COMMISSION
1333 Main Street, Suite 500
Columbia, South Carolina 29201

DOCUMENT: Form 51

DATE OF MAILING: January 5, 2017



Sharon S. O'Quinn
Secretary to James H. Lichty



Claimant's Name: Monica Murphy Employer's Name: Halocarbon Products Corporation
Address: 3991 Wood Valley Drive Address: 887 Kindercomack Road
City: Aiken State: SC Zip: 29803 City: River Edge State: NJ Zip: 07661
Home Phone: [REDACTED] Work Phone: () - Carrier: AIG Claims
Preparer's Name: Frederick I. Hall, III Preparer's Phone #: (803) 957-5333

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$716.20 2. AWW: \$1,074.24 Date of Injury: August 11, 2015
3. Type of injury and body part(s): Heart, lungs, bones, smell, taste, neurological system, mind/psyche
4. Facts in controversy: Whether or not the Claimant sustained an on the job injury arising out of the course and scope of her employment as a lab technician from a leak of Hydrofluoric Acid (HF) via inhalation and via skin exposure, which injured her heart, lungs and other body systems, including her mind via Post Traumatic Stress Disorder. In addition, whether the Claimant is entitled to medical treatment for all causally related injuries. And whether the claimant is totally and permanently disabled from her injuries via the General Disability Statute or by combination of her known impairments. Whether Claimant is at MMI.
5. Legal issues involved: S.C. Code Section 42-9-10, 42-9-20, 42-9-30, SCWC Reg. 67-1101 (Both Lungs); S.C. Code Sec. 42-15-60
6. Unusual aspects: This is a chemical inhalation and exposure case to a chemical known to be potentially lethal and to cause systemic injury. Claimant needs evaluation for a number of medical issues that have yet gone undiagnosed and request proper medical evaluations.
7. Witnesses (designate if expert):* Dr. John Setaro, Expert Cardiologist, Dr. William Alleyne, Expert and treating Pulmonologist, Dr. Robert Hooper, Expert and treating psychologist. Dr. Kellie Lane, Expert and treating Cardiologist.
8. Exhibits: See Attached APA Submissions- consisting of incident reports, MSDS or Safety Data Sheets; Safe Handling Procedures and protocols for HF exposure.
9. Medical evidence (Indicate report pursuant to R.67-612; deposition or appearance):
See Attached Exhibit A; Dr. William Alleyne, (by records and deposition), Dr. Kellie Lane, (by records and deposition), Dr. John Mitchell (Cross Examination), Dr. Patrick Aquilina, Cardiologist (by records and deposition)
10. Name, address, and specialty, if any, of the treating physician: See Attached Exhibit A- Urgent M.D. Aiken, S.C., Dr. Kellie Lane, Augusta Ga- Cardiologist, University Hospital, Augusta, Ga., Dr. William Alleyne, Carolina Pulmonary Physicians.
11. Impairment rating(s); body part(s); physician and date of opinion: 30 percent permanent partial impairment to each lung by William Alleyne via Deposition June 13, 2016; 100 percent to the heart- Kellie Lane Deposition of July 8, 2016
12. I am amending my Form 50/51 in the following manner: _____

☒ **Mediation**

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to James, Lichty, Esquire, McAnugus Goudelock and Courie, 1320 Main Street, Meridan, 10th Floor, Columbia, SC 29201 on the 20 day of February, 2017, by:

☒ first class postage ☐ certified mail ☐ personal service ☐ electronic service

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

Signature: _____

Date of hearing: March 7, 2017 at 12 pm

Email: _____

rick@sctrilattorneys.com

Time needed for hearing: _____

3 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. 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

Revised 7/15

58

PRE-HEARING BRIEF

ATTACHMENT A TO FORM 58
MONICA MURPHY
WCC File No. 1511478

1. Urgent MD
1201 West Avenue
North Augusta, SC 29841
2. Kellie Lane, MD
University Hospital
1350 Walton Way
Augusta, GA 30901
3. William F. Alleyne, MD
Carolina Pulmonary Associates
124 Glenwood Drive
Rock Hill, SC 29732
4. Patrick Aquilina, MD
University Cardiology Associates
818 St. Sebastian Way, Suite 311
Augusta, GA 30901

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,	)	
	)	
CLAIMANT,	)	
	)	
VS.	)	
	)	CLAIMANT'S NOTICE OF WITNESSES
HALOCARBON PRODUCTS	)	AND WRITTEN MEDICAL REPORTS TO
CORPORATION.	)	BE INTRODUCED AS DIRECT EVIDENCE
	)	ON BEHALF OF CLAIMANT
EMPLOYER,	)	
	)	
AND	)	
	)	
COMMERCE INDUSTRY INSURANCE	)	
COMPANY, C/O AIG CLAIMS, INC.	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	
	)	

TO: THE S.C. WORKERS' COMPENSATION COMMISSION AND JAMES H. LICHTY,
ESQUIRE, ATTORNEY FOR THE EMPLOYER/CARRIER:

YOU ARE HEREBY NOTIFIED that Frederick I. Hall, III, Attorney for the Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code § 1-23-330 (1976, as amended), herewith submits the following reports of physician and other evidence on behalf of the parties, to-wit:

Physician	Practice	Dates of Service	Page Numbers
1. Timber R. Wages, PA, Julie N. Buird, PA,	Urgent MD	11/20/2014- 08/26/2015	1-20
2.	University Hospital	08/13/2015- 08/21/2015	21-74
3. Patrick Aquilina, MD	University Cardiology Associates	09/08/2015- 11/15/2015	75-123
4. William F. Alleyne, II, MD	Carolina Pulmonary Physicians, P.A.	09/25/2015- 06/01/2016	124-154

EXHIBITS:			
5. Email from claimant to Ken McDowell		08/11/2015	155
6. Memo from Ken McDowell		08/12/2015	156
7. E-mail from Ken McDowell	To Mark Frye, Mark Harris, Mickey Brown, Chip Babb, Steve J. Harold, Tech and EHS	Sent 08/20/2015	157
8. E-mail from Ken McDowell	To Mark Frye, Mark Harris, Mickey Brown, Chip Babb, Harold J. Steen, Tech, EHS and Emily Parish	Sent 08/20/2015 08/24/2015	158
9. Memo contained in an e-mail from Ken McDowell		08/19/2015 Memo 08/21/2015 Sent	159
10. Halocarbon Products Corporation Supervisor Incident Report and Management's review of the Incident Report		08/11/2015 08/27/2015	160-161
11. Statement from Chip Babb		08/11/2015	162
12. Witness statement		08/11/2015	163
13. Memo written by Ken McDowell		08/19/2015	164
14. E-mail from Eric Schoellkopf to himself		08/27/2015	165
15. MSDS Sheet for Hydrogen Fluoride			166-181
16. E-mail from Ken McDowell	To Harold J. Steen	02/10/2016	182
17. Contingency Plan		Revision 01/20/2015	183-195
18. First Aid for Hydrofluoric Acid Exposure			196-198
19. Job Description		Revision 09/30/2015	199
20. Photos		Taken 09/02/2015- 09/16/2015	200-217
21. Report of John F. Setaro, M.D.	Yale University School of Medicine	10/31/2016	218-222
22. Harriet Fowler, M.Ed., CRC	Vocational Report	07/28/2016	223-244
23. Robert Hooper, Ph.D Psychological Report			245-250
24. Claimant's payroll records		07/05/2014- 08/15/2015	251-345

25. Claimant's Medical bills			346-390

WITNESSES

Monica Murphy, Claimant
Patrick Murphy
John F. Setaro, M.D. by expert report
Kelli Lane, M.D. by deposition
William F. Alleyne, II, M.D. by deposition
Patrick Aquilina, MD, by deposition
Harriet Fowler, CRC, M.Ed., by expert report
Robert Hooper, Ph.D, by expert report
John Mitchell, MD, by deposition on cross examination

THE RICK HALL LAW FIRM, LLC

By: 
Frederick I. Hall, III
301 Gibson Road
Post Office Box 1898
Lexington, South Carolina 29072
Telephone: (803) 957-5333
Fax: (803) 957-7717
ATTORNEY FOR THE CLAIMANT

Lexington, South Carolina
February 20, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

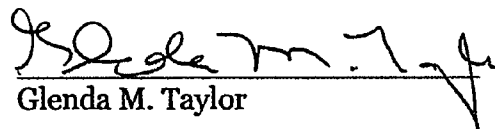
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 20 day of February, 2017 served the individual named below with a copy of the document described herein, by depositing a copy in the U.S. Mail, postage prepaid, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Form 58/Prehearing Brief
Claimant's Notice of Witnesses and Written Medical Reports To Be
Introduced As Direct Evidence on Behalf of Claimant

Lexington, SC


Glenda M. Taylor



PRE-HEARING BRIEF
WCC File No: 1511478

Claimant's Name: Monica Murphy SSN: [REDACTED]
3991 Wood Valley Drive
 Address: Aiken, South Carolina 29803

Home Phone: (803) 645-8906 Work Phone: _____
 Preparer's Name: James H. Lichty

Employer's Name: Halocarbon Products Corporation
Post Office Box 6369
Address: North Augusta, South Carolina 29861
Commerce & Industry Insurance Company c/o AIG
Carrier: Claims, Inc.
Preparer's Phone #: (803) 227-2288

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$680,36

2. AWW: \$ \$1,1020.48

Date of Injury: 08/11/15

3. Type of injury and body part(s): heart, lungs, bones, smell, taste and neurological system; mind/psyche.

4. Facts in controversy: Defendants contend claimant did not sustain a compensable injury by accident. The harmful effects of HF exposure are immediate and severe. The claimant's symptoms in the present matter developed after delay. The Defendants contend the Claimant was not exposed to a sufficient quantity of HF fumes for a long enough period of time to produce any permanent effects. The presence of a co-worker who was present for a longer period of time, nearer the alleged source of the fumes, and who developed no adverse health consequences, supports the position of Defendants. Moreover, claimant was aware of the potentially harmful effects of HF exposure, was forewarned not to enter the area repairs were taking place due to the HF leak, and opted to do so anyway. As a result, any injury she sustained was not accidental. Assuming the Commission finds a compensable injury, at worst, claimant sustained a temporary irritation to her breathing passage which resolved within days. The subsequent injuries to arise 3-10 days later are not causally related. The Defendant seek an Order denying the claim in its entirety.

5. Legal issues involved: S.C. Code Ann. Sec. 42-1-160.

6. Unusual aspects: None.

7. Witnesses (designate if expert):* Ken McDowell; Harold Steen; Chip Babb; Lonnie Parsons; George Campbell; Robert Banks; M.A. MacKinnon, M.D.;
Other representatives of Employer/ Carrier.

8. Exhibits: Witness statements from Employer; Other records maintained by Employer/ Carrier; Background publications and credentials for Dr. MacKinnon; Sample reported cases involving Dr. Setaro.

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

Report of Dr. Michael A. Mackinnon; Toxicology Report of Dr. Gordon Early; Pulmonology report of Dr. John Mitchell; Pulmonology report of Dr. Selwyn Spangenthal; Cardiology report of Dr. Barry Feldman; Orthopaedic report of Dr. Jewell Duncan.

10. Name, address, and specialty, if any, of the treating physician: Urgent MD.

11. Impairment rating(s); body part(s); physician and date of opinion: 11-23% impairment of the whole person by Dr. Mitchell on May 29, 2016 (Dr. Mitchell is careful to point out this impairment pre-existed her exposure).

12. I am amending my Form 50/51 in the following manner: None.

Mediation

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-4803.
- ☒ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to

Frederick I. Hall, III, Esquire, The Rick Hall Law Firm, LLC

Post Office Box 1898

address Lexington, South Carolina 29071

by ☒ first class postage ☐ certified mail ☐ personal service.

on the 27th day of February 20 17

Signature:

Date of Hearing: March 7, 2017

Email: jlichty@mgclaw.com

Time needed for hearing: 3 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211, 67-211, and Regulations 67-601 through 67-615; as well as Reg. 67-1801. 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

Revised 7/13

58

PRE-HEARING BRIEF

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1511478

MONICA MURPHY,

Employee,

Claimant,

vs.

HALOCARBON PRODUCTS
CORPORATION,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS
TO BE INTRODUCED AS
DIRECT EVIDENCE ON BEHALF
OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
FREDERICK I. HALL, III, ESQUIRE:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA#	DOCTOR	PRACTICE	DATES	PAGES
26	Michael A. MacKinnon, M.D. FCFP		01/27/17	391-394
27	Gordon Early M.D.	Wellness Family Medicine	11/23/15	395-406
28	John A. Mitchell, M.D.	Charleston Pulmonary Assoc.	05/02/16-05/29/16	407-418
29	Selwyn Spangenthal, M.D.	Charlotte Lung & Health Center	09/02/16-09/28/16	419-423
30	Barry Feldman, M.D.		09/21/16	424-425
31	Jewell B. Duncan, M.D.	Champion Orthopaedics	07/22/16	426-429
	EXHIBITS			

32	Witness statements from Employer	09/04/15-01/30/17	430-432
33	Background publications and credentials for M.A. MacKinnon, M.D.		433-459
34	Sample reported cased involving Dr. Setro		460-470

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Ken McDowell; Harold Steen; Chip Babb; Lonnie Parsons; George Campbell; Robert Banks; M.A. MacKinnon, M.D.; Other representatives of Employer/ Carrier.


 JAMES H. LICHTY
 MCANGUS GOUDELOCK & COURIE, L.L.C.
 Post Office Box 12519, Capitol Station
 Meridian, 1320 Main Street, 10th Floor
 Columbia, South Carolina 29211-2519
 (803) 779-2300
 Attorneys for the Employer/Carrier

Columbia, South Carolina
 February 27, 2017

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1511478

MONICA MURPHY,	}	
	}	
Employee,	}	
	}	
Claimant,	}	
	}	
vs.	}	
	}	
HALOCARBON PRODUCTS CORPORATION,	}	
	}	
Employer,	}	CERTIFICATE
	}	OF
AND	}	SERVICE
	}	
COMMERCE & INDUSTRY INSURANCE	}	
COMPANY C/O AIG CLAIMS, INC.,	}	
	}	
Carrier,	}	
	}	
Defendants.	}	
	}	

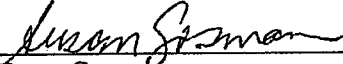
The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Frederick I. Hall, III, Esquire
The Rick Hall Law Firm, LLC
Post Office Box 1898
Lexington, South Carolina 29071

VIA eCase
S. C. WORKERS' COMPENSATION COMMISSION
1333 Main Street, Suite 500
Columbia, South Carolina 29201

DOCUMENT: Pre-Hearing Brief and Notice of Witnesses and Written Medical Reports

DATE OF MAILING: February 27, 2017



Susan Gosman
Legal Assistant to James H. Lichty

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

**COPY
RECEIVED**

MAR 07 2017

SC WORKERS' COMPENSATION
NOTICE OF MOTION AND
MOTION FOR CONTINUANCE

TO: THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION AND JAMES H. LICHTY, ESQUIRE, ATTORNEY FOR THE
EMPLOYER CARRIER:

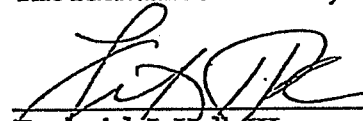
YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for the
Claimant moves before the South Carolina Workers' Compensation Commission
for an Order pursuant to Regulation 67-613(A)(b) and Regulation 67-613(A)(c) of
the South Carolina Workers Compensation Commission for a continuance of the
hearing scheduled for March 7, 2017 on the grounds that my mother has been
hospitalized on an emergency basis and I am her healthcare Power of Attorney
and general Power of Attorney and further grounds are that additional discovery
will need to be conducted.

The undersigned hereby affirms that pursuant to Rule 11 of the South Carolina Rules of Civil Procedure that he has not consulted with the opposing counsel prior to the filing of this motion.

Respectfully Submitted,

The Rick Hall Law Firm, LLC

BY:



Frederick I. Hall, III
301 Gibson Road
Post Office Box 1898
Columbia, South Carolina 29072
(803) 957-5333
(803) 957-7717 facsimile
ATTORNEY FOR CLAIMANT

Lexington, South Carolina
March 7, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

RECEIVED

MAR 07 2017

SC WORKERS' COMPENSATION

COPY

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

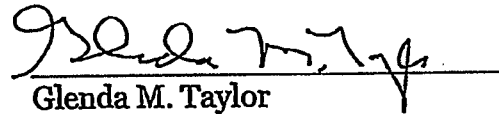
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 7th day of March, 2017, served the individual named below with a copy of the document described herein, by hand delivery, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Curry
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Notice of Motion and Motion For Continuance

Lexington, SC


Glenda M. Taylor



Claimant's Name: Monica Murphy Employer's Name: Halocarbon Products Corporation
Address: 3991 Wood Valley Drive Address: 887 Kindercomack Road
City: Aiken State: SC Zip: 29803 City: River Edge State: NJ Zip: 07661
Home Phone: [REDACTED] Work Phone: () - Carrier: AIG Claims
Preparer's Name: Frederick I. Hall, III Preparer's Phone #: (803) 957-5333

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$716.20 2. AWW: \$1,074.24 Date of Injury: August 11, 2015
3. Type of Injury and body part(s): Heart, lungs, bones, smell, taste, neurological system, mind/psyche
4. Facts in controversy: Whether or not the Claimant sustained an on the job injury arising out of the course and scope of her employment as a lab technician from a leak of Hydrofluoric Acid (HF) via inhalation and via skin exposure, which injured her heart, lungs and other body systems, including her mind via Post Traumatic Stress Disorder. In addition, whether the Claimant is entitled to medical treatment for all causally related injuries. And whether the claimant is totally and permanently disabled from her injuries via the General Disability Statute or by combination of her known impairments. Whether Claimant is at MMI.
5. Legal issues involved: S.C. Code Section 42-9-10, 42-9-20, 42-9-30, SCWC Reg. 67-1101 (Both Lungs); S.C. Code Sec. 42-15-60
- Unusual aspects: This is a chemical inhalation and exposure case to a chemical known to be potentially lethal and to cause systemic injury. Claimant needs evaluation for a number of medical issues that have yet gone undiagnosed and request proper medical evaluations.
7. Witnesses (designate if expert):* Dr. John Setaro, Expert Cardiologist, (by report). Dr. William Alleyne, Expert and treating Pulmonologist, Dr. Robert Hooper, Expert and treating psychologist. Dr. Kellie Lane, Expert and treating Cardiologist, Dr. Philip Edelman (by report), Todd Lawrence, Mickey Brown and Lonnie Parsons.
8. Exhibits: See Attached APA Submissions- consisting of incident reports, MSDS or Safety Data Sheets; Safe Handling Procedures and protocols for HF exposure.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See Attached Exhibit A; Dr. William Alleyne, (by records and deposition), Dr. Kellie Lane, (by records and deposition), Dr. John Mitchell (Cross Examination), Dr. Patrick Aquilina, Cardiologist (by records and deposition), Dr. Philip Edelman (by report)
10. Name, address, and specialty, if any, of the treating physician: See Attached Exhibit A- Urgent M.D. Aiken, S.C., Dr. Kellie Lane, Augusta Ga- Cardiologist, University Hospital, Augusta, Ga., Dr. William Alleyne, Carolina Pulmonary Physicians.
11. Impairment rating(s); body part(s); physician and date of opinion: 30 percent permanent partial impairment to each lung by William Alleyne via Deposition June 13, 2016; 100 percent to the heart- Kellie Lane Deposition of July 8, 2016
12. I am amending my Form 50/51 in the following manner: To reflect the accurate average weekly wage

☐ **Mediation**

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

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to James, Lichty, Esquire, McAngus Goudelock and Courie, 1320 Main Street, Meridan, 10th Floor, Columbia, SC 29201 on the 12th day of April, 2017, by:

☐ first class postage ☐ certified mail ☐ personal service ☐ electronic service

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

Signature: *[Signature]*

Date of hearing: April 27, 2017 at 11 am

Email: rick@sctrialattorneys.com

Time needed for hearing: 3 hours

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send in reports.* Commissioners reserve the right to admit expert witnesses at hearings.

Form # 58
Revised 7/15

58

PRE-HEARING BRIEF

ATTACHMENT A TO FORM 58
Monica Murphy
WCC File No. 1511478

1. Urgent MD/North Augusta
1201 West Avenue
North Augusta, SC 29841
2. Kellie Lane, MD
University Hospital
1350 Walton Way
Augusta, GA 30901
3. Patrick Aquilina, MD
University Cardiology Associates
818 St. Sebastian Way
Suite 311
Augusta, GA 30901
4. William F. Alleyne, MD
Carolina Pulmonary
124 Glenwood Drive
Rock Hill, SC 29732
5. Philip Edelman, MD
Post Office Box 151
Great Falls, VA 22066
6. John Setaro, MD
Yale University School of Medicine
333 Cedar Street
PO Box 208017
New Haven, CT 06520

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6. Jewel B. Duncan, MD	Champion Orthopaedics	07/23/2016	160-161
EXHIBITS:			
7. Email from claimant to Ken McDowell		08/11/2015	162
8. Memo from Ken McDowell		08/12/2015	163
9. E-mail from Ken McDowell	To Mark Frye, Mark Harris, Mickey Brown, Chip Babb, Steve J. Harold, Tech and EHS	Sent 08/20/2015	164
10. E-mail from Ken McDowell	To Mark Frye, Mark Harris, Mickey Brown, Chip Babb, Harold J. Steen, Tech, EHS and Emily Parish	Sent 08/20/2015 08/24/2015	165
11. Memo contained in an e-mail from Ken McDowell		08/19/2015 Memo 08/21/2015 Sent	166
12. Halocarbon Products Corporation Supervisor Incident Report and Management's review of the Incident Report		08/11/2015 08/27/2015	167-168
13. Halocarbon Products Corporation Supervisor Incident Report		08/21/2015	169-178
14. Statement from Chip Babb		08/11/2015	179
15. Witness statement		08/11/2015	180
16. Memo written by Ken McDowell		08/19/2015	181
17. E-mail from Eric Schoellkopf to himself		08/27/2015	182
18. MSDS Sheet for Hydrogen Fluoride			183-198
19. E-mail from Ken McDowell	To Harold J. Steen	02/10/2016	199
20. Contingency Plan		Revision 01/20/2015	200-212
21. First Aid for Hydrofluoric Acid Exposure			213-215
22. Job Description		Revision 09/30/2015	216
23. Photos		Taken 08/19/2015	217-219
		Taken on 09/02/2015- 09/16/2015	220-237
24. Report of John F. Setaro, M.D.	Yale University School of Medicine	10/31/2016	238-242
25. CV of John F. Setaro,			243-266

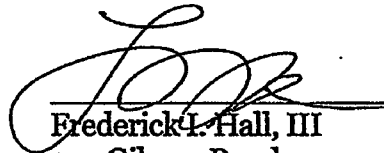
M.D.			
26. Harriet Fowler, M.Ed., CRC	Vocational Report	07/28/2016	267-288
27. Robert Hooper, Ph.D Psychological Report			289-294
~~████████████████████~~	~~████████████████████~~	~~████████████████████~~	~~████████████████████~~
29. Claimant's Social Security Administration Award letter		11/21/2016	303-306
30. Claimant's payroll records		07/05/2014-08/15/2015	307-401
31. Claimant's Medical bills			402-446

WITNESSES

Monica Murphy, Claimant
Patrick Murphy
Lonnie Parsons
Todd Lawrence
Mickey Brown
John F. Setaro, M.D. by expert report
Kelli Lane, M.D. by deposition
William F. Alleyne, II, M.D. by deposition
Patrick Aquilina, MD, by deposition
Harriet Fowler, CRC, M.Ed., by expert report
Robert Hooper, Ph.D, by expert report
John Mitchell, MD, by deposition on cross examination
Philip Edelman, MD, by expert report
Michael Mackinnon, by deposition

THE RICK HALL LAW FIRM, LLC

By:


Frederick L. Hall, III
301 Gibson Road
Post Office Box 1898
Lexington, South Carolina 29072
Telephone: (803) 957-5333
Fax: (803) 957-7717
ATTORNEY FOR THE CLAIMANT

Lexington, South Carolina
April 12, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

ONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

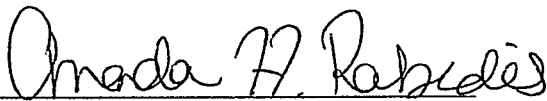
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 12 day of April, 2017 served the individual named below with a copy of the document via hand delivery, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Form 58/Prehearing Brief
Claimant's Notice of Witnesses and Written Medical Reports To Be
Introduced As Direct Evidence on Behalf of Claimant

Lexington, SC


Amanda H. Robidas

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,	)	
	)	
CLAIMANT,	)	
	)	
VS.	)	
	)	CLAIMANT'S SUPPLEMENTAL NOTICE OF
HALOCARBON PRODUCTS	)	WITNESSES AND WRITTEN MEDICAL
CORPORATION.	)	REPORTS TO BE INTRODUCED AS DIRECT
	)	EVIDENCE ON BEHALF OF CLAIMANT
EMPLOYER,	)	
	)	
AND	)	
	)	
COMMERCE INDUSTRY INSURANCE	)	
COMPANY, C/O AIG CLAIMS, INC.	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	
	)	

TO: THE S.C. WORKERS' COMPENSATION COMMISSION AND JAMES H. LICHTY,
ESQUIRE, ATTORNEY FOR THE EMPLOYER/CARRIER:

YOU ARE HEREBY NOTIFIED that Frederick I. Hall, III, Attorney for the Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code § 1-23-330 (1976, as amended), herewith submits the following reports of physician and other evidence on behalf of the parties, to-wit:

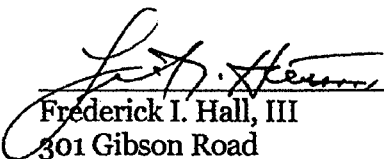
Physician	Practice	Date	Page Numbers
35.	Aiken Regional Medical Center	09/18/2002	471
36. David W. Cundey, MD	Aiken Cardiovascular Associates	03/29/2007	472
37.	Aiken Regional Medical Center	09/18/2008	473
38.	Aiken Regional Medical Center	05/18/2010	474

WITNESSES:

Monica Murphy, Claimant
Patrick Murphy
Lonnie Parsons
Todd Lawrence
Mickey Brown
John F. Setaro, M.D. by expert report
Kelli Lane, M.D. by deposition
William F. Alleyne, II, M.D. by deposition
Patrick Aquilina, MD, by deposition
Harriet Fowler, CRC, M.Ed., by expert report
Robert Hooper, Ph.D, by expert report
John Mitchell, MD, by deposition on cross examination
Philip Edelman, MD, by expert report
Michael Mackinnon, by deposition

THE RICK HALL LAW FIRM, LLC

By:


Frederick I. Hall, III
301 Gibson Road
Post Office Box 1898
Lexington, South Carolina 29072
Telephone: (803) 957-5333
Fax: (803) 957-7717
ATTORNEY FOR THE CLAIMANT

Lexington, South Carolina
April 20, 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

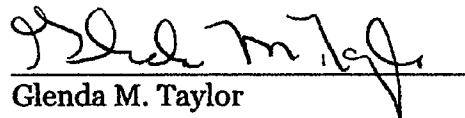
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 20 day of April, 2017 served the individual named below with a copy of the below described document via the U. S. Mail, postage prepaid, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS: Claimant's Supplemental Notice of Witnesses and Written Medical Reports
To Be Introduced As Direct Evidence on Behalf of Claimant

Lexington, SC


Glenda M. Taylor

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,	)	
	)	
CLAIMANT,	)	
	)	
VS.	)	
	)	CLAIMANT'S SECOND SUPPLEMENTAL
HALOCARBON PRODUCTS	)	NOTICE OF WITNESSES AND WRITTEN
CORPORATION.	)	MEDICAL REPORTS TO BE INTRODUCED
	)	AS DIRECT EVIDENCE ON BEHALF
EMPLOYER,	)	OF CLAIMANT
	)	
AND	)	
	)	
COMMERCE INDUSTRY INSURANCE	)	
COMPANY, C/O AIG CLAIMS, INC.	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	
	)	

TO: THE S.C. WORKERS' COMPENSATION COMMISSION AND JAMES H. LICHTY,
ESQUIRE, ATTORNEY FOR THE EMPLOYER/CARRIER:

YOU ARE HEREBY NOTIFIED that Frederick I. Hall, III, Attorney for the Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code § 1-23-330 (1976, as amended), herewith submits the following reports of physician and other evidence on behalf of the parties, to-wit:

Physician	Practice	Date	Page Numbers
39.	Augusta University Medical Center/ER Department	07/17/2016	475-494
40. Randy Cooper, MD.	University Surgical Associates	03/24/2016-09/20/2016	495-503
41. Laura Carbone, MD		02/14/2017	504-508
42.	University Hospital	03/01/2017-03/02/2017	509-513
EXHIBITS:			
43.	Southern Ambulance Service	08/21/2015	514
44.	Revco Discount	07/12/2016-	515

	Drugs/prescriptions	03/31/2017	
45.	Walgreens/prescriptions	07/03/2016- 04/04/2017	516-522

WITNESSES:

Monica Murphy, Claimant
 Patrick Murphy
 Lonnie Parsons
 Todd Lawrence
 Mickey Brown
 John F. Setaro, M.D. by expert report
 Kelli Lane, M.D. by deposition
 William F. Alleyne, II, M.D. by deposition
 Patrick Aquilina, MD, by deposition
 Harriet Fowler, CRC, M.Ed., by expert report
 Robert Hooper, Ph.D, by expert report
 John Mitchell, MD, by deposition on cross examination
 Philip Edelman, MD, by expert report
 Michael Mackinnon, by deposition

THE RICK HALL LAW FIRM, LLC

By:


 Frederick I. Hall, III
 301 Gibson Road
 Post Office Box 1898
 Lexington, South Carolina 29072
 Telephone: (803) 957-5333
 Fax: (803) 957-7717
 ATTORNEY FOR THE CLAIMANT

Lexington, South Carolina
 April 2017

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

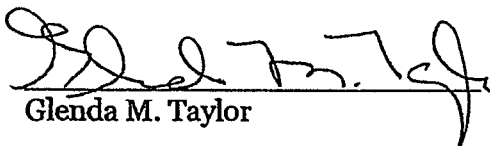
CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 26 day of April, 2017 served the individual named below with a copy of the below described document via email and facsimile, to the person(s) listed below:

PERSON SERVED: James Lichty, Esquire
McAngus, Goudelock and Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201
Email: jlichty@mgclaw.com
Facsimile 803-748-0526

DOCUMENTS: Claimant's Second Supplemental Notice of Witnesses and Written Medical Reports To Be Introduced As Direct Evidence on Behalf of Claimant

Lexington, SC


Glenda M. Taylor



MAR 28 2018

WCC File #: 15114/B
Carrier File #: _____
Carrier Code #: 00321
Employer FEIN #: _____

Claimant's Name: Monica Murphy, Appellant SSN: [REDACTED]
Address: 3991 Wood Valley Drive
City: Alken State: SC Zip: 29803
Home Phone: (803) 645-8906 Work Phone: () -
Preparer's Name: Frederick I. Hall, II Law Firm: The Rick Hall Law Firm, LLC
Employer's Name: Halocarbon Products Corporation, Respondent
Address: 887 Kinderkomack Road
City: River Edge State: NJ Zip: 07661
Insurance Carrier: AIG Claims
Preparer's Phone #: (803) 957-5333

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 08/11/2015
(m/d/yyyy)

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

See Attachment A

COPY

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

☐ Mediation

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

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

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to James, Lichty, Esquire, McAngus Goudelock and Courie, 1320 Main Street, Meridan, 10th Floor, Columbia, SC 29201 on the 22 day of March, 2018, by X first class postage certified mail personal service.

Frederick I. Hall, II
Preparer's Signature Title

rick@sctrialattorneys.com
Email

March 22, 2018
Date

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

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

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

AMENDED ATTACHMENT A

copy

Issues for Appeal Monica Murphy

Monica Murphy vs. Halocarbon Products Corporation and
Commerce Industry Insurance Company, c/o AIG Claims, Inc.

WCC FILE NO.: 1511478

1. Whether the Single Commissioner erred in refusing to admit the expert report and opinions of Dr. Philip Edelman, a highly qualified physician and expert in the field of Environmental and Occupational Medicine; the error being his report was properly supplemented and the Claimant had a legal right to rebut the expert report of Dr. MacKinnon, a purported expert in hydrofluoric acid injuries? See Report of Philip Edelman ; APA No. 28.
2. Whether the Single Commissioner erred in her factual findings that the Claimant's exposure to 40% hydrofluoric acid did not cause the Claimant's heart block or cause injury and/or aggravation to her lungs; the error being is that the substantial, reliable and evidence on the whole record proves that it is more probable than not that Claimant's exposure to HF did cause the Claimant's injuries? See Records of Urgent M.D., APA No. 1, at page 7 and Email from Eric Schoellkopf, APA No. 17, page # 182.
3. Whether the Single Commissioner erred in her factual findings that there was only a trace of HF that was leaking at the scene or site of the exposure; the error being that no measurement was taken or being taken by the Employer to either prove or disprove the amount of the exposure,

except to say that the Employer's own HF expert testified that if there was billowing HF present that would be a significant exposure?

4. Whether the Single Commissioner erred in her factual findings or suggestions that the Claimant had a "chronic" heart conduction abnormality based solely on an entry in the records of Urgent M.D.; the error being that the Claimants' overall heart -health history was very good as found by treating physicians and experts? See Urgent M.D. records, APA No. 1 at page #16; and APA No. 24.
5. Whether the Single Commissioner erred in her factual findings regarding the Claimant's credibility and believability; the error being that there is absolutely no evidence in the Claimant's employment history with prior employers or the Employer in this case that would support a finding that the Claimant had a tendency to misrepresent the truth?
6. Whether the Single Commissioner erred in her factual finding that the Claimant was exposed to only trace amounts of HF; the error being that the Safety Director, Ken McDowell reported that the concentration of the exposure was 40 % HF and for the Single Commissioner to accept Ken McDowell's later "surmising," is mere speculation? See Urgent M.D. records APA No. 1 at page # 16.
7. Whether the Single Commissioner erred in her factual findings that the Claimant in this case was merely trying

to “ stick it” to her Employer to by having her employer pay for all of her “ unrelated” health conditions: the error being that even the Claimant’s medical providers believed she needed referral to toxicology, ENT and cardiology was necessary and appropriate and the Safety Data Sheets for HF and the Employer’s own documents support the fact that a wide range of health issues can arise from even a minimal exposure? See Urgent M.D. records APA No. 1 at #16; No. 18 at page # 185; and APA No. 20 at # 204.

8. Whether the Single Commissioner erred in placing any weight on the testimony of Lonnie Parsons and his alleged testimony that he was exposed or present around the leak of HF for nearly 8 hours and suffered no ill effects; the error being that his co-worker’s testimony (the testimony of George Campbell whose breath was “ taken away” from his brief exposure to HF and whose eyes were burning and who was coughing on the same day from the same leak) flies in the face of the scientific evidence produced by the Employer?
9. Whether the Single Commissioner erred as matter of fact in finding that all Claimants’ laboratory findings were normal with respect to Claimant’s electrolytes over the course of her treatment; the error being that her phosphorus levels, which have a direct impact on the cardiovascular system and the heart were in fact below normal limits? See University Hospital records, APA No. 2, at page # 42, # 46, # 51; University Cardiology records APA No. 3, at page # 76, # 81, et al.

10. Whether the Single Commissioner erred in placing undue weight and emphasis on the Defendant's experts when these experts failed to demonstrate sufficient knowledge of the claimants' medical condition and the amount of her exposure to HF and missed salient factual points (such as her low phosphorus level and prolonged QT interval) concerning the nature, and extent of her treatment and diagnosed at University Hospital? See University Hospital records, University Cardiology records, and John F. Setaro report, *supra*, APA Nos. 2, 3 and 28.
11. Whether the Single Commissioner erred in failing to assign sufficient weight to Claimant's treating doctors and the Claimant's experts who found that the Claimant had suffered, as a final diagnosis, a toxic chemical inhalation from HF and injury to her heart and lungs which is consistent with Safety Data Sheets and the Employers own documents which detail the lethality of and danger of HF? See University Hospital records, APA No. 2 at page #46.
12. Whether the Single Commissioner erred in placing undue emphasis on what amount to minor discrepancies in claimant's medical records (the type of which occur in almost every complex case) and testimony on points which did not go to the heart of the issues in order to improperly attempt to discredit the Claimant? (e.g. no reference to diarrhea in Urgent M.D. records, APA No. 1 at page # 5, when other records do so reference this as part of her history; see University Hospital records, APA No. 2 at # 22)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1511478

MONICA MURPHY,

CLAIMANT,

VS.

HALOCARBON PRODUCTS CORP.

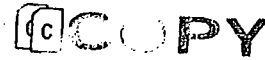
EMPLOYER,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

CARRIER,

DEFENDANTS.

 COPY

CERTIFICATE OF SERVICE

The undersigned legal assistant to The Rick Hall Law Firm, LLC hereby certifies that she has on the 5th day of April, 2018 served the individual named below with a copy of the document described herein, by depositing a copy in the U.S. Mail, postage prepaid, to the person(s) listed below:

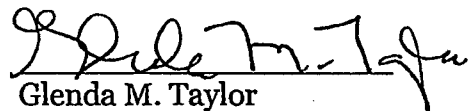
PERSON SERVED:

James Lichty, Esquire
McAngus, Goudelock and Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201

DOCUMENTS:

Amended Attachment A-Issues for Appeal Monica Murphy

Lexington, SC


Glenda M. Taylor

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1511478

MONICA MURPHY,

Employee,

Claimant,

vs.

HALOCARBON PRODUCTS
CORPORATION,

Employer,

AND

COMMERCE & INDUSTRY INSURANCE
COMPANY C/O AIG CLAIMS, INC.

Carrier,

Defendants.

MAY 29 2018

RESPONDENTS' BRIEF TO THE
FULL COMMISSION

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
FREDERICK I. HALL, III, ESQUIRE:

Statement of the Case

The Claimant alleged injuries to multiple body parts, primarily involving the heart and lungs, as a result of an exposure to hydrofluoric acid (HF) vapors on August 11, 2015. The Defendants deny any exposure of a concentration or duration sufficient to produce the injuries alleged by Claimant. A hearing to determine these issues was held on April 27, 2017, before Commissioner Susan Barden. The hearing lasted over four hours and over 450 pages of medical reports and exhibits were submitted into evidence. On March 12, 2018, the Commissioner issued an Order denying the Claimant's allegations of injury and ruling in favor of Respondents. This appeal followed.

Questions Presented

- I. Whether the Single Commissioner erred in refusing to admit the expert report and opinions of Dr. Philip Edelman, a highly qualified physician and expert in the field of Environmental and Occupational Medicine; the error being his report was properly supplemented and the Claimant had a legal right to rebut the expert report of Dr. Mackinnon, a purported expert in hydrofluoric acid injuries?
- II. Whether the Single Commissioner erred in her factual findings that the Claimant's exposure to 40 % HF did not cause the claimant's heart block or cause injury or aggravation to her lungs; the error being is that the substantial, reliable, and probative evidence on the whole record proves that it is more probable than not that the Claimant's exposure to HF did cause the Claimant's injuries?
- III. Whether the Single Commissioner erred in her factual findings that there was only a trace of HF that was leaking at the scene or site of the exposure; the error being that no measurement was taken by the Employer to either prove or disprove the amount of the exposure, except to say that the Employer's own HF expert testified that if there was billowing HF present that would be a significant exposure?
- IV. Whether the Single Commissioner erred in her factual findings or suggestions that the Claimant had a "chronic" heart conduction abnormality based solely on an entry in the records of Urgent M.D.; the error being that the Claimant's overall heart—health history was very good as found by treating physicians and experts? See Urgent M.D. records, APA No.1 at page #16; and APA No. 24.
- V. Whether the Single Commissioner erred in her factual findings regarding the Claimant's credibility and believability; the error being that there is absolutely no evidence in the Claimant's employment history with prior employers or the Employer in this case that would support a finding that the Claimant had a tendency to misrepresent the truth?
- VI. Whether the Single Commissioner erred in her factual findings that the Claimant in this case was merely trying to "stick it" to her Employer to by having her employer pay for all of her "unrelated" health conditions; the error being that even the Claimant's medical providers believed she needed referral to toxicology, ENT and pulmonology was necessary and appropriate and the Safety Data Sheets for HF and the Employer's own documents support the fact that a wide range of health issues can arise from even a minimal exposure? See Urgent M.D. records APA No. 1 at #16; No. 18 at page # 185; and APA No. 20 at # 204.
- VII. Whether the Single Commissioner erred in placing any weight on the testimony of Lonnie Parsons and his alleged testimony that he was exposed

or present around the leak of HF for nearly 8 hours and suffered no ill effects; the error being that his co-worker's testimony (the testimony of George Campbell whose breath was "taken away" from his brief exposure to HF and whose eyes were burning and who was coughing on the same day from the same leak) is more reliable and consistent?

- VIII. Whether the Single Commissioner erred in failing to assign sufficient weight to Claimant's treating doctors and the Claimant's experts who found that the Claimant had suffered as a final diagnosis a toxic chemical inhalation from HF and injury to her heart and lungs and the Claimant's injury is consistent with Safety Data Sheets and the Employer's own documents which detail the lethality and danger of HF? See University Hospital records, APA No. 2 at page #46.

Argument

1. The Single Commissioner did not err in refusing to admit the report of Dr. Edelman because a.) the expert report was not timely submitted, b.) the Regulations do not permit the untimely expert report to be accepted as rebuttal evidence, and c.) the claimant's attorney had an opportunity to have the untimely report included in the record and declined the opportunity.

The Appellant accuses the Single Commissioner of an abuse of discretion by sustaining the Respondent's objection to evidence she sought to submit in an untimely manner. In so doing, the Appellant begins her argument by accusing the Respondents of "trial by ambush," even while admitting the Respondents submitted all evidence for hearing in a manner consistent with the Commission's regulations. The record will establish the Single Commissioner was acting entirely within the discretion granted to her by the Regulations and, moreover, that Claimant had an opportunity to have the excluded evidence become a part of the record but declined this opportunity.

The hearing was originally scheduled for March 7, 2017. Less than two hours prior to the hearing, the Claimant moved for a continuance asserting, primarily, that his mother was in the hospital with an illness and that, as her healthcare Power of Attorney, he needed to be with his mother. The motion adds, in a "throwaway" line, that "further grounds are that additional discovery will need to be conducted." The written motion went into no detail to support a motion

to adjourn to conduct additional discovery. As it relates to an adjournment to conduct additional discovery, the motion fails on its face, as the only supporting grounds presented by the motion relate to the Claimant's attorney's personal issue. Due to the eleventh-hour nature of the motion, the Commissioner convened a conference call to discuss the grounds for the motion and issue her ruling. The Commissioner ruled on the motion in the same manner anybody with a shred of compassion would; by continuing the hearing so the Claimant's attorney could be with his mother. And this emergency formed the only grounds for the Commissioner granting the motion.

Additional support for Respondents' contention the continuance was not based on a need for additional discovery is found in the timing of the motion. The Appellant admits that Respondents' served its brief on February 27, 2017, and that it was received in his office on February 28, 2017. Yet the Appellant waited over a week, until March 7, 2017, just hours before the scheduled hearing, to request a continuance. If the need to submit additional evidence did form any substantive part of the Respondent's request for a continuance, that motion should have been made upon receipt of the Respondent's pre-hearing brief, not more than a week later. Moreover, although no record of the conference addressing the merits of Appellant's motion was taken, Respondents disagree with the Appellant's assertion in Footnote #2 that the need for rebuttal evidence was a part of this conversation. The motion was argued, and granted, because the Claimant's attorney's mother was ill and needed her healthcare Power of Attorney present. In a context that acknowledges the Claimant's attorney did not file his motion until his mother was hospitalized, rather than once he became aware of the Respondent's expert reports, it becomes clear that the true grounds for the motion, and the Commissioner's grounds for granting the motion, concern the Claimant's attorney's emergency.

Because the grounds for the continuance were to allow the Claimant's attorney to attend to his emergency, and not to conduct additional discovery, the Appellant's argument this evidence was timely submitted when included in his April 12, 2017, pre-hearing brief is baseless. The prior hearing was continued as a necessary courtesy to the Claimant's attorney. In the absence of this predicament the hearing would've proceeded with the evidence available at that time, subject to any additional evidence the Commissioner allowed into the record using the discretion granted by S.C. Reg. 67-612. The regulations should not be construed to confer an advantage to the Appellant by virtue of a personal issue, as doing so would encourage unscrupulous attorneys to invent excuses to justify a continuance for any of the other reasons listed at S.C. Reg. 67-613 with the expectation that doing so would allow them to submit untimely evidence.

Further, it is curious that Appellant bases his argument on appeal on grounds he is entitled to submit rebuttal evidence when the Motion he filed with the Commission prior to the hearing referenced only the need to conduct additional discovery. None of the Respondent's evidence is mentioned and the word "rebuttal" appears nowhere in the motion. Had the Appellant truly desired to submit evidence to rebut the evidence submitted by Respondents, the Motion should've been crafted to request a continuance to allow for rebuttal evidence, not so that the Claimant's attorney could be with his ailing mother.

Even had the Commissioner allowed the Appellant to submit rebuttal evidence, this would've been limited to the de bene esse depositions of the experts upon whose reports submitted, not an expert report that was both solicited and prepared after the original hearing date. The Act provides the Commission with authority to enact regulations pertaining to the administration of the workers' compensation law of the State. S.C. Code Ann. Sec. 42-3-30.

These regulations draw a distinction between the reports of an expert and the testimony of a witness. S.C. Reg. 67-612 provides limits on a party's ability to use an expert report as evidence but explicitly states the regulation shall not be construed to limit a party's right to call a witness or present evidence in the form of a deposition. S.C. Reg. 67-612(A). The failure of a party to provide the opposing party with expert reports in a timely manner may result in the exclusion of such reports from the record of the case, subject to the Commissioner's discretion to grant an adjournment. S.C. Reg. 67-612(E). In the event the Commissioner orders an adjournment however, the discretion to permit additional evidence into the record is limited to a.) the testimony of a necessary witness unable to appear at the hearing or b.) the de bene esse deposition of an expert. S.C. Reg. Sec. 67-612(J). This means that under the Regulations, the Appellant's only means of supplementing the record in this claim would've been to schedule the de bene esse deposition of any experts whose reports were submitted by the Respondents, not to solicit an additional expert report that was not properly noticed to the Respondents prior to the hearing. So, while the Appellant accuses the Commissioner of fundamental unfairness and an abuse of discretion, the Regulations do not even permit the Commissioner admit the expert report of Dr. Edelman as rebuttal evidence.

Finally, the Appellant had full opportunity to get the disputed report into the record prior to the hearing and cannot now be heard to call foul because he did not take the opportunity to do so. The Respondents' motion to exclude the evidence was made during the course of the pre-hearing conference. During this conference, the Commissioner held her ruling on this motion in abeyance but expressed the concerns she had about letting the untimely evidence into the record. The Commissioner informed the Appellant he was entitled to withdraw his hearing request, pursue whatever additional discovery deemed necessary, and then submit it in a timely manner at

a later hearing. The Respondent rejected the Commissioner's offer and elected to proceed with the hearing, with full knowledge the untimely evidence might not be considered by the Commissioner. Among the most well-regarded maxims of law is that he who comes into equity must come with clean hands. This maxim would seem to prohibit the Appellant's from assigning error to the Commissioner for excluding an expert report from evidence when the Appellant had every opportunity to get the report into evidence. Rather, the Appellant made a conscious and reasoned decision to proceed without knowing whether the Commissioner would consider the untimely expert report or not. Applying the maxim of clean hands to the facts of this claim, even if the Commissioner abused her discretion by refusing to admit the untimely expert report (she did not), the Appellant cannot now be deemed prejudiced by an outcome that was entirely predictable and avoidable.

As an aside, Respondent's object to Appellant's inclusion of the excluded report as an attachment to his appellate brief. This evidence is not part of the record and is completely irrelevant to the question of whether or not the Commissioner should've allowed the report into evidence.

2. The Single Commissioner did not err in finding the Claimant's alleged exposure did not cause any permanent injury because a.) the greater weight and preponderance of evidence of record supports her denial and b.) Claimant was unable to provide a cohesive theory of causation and, therefore, was unable to carry her burden of proof to establishing compensability.
3. The Single Commissioner did not err in finding the Claimant was only exposed to trace HF fumes because a.) the greater weight and preponderance of evidence of record supports no more than a trace exposure and b.) Claimant submitted no evidence tending to support anything other than a trace exposure.

The Employer is a chemical manufacturer in North Augusta, South Carolina, that uses HF in its manufacturing process. Prior to the Claimant's alleged exposure, a pinhole leak was

discovered in an economizer carrying 40% HF located on an outdoor patio. The economizer was drained and vented into a carboy and the insulation surrounding the leak was removed to allow for maintenance. The leak was no longer active but some of the insulation was still wet with HF. The wet insulation was located some 12" from a door which led inside the facility. The Claimant alleges injury to her heart, lungs, bones, sense of taste and smell, neurologic system, and psychiatric system due to exposure to HF vapor resulting from the wet insulation. The Claimant makes these assertions despite the fact a.) the concentration of HF vapor at the location where the Claimant was exposed was far less than 40%, b.) she never even entered the patio upon which the wet insulation was located, c.) she was wearing complete protective equipment, d.) she drew no more than three or four breaths of the vapor from behind a door leading to the patio, and e.) the symptoms she associated with her alleged exposure did not arise until weeks after the accident when they would be expected to arise almost immediately.

The only evidence addressing the concentration of HF vapor present on the patio where the wet insulation was located is provided in the Incident Report. APA p.167. This report concludes only a trace amount of HF vapor was released. At the hearing, Ken McDowell, Director of Regulatory Affairs for the Employer, testified as to the significance of this finding. Mr. McDowell testified a trace amount of HF vapor would be an amount that was not measurable because it is below the measuring threshold. Hr.Tr. p.142. The Appellant tries to discredit Mr. McDowell's testimony in this regard by pointing out he reported an exposure to 40% HF when he took the Claimant to Urgent MD and that this report was spontaneous and should be afforded greater weight than the testimony he was "prompted to urge" at the hearing. APA p.7. This argument is disingenuous however, as it conflates the concentration of HF liquid in the pipe with the concentration of HF vapor in the air. The Appellant's attempt to discredit

Mr. McDowell's testimony fails upon the acknowledgment that both statements are valid and leaves the Appellant still seeking to establish that the concentration of HF vapor the Claimant was exposed to was anything more than negligible.

By the Claimant's own admission, her exposure to HF fumes was of a very short duration. She never entered the patio where the vapors were present; the vapors were brought inside the manufacturing facility, where they would be further diluted by the ambient air, through the partially opened door. Hr.Tr. 80. The Claimant had trouble opening the door and was able to close the door after a few seconds. Hr.Tr. p.80. The Claimant took an estimated three (no more than four) breaths. Hr.Tr. p.27. She was wearing full acid gear, which included a face shield. Hr.Tr. p.28.

Indications of a negligible exposure over a short period of time are evident in the testimony and reports of eyewitnesses. Lonnie Parsons encountered the Claimant on the patio just minutes after her alleged exposure and testified she showed no signs of physical distress, was not coughing, was not red in the face, and was speaking in an unlabored manner. Hr.Tr. p.187-188. Chip Babb spoke with the Claimant just minutes after her exposure and within an hour reported "she said she was doing better and that the coughing had subsided." APA p.179. Mr. McDowell joined the Claimant for her initial medical appointment at Urgent MD and testified observing no redness in her face, coughing, signs of respiratory distress, or anything physically wrong with her. Hr.Tr. p.150. The medical report from Urgent MD from the date of accident document no rash, sore throat, cough, shortness of breath, chest pain, or fluttering in her chest. APA p.5. Based on the Safety Data Sheet submitted by Appellants (and upon which the Appellants rely to establish the danger of HF exposure), had the Claimant been exposed to a

significant amount of HF, severe skin burns, eye damage, irregular breathing, respiratory arrest, or death would've been expected. APA p.184.

The degree and duration of Claimant's exposure are critical to Appellant's postulated argument for causation. Literature from the Center for Disease Control/ NIOSH states that for all routes of exposure, the severity and timing of adverse health effects from exposure to HF are primarily dependent on the concentration of HF and the duration of exposure. Lane Depo. Ex.4. Dr. MacKinnon reported "the greatest controversy in this case is just how much exposure this individual had to HF, both in length of time and concentration." APA p.392. In his deposition he testified the amount of HF vapor the Claimant was exposed to was not sufficient to cause any of her problems. MacKinnon Depo. P. 21.

The greater weight and preponderance of medical evidence agrees the Claimant's exposure was insufficient to cause the injuries she alleges. Due to the vast array of injuries the Appellant alleges were caused by her negligible exposure, a number of different experts were required to examine the Claimant.

Lungs

The Claimant suffered from a pre-existing restrictive lung condition that was not exacerbated by her alleged exposure. Before working for the Employer, she worked at Savannah River Site, where periodic pulmonary function tests (PFT) were performed. As a result, every doctor who evaluated the Claimant had access to a detailed history of the Claimant's pre-accident pulmonary performance. Dr. Mitchell examined the Claimant, reviewed her PFT records, and concluded she has a Class 2 pulmonary impairment that predated her exposure on August 20, 2015. APA p. 416. Dr. Early also evaluated the Claimant, reviewed her history of PFT studies, and confirmed a restrictive lung disease that pre-existed her accident and was no

worse following her accident. APA p.406. Dr. Spagenthal reviewed the Claimant's medical reports and concludes the Claimant's exposure to HF has not had a long-term negative impact on the Claimant's pulmonary system. APA p.421. Dr. Spagenthal concluded the medical evidence does not support Dr. Alleyne's diagnosis of reactive airway dysfunction syndrome (RADS) because the objective evidence fails to support a finding of obstructive air flow. APA p.421. Dr. Spagenthal reported the Claimant's chronic pulmonary dysfunction, if any, was more probably related to morbid obesity. APA p.421. Dr. Mitchell also reported the Claimant's pulmonary dysfunction could be related to weight. APA p.416. Dr. MacKinnon commented that morbid obesity contributes to the Claimant's diagnosis but that her restrictive lung disease was a pre-existing condition and not directly related to HF exposure. APA p.393.

The Claimant's case with regard to alleged injuries to her lung was predicated upon the opinion of Dr. Alleyne. He diagnosed the Claimant with RADS, which is an obstructive lung disease. APA p.128. He assigned causation of the condition to the Claimant's HF exposure. APA p.128. In the course of his deposition however, Dr. Alleyne admitted the PFT he performed on the Claimant resulted in a FEV1/FVC ratio of 75%, which is normal and not suggestive of an obstructive deficit. Alleyne Depo. p.35. Dr. Alleyne then stated his diagnosis of RADS was based on the Claimant's subjective history, as opposed to any objective criteria. Alleyne Depo. p. 35-36. The other physicians to review this claim all took issue with Dr. Alleyne's diagnosis. Dr. Early discussed the diagnostic criteria for RADS and concluded the Claimant did not meet the criteria in light of the absence of an obstructive deficit. APA p.402. Dr. Mitchell took issue with the RADS diagnosis of Dr. Alleyne due to the absence of an obstructive deficit. APA p.411. Likewise, Dr. Spagenthal disagreed with the diagnosis of RADS due to the absence of any objective evidence of an obstructive airflow and reduced FEV1/FVC ratio. APA p.421.

The involvement of Dr. Alleyne in the Claimant's treatment merits further contemplation considering his opinion is universally rebuffed by every other provider to evaluate the Claimant's pulmonary condition. At University Hospital, the Claimant was recommended to follow up with Dr. Brannen, a pulmonologist near the Claimant's home. Hr.Tr. p.111. Opting to treat with a local physician makes the most sense considering the Claimant's fragile state makes it difficult for her to travel. Hr.Tr. p.110. In fact, when Respondents asked Claimant to be evaluated by Dr. Mitchell, in Charleston, SC, she required a hotel room to break up the trip. Yet the Claimant did not use a local option, choosing instead to treat with Dr. Alleyne, who is in Rock Hill, SC. Claimant testified Dr. Alleyne was recommended to her by her attorney, although the Claimant was hesitant to admit this on cross-examination. Hr.Tr. p.111. Respondents contend the fact the Claimant's attorney directed her to a pulmonologist more than two hours from her home, even though the travel back and forth was physically taxing on the Claimant, suggests some predetermined expectation that Dr. Alleyne's opinions would be favorable to Appellants. In his deposition, Dr. Alleyne admitted he had talked to the Claimant's attorney about this case three or four times. Alleyne Depo. p.33. He diagnosed the Claimant with a condition predicated on an obstructive lung deficit despite the absence of an obstructive deficit, or any deficit at all; the very PFT Dr. Alleyne performed was normal yet he still diagnosed her with a disability! He even provided the Appellants an opinion on the Claimant's cardiac condition despite the fact he is not a cardiologist, and then refused to defer to any cardiologist who might have a different opinion. Alleyne Depo. p.38. Respondents assert the only opinion supporting causation of the alleged pulmonary injuries is not a credible opinion and merits heavy skepticism.

In light of the fact four physicians reviewed the evidence and concluded the Claimant did not develop any respiratory dysfunction as a result of her alleged exposure, it borders on folly to

suggest the Single Commissioner erred in finding the Claimant did not sustain an injury to her lungs. The consensus on the Claimant's alleged pulmonary condition is blemished only by the opinion of Dr. Alleyne, which disregards the objective evidence of the claim and relies exclusively on the Claimant's subjective report of her accident. The greater weight and preponderance of evidence strongly supports the Single Commissioner's determination and this Panel should uphold her denial of an injury to the lungs.

Heart

The Appellant failed to present a cohesive theory of causation that would link her alleged heart injury to her exposure. When the Claimant was evaluated at Urgent MD on the date of accident, the report documents no cardiovascular symptoms. APA p.5. Upon examination at University Hospital on August 13, 2015, the cardiovascular examination showed normal rate and regular rhythm. APA p.22. The same is true of her follow up appointments at Urgent MD, including the visit of August 15, 2015, where normal heart sounds and regular rate and rhythm with no murmurs was documented. APA p.13. By August 19, 2015, however, the Claimant was documented with an abnormal EKG, suggestive of a conduction abnormality that is chronic (i.e., non-industrial) in nature. APA p.16. Upon her admission to University Hospital on August 21, 2015, this EKG was interpreted to show complete heart block and the Claimant was recommended for a pacemaker, which was implanted by Dr. Aquilina. APA p.58. During her stay in the hospital, the Claimant attributed her cardiovascular symptoms to her exposure. APA p.54. The provider's notes indicate it was "unclear if conduction issues are related to recent chemical exposure." APA p.55. In her consultation report, Dr. Lane comments "no known exposure that would cause this degree of heart block without an electrolyte abnormality. That is not present."

The conclusions of Dr. Lane are important because the opinion she expressed after consulting with the Claimant's attorney forms the lynchpin of Appellant's theory of causation. After discussing the case with Dr. Lane for thirty or forty minutes, the Appellants scheduled the deposition of Dr. Lane to "clean up" her opinion in the medical reports. Lane Depo. p.20. In the setting of her deposition, Dr. Lane testified it was not HF exposure that caused the Claimant's heart condition but, rather, a respiratory reaction that triggered an underlying vasovagal episode. Lane Depo. p.21. Dr. Lane rested her theory on a single vasovagal response the Claimant experienced more than twenty years prior while she was pregnant with child. Lane Depo. p.23. She reached this conclusion based on the Claimant's history alone, without any medical documentation of the event even happening. Lane Depo. p.23. This is problematic since the Claimant also reported a prior ECG was normal when the records documented it was positive for sinus rhythm, suggesting the Claimant maintains an inconsistent memory when it comes to her medical history. APA p.54-55. Dr. Aquilina, the electrophysiologist who actually implanted the Claimant's pacemaker, quickly shot down Dr. Lane's theory at his deposition. Dr. Aquilina explained there is "no way" the Claimant's underlying vasovagal reflex is related to her heart condition because such a relationship would result in a transient heart block and would not necessitate a pacemaker. Aquilina Depo. p.12-13. He further indicated post-implant interrogation of the pacemaker proves the Claimant's underlying heart block continues, meaning it is not related to a vasovagal episode. Aquilina Depo. p.13-14.

The only other opinion from a cardiologist to support a causal relationship is the October 13, 2016, records review from Dr. Setaro, a Connecticut doctor the Appellant solicited to review the Claimant's reports and issue an opinion. In his report, Dr. Setaro discusses how HF exposure removes electrolytes from the host and interferes with the heart's natural conduction. APA p.240.

Presumably, Dr. Setaro had the August 13, 2015, report from Urgent MD (STAT labs and Sinus Xray were normal – APA p.9), the August 19, 2015, report from Urgent MD (electrolyte levels have been normal on three separate occasions – APA p.17), and the August 23, 2015, report of Dr. Lane (no known exposure that would cause this degree of heart block without electrolyte abnormality – APA p.66). Dr. Setaro also presumably had access to the Claimant's urinalysis report from University Hospital, which documents calcium and magnesium levels within the reference range. APA p.23-25. Yet, despite medical evidence proving no electrolyte abnormalities existed following the alleged exposure, he continues to state the Claimant's heart condition is directly related to her HF exposure. Dr. Setaro never explains how a condition he says is conditioned upon an electrolyte abnormality can exist in the absence of an electrolyte abnormality. Notably, Dr. Setaro also believes the Claimant's presentation is not consistent with a "simple vasovagal response," further contradicting the opinion of the Appellant's other expert. APA p.240.

Dr. Early addressed the Claimant's cardiovascular injury, with particular focus on the fact the Claimant's electrolytes were normal in the days immediately following her injury and that it would be highly unusual to develop an electrolyte imbalance ten days later and have this due to HF exposure. APA p.355. He concludes it is difficult to explain how her HF exposure could've caused or aggravated her arrhythmia, suggesting a more likely explanation is atherosclerosis resulting in ischemia to the sinus node. APA p.401. Dr. MacKinnon agrees with this explanation, finding support for his conclusion in a CT scan from 2010 showing renal disease caused by atherosclerotic vascular disease in the Claimant's abdominal arteries. APA p.393. Dr. Feldman also considered the situation and concluded it is physiologically improbable that there is a causal

relationship between the Claimant's HF inhalation exposure and high-grade heart block. APA p.425.

Appellants argue the Single Commissioner erred in finding the Claimant's heart condition is not related to her exposure when even her own experts are in conflict as to why she developed complete heart block. One expert suggests it is not the result of HF exposure but a vasovagal reflex while the other expert states it is not a vasovagal reflex but the result of HF exposure. What's more, the Appellant presented no evidence that would reconcile these contradicting opinions. How does the Appellant expect the Single Commissioner to agree with her experts when even her own experts do not agree with one another? The Single Commissioner correctly adopted the conclusions of the Respondent's experts, who almost universally noted the lack of electrolyte abnormalities documented in the record is inconsistent with a theory of heart block caused by HF exposure. Accordingly, the Full Panel should uphold her denial of an injury to the heart.

4. **The Single Commissioner did not err in finding the Claimant had a chronic heart conduction abnormality because the finding is supported by the greater weight and preponderance of evidence of record.**

The medical history reported in the August 24, 2015, consultation report of Dr. Aquilina document a history of syncope (26 years ago while pregnant) and palpitations around 2000 for which she had evaluation with an ECG and 24 hour Holter monitor under the care of Dr. Cundey, which was read as normal. APA p.54. A later report from University Hospital provides a history indicating sinus rhythm was noted in 2007 on a "stress echo and event monitor" and on ECG in 2010. APA p.55. In his report, Dr. MacKinnon references the Claimant's prior cardiovascular workup and concludes there was obviously an underlying rhythm condition that required her to undergo cardio nuclear scans and stress tests. APA p.393. And medical reports

from University Hospital contain the results of a chest X-ray documenting “chronic appearing pulmonary markings bilaterally. APA p.35. Given the evidence suggesting a sinus rhythm as early as 2007 and chronic appearing pulmonary markings, the Single Commissioner did not err in determining the Claimant has a chronic heart condition as her finding is supported by the greater weight and preponderance of evidence of record.

5. **The Single Commissioner did not err in finding the Claimant less than credible because a.) the record is rife with examples of the Claimant’s exaggerations and mistruths and b.) she had an opportunity to observe the Claimant’s demeanor over the course of a four-hour hearing and personally observed the fluctuations in Claimant’s testimony and presentation.**
6. **The Single Commissioner did not err in finding the Claimant was trying to “stick it” to her employer as the record documents the Claimant was more angry than injured following her exposure.**

Appellant appears to argue the Commissioner erred in finding the Claimant less than credible based on a single discrepancy in the records which indicates the Claimant did not have diarrhea despite her testimony that she had six bouts of diarrhea. This is a gross oversimplification of the Commissioner’s opinion, which is amply documented in her findings of fact. To wit...

- a. Claimant tells her providers that she avoids irritants yet has cats in her home. APA p.126, APA p.408, APA p.292.
- b. Claimant tells her providers she has a loss of smell yet tells other providers that she is sensitive to odors. Hr.Tr. p.50-51, APA p.125, APA p.408.
- c. Claimant took only three or four breaths of HF vapors yet reported exposure for up to three minutes. Hr.Tr. p. 25, 81, APA p.5, APA p.162, APA p.395, APA p.408, Mitchell Depo. p.48.
- d. Claimant reported a reddened face following her exposure following her exposure but was contradicted by Mr. McDowell and Mr. Parsons. Hr.Tr. p.42-43, APA p.52, APA p.408.
- e. Claimant reported immediate and severe symptoms yet her first instinct was to ask to speak with management instead of seeking medical attention. Hr.Tr. p.76, 87-89, 90-93, APA p.162.
- f. Claimant testified having coughing and shortness of breath but initial medical reports from Urgent MD document no cough or shortness of breath. APA p.5-8.
- g. Claimant testified her heart was pounding yet Urgent MD reports document normal examination of the heart, chest, and lungs. APA p.5-8, 402, Hr.Tr. p.27-

28,31,36, 93-94.

- h. Claimant testified having extensive diarrhea but denied having diarrhea at her August 11, 2015, appointment with Urgent MD. Hr.Tr. p.44, APA p.5.
- i. In follow up, Claimant reported increasing symptoms yet Urgent MD reports document normal examination of her chest, lungs, and heart. She reported shortness of breath and coughing yet was found to have no difficult speaking and no airway distress. APA p.9-11.
- j. Claimant testified she had not had a bowel movement between the date of accident and her August 13, 2015, appointment at University Hospital yet the report from this visit documents the Claimant reported diarrhea. APA. p.21-41, Hr.Tr. p.56-57, 95-98.
- k. Claimant's testimony suggesting a gradual deterioration of her symptoms is inconsistent with her August 15, 2015, Urgent MD report which documents she reported significant improvement of her pulmonary condition. APA p.12-13, Hr.Tr. p.99-100.
- l. Claimant reported constant cough, weakness, and a loss of taste and smell to Urgent MD on August 19, 2015, but the report documents normal pulmonary and cardiovascular examination. The reports also document the Claimant gave poor effort on strength testing of her lower extremities and that she refused to provide a clear answer as to whether her nebulizer treatments were helping. APA p.14-17, Hr.Tr. p.58-60.
- m. Despite Claimant's testimony, the August 21, 2015, report from University Hospital documents the Claimant showed no signs of respiratory distress, was able to provide a medical history without difficulty, and was at 100% O2 saturation on room air. APA p.51, 83-84.
- n. The psychiatric report of Dr. Hooper concludes the Claimant's psychiatric testing is "probably valid but may reflect some exaggeration of symptoms." APA p.292.

The record of this claim establishes that if there is any common thread between the Claimant's testimony and the medical evidence, it is that the Claimant routinely reported a multitude of symptoms that were rarely, if ever, observed, reproduced, or confirmed on examination.

The Commissioner's determination the Claimant's testimony is not credible is not the same as determining the Claimant is a liar. To lie implies dishonesty as a means to mislead or deceive. Yet a witness's credibility can be compromised without any malicious intent. A witness may lack credibility because they are a poor historian, or have a conflict of interest, or simply exaggerate or misrepresent the truth (which is not the truth). The Employer does not need to

accuse the Claimant of being a liar in order to establish her lack of credibility; the Claimant's hyperbolic testimony when viewed in contrast with the objective evidence does that for them. A minor inconsistency here and there can be excused when determining credibility but there is a cumulative effect when multiple minor inconsistencies start piling one on top of the other. This cumulative effect undoubtedly formed a good part of the Commissioner's impression of the Claimant's credibility.

Another consideration the Commissioner unquestionably took into account is the Claimant's demeanor at the hearing, which the Commissioner observed over four hours. The dramatic pauses, feigned indignation, eye movements, and body language used by the Claimant while on the stand. Normally, the Appellate Panel is not privy to these observations but there is evidence of the Claimant's unspoken demeanor in the transcript of hearing, as immediately after the Respondent begins cross-examination of the Claimant, the Commissioner has to ask her to speak the same way she was speaking on direct examination. The written transcript does not adequately convey that Claimant talked normally when questioned by her own attorney yet quietly and with a hoarse affect when Respondents asked questions, yet the inference is clear from the record. The Single Commissioner took the extraordinary step of capturing her observations and entering them as Finding of Fact #77, from which the Claimant did not appeal and which forms the law of the case.

Further supporting the Commissioner's findings with regard to credibility are her actions following the exposure. After a brief period of coughing, which was consistent with the reaction Mr. Campbell experienced, the Claimant returned to the lab where she worked. APA p.179. Upon arriving at the lab, she informed her co-workers she was "angry" and believed "somebody is going to get somebody killed down there," and asking "what's it going to take for somebody to

get killed?” Hr.Tr. p.37. Within two hours, still without having requested any medical attention, Claimant typed an email demanding a meeting with management and safety. APA p.162. Clearly, the Claimant’s behavior following her exposure would indicate that her anger towards her employer was the foremost consideration on her mind. Moreover, the Claimant’s emotional position toward the Employer is amply documented in the report of Dr. Hooper, who concludes the Claimant has “very difficult feelings regarding the management of the company” and believes she was poorly cared for since the accident in the interest of the company “always pushing for money.” APA p.291. Dr. Hooper also describes the Claimant uses projection to deal with her problems, blames others, and harbors grudges. APA p.292. He also describes the Claimant as extremely angry and suspicious and overtly paranoid. APA p.292.

Case law indicates it is logical for the full Commission to give weight to the hearing Commissioner’s opinions on credibility because it does not have the benefit of observing witnesses. Green v. Raybestos-Manhattan, 156 S.E.2d 318 (S.C. 1967). Frankly, if the record does not outright establish the Claimant as dishonest, it easily establishes that Claimant is prone to hyperbole, a selective memory, or some other personality trait that renders her testimony less than reliable. The record documents exaggerations or outright mistruths in the Claimant’s testimony, a demeanor suggesting secondary gain, and a disconnect between the Claimant’s subjective reports and her providers’ objective findings. Moreover, the evidence provided by Claimant herself shows she was more angry than hurt following her exposure and has a tendency to blame others for her problems. In this context, the Claimant is blaming the Employer for a heart condition that has no bearing to her employment. The record contains ample evidence to support the Single Commissioner’s finding on credibility and the Claimant’s attitude towards the Employer and these finding should be upheld.

- 7. The Single Commissioner did not err in relying upon the testimony of Lonnie Parsons because Claimant failed to introduce any evidence tending to impeach or discredit this witness.**

Lonnie Parsons provided testimony regarding his work to prepare the HF leak for maintenance on the date of accident. This required him to spend eight hours on the patio where the wet insulation was located and where the coil was being vented into a carboy. During various times on his shift, he was above, next to, and standing directly over the carboy into which the vapors were being vented. Yet despite a much longer and more direct exposure than Claimant, Mr. Parsons suffered no long-term health consequences from his exposure. Appellant attempts to explain Mr. Parsons' testimony by asserting he was in locations where he could avoid the venting carboy, or get above the vapors, yet the Claimant's own testimony is that Mr. Parsons walked right next to the carboy twice while dumping her slops and returning the empty container. And Mr. Parsons' testimony is that he had to stand directly over the carboy on occasion. Moreover, Appellants cross-examined Mr. Parsons and had an opportunity to discredit his testimony if it were not reliable and 100% honest. In fact, Appellants did not and there is no basis for the Appellate Panel to disregard his testimony and deem him not credible.

- 8. The Single Commissioner did not err in the manner in which she assigned weight to the evidence of record because a.) her ultimate findings are supported by the greater weight and preponderance of evidence and b.) the Claimant is unable to establish any abuse of discretion with regard to the Commissioner's interpretation of the evidence.**

The Workers' Compensation Commission has a difficult job; it must frequently decide which of two competing narratives of fact is correct. If the evidence is conflicting on the issues, conflicts in the evidence can only be resolved by the [Workers' Compensation Commission]. Black v. Barnwell County, 134 S.E.2d 753 (S.C. 1964). It does so by weighing the evidence and determining which set of facts is more credible, more logical, or makes the most sense.

Credibility and the weight of a doctor's testimony is for the trier of fact. Chapman v. Foremost Dairies, 154 S.E.2d 845 (S.C. 1967). But there are caveats to this discretion. An award of benefits must not be based on surmise, conjecture, or speculation. Clade v. Champion Laboratories, 496 S.E.2d 86 (S.C. 1998). Additionally, the burden lies with the Claimant to demonstrate causation by a preponderance of the evidence. S.C. Second Injury Fund v. Liberty Mutual Ins. Co., 576 S.E.2d 199 (S.C.App. 2003). In this matter, both Appellant and Respondents submitted evidence which, on its face, would support the respective position of that party. When the Commission weighs the evidence and assigns credibility to it however, the correct determination is that the reliable and probative evidence of record supports the conclusion that the Claimant's extremely short duration to a negligible amount of HF vapors did not result in a permanent injury and that Appellants claim for benefits is rightly denied.

Appellants' theory of compensability with regard to her pulmonary complaints is based on a blatant disregard of the objective evidence. Dr. Alleyne makes a diagnosis dependent upon evidence of an obstructive air flow yet the objective evidence documents was normal so Dr. Alleyne simply tossed the objective evidence out the window and relied upon the Claimant's subjective account of an exposure. At the same time, at least four physicians disagree with Dr. Alleyne's diagnosis, determine the objective evidence establishes a chronic history of restrictive airflow, and suggest the Claimant's age and weight probably have more to do with her pulmonary complaints than whatever negligible exposure she faced to HF vapor. With regard to her cardiovascular complaints, one of Claimant's experts states HF exposure did not cause her injures but aggravation of a vasovagal response did, while the other expert states her problem could not be caused by a vasovagal response and that exposure to HF vapor certainly caused her problems. Even had the Respondents submitted no evidence as to causation of the Claimant's

cardiovascular complaints, the Commission would have difficulty determining what theory of causation to believe, if either. Yet the Respondents did submit evidence which universally agreed the Claimant's HF exposure did not result in enough of an electrolyte disturbance to cause her cardiovascular problems.

Additional evidence supporting the denial is in the medical reports, which fail to show any objective signs of injury despite repeated evaluation by multiple healthcare providers in the weeks following the accident. The Claimant did not request medical treatment immediately after the injury, when the literature suggests her symptoms would be the most intense. She had blood drawn on at least three occasions and none of these studies returned results consistent with HF exposure, which is characterized by a dramatic electrolyte imbalance as the chemical works its way through the system. While the Claimant reported significant respiratory issues, the observations of her providers routinely document no shortness of breath, wheezing, or coughing. In fact, the only time the objective observations of her providers is consistent with her subjective history is when the Claimant reports significant improvement a few days after her exposure. All these observations further support a denial of this claim and lend support to the opinions of the experts who evaluated the Claimant on behalf of the Respondents. Moreover, and not insignificantly, after four hours of observing the Claimant, the Single Commissioner came to the conclusion that not even the Claimant's testimony could be relied upon to support her contentions. Considering the Appellants' arguments were based on the compromised testimony of the Claimant and a disjointed theory as to the mechanism of injury, there can be no question that the Single Commissioner weighed the evidence appropriately and reached the correct decision in this matter. Accordingly, the Appellate Panel should adopt and affirm the Single

Commissioner's findings regarding the sufficiency and weight of evidence received in this matter.

Conclusion

The Order of the Single Commissioner is supported by the greater weight and preponderance of evidence of record and is not affected by any error of fact or law. For this, and the foregoing reasons, Respondents pray the Full Panel will affirm the Order of the Commissioner in its entirety.



JAMES H. LICHTY
MCANGUS GOUDELOCK & COURIE, L.L.C.
Post Office Box 12519, Capitol Station
Meridian, 1320 Main Street, 10th Floor
Columbia, South Carolina 29211-2519
(803) 779-2300
Attorneys for the Employer/Carrier

Columbia, South Carolina
May 25, 2018

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1511478

MONICA MURPHY,	}	
	}	
Employee,	}	
	}	
Claimant,	}	
	}	
vs.	}	
	}	
HALOCARBON PRODUCTS CORPORATION,	}	
	}	
Employer,	}	
	}	
AND	}	
	}	
AIG CLAIMS, INC.,	}	
	}	
Carrier,	}	
	}	
Defendants.	}	
	}	
	}	

**CERTIFICATE
OF
SERVICE**

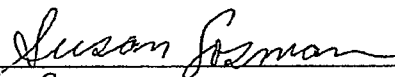
The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Frederick I. Hall, III, Esquire
The Rick Hall Law Firm, LLC
Post Office Box 1898
Lexington, South Carolina 29071

VIA eCASE
South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 · Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Respondents' Brief to the Full Commission

DATE OF
MAILING: May 25, 2018



Susan Gosman
Legal Assistant to James H. Lichty

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1511478

EMPLOYEE/CLAIMANT: MONICA MURPHY
EMPLOYER: HALOCARBON PRODUCTS
INSURER: COMMERCE & INDUSTRY

MAY 23 2017

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 27TH DAY OF
APRIL, 2017, COMMENCING AT THE HOUR OF 12:26 P.M., IN
AIKEN, SOUTH CAROLINA, BEFORE THE HONORABLE SUSAN BARDEN,
ATTENDED BY COUNSEL AS FOLLOWS:

JAN L. WHITWORTH
VERBATIM REPORTER

 COPY

JAN L. WHITWORTH
WHITWORTH COURT REPORTING
POST OFFICE BOX 551
ROEBUCK, S.C. 29376
(864) 494-2705

APPEARANCES

FREDERICK IVEY HALL, III, ESQUIRE, OF THE FIRM
THE RICK HALL LAW FIRM, L.L.C.
POST OFFICE BOX 1898
LEXINGTON, SOUTH CAROLINA 29071

ATTORNEY FOR THE EMPLOYEE/CLAIMANT,

JAMES H. LICHTY, ESQUIRE, OF THE FIRM
MCANGUS, GOUDELOCK & COURIE, L.L.C.
POST OFFICE BOX 12519
COLUMBIA, SOUTH CAROLINA 29211

ATTORNEY FOR THE EMPLOYER/INSURER.

1 THE ONLY OBJECTION THAT I HAD WAS THERE WAS A
2 WITNESS STATEMENT, MR. CAMPBELL.

3 BY COMMISSIONER BARDEN:

4 WELL, THIS IS THE KIND OF THING WE'RE SUPPOSED
5 TO TAKE UP IN A PREHEARING CONFERENCE. SO, I HATE
6 TO DO THIS, BUT IF WE NEED TO TAKE IT UP. IS THERE
7 AN OBJECTION; YOU HAVE AN OBJECTION TO A WITNESS
8 STATEMENT THAT HE HAS IN HIS APA SUBMISSIONS?

9 BY MR. HALL:

10 I DO.

11 BY COMMISSIONER BARDEN:

12 OKAY. IF EVERYONE WILL PLEASE KINDLY EXIT THE
13 ROOM.

14 (OFF THE RECORD)

15 BY COMMISSIONER BARDEN:

16 WE ARE BACK ON THE RECORD. THERE WERE A COUPLE
17 OF OBJECTIONS RAISED, ONE OF WHICH WAS WITHDRAWN,
18 BUT MR. LICHTY ON BEHALF OF HIS CLIENTS HAS AN
19 OBJECTION TO THE CLAIMANT'S APA NUMBER 28, WHICH IS
20 A REPORT, A C.V. OF A DR. PHILIP EDELMAN, AND I AM
21 HOLDING THAT OBJECTION IN ABEYANCE. I HAVE ADVISED
22 THE PARTIES THAT THEY WILL KNOW BY MY ORDER
23 INSTRUCTIONS WHETHER I CONSIDERED IT, WHETHER I'M
24 NOT CONSIDERING IT, BUT IT IS A REPORT OF THE
25 CLAIMANT'S SUBMISSION, AND THE CLAIMANT WOULD

1 CONTEND THAT HE IS ENTITLED TO REBUT EVIDENCE PUT IN
2 BY THE DEFENDANTS AND THAT MERELY THAT THERE WAS A
3 DISCUSSION ABOUT ADDITIONAL DISCOVERY, SO THEREFORE
4 HE'S WELL WITHIN HIS RIGHT TO INCLUDE THAT IN HIS
5 APA SUBMISSIONS, AND MR. LICHTY WOULD CONTEND THAT
6 THE REPORT WAS AT LEAST RECEIVED IF NOT PREPARED
7 PRIOR TO THE DATE OF THE ORIGINALLY SCHEDULED
8 HEARING, AND THEREFORE IT IS NOT PROPERLY BEFORE THE
9 COMMISSION IN THAT MR. LICHTY BELIEVES THAT ON
10 BEHALF OF HIS CLIENTS THAT THE HEARING THAT WE WERE
11 SUPPOSED TO HAVE EARLIER WAS CANCELLED STRICTLY ON
12 THE GROUNDS OF -- OR PRIMARILY ON THE GROUNDS OF ONE
13 OF THE ATTORNEYS FAMILY MEMBER'S SIGNIFICANT
14 ILLNESS. SO, I'M GOING TO HOLD THAT OBJECTION IN
15 ABEYANCE, BUT ARE THERE ANY FURTHER OBJECTIONS TO
16 APAs, JURISDICTION, VENUE OR ANY OTHER ITEMS?

17 BY MR. HALL:

18 NONE FROM THE CLAIMANT, YOUR HONOR.

19 BY MR. LICHTY:

20 NONE FROM THE DEFENSE, YOUR HONOR, BUT I WILL
21 CLARIFY, I BELIEVE YOU MAY HAVE MISSPOKE. I BELIEVE
22 THAT THE I.M.E. REPORT THAT I OBJECTED TO WAS BOTH
23 SOLICITED AND PREPARED AFTER THE DATE OF THE PRIOR
24 HEARING.

25 BY COMMISSIONER BARDEN:

1 SOLICITED AFTER, OKAY.

2 BY MR. LICHTY:

3 AND PREPARED.

4 BY COMMISSIONER BARDEN:

5 AND I SAID AT LEAST PREPARED OR RECEIVED AFTER,
6 BUT YOU'RE SAYING SOLICITED AFTER. OKAY.

7 BY MR. LICHTY:

8 WELL, NO, I BELIEVE YOU SAID BEFORE.

9 BY COMMISSIONER BARDEN:

10 OH, DID I? OKAY. I CERTAINLY DIDN'T ---

11 BY MR. LICHTY:

12 I JUST WANTED TO MAKE SURE THAT WAS CLEAR.

13 BY COMMISSIONER BARDEN:

14 OKAY, THANK YOU. IF I DID THAT, I CERTAINLY
15 DIDN'T INTEND TO. THANK YOU.

16 WITHOUT FURTHER OBJECTION, THE COMMISSION FILE
17 BECOMES A PART OF THE RECORD WITH THE EXCEPTION OF
18 SELF-SERVING DECLARATIONS AND UNSTIPULATED MEDICAL
19 REPORTS, AND NUMBER 28, THAT OBJECTION IS HELD IN
20 ABEYANCE.

21 IT IS THE CLAIMANT'S POSITION THAT SHE SUFFERED
22 A COMPENSABLE INJURY BY ACCIDENT ARISING OUT OF AND
23 IN THE COURSE AND SCOPE OF HER EMPLOYMENT ON AUGUST
24 11TH, 2015, ON WHICH DAY SHE INJURED HER HEART, HER
25 LUNGS, HER BONES, AND SHE --- HER NEUROLOGICAL SYSTEM

1 CLAIMANT DOES CONCEDE THAT THE DEFENDANTS GENERALLY
2 HAVE THE RIGHT TO DIRECT TREATMENT, THAT IT WOULD BE
3 FOLLY TO DISRUPT THE RELATIONSHIP THAT THE CLAIMANT
4 HAS ALREADY ESTABLISHED WITH THESE PROVIDERS, AND
5 THEREFORE SHE WOULD REQUEST AN EXCEPTION BE MADE,
6 AND THAT THESE PROVIDERS BE NAMED THE TREATING
7 PHYSICIANS. SHE WOULD ALSO ASK THAT DR. HOOPER BE
8 NAMED THE TREATING PSYCHOLOGIST AS SHE HAS
9 ESTABLISHED A RELATIONSHIP WITH HIM AS WELL. IT
10 WOULD BE HER POSITION THAT WHILE SHE HAS REACHED
11 MAXIMUM MEDICAL IMPROVEMENT FOR HER LUNGS, SHE HAS
12 NOT REACHED MAXIMUM MEDICAL IMPROVEMENT FOR SOME OF
13 THESE OTHER CONDITIONS AND FOR INSTANCE THE ANOSMIA
14 AND HER PROBLEM WITH HER SENSE OF TASTE, WHICH MAY
15 OR MAY NOT BE RELATED WITH THE ANOSMIA, BUT SHE
16 NEEDS EVALUATION FOR THOSE CONDITIONS, AND SO
17 THEREFORE SHE IS NOT AT M.M.I., AND ANY
18 DETERMINATION OF PERMANENCY IS PREMATURE, AND THE
19 CLAIMANT DOES NOT SEEK ANY DETERMINATION OF
20 PERMANENCY, BECAUSE SHE IS LOOKING FOR ADDITIONAL
21 MEDICAL CARE AND EVALUATIONS.

22 IT IS THE CLAIMANT'S POSITION THAT THE
23 LITERATURE RELATING TO THIS PARTICULAR CHEMICAL
24 SPEAKS TO BOTH IMMEDIATE AND DELAYED EFFECTS IN
25 SYSTEMIC TOXICITY. SO, THE PARTIES DISAGREE AS TO

DIRECT EXAMINATION BY MR. HALL:

Q. THE OTHER THING I'M GOING TO ASK YOU TO DO, MONICA,
IS THAT SOMETIMES YOU CAN BE KIND OF SOFT SPOKEN. I
KNOW YOU'VE GOT MEDICAL CONDITIONS, BUT AS BEST YOU
CAN, ALSO SPEAK UP SO THAT BOTH THE COURT REPORTER
AND THE COMMISSIONER MAY HEAR YOUR FULL TESTIMONY,
OKAY.

A. YES.

BY COMMISSIONER BARDEN:

THANK YOU, MR. HALL.

DIRECT EXAMINATION RESUMED BY MR. HALL:

Q. CAN YOU HEAR ME?

A. YES.

Q. OKAY. NOW, STATE YOUR FULL NAME IF YOU WOULD.

A. MONICA SMITH MURPHY.

Q. AND WHAT IS YOUR AGE?

A. MY AGE, I JUST TURNED RECENTLY 57.

Q. AND WHAT IS YOUR DATE OF BIRTH?

A. [REDACTED].

Q. YOU LIVE IN AIKEN; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND PREVIOUSLY WERE EMPLOYED AT HALOCARBON PRODUCTS?

A. THAT'S CORRECT.

Q. AS A QUALITY CONTROL LABORATORY TECHNICIAN?

A. THAT'S CORRECT.

- 1 Q. AND YOUR LAST DAY AT WORK WAS AUGUST THE 21ST, ---
- 2 A. YES, SIR.
- 3 Q. --- 2015; IS THAT TRUE?
- 4 A. YES, SIR, THAT IS TRUE.
- 5 Q. AND YOU'RE MARRIED; IS THAT CORRECT?
- 6 A. YES.
- 7 Q. TO PATRICK MURPHY?
- 8 A. YES.
- 9 Q. HE'S IN THE COURTROOM HERE WITH US TODAY; IS THAT
- 10 TRUE?
- 11 A. YES, SIR, HE IS.
- 12 Q. ALL RIGHT. AND YOU WERE PREVIOUSLY MARRIED AND
- 13 DIVORCED ALSO, RIGHT?
- 14 A. YES, I WAS.
- 15 Q. TWO CHILDREN?
- 16 A. YES, SIR.
- 17 Q. AND YOU HAD SOME ABUSE; THAT'S ONE OF THE REASONS
- 18 YOU WERE DIVORCED; IS THAT CORRECT?
- 19 A. YES, SIR.
- 20 Q. DID YOU GET OVER THAT?
- 21 A. YES, SIR.
- 22 Q. DID YOU HAVE ANY ONGOING CONTINUING PSYCHOLOGICAL
- 23 TREATMENT ARISING OUT OF THAT?
- 24 A. ONGOING?
- 25 Q. I MEAN, FOR WHAT HAPPENED IN YOUR MARRIAGE?

1 A. OH, NO, NO.

2 Q. ALL RIGHT.

3 A. WE WENT THROUGH MARRIAGE COUNSELING.

4 Q. ALL RIGHT. SO ---

5 BY COMMISSIONER BARDEN:

6 WAS THAT YOUR FIRST HUSBAND YOU WENT THROUGH
7 MARRIAGE COUNSELING WITH?

8 BY THE CLAIMANT:

9 MY FIRST HUSBAND, YES.

10 DIRECT EXAMINATION RESUMED BY MR. HALL:

11 Q. AND HOW LONG AGO WAS THAT?

12 A. WE WERE DIVORCED IN 2007.

13 Q. ALL RIGHT.

14 A. WE WERE MARRIED FOR ALMOST 25 YEARS.

15 Q. NOW, TELL THE COMMISSIONER WHAT YOUR JOB DUTIES AS A
16 QUALITY CONTROL LABORATORY TECHNICIAN WERE AT
17 HALOCARBON.

18 A. OKAY. I WAS A QUALITY CONTROL LABORATORY
19 TECHNICIAN, AND WE RAN PROCESS SAMPLES, AND WE RUN
20 FINAL BATCH SAMPLES, WHICH IS A FINISHED PRODUCT
21 SAMPLE, AND OUR RESPONSIBILITIES WERE OF COURSE TO
22 USE GOOD TECHNIQUES. WE USED DIFFERENT
23 INSTRUMENTATION. WE WERE RESPONSIBLE TO SET UP LAB
24 APPARATUS AND FOR WHATEVER TYPE OF SAMPLE WAS COMING
25 IN, AND WE WORKED IN RADIO HOODS WHERE THERE'S

1 VENTILATION, AND WE DID SOME COUNTER TOP WORK, AND
2 LIKE I SAID, INSTRUMENTATION, AND WE ALSO WENT AND
3 COLLECTED SAMPLES, CERTAIN SAMPLES IN A CERTAIN TIME
4 FRAME. WE COLLECTED IT AND THEN RAN THOSE SAMPLES.

5 Q. FROM TIME TO TIME, DID YOU OCCASIONALLY HAVE TO
6 DISPOSE OF WASTE?

7 A. YES, SIR.

8 Q. ALL RIGHT. NOW, I WANT YOU TO TELL THE COMMISSIONER
9 WHAT HALOCARBON PRODUCTS IS. WE'RE GOING TO HEAR
10 FROM THE DEFENDANTS, BUT WHAT KIND OF A COMPANY IS
11 THAT BASED ON YOUR UNDERSTANDING AND YOUR TRAINING?

12 A IT'S A CHEMICAL MANUFACTURING COMPANY.

13 Q. AND WHAT DO THEY MANUFACTURE PARTICULARLY?

14 A. THEY MANUFACTURE DIFFERENT PRODUCTS. MOST OF THE
15 PRODUCTS ARE LIKE INTERMEDIATE FLUORINATED CHEMICALS
16 AND ANESTHESIA USED -- SEVOFLURANE AND ISOFLUORINE
17 AND OILS, HYDROCARBON TYPE OILS.

18 Q. ALL RIGHT. AND IS IT TRUE THAT ONE OF THE CHEMICALS
19 THAT IS USED AT HALOCARBON, EVERYBODY KNOWS THAT
20 WE'RE TALKING ABOUT HERE TODAY, BUT THE COMMISSIONER
21 NEEDS TO HAVE AN UNDERSTANDING ABOUT THE CHEMICAL
22 HYDROFLUORIC ACID. IS THAT A CHEMICAL USED AT
23 HALOCARBON?

24 A. YES, SIR.

25 Q. WHAT IS IT USED FOR?

1 A. IT'S USED FOR REACTING TO IN THE CHEMISTRY OF WHAT
2 THEY'RE MAKING AT HALOCARBON.

3 Q. ALL RIGHT. AND WHAT -- WHAT IS YOUR UNDERSTANDING
4 ABOUT WHAT HYDROFLUORIC ACID IS BASED UPON YOUR
5 TRAINING THERE AT HALOCARBON?

6 A. HYDROFLUORIC ACID OR HYDROGEN FLUORIDE ANHYDROUS IS
7 LIKE VERY PURE, AND NO WATER IS WHAT ANHYDROUS
8 MEANS, AND IT FUMES. IT'S A -- IT'S A GAS, AND
9 HYDROFLUORIC ACID IS WHEN IT'S BEEN -- THE HYDRO --
10 WHEN IT'S HYDROFLUORIC ACID, THAT MEANS IT DOES HAVE
11 LIQUID WATER. IT IS A WEAK ACID, BUT IT IS
12 CORROSIVE, VERY CORROSIVE, AND IT'S VERY BAD FOR
13 PHYSICAL -- PHYSICAL HEALTH HAZARD.

14 Q. NOW, I WANT TO TAKE US BACK. YOU WORKED -- WHEN DID
15 YOU ACTUALLY START WORKING AT HALOCARBON?

16 A. IN -- I STARTED AS A TEMP IN AUGUST OF 2012. IT WAS
17 8/6/2012, I BELIEVE, AND THEN I TOOK A PERMANENT
18 POSITION WHEN THEY OFFERED, AND I THINK THAT WAS
19 11/4/2012.

20 Q. ALL RIGHT. NOW, IN YOUR PAST WORK HISTORY, WE WOULD
21 LIKE TO KNOW A LITTLE BIT ABOUT THAT. HAVE YOU
22 WORKED AS A LAB TECHNICIAN AT ANY OTHER PLACE BEFORE
23 YOU WENT TO HALOCARBON?

24 A. YES, SIR, I DID. I WORKED MANY YEARS AS A LAB
25 TECHNICIAN AT SAVANNAH RIVER SITE WITH THE MAIN

1 CONTRACTOR. I WORKED A TOTAL OF 28 YEARS, AND I WAS
2 A LAB TECHNICIAN DOING DIFFERENT TYPE VARIED LAB
3 TECHNICIAN TYPE DUTIES FROM METALLURGY TO
4 ENVIRONMENTAL TO LIQUID PROCESS SAMPLING TO
5 INSTRUMENTATION SAMPLING.

6 Q. ALL RIGHT. NOW, I'M GOING TO ALSO ASK YOU -- I
7 WON'T ASK YOU ABOUT EVERY JOB YOU'VE DONE SINCE YOU
8 WENT OUT OF HIGH SCHOOL, BUT IS IT ALSO TRUE THAT
9 YOU WORKED AS AN E.N.T.?

10 A. YES, SIR.

11 Q. ALL RIGHT. HOW DO YOU APPROACH YOUR JOB FROM A
12 SAFETY -- OR DID YOU APPROACH YOUR JOB FROM A SAFETY
13 STANDPOINT AT HALOCARBON?

14 A. I WAS A VERY SAFE EMPLOYEE. THAT -- TO ME, THAT'S
15 LIKE THE JOB NUMBER ONE IS THAT WE GO TO WORK, AND
16 WE COME HOME AS GOOD OR BETTER THAN WE WERE WHEN WE
17 WENT TO WORK, AND SO IT'S SOMETHING THAT'S -- IT'S
18 SOMETHING THAT'S IN ME, AND IT'S BEEN DEVELOPED IN
19 ME, AND ONE OF MY JOBS, I WAS AN OSHA COORDINATOR AT
20 S.R.S., AND I HAVE SEEN A LOT OF TERRIBLE THINGS
21 HAPPEN TO PEOPLE WORKING IN AN EMERGENCY ROOM
22 ENVIRONMENT IN MY YOUNG FORMATIVE YEARS, AND SO I'M
23 A VERY SAFETY CONSCIOUS PERSON.

24 Q. NOW, I WANT YOU TO TAKE US BACK TO AUGUST THE 11TH,
25 2015, AT ABOUT 5:30 A.M. IN THE MORNING. WHAT ARE

1 YOU DOING?

2 A. THAT WAS -- WE WORK LIKE A SHIFT OF FOUR 12 HOURS
3 EITHER ON THE DAY SHIFT OR THE NIGHT SHIFT. SO,
4 THERE'S TWO DIFFERENT SHIFTS. IT'S 24 HOURS, SEVEN
5 DAYS A WEEK. SO, I HAD COME IN ON THE FIRST OF THE
6 FIRST NIGHT SHIFT. SO, THIS WAS COMING CLOSE TO THE
7 END OF THAT NIGHT SHIFT, 5:30 IN THE MORNING. WE
8 HAVE DAILY DUTIES THAT WE HAVE TO DO, SOME IN THE
9 DAY, SOME IN THE NIGHT. THIS WAS ONE OF THEM, AND
10 WE COLLECT HAZARDOUS WASTE IN CONTAINERS. IT'S TWO
11 DIFFERENT ONES; ORGANIC HAZARDOUS WASTE AND
12 FLAMMABLE HAZARDOUS WASTE, AND I HAD DONNED ALL OF
13 MY PROTECTIVE EQUIPMENT, WHICH AT HALOCARBON IT'S
14 CALLED ACID GEAR. AND SO, I HAD MY LAB COAT ON,
15 WHICH YOU WEAR AS YOU ARE IN THE LAB. I HAD MY --
16 IT'S CALLED AN ACID APRON. IT COMES ALMOST DOWN TO
17 MY ANKLES. IT'S SPLIT IN THE BACK. IT HAS SLEEVES
18 AND HAD ON NEOPRENE GLOVES, MY SAFETY GLASSES, THE -
19 - THEY'RE CALLED GAUNTLET GLOVES. THEY'RE VERY VERY
20 THICK GLOVES THAT COME UP TO HERE (INDICATES). OVER
21 -- I HAD A HARD HAT WITH A FACE SHIELD AND TIGHT
22 FITTING SAFETY GLASSES. MY STREET CLOTHES UNDER ALL
23 THIS AND MY SAFETY SHOES, AND SO I WAS -- I WAS
24 PREPARED TO GO OUT. I WENT THROUGH -- WE HAVE TWO -
25 - WE HAVE A DOOR ON EACH END OF THE LAB THAT GOES

1 OUT TO WHERE THE PROCESS AREAS ARE. ONE ---

2 Q. WHAT ARE THE PROCESS AREAS? TELL THE COMMISSIONER
3 WHAT THE PROCESS AREAS ARE.

4 A. THE PROCESS AREAS ARE THE AREAS IN WHICH THEY ARE
5 MANUFACTURING THE CHEMICALS THAT THEY MAKE, AND
6 THOSE AREAS ARE OUTSIDE OF THE LAB AREA, WHICH IS --
7 WHICH IS A LONG ROOM. AND SO, I WENT OUT AS I
8 ALWAYS DO THROUGH LIKE WHERE THE CONTROL ROOM DOOR
9 IS, 'CAUSE THAT'S WHERE EVERYBODY IN THE CONTROL
10 ROOM, SOME PEOPLE HAVE TO BE ASSIGNED. THE
11 SUPERVISORS ARE USUALLY THERE. AND IF THERE'S ---

12 BY COMMISSIONER BARDEN:

13 SO, YOU HAD TO GO THROUGH THE CONTROL ROOM TO
14 GET TO THE PROCESS AREAS?

15 BY THE WITNESS:

16 YOU GO RIGHT AT THE EDGE OF THE CONTROL ROOM TO
17 BE ABLE TO GO OUT THEIR DOOR. THAT'S ONE OF THE
18 DOORS YOU CAN -- TO GET TO THE PROCESS AREA.

19 THE WITNESS RESUMES ANSWER:

20 A. AND SO, THIS DOOR, I ALWAYS GO OUT BECAUSE
21 COMMUNICATION IS NOT THAT GREAT WITH WHAT GOES ON IN
22 THE PROCESS. WE'RE LAB TECHS, AND SO WE ARE USUALLY
23 IN THE LABORATORY. AND SO, THE SUPERVISOR WAS RIGHT
24 THERE, AND I HAD MY GEAR ON. THEY KNOW WHAT WE DO,
25 AND I WENT OUT AND WENT STRAIGHT DOWN -- IT'S LIKE A

1 GRATED FLOORING THAT'S ABOVE. IT'S ON THE SECOND
2 FLOOR. AND SO, YOU GO DOWN THE STAIRWELL AND GO OUT
3 A DOOR THAT GOES ONTO WHAT'S CALLED THE NORTH PATIO,
4 AND THE NORTH PATIO IS WHERE THE ORGANIC SATELLITE
5 AREA IS. I WENT TO THAT AREA TO DUMP THIS CONTAINER
6 OF HAZARDOUS ORGANIC WASTE THAT HAD BEEN GENERATED
7 IN THE LAB, AND ---

8 Q. DID YOU COMPLETE THAT TASK?

9 A. I COMPLETED THAT TASK, YES.

10 Q. AND WHAT HAPPENED NEXT?

11 A. AND THEN THE NEXT THING, AS I WENT BACK UPSTAIRS TO
12 TAKE THAT CONTAINER AND THEN I GET THE FLAMMABLE
13 CONTAINER. IT'S A SEPARATE DOORWAY TO GO A STRAIGHT
14 SHOT TO THAT SATELLITE AREA. SO, I WENT OUT A
15 DOORWAY THAT GOES OUT A CORRIDOR NEAR WHERE THE LAB
16 OFFICE AND THE ENGINEERING OFFICES. SO, I GO OUT
17 THAT DOOR AND GO STRAIGHT DOWN THE STAIRS, AND AT
18 THAT DOOR, THEN I OPEN THE DOOR, AND ---

19 **BY COMMISSIONER BARDEN:**

20 LET ME JUST GET A VISUAL. THE LAB IS ON THE
21 SECOND FLOOR?

22 **BY THE WITNESS:**

23 YES, MA'AM.

24 **BY COMMISSIONER BARDEN:**

25 OR A HIGHER FLOOR, AND THEN THE PROCESSES, YOU

1 GO DOWN STAIRS AT WHATEVER DOOR YOU CHOOSE TO -- AS
2 YOUR EGRESS OR INGRESS IS DOWNSTAIRS ON EITHER END,
3 OR IS THAT RIGHT? I'M TRYING TO GET A VISUAL OF
4 THIS.

5 BY THE WITNESS:

6 KIND OF EITHER END OF THE LAB.

7 BY COMMISSIONER BARDEN:

8 BUT YOU GO DOWN?

9 BY THE WITNESS:

10 YES.

11 BY COMMISSIONER BARDEN:

12 DOWN THE STAIRS?

13 BY THE WITNESS:

14 YES, THERE'S GRATED FLOOR ON THAT SECOND LEVEL
15 THERE.

16 DIRECT EXAMINATION RESUMED BY MR. HALL:

17 Q. AND CAN I SHOW YOU A PHOTOGRAPH HERE?

18 A. YES.

19 BY MR. HALL:

20 NOW, THIS IS APA -- CLAIMANT'S APA 122, I
21 BELIEVE.

22 DIRECT EXAMINATION RESUMED BY MR. HALL:

23 Q. IS THIS THE DOOR THAT YOU CAME OUT OF?

24 A. THAT IS THE -- THAT IS THE DOOR THAT I WANTED TO GO
25 THROUGH. I OPENED THAT DOOR, BUT THAT'S WHEN A

1 DRAFT OF AIR CAME IN.

2 Q. ALL RIGHT. LET ME STOP YOU RIGHT THERE. I'M GOING
3 TO HAND THIS TO THE COMMISSIONER SO SHE CAN HAVE A
4 VIEW OF IT.

5 BY COMMISSIONER BARDEN:

6 ANY OBJECTION TO THAT, MR. LICHTY?

7 BY MR. LICHTY:

8 NO. IT'S PAGE 222 OF THE APA.

9 BY COMMISSIONER BARDEN:

10 PAGE 222, OH, OKAY. WELL, I'VE GOT IT THEN.
11 222.

12 BY MR. HALL:

13 WELL, IN MINE, I THINK IT'S 122. IT MAY BE
14 222.

15 BY MR. LICHTY:

16 IT'S 222.

17 BY MR. HALL:

18 MAY I HAND IT UP?

19 BY COMMISSIONER BARDEN:

20 IF IT'S THIS, I HAVE IT RIGHT HERE.

21 BY MR. HALL:

22 OKAY, GOOD.

23 BY COMMISSIONER BARDEN:

24 I HAVE IT.

25 BY MR. HALL:

1 GOOD, GOOD. OKAY. I'M GOING TO JUST --

2 BY COMMISSIONER BARDEN:

3 WHEN YOU SAY "THE DOOR," I DON'T KNOW WHERE THE
4 DOOR -- OH, OKAY, I SEE THE DOOR RIGHT HERE. OKAY.

5 BY MR. HALL:

6 ALL RIGHT.

7 BY COMMISSIONER BARDEN:

8 SO, YOU WERE COMING IN THROUGH THAT DOOR?

9 BY THE WITNESS:

10 I WAS ON THE OTHER SIDE OF THAT DOOR FROM WHERE
11 YOU ARE SEEING THIS PICTURE TAKEN. I WAS ON THE
12 OTHER SIDE. SO, I PUSHED OPEN THAT DOOR. I GOT
13 SOME RESISTANCE, AND SO I PUSHED HARDER, AND AS I
14 OPENED THE DOOR, AND LIKE I SAID, THERE WAS A ROLL-
15 UP DOOR OVER TO THE SIDE OF ME THAT WAS UP, AND THIS
16 AIR COME IN, AND THE AIR, YOU KNOW, JUST COME IN AND
17 SO I BREATHED, AND WHEN I BREATHED, IT WAS -- IT WAS
18 AWFUL AWFUL PUNGENT SHARP CHEMICAL, AND -- AND IT
19 WAS IN MY AIR. I COUGHED LIKE A CHOKING, AND I GOT
20 SEVERAL BREATHS TRYING TO -- I HAD THIS CONTAINER
21 THAT IS ABOUT THIS BIG AROUND (INDICATES), AND SO
22 I'M TRYING TO GET THE DOOR PULLED CLOSED, AND I GET
23 THE DOOR CLOSED AS I'M FEELING AS IF I'M GOING TO
24 COLLAPSE.

25 EXAMINATION RESUMED BY MR. HALL:

1 Q. CAN I STOP YOU JUST A SECOND.

2 A. YES.

3 BY COMMISSIONER BARDEN:

4 ARE YOU TAKING SOMETHING OUT THIS DOOR INTO
5 THIS AREA WITH ALL THE STUFF ON THE FLOOR, OR ARE
6 YOU TAKING SOMETHING INTO THAT, OR ARE YOU REMOVING
7 SOMETHING FROM IT, OR...?

8 BY THE WITNESS:

9 I'M ON THE OTHER SIDE OF THIS DOOR PUSHING OPEN
10 THAT DOOR.

11 BY COMMISSIONER BARDEN:

12 TO TAKE WASTE OUT?

13 BY THE WITNESS:

14 TO TAKE WASTE STRAIGHT ACROSS TO A HAZARDOUS
15 FLAMMABLE SATELLITE AREA, DRUM.

16 BY COMMISSIONER BARDEN:

17 OKAY. GO AHEAD, MR. HALL. THANK YOU.

18 BY MR. HALL:

19 THANK YOU.

20 DIRECT EXAMINATION RESUMED BY MR. HALL:

21 Q. NOW, I WANT TO ASK YOU, WAS THERE ANY BARRICADE ON
22 THE OTHER SIDE OF THE DOOR BEFORE YOU ATTEMPTED TO
23 OPEN IT?

24 A. NO, SIR.

25 Q. WAS THERE ANY WARNING?

1 A. NO, SIR.

2 Q. HAD YOU SEEN ANY INDIVIDUAL AT THAT POINT IN TIME?

3 A. NO, SIR.

4 Q. HAD ANYBODY TOLD YOU "DON'T OPEN THAT DOOR"?

5 A. NO, SIR.

6 Q. HAD ANYBODY TOLD YOU THAT THERE WAS A LEAK OF H.F.

7 OUT IN THE AREA?

8 A. NO, SIR.

9 Q. ALL RIGHT. HAD YOU SEEN AN INDIVIDUAL BY THE NAME

10 OF GEORGE CAMPBELL AT THAT POINT?

11 A. NO, SIR.

12 Q. ALL RIGHT. WOULD YOU HAVE GONE INTO THAT AREA WITH

13 YOUR BACKGROUND AND TRAINING IF YOU WOULD HAVE KNOWN

14 THAT THERE WAS A LEAK OF H.F.?

15 A. NO, SIR.

16 Q. ALL RIGHT. CONTINUE ON. PLEASE TELL THE

17 COMMISSIONER HOW THINGS PROCEED FROM THIS POINT ---

18 A. OKAY.

19 Q. --- WHEN YOU HAVE THIS SMELL.

20 A. SO, I TOOK AT LEAST THREE, NO MORE THAN FOUR BECAUSE

21 I WAS COUGHING AND CHOKING, BREATHS, AND I FELT AS

22 IF I WAS GOING TO COLLAPSE. I MOVED TO THE LEFT ON

23 THE OTHER SIDE OF THIS DOOR. I MOVED TO THE LEFT

24 AND I WAS -- I WAS IN SHOCK. I -- I WOUND UP

25 WALKING INTO LIKE A BERM, OR I GUESS IT'S CALLED

1 A. SO, ALL I COULD THINK ABOUT IS THERE IS NOBODY --
2 THERE IS NOBODY OUT THERE AROUND. I HAD ALREADY
3 BEEN TO THE ORGANIC SATELLITE AREA, AND I -- ALL I
4 COULD THINK IS I'M GOING TO -- I'VE GOT TO GET OUT
5 OF HERE. I'VE GOT TO FIND SOMEBODY, AND THE ONLY
6 PERSON I COULD THINK OF WAS THE PERSON I HAD SEEN
7 EARLIER WHEN I WAS DUMPING THE ORGANIC WASTE.
8 Q. NOW, WHO WAS THAT?
9 A. THAT'S LONNIE PARSONS.
10 Q. OKAY. WHAT DOES LONNIE PARSONS DO AT HALOCARBON?
11 A. HE'S A PRODUCTION OPERATOR.
12 Q. ALL RIGHT. HAD HE SAID ANYTHING TO YOU AT THAT
13 POINT WHEN YOU HEARD OR SAW HIM EARLIER?
14 A. NO. I JUST -- I WAS -- I WAS DUMPING THE ORGANIC
15 WASTE, AND HE WOULD -- I JUST SAW HIM BRIEFLY DOWN
16 AT THE OTHER END, AND THEN AS I WAS TENDING TO
17 DUMPING THE WASTE BECAUSE IT WAS -- IT WAS SPEWING
18 AND STUFF, I LOOKED UP, AND HE WAS GONE.
19 Q. ALL RIGHT. DID YOU SAY ANYTHING -- HAD HE SAID
20 ANYTHING TO YOU AT THAT POINT WHEN YOU SAW HIM, WHEN
21 YOU WERE DOWN AT THE ORGANIC AREA?
22 A. NO.
23 Q. ALL RIGHT. CONTINUE ON. WHAT HAPPENS NEXT?
24 A. SO, HAD AT SOME POINT PUT THAT CONTAINER DOWN. I
25 DON'T KNOW WHEN, BUT I SAID I NEED TO GET OUT OF

1 HERE, I'M GOING TO GET THIS CONTAINER, AND THAT'S
2 WHEN MY TRAINING OF NOT BEING -- YOU'RE NOT SUPPOSED
3 TO LEAVE WASTE. I DON'T KNOW WHY I CARED ABOUT THE
4 CONTAINER, BUT THAT'S A PART OF MY TRAINING. YOU
5 DON'T LEAVE THE HAZARDOUS WASTE; YOU HAVE TO STAY
6 WITH IT. AND, SO, I GOT THE CONTAINER, AND I HELD
7 MY BREATH THE BEST I COULD IN GOING DOWN THE
8 CORRIDOR TO GET TO THE OTHER DOOR THAT I HAD WENT
9 OUT WITH THE ORGANIC WASTE TO GET TO WHERE I SAW
10 THAT -- LONNIE THAT WAS OUT THERE. I OPENED THAT
11 DOOR, AND I DIDN'T SEE HIM FROM THE VANTAGE POINT OF
12 THE DOOR THRESHOLD.

13 Q. CAN I STOP YOU JUST A SECOND? NOW, YOU'VE GONE BACK
14 INSIDE -- IN OTHER WORDS, YOU CLOSED THE DOOR THAT
15 YOU HAD ALREADY OPENED WHEN YOU HAD THIS DRAFT AND
16 SMELL. YOU NEVER WENT THROUGH IT?

17 A. NO. NO.

18 Q. ALL RIGHT. AND THIS PATIO AREA, IS IT -- CAN YOU
19 DESCRIBE IT GENERALLY FOR THE COMMISSIONER, OUTSIDE?

20 A. IT'S A LONG -- IT'S A LONG PARTIALLY COVERED AND
21 UNCOVERED AREA WHERE THERE ARE TANKS. THEY GO UP TO
22 LIKE SECOND GRATED GRATING THAT YOU WOULD WALK ON
23 LEVEL, AND IT'S PART OF THEIR PROCESS. THEY -- THEY
24 PROCESS THE SEVOFLURANE THERE AND OTHER -- OTHER
25 CHEMICALS, INDUSTRIAL CHEMICALS.

1 BY MR. HALL:

2 AND, COMMISSIONER, I'M GOING TO REFER YOUR
3 HONOR TO APA 217. IT MAY GIVE YOU A GOOD VISUAL OF
4 KIND OF WHAT THE PATIO AREA LOOKS LIKE.

5 BY COMMISSIONER BARDEN:

6 OKAY, THANK YOU. I'VE GOT IT.

7 DIRECT EXAMINATION RESUMED BY MR. HALL:

8 Q. OKAY. NOW, WHAT HAPPENS NEXT?

9 A. SO, I'M THINKING THAT I'M -- YOU KNOW, I AM HAVING
10 SUCH SYMPTOMS AND I NEED TO FIND SOMEBODY BECAUSE OF
11 MY POUNDING HEART AND SHORTNESS OF BREATH AND THE
12 WAY I'M FEELING, AND SO I HEAR ACTIVITY UP THIS
13 GRATED FLOOR THAT'S ABOVE, AND I COULD HEAR
14 FOOTSTEPS, AND THEN I HEARD COMING DOWN SO -- COMING
15 DOWN THE STAIRS.

16 Q. IS THAT GRATED FLOOR KIND OF LIKE A CATWALK?

17 A. LIKE A CATWALK, YEAH.

18 Q. GO AHEAD.

19 A. SO, I LOOK, AND IT'S LONNIE PARSONS WHO I HAD SEEN
20 EARLIER, AND I START TO YELL HIS WAY, AND HE STARTS
21 WAVING HIS ARMS AT ME FOR HIM NOT TO GO THERE
22 BECAUSE OF THE AWFUL CHEMICAL I HAD INHALED. AND
23 HE'S WAVING HIS ARMS AT ME TO STAY WHERE I WAS, AND
24 THEN HE COMES DOWN, AND I SAID "I -- I WENT AND
25 OPENED THIS DOOR, AND AWFUL CHEMICALS AND A DRAFT OF

1 AIR CAME IN ON ME," AND HE SAID "THAT WAS H.F.," AND
2 I SAID -- I WAS IN DISBELIEF BECAUSE H.F. IS SUCH A
3 BAD CHEMICAL, AND HE SAID, "WELL, WHAT WERE YOU
4 GOING TO DO, DUMP THE FLAMMABLE WASTE?" AND I SAID
5 "YEAH." HE SAID, "WELL, I'LL DO IT," AND HE GOES --
6 HE TAKES THE CONTAINER, AND HE WENT BACK THAT WAY.

7 Q. NOW, LET ME ASK YOU SOMETHING. DID YOU KNOW WHAT
8 LONNIE WAS DOING OUT THERE AT THAT POINT?

9 A. (NO VERBAL RESPONSE)

10 Q. DID YOU KNOW WHAT LONNIE WAS DOING ---

11 A. NO.

12 Q. --- OUT IN THE PROCESS AREA?

13 A. NO, I DID NOT.

14 Q. ALL RIGHT. AND DID HE HAVE WHAT WE CALL P.P.E.,
15 PERSONAL PROTECTIVE EQUIPMENT ON?

16 A. YES, HE DID.

17 Q. WHAT DO YOU RECALL THAT HE HAD ON?

18 A. HE HAD ON LIKE A HARD HAT, AND HIS FACE SHIELD WAS
19 UP, AND HE HAD -- THEY CALL IT AN ACID JACKET, I
20 THINK, BUT IT'S A JACKET THAT COMES LIKE IN YOUR
21 THIGH AREA, AND SAFETY GLASSES AND GLOVES.

22 BY COMMISSIONER BARDEN:

23 DID HE HAVE A RESPIRATOR ON?

24 BY THE WITNESS:

25 NO.

1 BY COMMISSIONER BARDEN:

2 OKAY.

3 DIRECT EXAMINATION RESUMED BY MR. HALL:

4 Q. NOW, AFTER LONNIE TAKES THE FLAMMABLE WASTE, I GUESS
5 HE DUMPS IT FOR YOU?

6 A. YES, HE DUMPS IT, AND THEN HE IS BRINGING THE
7 CONTAINER BACK TO ME, AND I'M STILL STUNNED, AND I
8 GO TOWARD HIM A FEW STEPS TO -- TO GET THE CONTAINER
9 FROM HIM, AND WHEN I DO, THAT'S WHEN I SEE TWO
10 CARBOYS. THOSE ARE VERY LIKE INDUSTRIAL THICK
11 PLASTIC CONTAINERS THAT WE USE AT HALOCARBON, AND --

12 -

13 Q. NOW, THIS PHOTOGRAPH HERE, LET ME INTERRUPT YOU JUST
14 A SECOND, APA 217 THAT THE COMMISSIONER HAS, HOW
15 MANY CARBOYS ARE LOCATED IN THAT PHOTOGRAPH?

16 A. THERE'S ONE.

17 Q. ALL RIGHT. WELL, HOW MANY DID YOU SEE ON THAT DAY?

18 A. TWO.

19 Q. WHAT WAS THE CARBOY THAT YOU SAW DOING THAT WAS
20 SIGNIFICANT TO YOU?

21 A. THE ONE THAT WAS DOWN CLOSER TO WHERE THE DOOR IS
22 THAT I OPENED, THAT ONE WAS FUMING -- FUMING. IT
23 HAD LIKE A METAL TUBING COMING DOWN INTO THE CARBOY
24 INTO THE OPENING, AND IT WAS COMING FROM UP UP ABOVE
25 LIKE UPSTAIRS, AND IT WAS BILLOWING WHITE SMOKE LIKE

1 UP OVER TWO FEET, AND IT WAS TRAILING OFF TOWARD
2 LIKE WHERE THE DOOR IS, BUT IT WAS OUT -- IT WAS IN
3 THIS AREA (INDICATES).

4 Q. AND YOU ARE REFERRING TO PHOTOGRAPH 217?

5 BY COMMISSIONER BARDEN:

6 DO YOU HAVE THE ORIGINALS, A GOOD COPY OF THIS?

7 BY THE WITNESS:

8 TWO-SEVENTEEN.

9 BY COMMISSIONER BARDEN:

10 THIS IS LIKE PHOTOCOPIED?

11 BY MR. HALL:

12 WE DON'T. I DON'T KNOW -- I WASN'T PROVIDED
13 WITH THEM DURING DISCOVERY AND PROBABLY SHOULD HAVE
14 ASKED FOR IT.

15 BY COMMISSIONER BARDEN:

16 OKAY, THAT'S ALL RIGHT. I JUST WONDERED IF
17 THERE WAS MAYBE SOMETHING A LITTLE BETTER. NO,
18 THAT'S FINE.

19 BY THE WITNESS:

20 SO, I SEE HERE WHERE IT SAYS "CARBOY VENTING,"
21 AND IT'S GOT THAT CIRCLED WITH AN ARROW, AND THAT
22 WAS NOT VENTING. THERE WAS NOTHING COMING FROM THAT
23 CARBOY.

24 BY MR. HALL:

25 COMMISSIONER, MAY I APPROACH THE WITNESS?

1 BY COMMISSIONER BARDEN:

2 YES.

3 DIRECT EXAMINATION RESUMED BY MR. HALL:

4 Q. I JUST WANT TO LOOK. I WANT TO BE ON THE SAME PAGE
5 WITH YOU. GO AHEAD AND CONTINUE. YOU CAN CONTINUE.

6 A. OKAY. SO, THE CARBOY THAT'S GOT THE CIRCLE AROUND
7 IT, IT'S LIKE A SQUARE THERE, THAT CARBOY WAS -- IT
8 DIDN'T HAVE ANYTHING COMING FROM IT. IT WAS THE
9 CARBOY THAT WAS DOWN CLOSER TO THIS DOOR WHERE YOU
10 SEE THE TEMPERATURE THING OUT FORWARD OF THAT SOME
11 THAT -- THAT'S WHERE THAT CARBOY WAS THAT WAS
12 BILLOWING.

13 Q. TELL THE COMMISSIONER WHAT A CARBOY IS.

14 A. IT'S ---

15 BY COMMISSIONER BARDEN:

16 SHE SAID IT'S AN INDUSTRIAL THICK PLASTIC
17 CONTAINER; IS THAT RIGHT?

18 BY THE WITNESS:

19 YES, MA'AM.

20 DIRECT EXAMINATION RESUMED BY MR. HALL:

21 Q. ALL RIGHT. GO ON. WHAT HAPPENS NEXT?

22 A. SO, OKAY, SO, WHEN I SEE THAT, I -- I SAID, "LONNIE,
23 IS THAT THE H.F. YOU'RE TALKING ABOUT?" AND HE JUST
24 LOOKED AT ME WITH THIS LIKE LOOK OF SHOCK, AND I
25 LOOKED AT HIM WITH A LOOK OF SHOCK I'M SURE, BECAUSE

1 I WAS SHOCKED. AND -- AND I TOLD HIM THAT I WAS --
2 I WAS -- HE NEVER SAID THAT IT WAS, BUT HIS FACE
3 TOLD IT WAS. SO, I LEFT THE AREA, AND I WENT TO GO
4 UPSTAIRS, UP THE STAIRS BACK TO THE LAB, AND AS I
5 WAS GOING UP THE STAIRS, I STARTED THE COUGHING
6 AGAIN. I WENT VERY SLOWLY UP THOSE STAIRS. I WAS
7 STILL IN SHOCK, AND ---

8 Q. WHAT ELSE ARE YOU FEELING, IF ANYTHING, AT THIS
9 POINT?

10 A. MY HEART -- MY HEART IS LIKE POUNDING OUT OF MY
11 CHEST, AND I'M HAVING SHORTNESS OF BREATH, AND I
12 JUST FEEL OVERWHELMED, AND SO, I GET TO THE TOP OF
13 THE STAIRS, AND I'M WATCHING MY FEET BECAUSE AS YOU
14 GO UP THE STAIRS, AND YOU'VE GOT THE APRON, AND
15 YOU'VE GOT A CONTAINER, AND YOU'VE GOT TO HOLD THAT
16 UP SO YOU DON'T TRIP ON IT. AND, SO, I'M
17 CONCENTRATING ON GETTING UP THOSE STAIRS, AND I MADE
18 IT UP THE STAIRS, THANK THE LORD, AND I HEARD A
19 DOOR; I HEARD NOISE. THEN I TURNED TO GO TOWARD THE
20 WAY I ALWAYS GO BACK TO THE LAB, WHICH IS THE SAME
21 DOOR I CAME OUT OF. AS I WAS GOING THAT WAY, I
22 VAGUELY REMEMBER SEEING GEORGE CAMPBELL WHO WAS
23 COMING UP THE OTHER STAIRS, AND WE DIDN'T CONVERSE
24 OR ANYTHING. I JUST WENT STRAIGHT TO THE LAB. AND
25 I NOTIFIED MY CO-WORKERS THAT I HAD INHALED H.F.,

1 AND ---

2 Q. LET ME STOP YOU AT THIS POINT. HAD GEORGE CAMPBELL
3 EVER SPOKEN TO YOU AND SAID TO YOU "DON'T GO OUT
4 INTO THE PROCESS AREA, THAT H.F. IS LEAKING"?

5 A. NO.

6 Q. GO ON. NOW, WHAT DO YOU DO WITH YOUR COWORKERS?

7 A. SO, I -- I NOTIFY MY COWORKERS. I PUT THE CONTAINER
8 UP. I TELL THEM THAT I HAVE INHALED H.F., AND THEN
9 AS I'M TAKING MY GEAR OFF, ALL THIS -- ALL THIS THAT
10 I HAD ON, THE ACID GEAR, A PRODUCTION OPERATOR NAMED
11 WADE BANKS, HE COMES INTO THE LAB TO LOG IN A
12 SAMPLE. WE HAVE IT COMPUTERIZED WHERE YOU LOG IN
13 THE SAMPLE. SO, MY COWORKERS ARE ASKING QUESTIONS.
14 I DIDN'T KNOW ANYTHING ABOUT WHY I SAW WHAT I SAW AT
15 THAT TIME. AND SO, WADE BANKS, I HAVE A GOOD
16 RAPPORT WITH HIM. I ASKED HIM "WHAT WAS -- WHAT WAS
17 GOING ON DOWNSTAIRS?" HE SAID, "THEY'RE WORKING ON
18 3-K." AND I SAID, -- I WAS ANGRY, AND I SAID THAT
19 "SOMEBODY IS GOING TO GET SOMEBODY KILLED DOWN THERE
20 THE WAY -- THE WAY THINGS ARE GOING. WHAT'S IT
21 GOING TO TAKE FOR SOMEBODY TO GET KILLED?" AND SO,
22 I TOLD HIM -- HE SAID THEY WERE WORKING ON THE 3-K
23 SYSTEM, AND SO I TOLD ALL OF THEM THAT WERE THERE
24 THAT I WAS GOING TO THE CONTROL ROOM. THE CONTROL
25 ROOM IS OUT THAT OTHER DOORWAY THAT I USUALLY WENT

1 OUT INTO THEIR AREA. SO, I WENT THERE AND THE
2 ASSISTANT PRODUCTION SUPERVISOR NAMED CHIP BABB WAS
3 THERE, AND I TOLD HIM THAT I HAD INHALED H.F. DOWN
4 WHEN I WAS GOING TO TAKE THAT FLAMMABLE WASTE OUT,
5 AND THAT I NEEDED AN INCIDENT REPORT DONE, AND HE
6 SAID "YOU -- TELL ME WHAT AND WHEN," AND I TOLD HIM
7 WHAT I SAW AS I SAW THE BILLOWING CARBOY AND THEN I
8 SAW LONNIE. THAT HE TOLD ME IT WAS H.F. I WAS
9 EXPOSED TO WHEN I OPENED THE DOOR, AND THE AIR CAME
10 IN ON ME, AND IT WAS THE SHARP PUNGENT AWFUL STRONG
11 FUMES.

12 Q. ALL RIGHT. NOW, IN YOUR TRAINING, ---

13 BY MR. HALL:

14 COMMISSIONER, MAY I GET A DRINK OF WATER AND
15 OFFER THE WITNESS SOME WATER ALSO?

16 BY COMMISSIONER BARDEN:

17 SURE.

18 BY MR. HALL:

19 CAN YOU POUR HER SOME WATER. I'M GOING TO USE
20 YOURS. IS THAT ALL RIGHT.

21 BY MR. LICHTY:

22 YES.

23 DIRECT EXAMINATION RESUMED BY MR. HALL:

24 Q. I'M GOING TO LET YOU GET A SIP OF WATER BEFORE I GO
25 FURTHER.

1 A. THANK YOU.

2 BY MR. HALL:

3 THANK YOU FOR THAT INDULGENCE.

4 BY THE WITNESS:

5 THANK YOU.

6 DIRECT EXAMINATION RESUMED BY MR. HALL:

7 Q. ARE YOU READY?

8 A. YES.

9 Q. OKAY. I THINK I ASKED YOU OR WAS ABOUT TO ASK YOU,
10 IN YOUR TRAINING, IS THERE AN ANECDOTE AVAILABLE FOR
11 AN EXPOSURE TO H.F.?

12 A. YES.

13 Q. WHAT IS IT?

14 A. CALCIUM GLUCONATE BY NEBULIZER AND THEN THEY ALSO
15 HAVE IT IN A JELLY, LIKE IF YOU HAVE A SKIN BURN,
16 THEY ALSO HAVE A CALCIUM GLUCONATE THAT WAY AS WELL.

17 Q. NOW, WERE YOU GIVEN CALCIUM GLUCONATE ON AUGUST
18 11TH, 2015?

19 A. NO.

20 Q. OKAY. DID YOU ASK FOR IT?

21 A. YES.

22 Q. ALL RIGHT. WHAT HAPPENED AFTER YOU ASKED FOR IT;
23 WHAT'S GOING ON NEXT?

24 A. WELL, ---

25 BY COMMISSIONER BARDEN:

1 WHO DID YOU ASK FOR IT?

2 BY THE WITNESS:

3 CHIP BABB.

4 BY COMMISSIONER BARDEN:

5 OKAY.

6 THE WITNESS ANSWERS:

7 A. OKAY, SO HE'S -- HE SAYS THAT THERE WAS A BARRICADE
8 OVER THE DOOR, AND I SAID "NO, THERE WAS NOT," AND
9 HE SAID "WELL, THERE HAD BEEN," AND I SAID "WELL,
10 THERE WASN'T. I WOULD HAVE NEVER WENT THROUGH A
11 DOOR THAT HAD A BARRICADE." AND HE SAID THEY HAD
12 LEAKS ON -- LEAKS IN THE 3-K SYSTEM, AND THAT LONNIE
13 WAS DOWN THERE WORKING TO SECURE THOSE LEAKS, AND I
14 SAID, "WELL, WHAT I SAW WAS A BILLOWING CARBOY
15 BILLOWING UP TO OVER TWO FEET HIGH OF -- OF FUMES
16 COMING OUT OF IT." AND HE SAID THAT -- HE SAID THAT
17 -- I SAID, "WELL, WHAT -- WHAT ARE -- WHAT ARE WE TO
18 DO?" I SAID, "CAN I GET THE OXYGEN OR THE CALCIUM
19 GLUCONATE, THE NEBULIZER TREATMENT?" AND HE SAID,
20 "NO, YOU JUST NEED TO BE IN FRESH AIR." HE SAID,
21 "THERE'S A SIGN OVER NEXT TO THE DOOR IF YOU WANT TO
22 LOOK AT THAT SIGN. YOU JUST NEED TO GET FRESH AIR,
23 AND SO, YOU JUST SIT DOWN." AND SO I DID AS HE SAID
24 TO DO, AND I WAS SO -- I WAS SO DRY IN MY -- IN MY
25 MOUTH AND MY NOSE UP IN MY SINUSES. IT WAS BURNING.

1 IT WAS BURNING. MY HEART WAS POUNDING, AND IT WAS
2 STARTING TO BE LIKE A HEADACHE, AND I WAS HAVING
3 COUGHING AND THEN MY THROAT STARTED FEELING AS IF IT
4 WAS CLOSING UP. AND SO, I HAD TOLD HIM THESE
5 SYMPTOMS AS THESE SYMPTOMS ARE HAPPENING, THESE ARE
6 THE SYMPTOMS I'M HAVING, AND I SAID, "CAN I GET SOME
7 WATER?" AND HE SAID, "YES, YOU CAN HAVE SOME
8 WATER." SO, I WENT OVER TO -- THEY HAVE LIKE A
9 LITTLE WATER FOUNTAIN RIGHT THERE AT THE DOOR, AND I
10 GOT SOME WATER, AND THEN -- I WAS IN LIKE SHOCK. I
11 WOULD HAVE NEVER IN MY RIGHT -- RIGHT INTELLECT HAD
12 DRANK THAT WATER WITHOUT WASHING MY MOUTH OUT, BUT
13 NOBODY TOLD ME, AND I WASN'T THINKING. I JUST DRANK
14 THE WATER.

15 Q. NOW, AFTER YOU ARE TOLD TO GET THIS FRESH AIR, YOU
16 DRINK WATER, DO YOU SEE YOUR COWORKERS, AND DO THEY
17 SAY ANYTHING TO YOU ABOUT YOUR CONDITION?

18 A. WELL, THE GUYS WERE THERE, AND I SAID THE SAME THING
19 TO CHIP BABB, "WHAT'S IT GOING TO TAKE, IS SOMEBODY
20 GOING TO HAVE TO GET KILLED IN THIS PLACE FOR PEOPLE
21 TO DO THE RIGHT THING," AND I SAID "LONNIE IS DOWN
22 THERE RIGHT NOW, AND THERE'S A BILLOWING CARBOY, AND
23 HE SHOULDN'T BE DOWN THERE BY HIMSELF. SOMEBODY
24 NEEDS TO GO DOWN THERE AND BE WITH HIM." AND SO THE
25 -- THE PRODUCTION OPERATORS, A LOT OF THEM LEFT AT

1 THAT TIME, AND SO I STAYED THERE WITH CHIP PROBABLY
2 ABOUT 30 MINUTES, AND I SAID, "YOU KNOW, I AM
3 FEELING A LITTLE BETTER. SO, COULD I GO TO THE
4 LAB?" AND HE SAID, "YEAH, YOU CAN." SO, AS SOON AS
5 I OPEN THE DOOR AND GO BACK -- GO INTO THE LAB, ONE
6 OF MY COWORKERS, LAB TECH JANICE TIERNEY, SHE WAS
7 THERE, AND SHE SAID "YOUR FACE IS SO RED," AND I
8 SAID "IS IT?" AND SHE SAID "YES." SO, I WENT TO THE
9 LADIES BATHROOM THAT WAS ON THE OTHER END TO LOOK,
10 AND MY FACE WAS RED EXCEPT WHERE MY SAFETY GLASSES.
11 I HAD TIGHT-FIT SAFETY GLASSES. THEY MOLD KIND OF
12 TO YOUR FACE, AND ---

13 BY COMMISSIONER BARDEN:

14 IS THERE AN ONSITE MEDICAL FACILITY AT THIS
15 PLANT, HALOCARBON?

16 BY THE WITNESS:

17 NO, THEY HAVE -- THEY HAVE THEIR -- THEIR
18 PRODUCTION SUPERVISOR AND SOME OF THE PRODUCTION
19 OPERATORS ARE TRAINED TO GIVE FIRST AID.

20 BY COMMISSIONER BARDEN:

21 BUT NO IN-HOUSE MEDICAL OFFICE?

22 BY THE WITNESS:

23 NO, MA'AM.

24 BY COMMISSIONER BARDEN:

25 ALL RIGHT.

1 BY THE WITNESS:

2 NO, MA'AM.

3 DIRECT EXAMINATION RESUMED BY MR. HALL:

4 Q. SO, WHAT HAPPENS AFTER YOU NOTICE YOUR FACE IS RED?
5 DO YOU STAY AT WORK THAT DAY?

6 A. YES. SO, I WASH MY FACE WITH WATER, WATER, WATER,
7 AND IT WAS NOT EASY TRYING TO KEEP IT AWAY FROM MY
8 EYES, BUT I WASH MY FACE. MY FACE STAYED RED FOR
9 FOUR HOURS AFTER I LEFT WORK. I WENT BACK TO THE
10 LAB AND I SENT A -- WROTE AND SENT A LETTER
11 NOTIFYING MY SUPERVISOR WHO -- WELL, IT'S ASSISTANT
12 SUPERVISOR EMILY PARRISH, AND I BELIEVE I MAY HAVE
13 CC'D MY MANAGER AND MAYBE SAFETY ON THAT. I JUST --
14 I CAN'T -- I CAN'T REMEMBER, BUT I DID WANT HER TO
15 KNOW WHAT HAD HAPPENED, BUT SHE DOESN'T COME IN
16 PROBABLY UNTIL 7:30, I GUESS, THAT MORNING. AND
17 THEN I LEFT -- LEFT WORK THAT MORNING AFTER THAT,
18 AFTER WE GET THE TURNOVER.

19 Q. OKAY. NOW, I MEAN, ALL OF THIS IS HAPPENED BECAUSE
20 IT'S ABOUT 5:30 IN THE MORNING, GETTING TO THE END
21 OF YOUR SHIFT; IS IT NOT?

22 A. RIGHT. WE CAN LEAVE AS EARLY AS -- WE CAN PUNCH
23 OUT, LIKE CLOCK OUT AS EARLY AS 6:50.

24 Q. ALL RIGHT.

25 A. IN THE MORNING.

1 Q. WHAT HAPPENS LATER IN THE DAY ABOUT YOUR MEDICAL
2 CONDITION; WHAT DO YOU DO?

3 A. WELL, I GO HOME, AND I TRY TO REST, BUT I'M
4 COUGHING, AND IT'S HARD TO REST, AND THEN PROBABLY
5 ABOUT SIX HOURS LATER, I START WITH BOUTS OF
6 DIARRHEA, SIX BOUTS AS I -- AS I RECALL, AND I --
7 I'M STARTING TO HAVE ABDOMINAL PAIN AND WEAKNESS.
8 SO, I FINALLY -- BECAUSE IT'S CONTINUING ON, I
9 FINALLY TAKE A COUPLE OF THESE CALCIUM CHEWS, LIKE
10 TUMS CALCIUM CHEWS, AND I HAVE TO GET READY FOR
11 WORK. SO, I'M HAVING SYMPTOMS, THE BURNING, THE
12 DRYNESS, THE BURNING IN MY THROAT AND IN MY SINUSES,
13 IN MY NOSE, AND THE HEADACHE IS STILL ONGOING. SO,
14 IT WAS JUST A VERY HARD HARD DAY. I DIDN'T GET MUCH
15 REST.

16 Q. AT SOME POINT, IS THERE A TRIP TO A MEDICAL
17 FACILITY?

18 A. YES. I -- MY ASSISTANT SUPERVISOR EMILY PARRISH, I
19 HAD -- I HAD NOT KNOWN IT BEFORE, BUT SHE HAD TEXTED
20 ME. I'M NOT USED TO GETTING MANY TEXTS LIKE THAT,
21 AND SO I SEE THAT SHE HAD TEXTED ME THAT MORNING,
22 AND I RESPONDED TO HER ASKING IF I COULD GET MEDICAL
23 TREATMENT, AND SHE SAID THAT SHE WOULD ARRANGE THAT,
24 AND I CAME ON TO WORK, AND I GOT A CALL FROM I THINK
25 IT WAS -- IT WAS EITHER HER OR EITHER KEN MCDOWELL

1 MAYBE HAD TALKED TO SOMEBODY ELSE, AND THEY SAID
2 THAT -- THAT THEY WANTED ME TO COME ONTO URGENT M.D.
3 IN NORTH AUGUSTA, AND THAT KEN MCDOWELL WAS GOING TO
4 MEET ME AT URGENT M.D.

5 Q. DID HE?

6 A. AND HE DID. WHEN I GOT TO URGENT M.D., THERE WAS A
7 PHYSICIAN'S ASSISTANT THERE.

8 Q. AND THAT'S IN NORTH AUGUSTA, ISN'T IT?

9 A. YES, IN NORTH AUGUSTA.

10 Q. ALL RIGHT.

11 A. THAT IS WHO THEY USE FOR THEIR PHYSICALS AT
12 HALOCARBON, AND TIMBER WAGES, THE PHYSICIAN'S
13 ASSISTANT WAS THERE, AND KEN MCDOWELL WAS THERE, AND
14 ONE OF THE MAIN THINGS SHE WANTED TO KNOW WAS THE
15 TIME AND THE CONCENTRATION OF WHAT, YOU KNOW, H.F. I
16 WAS EXPOSED TO, AND AT SOME POINT, KEN TOLD HER 40
17 PERCENT H.F. AND SO SHE DID A REGULAR CHECK ON ME
18 AND ASKED -- YOU KNOW, ASKED ME DID LIKE CHECKING MY
19 REFLEXES AND LISTENING TO MY CHEST AND MY HEART, AND
20 SHE DID A SINUS X-RAY, AND THEY DID BLOOD WORK, AND
21 SHE SENT ME BACK TO WORK WITHOUT ANY RESTRICTIONS.

22 Q. WERE YOU GIVEN ANY MEDICATION?

23 A. NO.

24 Q. ALL RIGHT. SO, YOU GO BACK TO WORK?

25 A. SO, I RETURN BACK TO WORK.

1 Q. AND THIS IS STILL ON THE 11TH?

2 A. YES, THE EVENING OF THE 11TH.

3 Q. YOU'RE GOING ON TO ANOTHER NIGHT SHIFT?

4 A. YES.

5 Q. ALL RIGHT. SO, ON THE 11TH, YOU HAD WORKED FROM THE
6 10TH TO THE 11TH, AND NOW, YOU'RE GOING BACK TO WORK
7 THE 11TH TO WORK THROUGH THE 12TH?

8 A. TO THE 12TH THAT MORNING, YES, SIR.

9 Q. ALL RIGHT. SO, YOU WERE GIVEN NO RESTRICTIONS?

10 A. NO RESTRICTIONS.

11 Q. AND SO DID YOU GO TO YOUR NEXT SHIFT?

12 A. YES.

13 Q. ALL RIGHT.

14 A. I REPORTED BACK TO WORK.

15 Q. HOW ARE YOU FEELING AT THIS POINT?

16 A. I'M FEELING THE SAME WAY AS I -- AS I HAD FELT
17 DURING THE -- DURING THE DAY WHEN I WAS UNABLE TO
18 GET ANY REST. I HAD THE SAME SYMPTOMS OF HEADACHE
19 AND BURNING IN MY THROAT, IN MY SINUSES, IN MY NOSE,
20 AND I HAD SHORTNESS OF BREATH AND COUGHING,
21 PERSISTENT COUGHING.

22 Q. NOW, CAN YOU TELL COMMISSIONER BARDEN, IF YOU WOULD,
23 WHAT WAS YOUR GENERAL HEALTH BEFORE THIS INCIDENT ON
24 AUGUST THE 11TH OF 2015?

25 A. MY GENERAL HEALTH I FEEL WAS VERY GOOD.

1 BY COMMISSIONER BARDEN:

2 DID YOU HAVE ANY HEART PROBLEMS BEFORE THIS
3 HAPPENED TO YOU?

4 BY THE WITNESS:

5 WELL, IN 2007, I WAS GOING THROUGH A DIVORCE, A
6 REALLY STRESSFUL TIME IN MY LIFE, AND I WAS -- I
7 WOULD LAY DOWN SOME NIGHTS, AND I WOULD FEEL MY
8 HEART LIKE GOING FASTER RACING. SO, I WENT TO A
9 CARDIOLOGIST AND MADE AN APPOINTMENT TO SEE HIM TO
10 BE CHECKED OUT FOR THAT, BECAUSE ONE -- THE JOB THAT
11 I WAS DOING AT THAT TIME, I'M WHAT'S CALLED A
12 RADIOLOGICAL WORKER, TOO, WHICH YOU WEAR
13 RESPIRATORS, FULL-FACE RESPIRATORS AND YOU -- YOU
14 KNOW, YOU HAVE TO BE ABLE TO HAVE GOOD LUNGS, GOOD
15 HEART, GOOD HEALTH TO BE ABLE TO DO THAT KIND OF
16 JOB. AND SO, I WENT AND THEY EVALUATED ME. THEY
17 HAD ME ON A HOLTER MONITOR, AND THAT WAS AT LEAST
18 TWO DAYS. THEY HAD ME ON -- THEY DID A LIKE ON THE
19 TREADMILL STRESS TEST AND AN E.K.G. I CAN'T -- I
20 THINK THEY DID AN ECHO, LIKE AN ECHO, BUT I'M NOT
21 ABSOLUTELY CERTAIN.

22 DIRECT EXAMINATION RESUMED BY MR. HALL:

23 Q. IS THAT DR. CUNDEY?

24 A. DR. DAVID CUNDEY.

25 Q. ALL RIGHT. DID HE FIND ANYTHING WRONG WITH YOU?

1 A. AND HE DID NOT. HE SAID THAT -- THAT THIS IS
2 STRESS, AND IT SHOULD -- HE SAID AS THE STRESSORS
3 GO, YOU KNOW, THEN I WOULD PROBABLY -- IT WAS
4 GETTING CLOSE TO THE TIME THAT THE STRESSOR WOULD BE
5 GONE, AND SO HE WAS RIGHT. THE STRESS WAS GONE.
6 THEREFORE, I HAD -- I NEVER HAD ANY MORE PROBLEMS.

7 Q. NOW, WAS THERE ANOTHER TIME ---

8 A. HE SAID I HAD A HEALTHY HEART.

9 Q. NOW, WAS THERE ANOTHER TIME YOU WENT TO -- HAD SOME
10 SORT OF AN INFECTION AND WENT TO THE HOSPITAL?

11 A. IN 2010, I HAVE A CONDITION WHERE I HAVE KIDNEY
12 STONES, AND IN THAT -- I'VE HAD THAT SINCE I WAS 23,
13 AND ON THE LEFT URETER, IT WAS -- IT WAS BLOWN, AND
14 SO I'M MORE SUSCEPTIBLE TO INFECTIONS BECAUSE I GET
15 REFLUX. SO, I WIND UP WITH A KIDNEY INFECTION THAT
16 MY WHITE COUNT WAS REALLY HIGH. THEY ADMITTED ME TO
17 THE HOSPITAL TO GIVE ME I.V. ANTIBIOTICS. I WAS
18 RUNNING FEVER. I WAS WEAK AND IN A LOT OF PAIN, AND
19 SO DURING THAT TIME, THE E.K.G., I HAD A LITTLE
20 TACHYCARDIA BECAUSE OF THE FEVER, AND THE BODY'S
21 RESPONSE, AND MY DOCTOR SAID THAT THAT WAS TYPICAL
22 OF THE BODY'S RESPONSE TO A FEVER AND INFECTION.

23 Q. DID YOU GET ANY MORE INFECTION AFTER THAT OR HAVE
24 ANY TREATMENT WHATSOEVER FOR THE HEART?

25 A. NO.

1 Q. ALL RIGHT.

2 BY COMMISSIONER BARDEN:

3 DID YOU EVER HAVE ANY LUNG PROBLEMS BEFORE THIS
4 HAPPENED TO YOU?

5 BY THE WITNESS:

6 NO, NOT THAT I WAS AWARE OF, NO.

7 DIRECT EXAMINATION RESUMED BY MR. HALL:

8 Q. NOW, AND LET ME JUST FOLLOW UP ON THAT QUESTION.

9 WERE YOU EVER TOLD THAT YOU HAD RESTRICTIVE LUNG
10 DISEASE BY ANY DOCTOR?

11 A. NO.

12 Q. ALL RIGHT. NOW, I WANT TO GO BACK AND BE CLEAR.

13 YOU KNOW, YOU SAID YOU HAD GOOD GENERAL HEALTH. I
14 MEAN, WHAT KINDS OF THINGS AND ACTIVITIES DID YOU
15 ENGAGE IN BEFORE THIS INJURY OF AUGUST THE 11TH BY
16 WAY OF ACTIVITIES?

17 A. WELL, I -- I DID WHATEVER I WANTED TO DO THAT A GIRL
18 WITH SOME OVERWEIGHT CAN DO. I DID WHATEVER I
19 WANTED TO DO. THE ONLY THING THAT I HAD HAD SOME
20 PROBLEMS WAS A HIP, AND I WENT TO PHYSICAL THERAPY.
21 I HAD RIGHT OSTEOARTHRITIS. THEY FOUND SOME RIGHT
22 OSTEOARTHRITIS IN MY HIP AND SACROILIAC JOINT, AND
23 SO I WENT TO PHYSICAL THERAPY, AND THAT RESOLVED.
24 IT CAUSED SOME MUSCLE SPASMS, AND SO I WAS ON SOME
25 MEDICATION FOR THAT, AND THAT HAS BEEN IT.

1 Q. ALL RIGHT. DID YOU GO AT SOME POINT -- YOU SAID YOU
2 WENT TO URGENT M.D. ON THE 11TH. DID YOU RETURN TO
3 URGENT M.D. A DAY OR TWO LATER?

4 A. YES -- YES, I DID.

5 Q. OKAY. AND WHY? WHAT ARE YOUR SYMPTOMS DOING?

6 A. OKAY. SO, FROM THE 12TH TO THE 13TH, I MEAN, I HAVE
7 INCREASING SYMPTOMS. I WENT FROM THE 12TH IN THE
8 EVENING TO THE 13TH IN THE MORNING, OKAY. MY
9 SYMPTOMS ARE INCREASING. I CAN -- I CAN'T LAY DOWN
10 IN MY BED. I HAVE TO BE IN A, YOU KNOW, SEMI-
11 SITTING POSITION OR IN THE RECLINER, BECAUSE I CAN'T
12 BREATHE WELL AT ALL, AND IT -- IF I TRY TO LAY DOWN,
13 IT FELT LIKE I JUST CAN'T BREATHE, AND THE SHORTNESS
14 OF BREATH WOULD GET MORE. AND SO, I TRIED SLEEP IN
15 A SEMI-SITTING POSITION, WHICH WAS NOT EASY 'CAUSE
16 THE COUGHING IS GETTING WORSE, AND THE FEELING OF
17 WEAKNESS IS GETTING WORSE, AND THE SYMPTOMS AS I
18 TOLD YOU, EVERYTHING IS JUST DETERIORATING, AND WHEN
19 I'M AT WORK ON THE 12TH, I GO -- I WORK THROUGH THAT
20 SHIFT, BUT IT TOOK EVERYTHING I COULD DO TO GET
21 THROUGH THAT SHIFT. AROUND 4:00 IN THE MORNING
22 BECAUSE I'M THE ONE THAT HAS THE BEST SMELL AND
23 TASTE TYPICALLY, A COUPLE OF LAB TECHNICIANS WERE
24 SMELLING SMOKE IN THE LAB, AND THEY CALLED ME OVER
25 AND SAID "YOU DON'T SMELL THAT SMOKE LIKE AN

1 ELECTRICAL FIRE SMOKE?" NO, I DIDN'T, AND THAT WAS
2 MY FIRST KNOWING THAT I WASN'T ABLE TO SMELL, AND
3 THEN WHEN I GOT HOME TO HAVE SOMETHING TO EAT, I
4 COULDN'T TASTE, AND SO, I -- BECAUSE I WAS NOT ABLE
5 TO REST ON THE 13TH, I WENT AND I TALKED, I GUESS IT
6 WAS BY TEXT TO MY -- TO MY ASSISTANT SUPERVISOR.

7 BY COMMISSIONER BARDEN:

8 THIS IS MS. PARRISH?

9 BY THE WITNESS:

10 MS. PARRISH.

11 THE WITNESS RESUMES ANSWER:

12 A. AND SHE SAID THAT SHE WOULD HAVE MR. MCDOWELL TO SET
13 UP AN APPOINTMENT TO GO TO URGENT M.D. SO, I WENT
14 BACK TO URGENT M.D. I GOT THERE A LITTLE AFTER 6:00
15 BEFORE MY SHIFT. SO, THEN I SEE A DIFFERENT
16 PHYSICIAN'S ASSISTANT. HER NAME WAS JULIE BUIRD,
17 AND ---

18 DIRECT EXAMINATION RESUMED BY MR. HALL:

19 Q. IS IT BAIRD? NOT BYRD BUT BAIRD?

20 A. IT'S B-U-I-R-D.

21 Q. OKAY.

22 A. OKAY. AND SO, I GO IN TO SEE HER. I TELL HER THE
23 SYMPTOMS I'M HAVING. I'M HAVING LIKE THAT I'VE LOST
24 MY SENSE OF TASTE. MY VOICE IS RASPY. IT COMES AND
25 GOES. I'M HAVING NUMBNESS AND TINGLING OF MY HANDS

1 AND LIKE THE LOWER -- THE LOWER ARMS HERE
2 (INDICATING).

3 BY COMMISSIONER BARDEN:

4 HAD YOU HAD ANY NUMBNESS AND TINGLING ---

5 BY THE WITNESS:

6 YES.

7 BY COMMISSIONER BARDEN:

8 --- IN YOUR HANDS BEFORE?

9 BY THE WITNESS:

10 NOT LIKE THIS. I -- THEY HAD ASSESSED ME FOR
11 LIKE A CARPAL TUNNEL THINKING I HAD CARPAL TUNNEL
12 YEARS BEFORE, AND THAT WAS JUST LIKE A COUPLE OF
13 FINGERS. THIS WAS LIKE A NUMBNESS ---

14 BY COMMISSIONER BARDEN:

15 ARE YOU ATTRIBUTING NUMBNESS IN YOUR HANDS TO
16 THE CHEMICAL?

17 BY THE WITNESS:

18 TO THE CHEMICAL?

19 BY COMMISSIONER BARDEN:

20 TO H.F.? YOU'RE TALKING ABOUT YOU TOLD -- WHEN
21 YOU WENT BACK ON THE 13TH TO URGENT M.D. THAT YOU
22 WERE EXPERIENCING NUMBNESS AND TINGLING.

23 BY THE WITNESS:

24 YES. IT'S IN -- IT'S LIKE MY LOWER ARMS HERE
25 (INDICATES) AND MY HANDS.

1 BY COMMISSIONER BARDEN:

2 TO THIS DAY?

3 BY THE WITNESS:

4 I STILL HAVE -- I STILL HAVE IT OFF AND ON, BUT
5 IT FEELS LIKE HERE (INDICATES) AND ON THE LEG,
6 BECAUSE IT WENT AS FAR AS LIKE MY EXTREMITIES LATER,
7 BUT IT FEELS LIKE SOMETHING'S CRAWLING LIKE IF THERE
8 WAS A BUG OR SOMETHING CRAWLING ON ME, AND THERE IS
9 NOTHING THERE.

10 THE WITNESS RESUMES ANSWER:

11 A. BUT SO, I EXPLAINED TO HER I'M LOSING MY VOICE. MY
12 VOICE IS GOING IN AND OUT, AND IT'S RASPY, AND THEN
13 THE INCREASE IN THE SHORTNESS OF BREATH, THE
14 INCREASE -- THE INABILITY TO REST AND TO EVEN LAY
15 DOWN, I HAVE TO BE IN A SEMI-SITTING POSITION.

16 DIRECT EXAMINATION RESUMED BY MR. HALL:

17 Q. DID THEY RUN ANY TESTS THERE.

18 A. NO, NOT THAT VISIT. SHE RECOMMENDED THAT I NEEDED A
19 STAT CHEST X-RAY AND STAT BLOOD WORK, AND SHE SENT
20 ME TO UNIVERSITY HOSPITAL EMERGENCY ROOM.

21 Q. WERE YOU GIVEN ANY KIND OF NEBULIZER TREATMENT AT
22 URGENT M.D. IN NORTH AUGUSTA, OR WAS THAT LATER ON?

23 A. NO, I WAS NOT GIVEN ANYTHING THAT DAY ON THE 13TH AT
24 URGENT M.D.

25 Q. ALL RIGHT. NOW, YOU SAID THEY REFERRED YOU TO THE

1 E.R.?

2 A. YES, THEY REFERRED ME TO THE UNIVERSITY HOSPITAL
3 EMERGENCY ROOM BECAUSE ---

4 Q. DID YOU GO?

5 A. YES, I WENT. SHE SAID THAT THEY WEREN'T ABLE TO GET
6 A TURNAROUND ON ANY BLOOD WORK AND THAT BECAUSE OF
7 MY SHORTNESS OF BREATH GETTING WORSE AND THE
8 COUGHING GETTING WORSE, SHE WANTED ME TO GO ON TO
9 THE EMERGENCY ROOM AND GET THE STAT CHEST X-RAY.

10 Q. DID YOU DO THAT?

11 A. YES, THAT'S WHAT I DID.

12 Q. WERE YOU TESTED THERE?

13 A. YES, YES.

14 Q. WERE YOU RELEASED?

15 A. YES, I WAS RELEASED.

16 Q. WERE YOU GIVEN ANY PRESCRIPTIONS AT THE E.R.?

17 A. YES.

18 Q. WHAT WERE YOU GIVEN?

19 A. I WAS GIVEN -- THEY DID AN IPRATROPIUM ALBUTEROL
20 NEBULIZER TREATMENT AT THE EMERGENCY ROOM AND ---

21 Q. THAT'S ON THE 13TH?

22 A. THAT'S ON THE 13TH AT THE UNIVERSITY HOSPITAL BY
23 P.A. VELASQUEZ.

24 Q. OKAY. I JUST WANT TO DISTINGUISH, YOU WEREN'T GIVEN
25 TREATMENT OF A NEBULIZER TYPE AT URGENT M.D. IN

1 NORTH AUGUSTA, BUT YOU WERE AT UNIVERSITY HOSPITAL
2 E.R. ON THE 13TH?

3 A. YES, I WAS GIVEN AN IPRATROPIUM ALBUTEROL NEBULIZER
4 TREATMENT AND A PRESCRIPTION TO CONTINUE THAT AND
5 BECAUSE OF THE TERRIBLE HEADACHE, IT WAS SO
6 EXCRUCIATING, AND GAVE ME -- IT'S THE GENERIC FOR
7 IMITREX; HOWEVER, I TOOK IT ONE TIME, AND IT MADE MY
8 CONDITION WORSE. SO, I DIDN'T -- I DISCONTINUED IT.

9 Q. DID YOU STAY OUT OF WORK?

10 A. SHE GAVE ME LIGHT-DUTY RESTRICTIONS OF NO -- NO
11 FUMES OR VAPORS AND TO NOT RETURN TO WORK UNTIL THE
12 19TH OF AUGUST.

13 Q. DID YOU RETURN TO WORK?

14 A. YES.

15 Q. ALL RIGHT. I WANT TO -- I DON'T WANT TO MISS THIS.
16 BETWEEN THE 13TH AND THE 19TH, HOW ARE YOUR
17 SYMPTOMS?

18 A. BETWEEN THE 13TH AND THE 19TH, MY SYMPTOMS ARE
19 INCREASING.

20 Q. ALL RIGHT. SAME THING YOU'VE ALREADY TOLD THE
21 COMMISSIONER, SAME TYPE SYMPTOMS YOU'VE ALREADY TOLD
22 HER?

23 A. WELL, ---

24 Q. ANYTHING NEW?

25 A. WELL, THERE -- THERE STARTS NEW SYMPTOMS ON FRIDAY

1 NIGHT. I START HAVING FEMUR BONE PAIN, MUSCLE
2 SPASMS IN THESE MUSCLES ATOP MY FEMURS (INDICATES),
3 AND THE HEADACHE IS EXCRUCIATING, AND SO THE MUSCLE
4 SPASMS, AND THEN I STILL HAVE NOT HAD A BOWEL
5 MOVEMENT, AND THAT WHOLE -- SINCE THE 11TH, AND SO,
6 I HAVE TO GO BACK ---

7 BY COMMISSIONER BARDEN:

8 YOU HAVEN'T HAD A BOWEL MOVEMENT SINCE THE
9 11TH?

10 BY THE WITNESS:

11 RIGHT. IT'S LIKE I ---

12 BY COMMISSIONER BARDEN:

13 BECAUSE I'M LOOKING AT MY NOTES, AND I
14 YOU SAID THAT SIX HOURS AFTER THE ACCIDENT, I
15 SIX EPISODES OF DIARRHEA?

16 BY THE WITNESS:

17 I DID. THAT'S THE 11TH. THAT WOULD HAVE BEEN
18 THE LAST TIME. SO, ALL OF THIS TIME UP UNTIL ---

19 BY COMMISSIONER BARDEN:

20 SO, NOTHING AFTER THE DIARRHEA?

21 BY THE WITNESS:

22 NOTHING.

23 BY COMMISSIONER BARDEN:

24 OKAY.

25 DIRECT EXAMINATION RESUMED BY MR. HALL:

1 Q. NOW, DESPITE ALL OF THESE SYMPTOMS, DO YOU RETURN TO
2 WORK AS YOUR SLIP SAYS YOU WERE TO DO?

3 A. ON THE 19TH?

4 Q. ON THE 19TH.

5 A. YES, I DID.

6 Q. WHAT HAPPENS THEN?

7 A. WELL, ON THE 19TH, I START THAT MORNING BY DOING
8 LIKE THE DAILY DUTIES. WE HAVE A LIST, LIKE I SAID,
9 OF NIGHT DUTIES AND DAILY DUTIES. I STARTED DOING
10 THOSE TASKS. THAT'S CALIBRATING INSTRUMENTS AND
11 THOSE KINDS OF THINGS, AND I DIDN'T -- I DIDN'T RUN
12 ANY HAZARDOUS KIND OF SAMPLE OR ANYTHING LIKE THAT.
13 I WAS TO BE NEAR NO FUMES OR VAPORS OR TO HANDLE --
14 I MEAN, I HAD NUMBNESS IN MY HANDS, SO I WANTED TO
15 BE SAFE ABOUT EVERYTHING I DID THAT DAY. THAT
16 MORNING, I WENT AND I MET WITH KEN MCDOWELL AND
17 HAROLD STEIN ABOUT THE INCIDENT, AND MET WITH THEM
18 AND SPOKE WITH THEM AT LENGTH ABOUT HOW UPSET I WAS
19 THAT -- WHAT HAD HAPPENED TO ME, AND -- AND THEN I
20 DID MY BREATHING TREATMENTS, THE NEBULIZER BREATHING
21 TREATMENTS AS I NEEDED TO DO, AND I WAS TAKING
22 IBUPROFEN; HOWEVER, IT WAS NOT HELPING THE PAIN THAT
23 I WAS IN. IT WAS A HIGH LEVEL OF PAIN THAT I WAS
24 IN. THE NEBULIZER TREATMENT HOWEVER DID HELP. IT
25 DID HELP WITH THE SHORTNESS OF BREATH. THE COUGHING

1 WAS PERSISTENT THOUGH.

2 Q. DID YOU RETURN TO A MEDICAL FACILITY ON THE 19TH?

3 A. ON THE 19TH, ON THE DAY -- AS THE DAY WENT ALONG
4 AFTER THE -- AFTER LUNCH TIME, THE PAIN WAS JUST --
5 IT WAS OVERWHELMING. I COULDN'T STAND IT ANY
6 LONGER. I CALLED KEN MCDOWELL, AND I ASKED HIM
7 COULD I GO TO THE EMERGENCY ROOM, BECAUSE I HAD BEEN
8 TOLD IF I GOT WORSE TO GO TO THE EMERGENCY ROOM, AND
9 HE SAID NO, THAT I COULDN'T BUT I COULD GO TO THE
10 URGENT M.D., AND SO, I -- I TOOK -- I WENT AND TOLD
11 ONE OF THE SUPERVISORS THAT WAS THERE AT THAT --
12 WELL, HE'S NOT REALLY A SUPERVISOR. HE'S LIKE A
13 LEAD. I TOLD HIM THAT I NEEDED TO GO TO URGENT M.D.
14 BECAUSE MY CONDITION WAS DETERIORATING, AND HE SAID
15 "OKAY." SO, I LEFT A LITTLE BIT BEFORE 3:00 AND GOT
16 TO URGENT M.D. PROBABLY ABOUT TEN AFTER 3:00,
17 SOMETHING LIKE THAT. AND I WAITED FOR ABOUT 30
18 MINUTES. I WAS IN TEARS. I SAW TIMBER WAGES. SHE
19 -- SHE WAS THERE. I TOLD HER ABOUT THE PAIN THAT I
20 WAS HAVING. THE HEADACHE PAIN HAD STARTED INTO MY
21 FACE, INTO MY JAW ON MY RIGHT COMING DOWN FROM MY
22 HEAD. I WAS HAVING PAIN IN MY FEET, IN MY RIGHT
23 TOE, NUMBNESS -- NUMBNESS ON LIKE THE SIDE OF MY LEG
24 AND THEN -- AND THEN IT WOULD GO FROM LIKE THIS
25 TREMENDOUS PAIN TO LIKE A NUMBNESS ON THE BOTTOM OF

1 MY FEET, AND MY ANKLES WERE HURTING. LIKE I HAD
2 ALREADY SAID, MY FEMUR BONE, I'M STILL HAVING THE
3 RASP -- THE RASPINESS OF MY VOICE AND STILL HAVING
4 FROM -- THE BURN ISSUES IN MY SINUSES AND MY -- THAT
5 PAIN IN MY THROAT AND MY NOSE AND MY DRYNESS, THE
6 DRY -- IT WAS VERY VERY DRY.

7 Q. DID YOU ASK FOR AN E.K.G. TO BE RUN?

8 A. SO, I DID. I ASKED FOR AN E.K.G. AND SO, TIMBER
9 WAGES DID THE CHECK ON ME, THE NEUROLOGICAL AND ALL
10 THAT, AND SHE GAVE ME A SHOT OF TORADOL, WHICH IS A
11 PAIN MEDICINE SHOT, AND THEN THEY LEFT ME THERE FOR
12 QUIT A WHILE. I WAS -- THEY DARKENED THE ROOM, AND
13 I SIT THERE IN A CHAIR FOR QUITE A WHILE, AND THEY
14 COME BACK, AND THEY DID THE E.K.G., AND SO THEN THEY
15 LEFT -- SHE LEFT AGAIN FOR A WHILE, AND THEN SHE --
16 THEN HER NURSE, I GUESS, SHE COME BACK AND DID A
17 SECOND E.K.G. AND THEN LEFT FOR A WHILE AGAIN. THEN
18 SHE COME BACK AND EXPLAINED TO ME THAT MY LABS UP TO
19 THAT TIME WERE WITHIN LIMITS, AND THAT MY CHEST X-
20 RAY WAS GOOD. THAT -- THAT I DIDN'T HAVE PULMONARY
21 EDEMA; HOWEVER, SHE SAID MY E.K.G. HAD SOME
22 CONDUCTION ABNORMALITY.

23 Q. ALL RIGHT. NOW, OTHER THAN THE SHOT, WERE YOU GIVEN
24 ANY ADDITIONAL TREATMENT?

25 A. JUST I WAS GIVEN A SHOT. I ASKED FOR PAIN MEDICINE,

1 AND SHE STATED TO ME THAT THEY DIDN'T WANT TO MASK
2 ANY NEW SYMPTOMS THAT I WAS HAVING. SO, SHE DIDN'T
3 WANT TO GIVE ME PAIN MEDICINE. SO, I WAS TO
4 CONTINUE ON THE IBUPROFEN AS I WAS TAKING 800
5 MILLIGRAMS.

6 Q. WERE YOU RELEASED TO GO BACK TO WORK?

7 A. WHENEVER SHE SAW ME ON THE 19TH, I WAS ALREADY ON A
8 -- I WAS ALREADY ON THE RESTRICTION FOR THE NO
9 FUMES, NO VAPOR LIGHT DUTY. SHE DID NOT CHANGE
10 THAT. SHE CONTINUED THAT AS IT WAS. SO, I WAS
11 THERE FOR ALMOST FOUR HOURS.

12 Q. ALL RIGHT.

13 A. AND WHEN I LEFT WAS RIGHT AT THE TIME THAT MY SHIFT
14 WOULD END, AND -- AND I THINK I TEXTED OR -- I
15 NOTIFIED MY SUPERVISOR THAT I WAS LEAVING, AND I
16 WENT HOME, AND I WAS -- I WAS REALLY REALLY IN BAD
17 SHAPE AND DETERIORATED.

18 Q. DID YOU WORK ON THE 20TH; DID YOU GO BACK TO WORK?

19 A. THE 20TH, I HAD PLANNED TO WORK. I GOT UP. I COULD
20 NOT -- I COULD NOT GET A SHOWER. I WAS THAT WEAK.
21 THE WEAKNESS WAS MARKED. IT WAS -- IT WAS -- I WAS
22 SO WEAK THAT I STAYED JUST IN AS -- AS BEST I COULD
23 TO GET -- TO TAKE -- TAKE CARE OF MYSELF AND REST IN
24 THE RECLINER. AND I HAD TO TAKE THAT DAY OFF LIKE
25 IT WAS A PERSONAL HOLIDAY OR SOMETHING, AND THEN THE

1 ---
2 BY COMMISSIONER BARDEN:

3 SO, YOU TOOK THE 20TH OFF?

4 BY THE WITNESS:

5 I TOOK THE -- I TOOK THE 20TH OFF. I CALLED
6 INTO MY ASSISTANT SUPERVISOR.

7 BY COMMISSIONER BARDEN:

8 ALL RIGHT. THAT'S GOOD. GO AHEAD.

9 BY THE WITNESS:

10 OKAY.

11 DIRECT EXAMINATION RESUMED BY MR. HALL:

12 Q. NOW, DID YOU -- WHENEVER THE 21ST COMES, DO YOU GO
13 BACK TO WORK THE 21ST OF AUGUST?

14 A. YES, I DO. I GO BACK TO WORK.

15 Q. TELL THE COMMISSIONER WHAT HAPPENED WHEN YOU
16 RETURNED TO WORK.

17 A. AND SO, I RETURNED TO WORK THAT MORNING VERY WEAK.
18 SYMPTOMS VERY MUCH STRONG, THESE STRONG SYMPTOMS
19 THAT WERE REMAINING, AND I COULDN'T DO LIKE MORNING
20 DUTIES OR ANYTHING LIKE THAT. I WAS THAT WEAK. SO,
21 I WAITED 'TIL THE DAY PEOPLE COME IN. THEY COME IN
22 BETWEEN 7:00 AND 7:30, AND I TRIED TO CALL HAROLD
23 STEIN WHO IS THE SAFETY COORDINATOR. HAROLD SAID
24 "COULD YOU COME TO MY OFFICE?" I TOLD HIM HOW I WAS
25 FEELING. I SAID -- I TOLD HIM I COULDN'T BECAUSE I

1 WAS JUST TOO WEAK TO WALK THAT FAR, AND HE CAME TO
2 ME, AND WE HAD A TELEPHONE CONFERENCE WITH URGENT
3 M.D., WHO THEY HAD ALREADY ON THE 19TH HAD -- TIMBER
4 WAGES HAD SAID THAT SHE WAS RECOMMENDING A
5 TOXICOLOGIST, A PULMONOLOGIST, AND AN E.N.T. THROUGH
6 THE WORKMAN'S COMP SYSTEM. SO, THE PERSON ON THE
7 21ST THAT WE TALKED WITH WAS JULIE BUIRD, AND SHE
8 SAID THAT THOSE REFERRALS HAD BEEN MADE, AND THAT AT
9 THIS POINT, THAT MY CONDITION EXCEEDED THAT THEY --
10 WHAT THEIR SCOPE WAS, AND THAT HAROLD WOULD NEED TO
11 FOLLOW UP WITH THOSE APPOINTMENTS.

12 Q. NOW, I WANT TO BE CLEAR ON SOMETHING. ON EITHER THE
13 11TH, THE 13TH OR THE 19TH OR AT ANY VISIT TO URGENT
14 M.D., DID YOU EVER SEE A DOCTOR? I'M NOT TALKING
15 ABOUT A MEDICAL PHYSICIAN'S ASSISTANT. DID YOU EVER
16 SEE A DOCTOR?

17 A. NO, I DIDN'T SEE A DOCTOR UNTIL THE 21ST.

18 Q. ALL RIGHT. NOW, WHAT HAPPENS LATER ON DURING THE
19 DAY REGARDING YOUR WORK STATION?

20 A. SO, HAROLD TOLD ME TO HANG TIGHT. SO, I STAYED IN
21 THIS CHANGE ROOM AREA, AND IT WAS PROBABLY AROUND A
22 LITTLE AFTER TEN, MY ASSISTANT SUPERVISOR CAME, AND
23 SHE SAID THAT SHE HAD SET UP ME A WORK AREA, AND I
24 ASKED HER IF I COULD DO MY NEBULIZER TREATMENT
25 BEFORE WE WENT TO DO THAT BECAUSE IT WAS ABOUT TIME

1 FOR IT, AND SHE SAID YES AND SHE WOULD COME BACK,
2 AND SO -- SO, I DID MY NEBULIZER TREATMENT. SHE
3 CAME BACK, AND THEN SHE TOOK ME OUTSIDE THE
4 BUILDING, AND I SAID "WHERE ARE WE GOING?" AND SHE
5 SAYS "I HAVE A PLACE BACK WHERE YOU CAN WORK." SHE
6 DIDN'T TELL ME, BUT I WAS HAVING SUCH A HARD TIME
7 AMBULATING WALKING. I WAS GETTING SHORTER AND
8 SHORTER OF BREATH. I HAD ALREADY HAD A FEELING OF
9 FEELING FAINT ON THE WAY TO WORK WHERE I STOPPED MY
10 CAR AND PULLED OFF THE SIDE OF THE ROAD, AND SO, I'M
11 WALKING WITH HER. SHE'S LEAVING ME, AND SHE
12 REALIZES THAT SHE'S WENT WAY AHEAD OF ME. SO, SHE
13 KIND OF -- SHE SLOWS DOWN, AND WE GET TO THIS
14 WAREHOUSE, WHICH IS KIND OF AT THE BACK LIKE NEAR
15 THE BACK OF THE AREA IN A SEPARATE BUILDING, AND ---

16 Q. IS THIS AWAY FROM THE LABORATORY?

17 A. YES.

18 Q. OKAY.

19 A. AND SO, THIS WAREHOUSE AREA, WE GO IN, AND I STARTED
20 TO FEEL LIKE I WAS GOING TO FAINT, AND SO THERE WERE
21 SOME STAIRS, AND I SIT ON A STAIR TREAD, AND SHE --
22 SHE SAID -- I SAID "JUST GIVE ME A FEW MINUTES."
23 SHE SAID, "DO YOU THINK I NEED TO GO GET SOMEBODY?"
24 AND I SAID "I SHOULD BE ALL RIGHT. I FELT FAINT
25 EARLIER." AND SHE SAID "OKAY." AND SO I TOOK A FEW

1 MINUTES, AND THEN WE PROCEEDED ON TO WHERE SHE WAS
2 TAKING ME, AND SO WE GOT TO THIS CUBICLE LIKE ROOM,
3 YOU KNOW, THAT HAD LIKE AN AIR CONDITIONER. IT WAS
4 JUST OUT IN THIS WAREHOUSE, A WAREHOUSE WITH REALLY
5 TALL CEILINGS AND STUFF. AND SO SHE TOOK ME THERE,
6 AND I SAID I -- IT WAS LIKE EVEN ALMOST THE BACK OF
7 A WAREHOUSE. IT SEEMED AS IF IT WAS. I'M NOT THAT
8 FAMILIAR WITH THE WAREHOUSE, BUT SHE SAID -- SHE
9 SAID THAT SHE HAD ME A COMPUTER THERE. I WAS GOING
10 TO WORK ON AN OPEN BOOK TEST THAT WE TAKE ANNUALLY,
11 AND SHE GAVE ME SOME OTHER THINGS TO WORK ON, AND
12 SHE SAID -- I SAID "WELL, I FEEL UNCOMFORTABLE BEING
13 HERE WITH THE SYMPTOMS AND HOW I FEEL BY MYSELF,"
14 AND SHE SAID "WELL, I HAVE YOU A PHONE THERE, AND
15 I'LL BE CHECKING ON YOU," AND I SAID "WELL, OKAY
16 THEN." SO, I'M ON THE COMPUTER READING PROCEDURES,
17 DOING THIS OPEN BOOK TEST, WHICH I USUALLY COULD DO
18 VERY QUICKLY ALMOST FROM MEMORY, AND -- BUT I CAN'T
19 ENGAGE. IT'S LIKE I -- I'M SO SLOW, AND MY MIND IS
20 JUST NOT -- JUST NOT -- IT'S NOT SHARP. AND SO, I -
21 - AROUND LUNCH TIME, SHE CAME AND CHECKED ON ME A
22 COUPLE OF TIMES, AND LUNCH TIME I'M FEELING REALLY
23 BAD. I EAT A LITTLE -- A FEW BITES OF MY SANDWICH,
24 AND THEN I HEAR LIKE THE MOVEMENT OF A FORKTRUCK,
25 AND IT'S LIKE BEEPING AND ALL, AND IT'S NEAR OUTSIDE

1 WHERE I'M AT, AND SHORTLY AFTER THAT, I HAVE THIS --
2 THIS -- SOMETHING THAT HAPPENED TO ME WITH MY
3 SINUSES SO DRY AND EVERYTHING, AND I HAD STARTED
4 USING A SALINE LIKE SPRAY, AND THEY JUST CLOSED UP
5 WHERE -- CLOSE UP TO THE POINT THAT I CAN'T BREATHE
6 OUT OF MY NOSE, AND THAT WAS JUST VERY VERY STRANGE.
7 AND THEN I START FEELING LIKE I CAN'T BREATHE EVEN
8 WORSE THAN I EVER WAS, AND I HAVE A CHEST PAIN LIKE
9 A STRANGE -- A STRANGE SENSATION AND A CHEST PAIN
10 MID STERNUM, AND I AM -- I AM LIKE I CAN'T BREATHE,
11 AND IT'S BEYOND LIKE THE SHORTNESS OF BREATH AND THE
12 COUGHING. I HAD COUGHED SEVERAL TIMES LIKE COUGHING
13 HARD SEVERAL TIMES DURING THIS, AND SO I GET ON THE
14 PHONE TO CALL HER TO TELL HER, MY ASSISTANT
15 SUPERVISOR, AND AS I'M DOING THAT, I -- I BECOME
16 DISTRESSED IN -- IN MY BREATHING, AND I TELL HER
17 "I'M IN RESPIRATORY DISTRESS. COULD YOU COME?" AND
18 THEN I START FEELING LIKE I'M GOING TO FAINT. SO, I
19 WENT TO THE FLOOR, AND THEN I ---

20 Q. WHEN YOU SAY YOU WENT TO THE FLOOR, WHAT DO YOU
21 MEAN?

22 A. I -- I GOT TO THE FLOOR SO THAT I WOULDN'T PASS OUT.
23 THAT'S HOW STRONG THE FAINT FEELING WAS, I WAS GOING
24 TO PASS OUT. SO, I WENT TO THE FLOOR INSTEAD OF
25 FALLING.

1 Q. ALL RIGHT.

2 A. AND I GOT MY LEGS UP ON THE CHAIR TO GET BLOOD TO MY
3 HEAD BECAUSE I'M THINKING I'M GOING TO FAINT. SHE
4 GOT THERE, AND I WAS ABLE TO TALK TO HER AND TELL
5 HER HOW I WAS FEELING, AND THEN IT GOT TO WHERE I
6 COULDN'T TALK. THE RESPIRATORY DISTRESS GOT TO ---

7 Q. DID THEY ---

8 A. --- A POINT ---

9 Q. DID THEY CALL THE AMBULANCE?

10 A. --- WHERE I COULDN'T TALK. YES, AT SOME POINT, THEY
11 DID CALL THE AMBULANCE. AT SOME POINT, SHE LEFT AND
12 I COULD HEAR VOICES, BUT I WAS ON THE FLOOR. I WAS
13 BEING TOLD TO GET UP, TO GET UP OFF THE FLOOR. IT
14 SOUNDS LIKE I WAS BEING YELLED TO GET UP OFF THE
15 FLOOR, AND I COULDN'T. I TRIED, BUT I COULDN'T.

16 Q. NOW, LET ME ASK YOU A QUESTION. DID ANYBODY BEGIN
17 TO ADMINISTER ANY KIND OF TREATMENT TO YOU THERE? I
18 KNOW ---

19 A. ONCE I WAS IN THE CHAIR -- ONCE I WAS IN A CHAIR,
20 KEN MCDOWELL, HE -- HE IS THE SAFETY DIRECTOR, AND
21 HE HAD AN OXYGEN TANK AND STARTED A NEBULIZER
22 TREATMENT OF CALCIUM GLUCONATE; HOWEVER, IT WASN'T
23 AEROSOLING, AND -- BUT I WAS TAKING IT, AND IT WAS -
24 - I GUESS IT WASN'T THAT LONG BEFORE THE AMBULANCE
25 CAME, AND THEY -- THEY TRANSFERRED THEIR OXYGEN

1 TANK, AND THEN IT -- THEN THE AEROSOL STARTED COMING
2 LIKE -- YOU KNOW, LIKE IT TYPICALLY WOULD.

3 Q. SO, THEY CONTINUED TO GIVE YOU CALCIUM GLUCONATE
4 ALSO ---

5 A. YES.

6 Q. --- DURING THIS?

7 A. THEY -- THEY CONTINUED THE CALCIUM GLUCONATE ON THE
8 WAY TO THE HOSPITAL.

9 Q. ALL RIGHT. WHERE DID THEY TAKE YOU?

10 A. THEY TOOK ME TO UNIVERSITY HOSPITAL IN AUGUSTA,
11 GEORGIA, THE EMERGENCY ROOM.

12 Q. WERE YOU -- HOW LONG ---

13 BY COMMISSIONER BARDEN:

14 I JUST WANT TO INTERRUPT AND TELL YOU ONE
15 THING. I'M NOT SURE. I'VE BEEN IN AIKEN HERE
16 BEFORE WHERE THEY CLOSE AT FOUR.

17 BY MR. HALL:

18 OKAY.

19 BY COMMISSIONER BARDEN:

20 AND I DON'T KNOW IF WE'RE GOING TO MAKE THAT,
21 BUT I WANT TO FINISH THE CLAIMANT'S CASE TODAY.

22 BY MR. HALL:

23 RIGHT.

24 BY COMMISSIONER BARDEN:

25 SO, MR. LICHTY HASN'T HAD A CHANCE. I'M NOT

1 OBSERVATION OR SOMETHING, AND OBSERVATION WHERE
2 YOU'RE NOT LIKE IN A HOSPITAL ROOM, YOU ARE IN LIKE
3 NEXT TO THE EMERGENCY ROOM.

4 Q. OKAY.

5 A. CLINICAL -- I THINK IT'S CLINICAL OBSERVATION.

6 Q. WE'RE GOING TO TRY TO WRAP THINGS UP HERE, MONICA, -
7 --

8 A. YEAH, OKAY.

9 Q. --- BECAUSE WE'RE GETTING CLOSE TO THE END, AND THE
10 COMMISSIONER, SHE'S GOT ALL OF THESE RECORDS, AND
11 SHE CAN READ THEM. SO, WE'RE NOT GOING TO SPEND A
12 LOT OF TIME ---

13 A. OKAY.

14 Q. --- ON WHAT THE DOCTOR SAID AND WHAT THEY DID ---

15 A. ALL RIGHT, OKAY.

16 Q. --- AND THAT SORT OF THING. SO, IS IT FAIR TO SAY
17 THAT YOU LATER ON THAT YOU HAD TO HAVE A PACEMAKER
18 PUT IN BECAUSE YOU WERE IN TOTAL HEART BLOCK?

19 A. YES.

20 Q. ALL RIGHT. AND DO YOU RECALL THAT YOU WERE
21 DIAGNOSED WITH A CHEMICAL INHALATION INJURY AND
22 SEQUELLA FROM THAT INJURY?

23 A. YES.

24 BY MR. LICHTY:

25 OBJECTION, YOUR HONOR. IT CALLS FOR A MEDICAL

1 Q. --- PROVIDED BY HALOCARBON?

2 A. NO.

3 Q. ALL RIGHT. THAT WAS ORDERED EARLY IN THE GAME?

4 A. YES, AND A TOXICOLOGIST.

5 Q. ALL RIGHT. AND I JUST WANT TO BE CLEAR. WHAT DO
6 YOU THINK -- OR WOULD YOU TELL THE COMMISSIONER WHAT
7 YOU THINK YOU NEED TO BE EVALUATED FOR, PLEASE, VERY
8 BRIEFLY?

9 A. FOR THE CONTINUED DETERIORATION OF MY CONDITION.
10 THE TOXICOLOGIST, THE E.N.T., THE BONE PAIN AND
11 MUSCLE SPASMS THAT I AM HAVING NOW, AND IT IS
12 IMPAIRING MY ABILITY TO BE ABLE TO AMBULATE.

13 Q. ALL RIGHT.

14 BY COMMISSIONER BARDEN:

15 SO, THE COUGHING HAS RESOLVED; IS THAT RIGHT?

16 BY THE WITNESS:

17 NO, I STILL COUGH. I STILL HAVE -- I HAVE
18 RADS, AND SO I STILL DO COUGH.

19 BY COMMISSIONER BARDEN:

20 NOT AS MUCH AS YOU WERE?

21 BY THE WITNESS:

22 BUT NOT AS MUCH, NO. NOT AS MUCH AS I WAS, AND
23 I STILL HAVE EPISODES OF SHORTNESS OF BREATH WITH
24 THE RADS.

25 DIRECT EXAMINATION RESUMED BY MR. HALL:

1 WHENEVER YOU ARE READY.

2 BY MR. LICHTY:

3 THANK YOU.

4 CROSS EXAMINATION BY MR. LICHTY:

5 Q. GOOD AFTERNOON, MS. MURPHY.

6 A. HELLO.

7 Q. I HAVE A FEW QUESTIONS TO FOLLOW UP, BUT YOU DID A
8 VERY GOOD JOB ON DIRECT EXAMINATION. SO, I THINK A
9 COUPLE OF THESE, I'LL BE ABLE TO SKIP THROUGH. I
10 DID WANT TO HIGHLIGHT THOUGH YOUR COMMITMENT TO
11 SAFETY. YOU HAD BEEN TRAINED ON THE RISKS OF H.F.
12 AS AN EMPLOYEE OF HALOCARBON; IS THAT CORRECT?

13 A. YES.

14 Q. AND PRIOR TO AUGUST OF 2015, YOU WERE AWARE OF THE
15 POTENTIAL HEALTH RISKS PRESENTED BY H.F., CORRECT?

16 A. YES.

17 Q. AND SO I THINK YOUR TESTIMONY WAS IF YOU HAD BEEN
18 AWARE OF H.F., YOU WOULD HAVE NEVER VOLUNTARILY OR
19 INTENTIONALLY ENCOUNTERED IT; IS THAT CORRECT?

20 A. CORRECT.

21 BY COMMISSIONER BARDEN:

22 CAN YOU SPEAK LIKE YOU WERE JUST A SECOND AGO?

23 BY THE WITNESS:

24 YES, I'M SORRY.

25 BY MR. HALL:

1 SPEAK UP.

2 BY THE WITNESS:

3 I'M SORRY.

4 CROSS EXAMINATION RESUMED BY MR. LICHTY:

5 Q. NOW, YOUR COMMITMENT TO SAFETY EXTENDED TO INCIDENTS
6 BEYOND JUST THIS ONE ALLEGED EXPOSURE, CORRECT?

7 A. YES.

8 Q. OKAY. AND I BELIEVE WHEN I TOOK YOUR DEPOSITION,
9 YOU TOLD ME THAT YOU WOULD FREQUENTLY AND
10 CONSISTENTLY REPORT VARIOUS ISSUES THAT YOU FELT
11 POSED SAFETY RISKS; IS THAT CORRECT?

12 A. CORRECT.

13 Q. AND DO YOU RECALL TELLING ME THAT YOU REPORTED
14 THINGS, QUOTE, "ALL THE TIME"?

15 A. WELL, I -- IN SAYING "ALL THE TIME," I MEANT IF
16 THERE WAS SOMETHING TO REPORT, I REPORTED IT.

17 Q. DO YOU RECALL ESTIMATING THAT YOU FELT YOU REPORTED
18 SOME KIND OF PROBLEM AT LEAST ONCE EVERY FOUR DAYS?

19 A. EITHER MYSELF OR MY COWORKERS IN THE LAB.

20 Q. AND HAD YOU DEVELOPED ANY PERMANENT HEALTH ISSUES AS
21 A RESULT OF ANY OF THOSE PRIOR INCIDENCES THAT YOU
22 HAVE REPORTED TO HALOCARBON?

23 A. NO, NOT THAT I'M AWARE OF.

24 Q. BUT IT'S FAIR TO SAY THAT YOU FREQUENTLY PERCEIVED
25 SAFETY ISSUES AND BROUGHT THEM TO MANAGEMENT'S

1 ATTENTION?

2 A. YES.

3 Q. I WANT TO TALK A LITTLE BIT ABOUT THE EXPOSURE. YOU
4 -- WHEN YOU DUMPED THE ORGANIC SLOPS, WHICH IS THE
5 FIRST STOP YOU MADE, ISN'T IT TRUE THAT THE AREA
6 WHERE THE FLAMMABLE SLOPS WOULD BE DUMPED IS VISIBLE
7 FROM THAT LOCATION?

8 A. SOMETIMES IT -- SOMETIMES IT IS. THEY MOVE THAT
9 DRUM SOMETIMES, AND SO IT COULD BE, BUT NOT AS --
10 NOT AS MUCH AS IT'S NOT AT THAT -- FROM THE ORGANIC
11 DRUM WHERE THE PLACEMENT OF THE DRUM IS.

12 Q. ISN'T IT TRUE THAT FROM WHERE THE ORGANIC SLOPS
13 WOULD BE DROPPED OR DUMPED, THAT YOU WOULD HAVE BEEN
14 ABLE TO SEE WHERE THE CARBOY WAS THAT YOU CLAIM WAS
15 VENTING?

16 A. FROM -- FROM LIKE THE ORGANIC WHERE I WAS DUMPING
17 THOSE, I DON'T THINK SO. I DON'T THINK SO.

18 Q. YOU DON'T THINK ---

19 A. BECAUSE OF EQUIPMENT.

20 Q. GO AHEAD. YOU DON'T THINK THAT IN DUMPING THE
21 ORGANIC SLOPS, YOU WOULD HAVE NOTICED A TWO FOOT
22 PLUME OF WHITE SMOKE COMING FROM A CARBOY THAT WAS
23 FAIRLY CLOSE TO YOUR LINE OF SIGHT TO THE FLAMMABLE
24 SLOPS?

25 A. I WAS CONCENTRATING ON -- ON THE TASK AT HAND, WHICH

1 IS TO BE UP ON A -- UP ON A PALLET DUMPING SOMETHING
2 IN SMALL QUANTITIES BECAUSE IT'S REACTING WITH THE
3 CONTENTS AND SPEWING AND GETTING THAT OUT OF THE WAY
4 AND THEN PUTTING A LITTLE BIT MORE. SO, I WAS
5 CONCENTRATING ON WHAT I WAS DOING, AND ONE OF THE
6 TIMES THAT I WOULD STEP BACK IS WHEN I SAW LONNIE
7 DOWN AT THE OTHER END.

8 Q. SO, YOU DID SEE LONNIE WHILE YOU WERE DUMPING THE
9 ORGANICS?

10 A. YES. THAT'S WHEN -- THAT -- I SAW HIM AT THAT TIME
11 DOWN ---

12 Q. WHERE DID YOU SEE LONNIE?

13 A. HE WAS DOWN IN THAT -- IN THAT GENERAL AREA, I CAN'T
14 SAY EXACTLY WHERE.

15 Q. THE GENERAL AREA WHERE THE FLAMMABLE SLOPS WOULD BE
16 DUMPED?

17 A. WELL, IN THE CORRIDOR, IN THE CENTER CORRIDOR WHERE
18 I CAN SEE. HE'S IN THAT CENTER CORRIDOR AREA.

19 Q. OKAY. IS THAT AN AREA THAT'S NEAR THE VENTING
20 CARBOY?

21 A. WELL, YEAH, IT IS.

22 Q. WHEN YOU SAW LONNIE, WAS HE EXHIBITING ANY SIGNS OF
23 PHYSICAL DISTRESS?

24 A. WHEN I SAW LONNIE, HE WAS JUST STANDING LOOKING AT
25 SOMETHING IN THAT CENTER CORRIDOR AREA. I JUST SAW

1 AND SO IT WASN'T VERY FAR, BECAUSE I HAD SOME
2 RESISTANCE WHEN I WENT TO PUSH OUT." THEN YOU STATE
3 FURTHER DOWN, "BUT I NEVER ACTUALLY OPENED THE DOOR
4 AND WENT THROUGH THE DOOR. THE DOOR WAS OPEN
5 PARTIALLY." WOULD YOU DENY THAT THAT WAS YOUR
6 TESTIMONY?

7 A. NO, I WOULDN'T.

8 Q. OKAY. AFTER THAT, YOU WENT BACK DOWN TOWARDS THE
9 ORGANIC SLOPS AREA, CORRECT?

10 A. AFTER CLOSING THE DOOR, I WAS IN THE AREA. I WENT
11 TO THE LEFT WHERE THERE WAS A BUNCH OF TANKS AND
12 BERMS, AND I WAS IN THAT AREA PRIOR TO GOING DOWN.

13 Q. I'M TRYING TO KEEP YOUR TESTIMONY SOMEWHAT SHORTENED
14 SO I MIGHT SKIP OUT A FEW OF THE STEPS IN BETWEEN,
15 BUT AFTER YOU HAD THIS EXPERIENCE WITH THE DOOR,
16 ULTIMATELY YOU MADE YOUR WAY DOWN AND WENT BACK OUT
17 INTO THE PATIO NEAR THE AREA WHERE THE ORGANIC DUMPS
18 -- THE ORGANIC SLOPS WERE DUMPED, CORRECT?

19 A. I WENT TO THE OTHER DOOR AND STAYED RIGHT AT THE
20 DOOR TO SEE IF I COULD SEE LONNIE, AND I DIDN'T SEE
21 HIM, BUT THEN I HEARD SOMEONE.

22 Q. OKAY. AND WAS THAT PERSON LONNIE?

23 A. YES.

24 Q. AND THAT WAS WHEN YOU TALKED TO HIM AND TOLD HIM
25 ABOUT THE FUMES THAT YOU HAD ENCOUNTERED?

1 A. YES.

2 Q. OKAY. WHEN YOU SAW LONNIE THIS TIME, WAS HE
3 COUGHING OR OTHERWISE SHOWING ANY SIGNS OF PHYSICAL
4 DISTRESS?

5 A. NO.

6 Q. BASED ON WHERE YOU SAW LONNIE COMING FROM, WOULD YOU
7 AGREE WITH ME THAT HE WAS COMING FROM THE AREA THAT
8 THIS VENTING WAS TAKING PLACE?

9 A. WELL, HE WAS COMING AROUND FROM ANOTHER SIDE LIKE
10 THE ODOR IS OVER HERE (INDICATES), AND HE COME
11 AROUND FROM THIS AREA. SO, HE CAME TO THAT -- TO
12 LIKE THE CENTER -- CENTER CORRIDOR AREA AND STAYED
13 UNTIL THE OPPOSITE SIDE AWAY FROM THAT SIDE.

14 Q. BUT WHEN YOU'RE AT THE -- WHEN YOU'RE DUMPING --
15 WHEN YOU ARE AT THE AREA WHERE THE ORGANIC SLOPS
16 ARE, WHEN YOU ARE AT THAT DOOR, ---

17 A. AT THE DOOR THAT I OPENED ---

18 Q. SO, YOU WALK OUT THE PATIO. THERE'S NOT MUCH PATIO
19 TO YOUR LEFT, IS THERE? IT'S ALL DOWN TO THE RIGHT;
20 IS THAT CORRECT?

21 A. THERE IS -- THERE IS AN AREA, A PATIO THAT CONTINUES
22 BOTH WAYS, BUT THERE IS -- I WOULD SAY THERE IS MORE
23 GOING TOWARD WHERE I SAW LONNIE COMING FROM. IT'S A
24 LONGER SPACE, YEAH.

25 Q. SO, THE VENTING CARBOY IS TO YOUR RIGHT?

- 1 A. YES.
- 2 Q. AND LONNIE IS COMING TO YOU FROM YOUR RIGHT?
- 3 A. YES.
- 4 Q. FROM THE DIRECTION WHERE THE VENTING CARBOY WAS
- 5 LOCATED?
- 6 A. YES. I'M AT THE DOOR, AND I'M LOOKING AT A DIAGONAL
- 7 SEEING HIM.
- 8 Q. AND HE GOT THE FLAMMABLE SLOPS FROM YOU?
- 9 A. YES, HE DID.
- 10 Q. AND HE DUMPED THEM IN THE FLAMMABLE WASTE CONTAINER?
- 11 A. YES.
- 12 Q. AND TO GET THERE, DID HE NOT HAVE TO WALK RIGHT BY
- 13 WHERE THIS CARBOY WAS VENTING?
- 14 A. HE HAD TO WALK -- HE HAD TO WALK NEAR IT. HAD TO BE
- 15 -- I MEAN, I DON'T KNOW EXACTLY HOW MANY FEET THAT
- 16 CORRIDOR IS, BUT HE HAD TO BE -- IT WAS NEARBY.
- 17 Q. THEN HE RETURNED THE CONTAINER TO YOU?
- 18 A. YES, HE DID.
- 19 Q. AND TO RETURN IT, HE HAD TO WALK BY THE VENTING
- 20 CARBOY AGAIN?
- 21 A. HE HAD TO WALK NEARBY. I CAN'T SAY HE WENT PAST IT,
- 22 BECAUSE I CAN'T TELL YOU EXACTLY WHERE HE TURNED.
- 23 Q. OKAY. SO, WHEN LONNIE GAVE YOU YOUR CONTAINER BACK,
- 24 AT THAT POINT, HE HAD WALKED BY THIS VENTING CARBOY
- 25 TWICE; IS THAT CORRECT?

1 A. YES.

2 Q. AND WHEN LONNIE GAVE YOUR CONTAINER BACK TO YOU, WAS
3 HE SHOWING ANY SIGNS OF PHYSICAL DISTRESS?

4 A. NO, HE WASN'T.

5 Q. DO YOU THINK IT'S SURPRISING THAT BASED ON THE
6 REACTION YOU HAD, THAT LONNIE DIDN'T HAVE ANY
7 REACTION?

8 BY MR. HALL:

9 YOUR HONOR, I'M GOING TO OBJECT TO THAT.
10 THAT'S CALLING FOR A MEDICAL ---

11 BY COMMISSIONER BARDEN:

12 SUSTAINED.

13 BY MR. HALL:

14 --- CONCLUSION.

15 BY COMMISSIONER BARDEN:

16 HE WILL TESTIFY AND TELL US WHAT HIS
17 OBSERVATIONS WERE.

18 CROSS EXAMINATION RESUMED BY MR. LICHTY:

19 Q. AND ONCE YOU GOT YOUR CONTAINER BACK, YOU WENT BACK
20 UP TO THE LAB; IS THAT CORRECT?

21 A. YES, I DID.

22 Q. AND I BELIEVE YOUR TESTIMONY EARLIER WAS THAT AT
23 THIS TIME YOU WERE HAVING FAIRLY SIGNIFICANT
24 SYMPTOMS; IS THAT CORRECT?

25 A. YES.

1 Q. FROM A MEDICAL PROVIDER?

2 A. I DIDN'T SPECIFICALLY SAY A DOCTOR, NO, BECAUSE THEY

3 ARE -- THEY ARE THE -- WE DON'T HAVE A DOCTOR AT

4 HALOCARBON. THEY ARE THE -- THE PRODUCTION FOLKS

5 ARE THE TRAINED PEOPLE TO ASSIST AND GIVE FIRST AID.

6 Q. OKAY. THERE'S A GROUP ---

7 A. THEY CALL THE AMBULANCE AND ALL THAT. HUH?

8 Q. THOSE ARE THE PEOPLE THAT ARE ON SITE?

9 A. THE PEOPLE THAT ARE ONSITE, YES.

10 Q. NOW, YOU ARE AWARE OF THE RISKS OF H.F. EXPOSURE.

11 DID YOU KNOW WHAT SYMPTOMS IT WOULD PRODUCE IF YOU

12 WERE EXPOSED TO IT?

13 A. WELL, I KNOW SOME OF THE SYMPTOMS.

14 Q. OKAY. AND WERE YOU EXPERIENCING SOME OF THOSE AT

15 THE TIME THAT YOU WENT BACK UP TO THE CONTROL ROOM?

16 A. YES.

17 Q. OKAY. SO, KNOWING OR BELIEVING THAT YOU HAD BEEN

18 EXPOSED TO H.F., BELIEVING THAT YOU WERE

19 EXPERIENCING SYMPTOMS OF EXPOSURE TO H.F. AND

20 UNDERSTANDING FROM YOUR TRAINING THAT IT'S A VERY

21 VERY DANGEROUS CHEMICAL, WHY DID YOU NOT ASK TO BE

22 SEEN BY A MEDICAL PROVIDER?

23 A. I WAS IN SHOCK, SIR. I'M SORRY.

24 Q. IS IT TRUE THAT BEFORE YOU LEFT THAT DAY, YOU WROTE

25 AN EMAIL TO EMILY PARRISH DISCUSSING THE INCIDENT,

1 A. I DID ASK THAT, I THINK.

2 Q. SO, YOU ASKED TO SIT DOWN AND DISCUSS IT WITH SAFETY
3 BEFORE YOU EVER ASKED TO GO TO A DOCTOR?

4 A. I HAD ALREADY ASKED FOR MEDICAL HELP WITH THE
5 CONTROL ROOM. THAT'S WHO HANDLES ANY KIND OF
6 RESPONSE, THE CONTROL ROOM DOES.

7 Q. BUT YOU WOULD AGREE THAT WHEN YOU INTERACTED WITH
8 MS. PARRISH, YOU ASKED FOR A SIT DOWN WITH SAFETY
9 WITHOUT ASKING OR EXHIBITING ANY NEED TO GO TO A
10 DOCTOR; IS THAT TRUE?

11 A. NO, BECAUSE SHE WAS -- I DIDN'T ASK HER FOR THE
12 MEDICAL -- MEDICAL INTERVENTION. I ASKED THE PEOPLE
13 WHO WERE TO GIVE IT TO ME, BECAUSE SHE WAS NOT --
14 SHE WAS MAYBE NOT EVEN AWAKE AT THE TIME IN THE
15 MORNING. I WAS REPORTING IT TO HER AS REQUIRED BY
16 REPORTING ANY INCIDENT. THAT IS PART OF MY JOB
17 RESPONSIBILITY.

18 Q. I THINK YOU ARE AGREEING WITH ME HERE, BUT I JUST
19 WANT TO MAKE SURE. YOU WOULD AGREE THAT WHEN YOU
20 EMAILED EMILY, YOU DIDN'T ASK FOR MEDICAL ATTENTION,
21 BUT YOU DID ASK FOR A SIT DOWN WITH SAFETY?

22 A. NO, I ASKED FOR MEDICAL ATTENTION THROUGH HER LATER
23 THAT DAY AS SYMPTOMS WERE GETTING WORSE.

24 BY MR. LICHTY:

25 COMMISSIONER, YOU CAN READ THE EMAIL.

1 THAN THE ONES THAT YOU HAD EXPERIENCED UP TO THAT
2 POINT; IS THAT TRUE?

3 A. SOME OF THE SYMPTOMS.

4 Q. OKAY. TELL US WHAT SYMPTOMS WERE DIFFERENT.

5 A. THE SYMPTOMS OF MY SINUS NASAL AREA CLOSING UP
6 FEELING AS IT CLOSED UP, AND I COULDN'T -- I
7 COULDN'T BREATHE THROUGH MY NOSE, AND THEN I HAD A
8 COUGHING LIKE COUGHING A LOT, AND THEN I HAD LIKE I
9 WOULD SAY LIKE A CHOKING COUGH, OKAY. AND THEN I
10 HAD A PAIN THAT WAS A STRANGE SENSATION IN MY
11 ESOPHAGUS AND CHEST PAIN, AND THEN MY BREATHING
12 BECAME HARDER TO BREATHE TO THE POINT THAT I WAS
13 HAVING PROBLEMS LIKE NOT JUST A SHORT -- A SHORTNESS
14 OF BREATH, BUT A CONTINUED DETERIORATING OF MY
15 BREATHING TO THE POINT OF DISTRESS.

16 Q. OKAY. YOU WERE TRANSPORTED BY AMBULANCE TO
17 UNIVERSITY HOSPITAL, CORRECT?

18 A. YES.

19 Q. ON THE WAY THERE, YOU WERE ADMINISTERED A NEBULIZER;
20 IS THAT CORRECT?

21 A. CALCIUM GLUCONATE NEBULIZER TREATMENT.

22 Q. BUT EVEN THOUGH THAT RESULTED IN SOME IMPROVEMENT OF
23 YOUR SYMPTOMS, WHEN YOU GOT TO THE HOSPITAL YOU
24 STILL -- I BELIEVE IT WAS YOUR TESTIMONY AT YOUR
25 DEPOSITION THAT YOU STILL WEREN'T ABLE TO HOLD A

1 FULL CONVERSATION; IS THAT CORRECT?

2 A. RIGHT, WHEN I FIRST WAS AT THE HOSPITAL, I -- I HAD
3 IMPROVED, BUT I COULD NOT HOLD A -- A FULL
4 CONVERSATION.

5 Q. OKAY. WERE YOU STILL IN RESPIRATORY DISTRESS AT THE
6 TIME?

7 A. I WAS IMPROVING, BUT I WAS STILL IN DISTRESS.

8 Q. WERE YOU EXPERIENCING ANY SYMPTOMS OF WHEEZING AT
9 THE TIME?

10 A. I HAD BEEN EXPERIENCING LIKE A STRIDOR EARLIER, AND
11 THAT RESOLVED IN THE AMBULANCE.

12 Q. REFERRING TO PAGE -- CLAIMANT'S PAGE 47, CAN YOU
13 EXPLAIN -- CONSIDERING YOUR TESTIMONY, CAN YOU
14 EXPLAIN WHY THE DR. CHAND, I BELIEVE, REPORTED THAT
15 YOU HAD NO EVIDENCE OF RESPIRATORY DISTRESS, THAT
16 YOU WERE ABLE TO GIVE YOUR HISTORY WITHOUT
17 DIFFICULTY AND THAT YOU HAD NO EVIDENCE OF WHEEZING?
18 DO YOU KNOW WHY THAT WOULD MAKE ITS WAY INTO HIS
19 REPORT GIVEN THE SYMPTOMS THAT YOU TOLD US YOU WERE
20 HAVING?

21 A. I DON'T REMEMBER DR. CHAND.

22 BY MR. HALL:

23 I JUST -- I HAVE JUST THE SAME OBJECTION AS
24 EARLIER.

25 BY COMMISSIONER BARDEN:

1 OKAY, ALL RIGHT, AND IT'S NOTED.

2 CROSS EXAMINATION RESUMED BY MR. LICHTY:

3 Q. WELL, REGARDLESS OF WHO THE NAME OF THE DOCTOR WAS,
4 IT'S REFLECTING IN THE REPORTS FROM UNIVERSITY
5 HOSPITAL. CAN YOU EXPLAIN WHY THAT WOULD BE IN
6 THERE GIVEN YOUR TESTIMONY REGARDING THE SYMPTOMS
7 THAT YOU CLAIM YOU WERE HAVING AT THE TIME?

8 BY MR. HALL:

9 YOUR HONOR, SHE SHOULDN'T BE REQUIRED TO
10 EXPLAIN WHAT ANOTHER DOCTOR'S CONCLUSION IS. SHE
11 DOESN'T KNOW WHAT'S IN THAT DOCTOR'S MIND.

12 BY COMMISSIONER BARDEN:

13 WELL, I THINK YOU'RE GOING TO HAVE TO SHOW IT
14 TO HER. THAT WOULD BE A MORE FAIR WAY TO DO IT SO
15 SHE KNOWS THAT YOU'RE TALKING ABOUT.

16 CROSS EXAMINATION RESUMED BY MR. LICHTY:

17 Q. AGAIN, THIS IS CLAIMANT'S APA PAGE NUMBER 47.

18 BY MR. HALL:

19 CAN SHE HAVE JUST A MOMENT TO REVIEW IT?

20 BY COMMISSIONER BARDEN:

21 SURE, SHE CAN.

22 THE WITNESS ANSWERS:

23 A. THIS WAS -- THIS WAS DONE WHEN I WAS BEING
24 DISCHARGED. DR. CHAND IS WHO DISCHARGED ME. WHEN I
25 WAS ADMITTED TO THE -- TO THE PLACE THAT I WAS

1 ADMITTED TO, DR. HOBBS, ELGIN HOBBS WAS THE DOCTOR
2 ATTENDING TO ME, AND HE SAID HE WAS ADMITTING ME FOR
3 INHALATION HYPOPHOSPHATEMIA AND A WORK UP ON THE
4 RESPIRATORY DISTRESS AND SHORTNESS OF BREATH IS WHAT
5 HE WAS GOING TO DO, AND THIS DOCTOR, I DIDN'T SEE TO
6 -- HE WAS A HOSPITALIST. HE WAS SOMEBODY THAT
7 DISCHARGED ME.

8 CROSS EXAMINATION RESUMED BY MR. LICHTY:

9 Q. WHEN WERE YOU ADMITTED TO THE HOSPITAL THAT DAY?

10 A. EXCUSE ME?

11 Q. WHAT TIME WERE YOU ADMITTED TO THE HOSPITAL?

12 A. I WOULD SAY WHEN THEY MOVED ME OVER TO THIS CLINICAL
13 OBSERVATION PLACE WAS I'D SAY AROUND 8:00 THAT
14 NIGHT.

15 Q. OKAY. AND I'VE REVIEWED HOSPITAL REPORTS FOR THE
16 BETTER PART OF 50 YEARS, AND I AGREE THAT THEY CAN
17 BE CONFUSING SOMETIMES. I'M GOING TO SHOW YOU THIS
18 REPORT THOUGH, WHICH IS ALSO UNIVERSITY HOSPITAL.
19 IT'S CLAIMANT'S APA PAGE 49, AND THIS REPORT IS
20 DATED AUGUST 21ST AT 8:10 IN THE EVENING, WHICH WAS
21 RIGHT AFTER YOUR ADMISSION, CORRECT?

22 A. THAT WAS PROBABLY SOMEWHERE NEAR THERE.

23 Q. AND I WOULD ASK YOU TO READ WHERE IT SAYS "SHE IS
24 ABLE TO SPEAK IN FULL SENTENCES WITHOUT ANY
25 DIFFICULTY, AND HER OXYGEN SATURATION IS 100 PERCENT

1 OF ROOM AIR WITHOUT OBVIOUS RESPIRATORY DIFFICULTY,"
2 AND EXPLAIN TO ME HOW THAT SQUARES WITH YOUR
3 TESTIMONY REGARDING YOUR CONDITION WHEN YOU WENT TO
4 THE HOSPITAL.

5 A. WHEN I WENT TO THE HOSPITAL, I WAS IN RESPIRATORY
6 DISTRESS. THEY GAVE ME OXYGEN, AND THEY HAD GIVEN
7 ME THE NEBULIZER TREATMENT 'TIL IT WAS COMPLETELY
8 USED OUT OF THE LITTLE NEBULIZER CONTAINER, BECAUSE
9 I RESPONDED WELL TO THAT, AND BY THIS TIME, I WAS
10 ABLE TO GIVE MY -- BY THIS TIME AT NIGHT WHEN I WENT
11 TO THE CLINICAL DECISION UNIT, I WAS ABLE TO TALK
12 READILY TO THE NURSE THAT TOOK MY INFORMATION DOING
13 A HISTORY.

14 Q. I'M SORRY, WHAT TIME DID YOU SAY YOU WERE ADMITTED
15 TO THE HOSPITAL?

16 A. I THINK IT WAS SOMEWHERE AROUND EIGHT.

17 Q. AND THAT'S 21 MINUTES LATER, AND YOU MADE THAT
18 AMOUNT OF RECOVERY IN 20 MINUTES?

19 A. I'M CONFUSED AS TO WHAT YOU'RE SAYING.

20 Q. OKAY. YOU'RE SAYING THAT THE REASON YOU WERE ABLE
21 TO PROVIDE THIS TYPE OF HISTORY THAT DIDN'T SHOW ANY
22 OUTWARD SIGNS IS BECAUSE YOU RESPONDED WELL TO THE
23 TREATMENT. THIS NOTE WAS TAKEN -- WELL, IT SAYS
24 "8:10." SO, IF YOU GOT THERE AT 8:00, THIS NOTE WAS
25 PREPARED 10 MINUTES AFTER YOU GOT THERE. IS IT YOUR

1 TESTIMONY THAT YOU RESPONDED TO THE TREATMENT THEY
2 PROVIDED YOU IN TEN MINUTES?

3 A. I THINK -- I THINK SOMEHOW I'M CONFUSED. I THOUGHT
4 YOU WERE TALKING ABOUT WHEN I WAS -- WHEN I CAME TO
5 THE EMERGENCY ROOM ---

6 BY MR. HALL:

7 I'M GOING TO ENTER AN OBJECTION. I HAVE TO
8 ENTER AN OBJECTION. IF YOU'RE LOOKING AT THE
9 RECORD, AND I DON'T WANT TO IMPEDE HIS CROSS
10 EXAMINATION, BUT IT SAYS THE NOTE TIME WAS 9:50
11 A.M., AND SO I MEAN, THERE'S SOME DISCREPANCIES ON
12 HERE. HE'S ---

13 BY COMMISSIONER BARDEN:

14 OKAY.

15 BY MR. HALL:

16 I JUST THINK THAT'S IMPORTANT FOR THE
17 COMMISSIONER TO KNOW.

18 BY COMMISSIONER BARDEN:

19 ABSOLUTELY, IT IS.

20 BY MR. LICHTY:

21 WELL, AND I WOULD RESPOND THAT HE IS REFERRING
22 TO THE NOTE ABOVE THAT. I'M REFERRING TO THE NOTE
23 ON THE BOTTOM HALF OF THE PAGE, WHICH IS AUGUST 21ST
24 AT 8:10 P.M.

25 BY COMMISSIONER BARDEN:

CROSS EXAMINATION RESUMED BY MR. LICHTY:

Q. AND THEN BECAUSE YOU HAVE A PACEMAKER, IT REPORTS
BACK DATA TO YOUR TREATING PHYSICIANS EVEN UP 'TIL
TODAY, CORRECT?

A. YES.

Q. AND YOU NEED A DOCTOR THAT MONITORS THAT DATA AND
INTERPRETS IT TO HELP MANAGE YOUR MEDICAL CONDITION,
CORRECT?

A. THAT'S CORRECT.

Q. AND THAT DOCTOR IS DR. AQUILINA, CORRECT?

A. YES. HE IS ALSO THE CARDIOLOGIST THAT'S BEEN
FOLLOWING ME THROUGH ALL THIS.

Q. OKAY. MS. MURPHY, JUST BRIEFLY, AND I'M WRAPPING UP
HERE. ONE OF THE THINGS THAT YOU HAD ASKED THE
COMMISSIONER TO AWARD YOU IS AN EVALUATION WITH A
TOXICOLOGIST; IS THAT RIGHT?

A. CORRECT.

Q. DO YOU RECALL SEEING DR. GORDON EARLY?

A. CORRECT.

Q. DO YOU HAVE ANY REASON TO BELIEVE HE IS NOT A
TOXICOLOGIST?

A. HE EVALUATED MY LUNGS.

Q. OKAY. DO YOU HAVE ANY REASON TO BELIEVE THAT HE IS
NOT A TOXICOLOGIST?

A. I COULDN'T SAY HE WAS OR NOT. I DON'T KNOW.

1 Q. THAT WAS AN APPOINTMENT THAT THE INSURANCE COMPANY
2 SENT YOU TO?

3 A. YES.

4 Q. HMM. THAT BRINGS UP ANOTHER POINT. YOU WERE
5 EVALUATED BY A PULMONOLOGIST AT UNIVERSITY HOSPITAL,
6 CORRECT?

7 A. YES.

8 Q. AND THAT WAS DR. BRENNAN (PHONETIC); IS THAT RIGHT?

9 A. BRANNEN.

10 Q. BRANNEN. DR. BRANNEN PRACTICES AROUND THE AUGUSTA
11 AIKEN AREA; IS THAT CORRECT?

12 A. AS FAR AS I KNOW.

13 Q. WHEN YOU WERE DISCHARGED FROM UNIVERSITY HOSPITAL,
14 YOUR INSTRUCTIONS WERE TO FOLLOW UP WITH DR.
15 BRANNEN; IS THAT CORRECT?

16 A. NO.

17 Q. OKAY. IF THE MEDICAL REPORTS SUGGESTED THAT YOU
18 WERE RECOMMENDED TO FOLLOW UP WITH DR. BRANNEN,
19 WOULD YOU DISPUTE THAT?

20 A. NO, I WOULDN'T DISPUTE THAT; HOWEVER, THEY TOLD ME
21 HE DIDN'T TAKE WORKMAN'S COMP.

22 Q. OKAY. AT THE TIME, YOU WEREN'T ON WORKERS' COMP,
23 CORRECT, BECAUSE THE CLAIM HAD BEEN DENIED?

24 A. NO. I WAS ON WORKMAN'S COMP. THEY APPROVED
25 EVERYTHING IN THE HOSPITAL STAY.

1 Q. WELL, LET ME ASK YOU THIS: DO YOU RECALL GOING TO
2 SEE DR. MITCHELL IN CHARLESTON?

3 A. YES, I DO.

4 Q. AND THAT WAS AN APPOINTMENT THAT THE INSURANCE
5 CARRIER ARRANGED FOR YOU, CORRECT?

6 A. YES, THAT'S CORRECT.

7 Q. AND DO YOU RECALL HAVING HEALTH CONCERNS ABOUT
8 TRAVELING FROM YOUR HOME TO CHARLESTON OR TO SEE DR.
9 MITCHELL?

10 A. YES, I DID. THE DRIVE, HAVING TO DRIVE THERE.

11 Q. SO, IS TRAVELING A LONG DISTANCE DIFFICULT FOR YOU
12 PHYSICALLY IN YOUR CURRENT CONDITION?

13 A. IN MY CURRENT CONDITION, IF -- IF CERTAIN THINGS ARE
14 GOING ON WITH SYMPTOMS, IT IS HARD FOR ME. MY LEGS
15 HAVE -- MY LEGS SWELL, AND IT'S PAINFUL.

16 Q. OKAY. SO, THE PULMONOLOGIST THAT YOU ASKED THE
17 COMMISSION TO AWARD YOU IS DR. ALLEYNE. HE'S IN
18 ROCK HILL, CORRECT?

19 A. THAT'S CORRECT.

20 Q. HOW LONG DOES IT TAKE YOU TO GET FROM YOUR HOME TO
21 DR. ALLEYNE'S OFFICE?

22 A. MY HUSBAND DRIVES. IT'S USUALLY OVER TWO HOURS.

23 Q. WHY WOULD YOU ELECT TO SEE A PULMONOLOGIST SO FAR
24 AWAY FROM YOUR HOME WHEN TRAVELING CAUSES YOU PAIN?

25 A. BECAUSE HE IS THE DOCTOR THAT WOULD TAKE MY CASE

1 THAT I SPOKE TO, AND HE MADE AN APPOINTMENT, AND I
2 REALLY -- DR. AQUILINA HAD TOLD ME I REALLY NEED TO
3 SEE A PULMONOLOGIST, AND IT'S NOT EASY TO FIND
4 DOCTORS THAT DO WORKMAN'S COMP THAT WILL TAKE A
5 DIRECT PAY IN MY AREA, AS WHEN I CALLED THE PEOPLE
6 IN MY AREA THAT I TRUSTED, THEY DON'T TAKE WORKMAN'S
7 COMP.

8 Q. HOW DID YOU FIND OUT ABOUT DR. ALLEYNE?

9 A. DR. ALLEYNE IS SOMEBODY THAT WAS GIVEN TO ME AS A --
10 AS A RECOMMENDED PULMONOLOGIST DOCTOR, AND I CALLED
11 HIM, AND HE SAID THAT I COULD COME IN, AND THAT I
12 COULD PAY, PAY MY BILL.

13 Q. WHO GAVE YOU THE RECOMMENDATION?

14 A. MY ATTORNEY.

15 BY MR. LICHTY:

16 COMMISSIONER, I HAVE NO FURTHER QUESTIONS.

17 BY COMMISSIONER BARDEN:

18 ALL RIGHT. ANYTHING ON REDIRECT, MR. HALL?

19 BY MR. HALL:

20 JUST A COUPLE OF THINGS.

21 BY COMMISSIONER BARDEN:

22 ALL RIGHT.

23 RE-DIRECT EXAMINATION BY MR. HALL:

24 Q. VERY BRIEFLY, DO YOU RECALL SEEING A PULMONOLOGIST -
25 - LET ME JUST LET HIM FINISH. I'M SORRY. DO YOU

1 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

2 BY THE WITNESS:

3 MY NAME IS TODD TYRONE LAWRENCE.

4 BY COMMISSIONER BARDEN:

5 IS TYRONE T-Y-R-O-N-E?

6 BY THE WITNESS:

7 YES, MA'AM.

8 BY COMMISSIONER BARDEN:

9 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS
10 THAT MR. HALL HAS FOR YOU. I'M GOING TO ASK AS BEST
11 YOU CAN, SIR, IF YOU WILL DIRECT YOUR RESPONSES
12 TOWARDS ME.

13 BY THE WITNESS:

14 OKAY.

15 BY COMMISSIONER BARDEN:

16 THANK YOU. MR. HALL.

17 BY MR. HALL:

18 THANK YOU VERY MUCH.

19 DIRECT EXAMINATION BY MR. HALL:

20 Q. YOU'VE INTRODUCED YOURSELF AS TODD LAWRENCE?

21 A. YES, SIR.

22 Q. ARE YOU CURRENTLY EMPLOYED?

23 A. NO, SIR.

24 Q. WHERE WAS YOUR LAST JOB?

25 A. HALOCARBON PRODUCTS.

1 IT'S SUCH A STRONG PUNGENT ODOR. YOU CAN'T STAY
2 AROUND THAT.

3 Q. YOU KNOW NOT TO BREATHE IT?

4 A. YES.

5 Q. ALL RIGHT. IS IT USED TO MAKE SEVOFLURANE?

6 A. YES, SEVOFLURANE, WE USE IT IN THAT PROCESS.

7 Q. WHAT IS SEVOFLURANE?

8 A. IT'S AN ANESTHETIC USED IN MEDICAL FIELD.

9 Q. ALL RIGHT. AND ARE YOU FAMILIAR WITH THE PRACTICE
10 THAT EXISTED AT HALOCARBON CALLED VENTING H.F.?

11 A. YES.

12 Q. ALL RIGHT. WHAT IS THAT? WHAT IS VENTING H.F.?

13 A. WELL, WHAT -- AND VENTING IS -- AND YOU CAN VENT TO
14 A SYSTEM. OUR SYSTEM HAS A VENT THAT THEY CAN VENT
15 TO, SO A SCRUBBER SYSTEM, AND WE'RE ALSO VENTING TO
16 CARBOYS ALSO, AND THAT'S WHERE IT CAN BECOME
17 DANGEROUS AT RIGHT THERE.

18 Q. ALL RIGHT. WHAT IS A SCRUBBER?

19 A. A SCRUBBER IS A TALL COLUMN WITH A PACKING IN IT
20 THAT WILL FEED LIKE A -- YOU HAVE WATER GOING IN IT,
21 OR YOU CAN FEED CONCENTRATE, WHICH IS N.O.H. 50
22 PERCENT TO IT, AND WHAT IT'S USED -- IS USED AS TO
23 NEUTRALIZE WHATEVER VENT STREAM THAT YOU ARE VENTING
24 TO THAT SCRUBBER.

25 Q. ALL RIGHT. IF YOU VENT TO A SCRUBBER, CAN THE

1 CHEMICAL GET INTO THE AIR?

2 A. NO, IT SHOULD BE ALL ENCLOSED AT THAT TIME THERE.

3 Q. WAS THE PRACTICE OF VENTING H.F., WHY WAS THAT DONE?
4 PARTICULARLY WHY WAS VENTING TO A CARBOY DONE?

5 A. TO GET A PIECE OF EQUIPMENT READY FOR MAINTENANCE
6 WHETHER OR MAYBE IT HAD A LEAK ON THE SYSTEM, AND
7 YOU WOULD HOOK UP YOUR TUBING TO VENT TO A CARBOY.
8 IF IT WAS CAPABLE, THEY WOULD VENT TO THE SCRUBBER,
9 BUT IF IT WASN'T, WE WOULD VENT TO A CARBOY.

10 Q. WAS IT ROUTINE TO VENT TO A CARBOY?

11 A. YEAH, WE DID IT ALL THE TIME.

12 Q. ALL RIGHT. IS IT PROPER?

13 A. NO, IT'S NOT THE RIGHT THING TO DO, BECAUSE YOU CAN
14 OVERWHELM THAT CARBOY, AND THEN EVEN THOUGH YOU GOT
15 IT DOWN INTO THE SOLUTION THAT IT'S VENTING INTO,
16 ONCE IT BUBBLING -- ONCE IT GETS SATURATED WITH
17 WHATEVER YOU'RE VENTING INTO, IF YOU'RE NOT WATCHING
18 IT CLOSELY, IT WILL START FUMING OUT OF THAT CARBOY,
19 BECAUSE IT'S JUST A -- JUST A JUG OR CONTAINER WITH
20 A TOP ON IT, AND YOU JUST RUN THE TUBING DOWN IN
21 THERE, AND IT'S NOTHING TO PROTECT IT FROM COMING
22 OUT OF THERE, YOU KNOW, THE VAPORS. THE VAPORS GOT
23 TO GO SOMEWHERE. IT'S NOT LIKE A -- IT'S NOT LIKE A
24 TIGHT HOOKUP ---

25 Q. ALL RIGHT.

1 A. --- TO WHERE IT'S CONSTANTLY VENTING TO A SCRUBBER
2 OR SOMETHING.

3 Q. ALL RIGHT. BUT WAS VENTING TO A CARBOY ROUTINELY
4 DONE PRIOR TO AUGUST 11TH, 2015?

5 A. YES, YES.

6 Q. ALL RIGHT. AND DID YOU SEE MONICA ON AUGUST THE
7 21ST, THE DAY WHENEVER SHE WAS TRANSPORTED TO THE
8 HOSPITAL?

9 A. YES, I -- I WAS CALLED DOWN THERE TO BRING THE
10 BREATHING TREATMENT, CALCIUM GLUCONATE AND THE
11 OXYGEN TANK. LIKE I SAID, I WAS IN E.H. AND S. AT
12 THAT TIME. SO, WHEN I GOT INTO THE OFFICE, SHE WAS
13 LAYING IN THE FLOOR, AND SHE WAS WHEEZING AND
14 HOLDING HER CHEST AND COUGHING, AND SHE COULDN'T GET
15 UP, AND...

16 Q. WHO ELSE WAS THERE?

17 A. KEN -- KEN MCDOWELL, HE CAME IN THERE ALSO. HE WAS
18 DOWN THERE WHEN I GOT THERE. HE'S THE ONE THAT
19 CALLED ME DOWN THERE TO BRING THE STUFF, AND SHE
20 COULDN'T GET UP, AND ME PERSONALLY, I DIDN'T LIKE
21 THE WAY THAT HE TREATED HER AND TALKED WITH HER. IT
22 WAS VERY RUDE, AND IT WAS HATEFULLY, "YOU NEED TO
23 GET UP." SHE COULDN'T. I SAID, "WE'RE GOING TO
24 HAVE TO PICK HER UP AND PUT HER IN A CHAIR TO HELP
25 THE ADMINISTRATORS." SHE COULDN'T DO NOTHING. SHE

1 COULDN'T CATCH HER BREATH, AND WE FINALLY GOT HER UP
2 IN THE CHAIR. WE WAS TRYING TO ADMINISTRATE, AND
3 HIS Demeanor AND ATTITUDE WAS JUST NOT RIGHT. EVEN
4 AFTER THAT POINT THAT -- I DON'T KNOW IF I SAID "SHE
5 NEEDS TO GO TO THE HOSPITAL" OR IF SOMEBODY CALLED
6 THE AMBULANCE. SHE DIDN'T LOOK GOOD AT ALL. IT
7 WAS...

8 Q. WAS THERE ANOTHER LEAK OF H.F. THAT DAY?

9 A. YES, THERE WAS. YES, SIR.

10 Q. DO YOU KNOW IF MONICA WAS ANYWHERE NEAR IT OR NOT?

11 A. NO, SHE WAS DOWN IN THE WAREHOUSE AT THAT TIME. SO,
12 SHE WOULDN'T HAVE BEEN NEAR IT, BUT I THINK THAT ONE
13 HAPPENED WHILE SHE WAS THERE, AND THEN AFTER THE
14 AMBULANCE CAME AND GOT HER, LATER ON THAT EVENING,
15 WE HAD ANOTHER ONE HAPPEN, BECAUSE THE PLANT MANAGER
16 TOLD THEM TO PULL A PANCAKE OUT OF A VALVE THAT -- A
17 COLUMN COULDN'T BE ISOLATED .

18 Q. WHY ARE YOU NO LONGER EMPLOYED AT HALOCARBON?

19 A. THEY SAID THAT I FAILED THE URINE TEST, AND I GOT
20 ALL MY RESULTS BACK. I FOUND NO DRUGS ON THE TEST.
21 MY CREATINE LEVEL WAS LOW, SOMETHING LIKE THAT, AND
22 THEY -- THEY SAID I DILUTED THE SAMPLE. SO, THE
23 FIRST ONE WAS INVALID. SO, I CAME BACK AND TOOK
24 ANOTHER ONE. I SAID "IT'S GOING TO BE THE SAME
25 THING," BECAUSE THE MEDICINE I HAVE TO TAKE NOW, AND

1 I HAVE TO DRINK PLENTY OF WATER WITH IT, AND I DRINK
2 A LOT OF WATER REGULAR, AND THAT ONE CAME BACK
3 DILUTED, DILUTED. THEY SAY DILUTED. AND SO I FILED
4 FOR UNEMPLOYMENT, AND THEY TRIED TO STOP ME FROM
5 GETTING MY UNEMPLOYMENT. SO, I HAD TO APPEAL THAT,
6 BECAUSE THEY DID DENY ME AT FIRST UNTIL I SENT THEM
7 MY RECORDS SAYING MY MEDICAL CONDITION, MY DOCTOR'S
8 STATEMENT, THE WATER CONSUMPTION THAT I'M SUPPOSED
9 TO TAKE, AND THEY STARTED PAYING ME MY UNEMPLOYMENT.

10 Q. ALL RIGHT.

11 BY MR. HALL:

12 ANSWER ANY QUESTIONS THAT EITHER THE
13 COMMISSIONER MAY HAVE FOR YOU OR MR. LICHTY.

14 BY THE WITNESS:

15 YES, SIR.

16 BY COMMISSIONER BARDEN:

17 MR. LICHTY.

18 CROSS EXAMINATION BY MR. LICHTY:

19 Q. MR. LAWRENCE, DO YOU MIND IF I LOOK AT WHAT'S IN
20 YOUR HAND THERE?

21 A. OKAY.

22 Q. I WAS NOT SERVED WITH A SUBPOENA. ARE YOU UNDER THE
23 IMPRESSION THAT YOU ARE UNDER SUBPOENA TO BE HERE
24 TODAY?

25 A. YES, SIR.

1 A. BECAUSE I SEEN THE WAY SHE WAS TREATED, AND I WAS
2 GOING TO HELP HER REGARDLESS.

3 Q. OKAY. NOW, LET ME ASK YOU THIS. WHAT IS YOUR
4 HIGHEST LEVEL OF EDUCATION?

5 A. HIGH SCHOOL.

6 Q. DO YOU HAVE ANY POST GRADUATE DEGREES?

7 A. NO, NO, HIGH SCHOOL.

8 Q. ANY DEGREES OR CERTIFICATES IN INDUSTRIAL HYGIENE,
9 ANYTHING LIKE THAT?

10 A. I DON'T UNDERSTAND. NO.

11 Q. OKAY. ARE YOU CURRENTLY FACING ANY CRIMINAL
12 CHARGES?

13 A. I DID GET A D.U.I.

14 Q. OKAY.

15 A. YES.

16 Q. OKAY. WERE THERE ANY OTHER CHARGES ASSOCIATED WITH
17 THAT D.U.I.?

18 A. LIKE WHAT?

19 Q. WAS A CHARGE BROUGHT AGAINST YOU FOR HAVING
20 NARCOTICS IN THE VEHICLE YOU WERE IN AT THE TIME?

21 A. OH, NO, NO. I JUST GOT D.U.I. A.B.C. VIOLATION.
22 THAT WAS IT.

23 Q. HAVE YOU EVER BEEN FOUND GUILTY OF FRAUD?

24 A. NO, SIR.

25 Q. HAVE YOU EVER TESTIFIED UNDER OATH BEFORE?

1 A. HE'S A PRODUCTION MANAGER.

2 Q. PRODUCTION MANAGER, OKAY.

3 A. YES, SIR.

4 Q. NOW, YOU TESTIFIED THAT WHILE YOU WERE EMPLOYED BY
5 HALOCARBON, THAT YOU USED TO VENT TO CARBOYS ALL THE
6 TIME; IS THAT CORRECT?

7 A. YES, SIR, I'VE DONE IT.

8 Q. DOES THAT INCLUDE VENTING H.F. TO CARBOYS ALL THE
9 TIME?

10 A. YES, SIR.

11 Q. OKAY. HAVE YOU EVER DEVELOPED ANY PERMANENT HEALTH
12 CONDITIONS AS A RESULT OF DOING THAT?

13 A. YOU KNOW WHAT, I'M NOT SURE OF THAT. I'M NOT SURE
14 WHAT CAUSED MY ABDOMINAL RUPTURE OR THINGS LIKE
15 THAT. I'VE HAD SOME PROBLEMS, HIGH BLOOD PRESSURE
16 AND THINGS LIKE THAT. I'M NOT SURE.

17 Q. YOUR HEART'S -- YOU HAVEN'T HAD HEART FAILURE, HAVE
18 YOU?

19 A. WELL, YOU KNOW, THAT'S ALMOST PART OF YOUR AORTA.
20 ALL OF THAT WORKS INTO ONE THING LIKE THAT.

21 Q. YOU'VE NOT BEEN DIAGNOSED WITH HEART FAILURE; IS
22 THAT CORRECT?

23 A. NO, I HAVE NOT WITH HEART FAILURE YET.

24 Q. AND DO YOU HAVE -- ARE YOU CURRENTLY RECEIVING ANY
25 PULMONARY TREATMENT FOR ANYTHING?

- 1 A. NO, NO. I'VE NEVER BEEN EXPOSED TO IT TO WHERE I
2 WAS LIKE -- I KNEW I COULD HANDLE IT, SAFE HANDLING.
3 I NEVER REALLY HAD TO WALK INTO A CLOUD OF IT OR
4 SOMETHING. BEFORE IT GOT OUT OF HAND -- I SEEN THEM
5 OUT OF HAND PLENTY OF TIMES, BUT WE SUIT UP TO GO IN
6 WITH BREATHING AIR ON TO HANDLE THAT SITUATION.
- 7 Q. BUT YOU WOULD AGREE THAT YOU'VE BEEN INVOLVED IN THE
8 PROCESS OF VENTING H.F. TO A CARBOY SEVERAL TIMES
9 AND NEVER DEVELOPED ANY PULMONARY OR HEART PROBLEMS
10 AS A RESULT; WOULD YOU AGREE WITH THAT?
- 11 A. YEAH, YEAH.
- 12 Q. OKAY. NOW, I GET THE IMPRESSION, AND CORRECT ME IF
13 I'M WRONG THAT HALOCARBON TERMINATED YOUR
14 EMPLOYMENT; IS THAT RIGHT?
- 15 A. YES, SIR.
- 16 Q. NOW, WHEN YOU APPLIED FOR UNEMPLOYMENT BENEFITS,
17 THEY CONTESTED OR -- YEAH, THEY CONTESTED YOUR
18 UNEMPLOYMENT BENEFITS; THAT'S CORRECT?
- 19 A. YES, SIR.
- 20 Q. THAT MADE YOU ANGRY, DIDN'T IT?
- 21 A. EXCUSE ME?
- 22 Q. DID THAT MADE YOU ANGRY?
- 23 A. NAW, I MEAN, HEY, THIS -- YOU'VE JUST GOT TO DO WHAT
24 -- DO WHAT'S RIGHT. I TURNED MY DOCTOR STUFF IN TO
25 THEM WHEN I APPEALED IT, AND IF THEY WOULD HAVE

1 DENIED IT, I HAD TO EAT IT. SO, THERE'S NO NEED TO
2 BE ANGRY AT SOMETHING THAT YOU HAVE NO CONTROL OVER.

3 Q. DID YOU FEEL THAT HALOCARBON WAS NOT DOING THE RIGHT
4 THING BY YOU?

5 A. YES, YES.

6 Q. OKAY.

7 A. YES.

8 Q. OKAY. AND IS YOUR TESTIMONY HERE TODAY IN ANY WAY
9 TO RETALIATE TOWARDS HALOCARBON ---

10 A. NO.

11 Q. --- BECAUSE OF THE WAY ---

12 A. NO.

13 Q. --- THEY TREATED YOU?

14 A. NO. NO, SIR. I'VE -- I HAVE TALKED WITH GUYS THAT
15 STILL WORK THERE, OR I HAVE NO PROBLEM WITH THEM.
16 JUST WANT WHAT'S RIGHT FOR PEOPLE; THAT'S ALL.

17 BY MR. LICHTY:

18 THAT'S ALL THE QUESTIONS I HAVE.

19 BY COMMISSIONER BARDEN:

20 ALL RIGHT. ANYTHING ON REDIRECT, MR. HALL?

21 BY MR. HALL:

22 JUST VERY BRIEFLY.

23 RE-DIRECT EXAMINATION BY MR. HALL:

24 Q. WHENEVER YOU'VE BEEN WORKING AROUND H.F. AND YOU
25 ACTUALLY KNEW THAT IT WAS COMING OUT, DID YOU AVOID

1 BY COMMISSIONER BARDEN:

2 ALL RIGHT. WILL YOU PLEASE STATE YOUR FULL
3 NAME FOR THE RECORD?

4 BY THE WITNESS:

5 KENNETH JAMES MCDOWELL.

6 BY COMMISSIONER BARDEN:

7 IS THAT M-C-D-O-W-E-L-L?

8 BY THE WITNESS:

9 YES.

10 BY COMMISSIONER BARDEN:

11 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS
12 MR. LICHTY HAS FOR YOU FIRST.

13 DIRECT EXAMINATION BY MR. LICHTY:

14 Q. MR. MCDOWELL, WHERE DO YOU WORK?

15 A. HALOCARBON PRODUCTS.

16 Q. WHAT IS YOUR POSITION THERE?

17 A. DIRECTOR OF REGULATORY AFFAIRS.

18 Q. WHAT ARE YOUR JOB RESPONSIBILITIES?

19 A. I'M RESPONSIBLE FOR ALL DIRECTION GUIDANCE POLICIES
20 FOR THE ENVIRONMENT, HEALTH, SAFETY AND SECURITY.

21 Q. HAS THERE EVER BEEN AN OVERLAP BETWEEN THAT AND
22 SAFETY?

23 A. YES.

24 Q. OKAY. WHAT KIND OF SAFETY ROLES DO YOU TAKE ON?

25 A. IT INCLUDES DIRECTOR OF SAFETY AS WELL.

- 1 A. THIS IS THE EASTERN END OF THE NORTH PATIO LOOKING
2 AT THE DOOR, THE FIRST DOOR THAT EXITS AREA TWO.
- 3 Q. IS THAT THE DOOR MS. MURPHY WOULD HAVE EXITED TO
4 DUMP THE FLAMMABLE SLOPS?
- 5 A. YES, IT IS.
- 6 Q. OKAY. NOW, IN THE PRIOR PICTURE, YOU IDENTIFIED A
7 WHITE WALL, WOULD THAT BE LOCATED IMMEDIATELY TO THE
8 LEFT OF THIS PHOTOGRAPH?
- 9 A. YES.
- 10 Q. OKAY. SO, THIS DOOR IS AT THE FAR END OF THE
11 HALLWAY?
- 12 A. CORRECT.
- 13 Q. LET ME ASK YOU THIS: THE H.F. LEAK THAT WAS
14 DISCOVERED, AT THE TIME THAT THE CARBOYS WERE
15 ATTACHED, WAS IT STILL LEAKING?
- 16 A. THE LEAK HAD BEEN SECURED, BUT THERE WAS INSULATION
17 ON THERE THAT WOULD HAVE BEEN SATURATED WITH THE
18 MATERIAL THAT WAS H.F., SEVOFLURANE AND SOME
19 H.F.I.P. IT WAS MORE THAN H.F. THAT WAS IN THERE.
- 20 Q. OKAY.
- 21 A. SO, THERE STILL WOULD HAVE BEEN SOME MATERIAL IN
22 THAT INSULATION.
- 23 Q. WOULD THE WET INSULATION BE VISIBLE IN THAT
24 PHOTOGRAPH?
- 25 A. NO.

1 Q. KEN, NOW, I'M GOING TO SHOW YOU CLAIMANT'S APA PAGE
2 220, AND I THINK THIS IS THE LAST PHOTOGRAPH THAT
3 I'M GOING TO SHOW YOU. IN THE BOTTOM LEFT-HAND
4 CORNER OF THAT PHOTOGRAPH IS A DOOR. IS THAT THE
5 SAME DOOR THAT WE SAW IN THE PHOTOGRAPH ON
6 CLAIMANT'S APA PAGE 222?

7 A. THE PREVIOUS PHOTOGRAPH?

8 Q. THE LAST PICTURE I SHOWED YOU.

9 A. YES, IT IS.

10 Q. OKAY. LOOKING AT THAT PICTURE, IS THE LOCATION OF
11 THE WET INSULATION VISIBLE?

12 A. NOT ENTIRELY, BUT IT'S IN THAT AREA IF YOU'RE
13 LOOKING AT THE PHOTOGRAPH BETWEEN THE RAILINGS TO
14 THE STAIRS AND THAT BEAM STRAIGHT AGAINST THE WALL,
15 JUST BELOW THAT BEAM ON THE FLOORING THERE.

16 Q. OKAY. FOLLOWING MS. MURPHY'S REPORT OF AN ACCIDENT,
17 DID YOU CONDUCT AN INVESTIGATION OF WHAT WAS GOING
18 ON OUT ON THE PATIO?

19 A. YES, WE DID.

20 Q. OKAY. HOW FAR AWAY FROM THE DOOR THAT MS. MURPHY
21 WAS ATTEMPTING TO PASS THROUGH, HOW FAR AWAY WAS THE
22 WET INSULATION?

23 A. ROUGHLY 12 FEET.

24 Q. AND HOW FAR AWAY WAS THE VENTING OR THE NEAREST
25 VENTING CARBOY?

1 A. ABOUT 25 FEET.

2 BY MR. LICHTY:

3 COMMISSIONER, I'M JUST TAKING SOME TIME CUTTING
4 SOME OF THESE QUESTIONS OUT THAT HAVE ALREADY BEEN
5 ANSWERED.

6 BY COMMISSIONER BARDEN:

7 SURE, THAT'S FINE. AND WHILE YOU'RE LOOKING, I
8 DO WANT TO MAKE A STATEMENT. AS FAR AS RULE 45 DOES
9 NOT REQUIRE -- I REVISITED IT. WE JUST HAD AN OFF-
10 THE-RECORD DISCUSSION. IT DOES NOT REQUIRE SERVICE
11 ON MR. LICHTY FOR MR. LAWRENCE TO HAVE BEEN
12 SUBPOENAED TO THIS HEARING TODAY AS TO RULE 45. I
13 DON'T HAVE THE COMP RULES, BUT ANYWAY, WE'VE
14 DISCUSSED THAT, AND I JUST WANTED TO SAY THAT
15 BECAUSE I DON'T HAVE OCCASION TO REVIEW THAT VERY
16 OFTEN. SO, THANK YOU, SIR.

17 BY MR. HALL:

18 YOU'RE WELCOME. YOU'RE WELCOME.

19 BY COMMISSIONER BARDEN:

20 NOT A PROBLEM AS I ORIGINALLY THOUGHT.

21 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

22 Q. KEN, I'M GOING TO SHOW YOU WHAT HAS BEEN SUBMITTED
23 INTO EVIDENCE AS CLAIMANT'S APA PAGE NUMBER 167.
24 I'M GOING TO ASK YOU TO IDENTIFY THAT DOCUMENT.

25 A. THIS APPEARS TO BE THE INCIDENT REPORT.

1 Q. WHEN AN INCIDENT REPORT IS COMPLETED, DOES IT
2 PROVIDE A PLACE TO INDICATE THE DEGREE OF FUMES THAT
3 WERE RELEASED BY THE INCIDENT?

4 A. IT DOES.

5 Q. OKAY. DOES THAT REPORT INDICATE WHAT DEGREE OF
6 FUMES WERE RELEASED BY THIS INCIDENT?

7 A. IT'S NOTED AS "TRACE."

8 Q. AND WHAT DOES THAT MEAN?

9 A. THAT IT WOULD NOT REALLY BE MEASURABLE.

10 Q. IS THAT BECAUSE IT'S BELOW SOME MEASURING THRESHOLD?

11 A. YEAH, YOU'RE PULLING OUT -- YOU'RE ACTUALLY PULLING
12 OUT VAPORS, NO LIQUID. SO, IT WOULD BE VERY VERY
13 DIFFICULT TO MEASURE, AND THEN YOU'RE GOING THROUGH
14 IN THIS CASE A CARBOY TO ATTEMPT TO NEUTRALIZE THAT.
15 SO, WHAT COMES THROUGH THAT AFTERWARDS IS GENERALLY
16 VERY -- GENERALLY VERY SMALL AMOUNTS.

17 Q. WAS THERE AN ATTEMPT MADE TO MEASURE THE AMOUNT OF
18 FUMES THAT WERE PRESENT IN THAT AREA?

19 A. NO.

20 Q. SO, HOW DID THE AUTHOR OF THAT REPORT HAVE KNOWN TO
21 MARK IT DOWN AS TRACE VERSUS SOME MILLILITERS PER
22 VOLUME?

23 A. IF THERE HAD BEEN A LIQUID SPILL OR A LIQUID PUDDLE
24 OR ANYTHING LIKE THAT, THEN ONE WOULD HAVE MEASURED
25 IT OR CALCULATED THE AMOUNT.

1 Q. HAD THERE BEEN A SIGNIFICANT RELEASE OF H.F. FUMES
2 INTO THE AIR, WOULD THERE HAVE BEEN ANY INDICATION
3 OF THE DEGREE OF FUMES THAT WERE PRESENT?

4 A. IF THERE WOULD HAVE BEEN A RELEASE, WE WOULD HAVE
5 MEASURED THE QUANTITY THAT WAS IN THE VESSEL OR IN
6 THIS CASE THE COLUMN AND GOTTEN THE DIFFERENCE, BUT
7 THERE WAS NO SIGNIFICANT RELEASE THERE. SO, I MINOR
8 HOLE IN THE PIPE.

9 Q. AND THE COMMISSIONER IS GOING TO SPEND A LOT OF TIME
10 REVIEWING THESE DOCUMENTS LATER, AND I WANT TO HELP
11 GIVE HER SOME IDEA OF WHAT THEY ARE. I'M GOING TO
12 SHOW YOU CLAIMANT'S APA, IT'S EXHIBIT 14, IT'S ON
13 PAGE 179. CAN YOU IDENTIFY THAT REPORT?

14 A. THIS IS A STATEMENT THAT I REQUESTED THE ASSISTANT
15 SUPERVISOR CHIP BABB TO PUT IN -- I ASKED HIM TO PUT
16 HIS STATEMENT IN WRITING FROM THAT NIGHT.

17 Q. OKAY. AND DOES CHIP REPORT IN THERE ANYTHING ABOUT
18 HOW MS. MURPHY'S PHYSICAL APPEARANCE WAS AT THE
19 TIME?

20 A. HE DID. HE -- THERE WAS NOT A WHOLE LOT THERE. DO
21 YOU WANT ME TO READ WHAT'S IN HERE?

22 Q. YOU CAN.

23 A. SHE SAID -- ACCORDING TO THIS, HE TOLD -- SHE TOLD
24 HIM THAT SHE FELT LIKE THERE WAS SOMETHING IN THE
25 BACK OF HER THROAT THAT WAS TRYING TO MAKE HER COUGH

1 OR INDUCING A COUGH. THAT WAS REALLY IT.

2 Q. SIMILARLY, KEN, I'M GOING TO SHOW YOU WHAT'S BEEN
3 SUBMITTED INTO EVIDENCE AS CLAIMANT'S APA EXHIBIT
4 17, PAGE 182. CAN YOU IDENTIFY THAT?

5 A. THIS IS THE STATEMENT FROM THE PLANT MANAGER IN
6 RESPONSE TO THE REPORT AND THE INCIDENT REPORT
7 REGARDING THE PERCENT OF H.F. WITHIN THE SYSTEM.

8 Q. DID YOU ASK HIM TO COMPLETE THAT REPORT FOR YOU?

9 A. ACTUALLY, I DID NOT. WE WANTED TO MAKE SURE WE KNEW
10 WHAT PERCENT H.F. WAS IN THERE, AND WE WERE USING --
11 WE WERE USING THE TERM 40 PERCENT H.F., AND HE
12 WANTED TO MAKE SURE THAT WE UNDERSTOOD THAT IT COULD
13 BE UP TO 40 PERCENT H.F., BUT THAT WOULD NOT BE THE
14 CASE SINCE IT WOULD HAVE BEEN DILUTED WITH THE OTHER
15 MATERIALS IN THERE WITH IT, WHICH WOULD BE
16 SEVOFLURANE AND H.F.I.P.

17 BY MR. HALL:

18 WHAT IS THE APA NUMBER?

19 BY MR. LICHTY:

20 APA -- WELL, IT'S EXHIBIT 17. IT'S PAGE 182.

21 BY MR. HALL:

22 OKAY, I'M SORRY. I GOT IT MIXED UP. THANK
23 YOU.

24 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

25 Q. BASED ON THIS STATEMENT, DO YOU BELIEVE THAT THE

1 CONCENTRATION OF H.F. FUMES AT THE DOOR AT THE TIME
2 THAT THIS CARBOY WAS VENTING WOULD HAVE BEEN 40
3 PERCENT H.F.?

4 A. NO, DEFINITELY NOT.

5 Q. OKAY. DO YOU HAVE AN ESTIMATE OF WHAT IT WOULD HAVE
6 BEEN?

7 A. I DO NOT.

8 Q. WOULD ANY WORKER BE ABLE TO GO ANYWHERE NEAR H.F. AT
9 40 PERCENT?

10 A. NO.

11 Q. OKAY. WHY NOT?

12 A. NOT WITHOUT SOME TYPE OF RESPIRATORY PROTECTION.
13 YOU -- THE ODOR THRESHOLD IS AROUND POINT ONE PART
14 PER MILLION, AND THIS IS JUST -- YOU'RE GOING TO
15 WANT TO GET AWAY FROM IT, AND YOU'RE JUST -- YOUR
16 BODY IS JUST NOT GOING TO ALLOW THAT TO HAPPEN.

17 Q. FINALLY, KEN, I'M GOING TO ASK YOU TO IDENTIFY PAGE
18 163 OF THE CLAIMANT'S APAs. CAN YOU IDENTIFY THAT
19 DOCUMENT?

20 A. THIS IS A NOTE THAT I WROTE DOING A QUICK SUMMARY
21 IMMEDIATELY AFTER THE -- WE GOT THE PHONE CALL AND
22 AFTER I HAD GONE TO THE DOCTOR TO MEET MONICA THERE.

23 Q. OKAY. AND DID YOU PREPARE THAT -- WHY DID YOU
24 PREPARE THAT?

25 A. DOCUMENTATION.

1 Q. I NOTE IN THIS DOCUMENT THAT YOU'VE PREPARED, YOU
2 DISCUSS A DISCUSSION YOU HAD WITH EMILY PARRISH, AND
3 YOU STATE "I TOLD EMILY THAT THIS WAS HIGHLY
4 UNUSUAL. THAT IT HAD BEEN OVER 12 HOURS, AND MONICA
5 WAS ONLY NOW THINKING THAT SHE NEEDED POSSIBLE
6 MEDICAL CARE." CAN YOU EXPLAIN TO THE COMMISSIONER
7 WHY YOU FOUND THAT TO BE HIGHLY UNUSUAL?

8 A. I'VE DEALT WITH SEVERAL H.F. EXPOSURES, BOTH
9 INHALATION AND SKIN, OVER THE -- OVER THE YEARS, AND
10 I'VE NEVER SEEN THAT COME UP BEFORE, ESPECIALLY WITH
11 A TOTAL -- ESPECIALLY WITH A LACK OF SYMPTOMS THAT
12 WERE -- THAT WOULD HAVE BEEN PREVALENT AT THAT TIME
13 IN THE CONTROL ROOM AND THE SYMPTOMS WE WOULD HAVE
14 EXPECTED TO HAVE SEEN WERE NOT THERE, AND THEN AFTER
15 GOING TO THE DOCTOR THAT NIGHT, WHEN NOTHING CAME
16 OUT OF THE BLOOD TESTS, IT JUST DIDN'T...

17 BY COMMISSIONER BARDEN:

18 AND WHAT IS YOUR EXPERIENCE? YOU SAID YOU'VE
19 DEALT WITH H.F. EXPOSURES WHETHER BY INHALATION OR
20 THROUGH THE SKIN; WHAT ARE YOUR OBSERVATIONS OF
21 PRIOR EXPOSURE CASES?

22 BY THE WITNESS:

23 MY OBSERVATIONS?

24 BY COMMISSIONER BARDEN:

25 OR HAVE YOU EVER SEEN ANY -- YOU SAID THE

1 SYMPTOMS WEREN'T WHAT YOU EXPECTED THEM TO BE.

2 BY THE WITNESS:

3 AS AN EXAMPLE, A PRIOR INHALATION EXPOSURE, AN
4 OPERATOR THAT WAS WORKING ON A RELIEF LINE, AND
5 THERE WERE SALTS IN THERE, A PLUGGAGE IF YOU WILL,
6 AND IT CAME LOOSE, AND HE BREATHED SEVERAL GOOD
7 BREATHS OF H.F., STRONG H.F., AND HE COUGHED, GOT
8 SICK AT HIS STOMACH. WE DID A -- WE GAVE HIM A
9 TREATMENT IMMEDIATELY. HE WAS OBVIOUSLY IN
10 DISTRESS, AND THEN WE TOOK HIM TO THE HOSPITAL FOR
11 FOLLOW UP AT THAT POINT.

12 BY COMMISSIONER BARDEN:

13 OKAY. WHAT ABOUT THROUGH THE SKIN, WHAT, IF
14 ANY?

15 BY THE WITNESS:

16 I HAVE TREATED ---

17 BY COMMISSIONER BARDEN:

18 EVERYBODY IS PRETTY MUCH SUITED UP, ARE THEY
19 NOT?

20 BY THE WITNESS:

21 THEY TYPICALLY ARE, BUT ONE CAN STILL GET
22 EXPOSED. I'VE TREATED SEVERAL H.F. BURNS TO THE
23 SKIN GENERALLY -- USUALLY MINOR. SOME DILUTE, SOME
24 PURE. I'VE TAKEN TWO PEOPLE TO THE DOCTOR FOR H.F.
25 EXPOSURES ON THE SKIN BECAUSE IT WAS MORE THAN WE

1 COULD TREAT THERE. ONE PERSON HAD IT ON HIS EAR.
2 SO, THAT WAS NOTHING WE WERE -- HE NEEDED
3 INJECTIONS, AND WE DON'T -- WE DON'T DO THAT.

4 BY COMMISSIONER BARDEN:

5 OKAY.

6 BY THE WITNESS:

7 AND ANOTHER ONE HAD BURNS IN A SENSITIVE PART
8 OF HIS BODY, AND THERE WAS ENOUGH OF AN AREA THAT WE
9 WERE CONCERNED AND HAD THAT TAKEN CARE OF AT THE
10 HOSPITAL ALSO.

11 BY COMMISSIONER BARDEN:

12 ALL RIGHT, THANK YOU. MR. LICHTY.

13 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

14 Q. HOW MANY TIMES HAVE YOU -- CAN YOU ESTIMATE HOW MANY
15 TIMES YOU'VE BEEN ASKED TO ADMINISTER FIRST AID TO
16 ONE OF YOUR EMPLOYEES WHO HAS BEEN EXPOSED TO H.F.
17 BY INHALATION?

18 A. BY INHALATION?

19 Q. YES.

20 A. THREE TO FOUR IN 28 YEARS.

21 Q. DOES THAT INCLUDE MS. MURPHY?

22 A. NO.

23 Q. SO, FOUR OR FIVE IF YOU INCLUDE MS. MURPHY?

24 A. YES.

25 Q. AND HOW MANY OF THOSE WENT TO THE HOSPITAL?

- 1 A. ONE.
- 2 Q. IS THAT MS. MURPHY?
- 3 A. NO.
- 4 Q. OKAY. TWO IF YOU INCLUDE MS. MURPHY?
- 5 A. TWO IF I INCLUDE THAT.
- 6 Q. WERE ANY OF THOSE -- DID ANY OF THOSE EMPLOYEES WHO
- 7 WERE EXPOSED TO H.F. BY INHALATION, WERE ANY OF THEM
- 8 REQUIRED TO RESIGN OR QUIT THEIR EMPLOYMENT WITH
- 9 HALOCARBON DUE TO THE RESULT OF THEIR EXPOSURE?
- 10 A. NO.
- 11 Q. NOW, WHEN WAS THE FIRST TIME YOU ENCOUNTERED MS.
- 12 MURPHY FOLLOWING HER ALLEGED EXPOSURE?
- 13 A. THE NIGHT OF THE 11TH, THAT MONDAY NIGHT I BELIEVE,
- 14 AT URGENT M.D.
- 15 Q. THE FIRST TIME YOU SAW HER WAS WHEN YOU MET HER AT
- 16 THE DOCTOR'S OFFICE?
- 17 A. YES.
- 18 Q. OKAY. AT THE TIME WHEN YOU MET HER, DID SHE HAVE
- 19 ANY SIGNS OF REDNESS ON HER FACE?
- 20 A. NOT THAT I NOTICED, NO.
- 21 Q. OKAY. DID SHE EXHIBIT ANY SIGNS OF COUGHING?
- 22 A. NO.
- 23 Q. DID YOU PERCEIVE HER TO BE IN RESPIRATORY DISTRESS?
- 24 A. NO.
- 25 Q. DID THERE LOOK TO BE ANYTHING PHYSICALLY WRONG WITH

1 TO MONICA GOING OUT THERE, WELL AFTER THE
2 INVESTIGATION, ACTUALLY ONLY THIS YEAR DID WE GET
3 THAT INFORMATION. WHAT WE FOUND OUT IS THAT GEORGE
4 HAD BEEN IN THAT AREA, AND ACCORDING TO HIS
5 STATEMENT, HE ---

6 BY MR. HALL:

7 AND I'M GOING TO OBJECT TO THAT. I -- LET HIM
8 ---

9 BY COMMISSIONER BARDEN:

10 IS GEORGE HERE TODAY?

11 BY MR. HALL:

12 YEAH, HE'S HERE. LET HIM TESTIFY.

13 BY COMMISSIONER BARDEN:

14 THAT MAKES SENSE. I AGREE WITH MR. HALL.

15 SUSTAINED.

16 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

17 Q. ALL RIGHT. MR. MURPHY [sic], WHAT IS YOUR OPINION
18 OF MS. MURPHY AS AN EMPLOYEE OF HALOCARBON?

19 A. COULD YOU RESTATE THAT?

20 Q. WAS SHE A GOOD EMPLOYEE?

21 A. MS. MURPHY WAS A -- A COMPETENT EMPLOYEE.

22 Q. DID SHE PRESENT ANY MANAGEMENT CHALLENGES THAT YOU
23 ARE AWARE OF?

24 A. SHE DID.

25 Q. AND WHAT WERE THOSE?

1 A. SHE WAS HAVING PROBLEMS GETTING ALONG WITH SOME OF
2 HER COWORKERS.

3 Q. WERE YOU AWARE OF WHETHER OR NOT MS. MURPHY HAD
4 PREVIOUSLY REPORTED ANY OF HER PERSONAL CONCERNS
5 REGARDING THE SAFETY AT HALOCARBON?

6 A. SHE HAD.

7 Q. OKAY. CAN YOU ESTIMATE HOW MANY TIMES HER
8 COMPLAINTS HAD BEEN BROUGHT TO YOUR ATTENTION?

9 A. SEVERAL. I DON'T HAVE A COUNT.

10 Q. DO YOU BELIEVE -- WOULD YOU CHARACTERIZE HER AS
11 BEING SOMEONE WHO FREQUENTLY BROUGHT PERCEIVED
12 ISSUES TO THE ATTENTION OF MANAGEMENT?

13 A. SHE FREQUENTLY MADE HER -- HER THOUGHTS KNOWN, YES.

14 Q. WHEN SHE MADE HER THOUGHTS KNOWN, DID MANAGEMENT
15 INVESTIGATE HER CONCERNS?

16 A. EVERY TIME.

17 Q. AND WERE THERE ANY -- LET ME ASK YOU THIS: DID
18 MANAGEMENT EVER FIND ANY MERIT IN HER CONCERNS?

19 A. A LOT OF HER CONCERNS WERE MORE SUGGESTIONS AND
20 TRULY CONCERNS AND/OR MISUNDERSTANDINGS. SOME OF
21 THE COMPLAINTS WERE CERTAINLY LEGITIMATE, ODORS IN
22 THE LAB FROM THE CHLORINE AND SOME OF THOSE
23 COMPLAINTS WERE NOT JUST HERS BUT FROM OTHERS AND
24 CERTAINLY DID LEAD TO SOME ACTIONS.

25 Q. NOW, ARE YOU ALSO INVOLVED IN THE TRAINING PROTOCOLS

1 THAT HALOCARBON PUTS ON FOR THEIR EMPLOYEES?

2 A. YES, I AM.

3 Q. AND IN YOUR OPINION, WOULD MS. MURPHY HAVE BEEN
4 TRAINED IN THE RISKS AND DANGERS OF H.F.?

5 A. YES.

6 Q. WOULD SHE HAVE BEEN TRAINED HOW TO RESPOND TO AN
7 H.F. LEAK SOME PLACE IN THE PLANT?

8 A. ONLY FROM THE ASPECT OF STAYING AWAY FROM IT.

9 Q. OKAY. I'M ABOUT TO WRAP UP HERE. FOLLOWING THIS
10 INCIDENT, DID SAFETY SIT DOWN AND DISCUSS THINGS
11 THAT THEY COULD HAVE DONE DIFFERENTLY IN THE WAKE OF
12 THIS INCIDENT?

13 A. YES, SIR.

14 Q. OKAY. WERE ANY PROTOCOL CHANGES PUT INTO PLACE DUE
15 TO MS. MURPHY'S ALLEGED EXPOSURE?

16 A. PROTOCOLS?

17 Q. I GUESS, WHAT -- WAS THERE ANYTHING DETERMINED --
18 WELL, LET ME ASK YOU THIS FIRST: AT THE TIME OF THE
19 INCIDENT, WERE HALOCARBON PROTOCOLS FOLLOWED WITH
20 REGARD TO HOW TO RESPOND TO THE LEAK IN THE
21 ECONOMIZER?

22 A. YES.

23 Q. OKAY. AND HAVE THOSE -- IS THAT RESPONSE -- IF THE
24 SAME THING WERE TO HAPPEN TODAY, WOULD HALOCARBON'S
25 RESPONSE BE ANY DIFFERENT?

1 A. THE RESPONSE WOULD BE THE SAME, BUT WHAT WE WOULD
2 HOPE WOULD BE DIFFERENT WAS THAT THERE WOULD BE
3 BETTER COMMUNICATION AS FAR AS LETTING OTHER PEOPLE
4 KNOW THAT THERE WAS A LEAK IN THAT AREA.

5 Q. OKAY.

6 A. COMMUNICATION AND/OR BARRIERS.

7 Q. ARE YOU AWARE OF WHAT THE IMMEDIATE FIRST AID
8 RESPONSE SHOULD BE TO SOMEONE WHO IS EXPOSED TO H.F.
9 FUMES?

10 A. IF THERE'S AN EXPOSURE AND THERE'S DISTRESS, THEN WE
11 TREAT WITH A NEBULIZER.

12 Q. OKAY. IS THERE A -- IS THERE A PROTOCOL WHEREBY THE
13 ONLY RECOMMENDED TREATMENT IS JUST TO EXPOSE THEM TO
14 FRESH AIR?

15 A. WITH ANY CHEMICAL EXPOSURE OR SUSPECTED EXPOSURE,
16 FRESH AIR IS ALWAYS A GOOD FIRST STEP TO SEE HOW
17 THEY RESPOND AND SEE IF THEY GET OVER IT QUICKLY.
18 AFTER THAT, WE TYPICALLY DO OXYGEN AND/OR NEBULIZER
19 AND/OR HOSPITAL.

20 Q. FINALLY, DOES HALOCARBON ADMINISTER ANY PULMONARY
21 FUNCTION TESTING TO ITS EMPLOYEES?

22 A. EVERY YEAR, PRE-HIRE AND ANNUAL.

23 Q. OKAY. AND ARE YOU FAMILIAR WITH MS. MURPHY'S P.F.T.
24 RESULTS?

25 A. I AM VERY FAMILIAR WITH HER INITIAL ONE, YES..

1 Q. AND CAN YOU TELL THE COMMISSIONER WHAT THE RESULTS
2 OF MS. MURPHY'S INITIAL P.F.T. WAS?

3 A. SHE DID NOT PASS.

4 Q. WAS THAT BEFORE SHE WAS EMPLOYED WITH HALOCARBON FOR
5 THE PERIOD OF TIME?

6 A. THAT'S CORRECT.

7 BY MR. LICHTY:

8 COMMISSIONER, I HAVE NO FURTHER QUESTIONS.

9 BY COMMISSIONER BARDEN:

10 ALL RIGHT. MR. HALL.

11 BY MR. HALL:

12 MAY IT PLEASE THE COMMISSION.

13 CROSS EXAMINATION BY MR. HALL:

14 Q. GOOD AFTERNOON, MR. MCDOWELL. HOW ARE YOU?

15 A. I'M GOOD. THANK YOU.

16 Q. WE'VE NEVER MET BEFORE; IS THAT CORRECT?

17 A. ACTUALLY, I THINK WE HAVE.

18 Q. OKAY. WELL, WE'VE NEVER MET IN THIS CASE BEFORE?

19 A. NO, SIR.

20 Q. OKAY. IF IT WAS SOMEWHERE ELSE, I CAN TELL YOU I
21 DON'T RECALL. DO YOU KNOW WHERE IT WAS?

22 A. I THINK IT WAS NEXT DOOR.

23 Q. OKAY. ALL RIGHT. WE HAD A MOTION HEARING IN THIS
24 CASE AT ONE POINT, AND YOU WERE HERE ON ANOTHER
25 CASE; IS THAT RIGHT?

- 1 A. THAT COULD HAVE BEEN IT.
- 2 Q. OKAY, ALL RIGHT. NOW, YOU INDICATED THAT YOU ARE
- 3 THE SAFETY DIRECTOR, YES?
- 4 A. YES.
- 5 Q. ALL RIGHT. AND HALOCARBON AGREES THAT THERE WAS A
- 6 LEAK OF H.F. ON AUGUST THE 11TH, 2015?
- 7 A. WE AGREE THAT THERE WAS A LEAK THAT HAD H.F. IN IT,
- 8 YES.
- 9 Q. ALL RIGHT. AND JUST BACK -- I WANT TO REORIENT
- 10 MYSELF ABOUT THIS PATIO. THAT'S A COVERED PATIO,
- 11 BUT ONLY PARTLY, YES?
- 12 A. IT'S COMPLETELY COVERED BY ROOF.
- 13 Q. OKAY. BUT IT'S OPEN TO THE AIR, AMBIENT AIR
- 14 OUTSIDE?
- 15 A. CORRECT.
- 16 Q. ALL RIGHT. IT'S LIKE ANY PATIO MAYBE THERE'S STILL
- 17 -- YOU CAN STILL SEE OUTSIDE. IT'S OUTSIDE, BUT
- 18 IT'S GOT A COVERED ROOF, YES?
- 19 A. YES, SIMILAR TO A CARPORT.
- 20 Q. RIGHT. AND, SO, IT'S OPEN TO THE ELEMENTS, CORRECT?
- 21 A. OTHER THAN A ROOF, YES.
- 22 Q. RIGHT. THE WIND CAN BLOW, YES?
- 23 A. YES.
- 24 Q. AND SOMETIMES YOU CAN FEEL THE WIND BLOW HARD OR
- 25 SOFT, CAN YOU NOT?

1 A. NO, I DID NOT.

2 Q. ALL RIGHT. ARE YOU AWARE OR HAVE YOU SEEN, READ THE
3 FACT THAT IF H.F. WAS BILLOWING, IT WOULD HAVE BEEN
4 BILLOWING AT GREATER THAN 50 PERCENT?

5 A. I WON'T SAY I AGREE WITH THAT.

6 Q. AS HIGH AS 70 PERCENT.

7 A. I'M SORRY, WHAT'S YOUR QUESTION?

8 Q. MY QUESTION IS IF H.F. IS ESCAPING AND IT'S
9 BILLOWING OUT, IT'S SMOKING, IT'S ESCAPING FROM A
10 CARBOY, THAT HIS OPINION IN THIS CASE THAT HE
11 TESTIFIED TO UNDER OATH WAS THAT IF IT'S BILLOWING,
12 IT'S AS HIGH AS 70 PERCENT.

13 A. HE MAY NOT HAVE KNOWN THAT THERE WERE OTHER
14 CHEMICALS THAT ALSO VAPORIZE. THERE ARE A LOT OF
15 CHEMICALS THAT CAN VAPORIZE, NOT JUST H.F.

16 Q. BUT YOU AGREE THAT HE'S AN EXPERT?

17 A. ON H.F. TREATMENT.

18 Q. RIGHT.

19 A. H.F. TREATMENT.

20 Q. I'M GOING TO MAKE SURE I'M DONE WITH THIS. IT SAYS
21 "H.F. HYDROFLUORIC ACID CAN ALSO CAUSE A RANGE OF
22 DELAYED EFFECTS THAT MAY SHOW MANY HOURS OR DAYS
23 AFTER THE INITIAL EXPOSURE IF NOT TREATED PROPERLY
24 EVEN WHEN THE EXPOSURE IS MINIMAL."

25 A. YES, SIR, THAT'S CORRECT, ESPECIALLY WHEN IT'S

1 MINIMAL. DELAYED EFFECTS ARE USUALLY ASSOCIATED
2 WITH MINOR OR DILUTE EXPOSURES -- DILUTED H.F.
3 EXPOSURES.

4 Q. HOW ---

5 A. DILUTE ---

6 Q. --- GO AHEAD. I DON'T WANT TO CUT YOU OFF. GO
7 AHEAD.

8 A. DILUTE VAPOR OR DILUTE LIQUID.

9 Q. YOU SAID THAT THE LEAK OCCURRED OUT ON THE NORTH
10 PART OF THE PATIO; IS THAT CORRECT?

11 A. THE NORTH PATIO ON THE WEST SIDE.

12 Q. ON THE WEST SIDE. AND YOU ---

13 A. I'M SORRY, EAST, EAST SIDE.

14 Q. AND YOU HAD HAD THIS H.F. THAT SATURATED THE
15 MATERIAL, CORRECT?

16 A. WE HAD -- THE MATERIAL WAS H.F., SEVOFLURANE AND
17 H.F.I.P. IT WASN'T JUST H.F.

18 Q. MY QUESTION IS WAS THERE A LEAK OF H.F.?

19 A. THERE WAS A LEAK THAT CONTAINED H.F.

20 Q. HALOCARBON DID NOT START FIRST AID IMMEDIATELY ON
21 AUGUST THE 11TH, DID IT?

22 A. MY UNDERSTANDING IS NO FIRST AID WAS REQUESTED, AND
23 NONE WAS ADMINISTERED, BECAUSE IT WAS NOT DEEMED
24 NEEDED AT THAT TIME.

25 Q. YOU'VE HEARD MS. MURPHY TESTIFY; YOU WERE PRESENT

1 WHEN SHE SAID "I ASKED CHIP BABB IF I COULD HAVE
2 CALCIUM GLUCONATE." WAS THAT AN INAPPROPRIATE
3 REQUEST IF SHE DID SAY THAT?

4 A. IT WOULD BE VERY APPROPRIATE.

5 Q. ALL RIGHT.

6 A. BUT CHIP BABB DID NOT SAY THAT THAT HAPPENED.

7 Q. ALL RIGHT. AND YOU WOULD AGREE THAT IF H.F. IS
8 INHALED, YOU MUST GET THE VICTIM TO FRESH AIR
9 ACCORDING TO YOUR PROTOCOL, YES?

10 A. YES.

11 Q. AND IN ADDITION, IT SAYS YOU SHOULD CALL EMERGENCY -
12 - ENVIRONMENTAL HEALTH AND SAFETY AND TRANSPORT THE
13 VICTIM TO UNIVERSITY HOSPITAL"; ISN'T THAT TRUE?

14 A. IF NEEDED, THAT IS CORRECT.

15 BY MR. HALL:

16 NOW, THIS IS IN THE APA 210, COMMISSIONER.

17 BY COMMISSIONER BARDEN:

18 OKAY.

19 BY MR. HALL:

20 AND, JIM.

21 CROSS EXAMINATION RESUMED BY MR. HALL:

22 Q. THIS IS REGARDING SAFE HANDLING; IS THAT CORRECT?

23 A. YES, SIR.

24 Q. AND IT'S REGARDING H.F., YES?

25 A. YES.

- 1 Q. AND IT SAYS "IF H.F. IS INHALED," IT SAYS
2 "IMMEDIATELY GET THE VICTIM TO FRESH AIR. CALL E.H.
3 AND S., AND ARRANGE IMMEDIATE TRANSPORTATION TO
4 UNIVERSITY HOSPITAL IF INSTRUCTED." IS THAT WHAT IT
5 SAYS?
- 6 A. YES, IT IS.
- 7 Q. ALL RIGHT. DO YOU AGREE SHE WASN'T TAKEN TO
8 UNIVERSITY HOSPITAL ON THE 11TH?
- 9 A. I AGREE SHE WAS NOT, AND THE CONDITION DID NOT
10 DICTATE THAT THAT WAS NEEDED.
- 11 Q. NO CALCIUM GLUCONATE WAS GIVEN, CORRECT, ON THAT
12 DATE, AUGUST THE 11TH?
- 13 A. NO CALCIUM GLUCONATE WAS REQUESTED OR GIVEN IS MY
14 UNDERSTANDING.
- 15 Q. I WANT TO READ THIS. THIS IS ON APA 213. THERE'S A
16 FIRST AID PROTOCOL FOR HYDROFLUORIC ACID THAT Y'ALL
17 KEEP; IS THAT CORRECT?
- 18 A. WE DO HAVE PROTOCOLS ISSUED BY VARIOUS VENDORS.
- 19 Q. HAVE YOU SEEN THIS DOCUMENT BEFORE? I'LL REPRESENT
20 TO YOU THAT IT CAME FROM YOUR -- CAME FROM A
21 SUBPOENA SERVED ON YOUR ATTORNEY.
- 22 A. IT CERTAINLY LOOKS LIKE ONE WE HAVE, YES.
- 23 Q. AND IT INDICATES "IF THERE'S AN INHALATION EXPOSURE
24 PREVENTATIVE" -- I'M JUST GOING TO HOLD IT HERE SO
25 YOU CAN READ WITH ME. "PREVENTATIVE TREATMENT

1 SHOULD BE GIVEN IF SENSITIVITY, SLIGHT REDDENING,
2 HYPER SECRETION OF AIRWAY, MUCOUS BLEEDING" --
3 EXCUSE ME, "MUCOUS BLEEDING, COUGHING OR DIFFICULTY
4 OF BREATHING IS DETECTED OR IF EXPOSURE IS CERTAIN."
5 IS THAT CORRECT?

6 A. YES, SIR.

7 Q. IT SAYS "IF ONLY INHALATION EXPOSURE HAS OCCURRED,
8 USE TRAINED PERSONNEL, INITIATE OXYGEN
9 ADMINISTRATION AT A FLOW OF 10 TO 12 LITERS PER
10 MINUTE AND NEBULIZER AT 2.5 PERCENT CALCIUM
11 GLUCONATE SOLUTION UNTIL MEDICAL HELP IS REACHED,"
12 YES?

13 A. THAT'S CORRECT.

14 Q. AND THEN IT SAYS "OBTAIN MEDICAL ATTENTION
15 IMMEDIATELY. CONSULT WITH A PHYSICIAN," YES?

16 A. THAT'S CORRECT, FOR INHALATION EXPOSURE.

17 Q. THAT WAS NOT DONE ON AUGUST 11TH, 2015, WAS IT?

18 A. THE ACTING SUPERVISOR ON SHIFT DID NOT NOTE THE
19 DISTRESS THAT WOULD INDICATE THE NEED OR WAS THERE A
20 REQUEST TO DO SO IS MY UNDERSTANDING FROM THE
21 INTERVIEWS OF THAT INCIDENT.

22 Q. OKAY. MY QUESTION WAS VERY SIMPLY, THIS SAFETY
23 PROTOCOL WAS NOT FOLLOWED ON AUGUST THE 11TH, 2015,
24 WAS IT?

25 A. THAT PROTOCOL WAS NOT -- WAS NOT IN EFFECT BECAUSE

1 THERE WAS NOT A NOTED EXPOSURE THAT WOULD DICTATE
2 DOING THAT.

3 BY MR. HALL:

4 THANK YOU VERY MUCH.

5 BY COMMISSIONER BARDEN:

6 ALL RIGHT. ANYTHING ON RE-DIRECT, MR. LICHTY?

7 BY MR. LICHTY:

8 JUST TWO QUICK QUESTIONS, YOUR HONOR.

9 BY COMMISSIONER BARDEN:

10 AND I WANT YOU TO STAY WHERE YOU ARE.

11 BY MR. LICHTY:

12 I'M GOING TO STAY RIGHT HERE.

13 RE-DIRECT EXAMINATION BY MR. LICHTY:

14 Q. FIRST, MR. MCDOWELL, THERE WERE SOME QUESTIONS TO
15 YOU INVOLVING WHITE SMOKE BILLOWING FROM IT. DOES
16 THE PRESENCE OR ABSENCE OF WHITE SMOKE FROM A CARBOY
17 TELL YOU ANYTHING ABOUT THE CONCENTRATION OF H.F. IN
18 WHATEVER CHEMICAL IS BEING VENTED?

19 A. IT DOES NOT.

20 Q. AND FINALLY, MR. HALL JUST ASKED YOU A BUNCH OF
21 QUESTIONS ON THIS APA PAGE 213 INHALATION EXPOSURE.
22 IS IT YOUR TESTIMONY THAT BASED ON YOUR CONVERSATION
23 WITH CHIP, WHO WAS THE SUPERVISOR RESPONDING TO MS.
24 MURPHY AFTER THE EXPOSURE, THAT NONE OF THOSE
25 CRITERIA WERE MET, WHICH WOULD TRIGGER THE NEED TO

1 FOLLOW THAT PROTOCOL?

2 BY MR. HALL:

3 I'M GOING TO OBJECT TO THE LEADING QUESTION
4 THERE.

5 BY COMMISSIONER BARDEN:

6 SUSTAINED.

7 BY MR. LICHTY:

8 OKAY.

9 RE-DIRECT EXAMINATION RESUMED BY MR. LICHTY:

10 Q. WERE ANY OF THOSE -- ACCORDING TO YOUR INVESTIGATION
11 AND CONVERSATION WITH CHIP BABB, WERE ANY OF THOSE
12 CRITERIA MET THAT WOULD TRIGGER THAT PROTOCOL?

13 A. THEY WERE NOT.

14 BY MR. HALL:

15 SAME -- SAME OBJECTION.

16 BY COMMISSIONER BARDEN:

17 WELL, HE'S ANSWERED THE QUESTION, AND I AM
18 MAKING NOTE OF YOUR OBJECTION, AND I WILL REVIEW ALL
19 OF THE EVIDENCE.

20 BY MR. HALL:

21 ALL RIGHT. THANK YOU.

22 BY COMMISSIONER BARDEN:

23 THOSE DOCUMENTS SAY WHAT THEY SAY REGARDLESS OF
24 HOW HE INTERPRETS THEM, SO.

25 GO AHEAD. IS THAT IT, MR. LICHTY?

1 BY COMMISSIONER BARDEN:

2 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

3 BY THE WITNESS:

4 GEORGE D. CAMPBELL, III.

5 BY COMMISSIONER BARDEN:

6 THANK YOU SO MUCH. PLEASE ANSWER ANY QUESTIONS
7 THAT MR. LICHTY HAS FOR YOU FIRST, AND I'M GOING TO
8 ASK AS BEST YOU CAN TO DIRECT YOUR RESPONSES MY WAY
9 EVEN THOUGH THE QUESTIONS WILL BE COMING FROM THAT
10 WAY. JUST DO THE BEST YOU CAN.

11 BY THE WITNESS:

12 YES, MA'AM.

13 BY COMMISSIONER BARDEN:

14 MR. LICHTY.

15 DIRECT EXAMINATION BY MR. LICHTY:

16 Q. MR. CAMPBELL, WHERE DO YOU WORK?

17 A. I WORK AT HALOCARBON PRODUCTS.

18 Q. AND WHAT IS YOUR POSITION THERE?

19 A. I'M A CHEMICAL OPERATOR.

20 Q. OKAY. AND WHAT ARE YOUR JOB RESPONSIBILITIES?

21 A. MAINTAIN THE UNITS THAT I'M RUNNING AND ENSURE THAT
22 THEY ARE RUNNING PROPERLY.

23 Q. DO YOU WORK WITH ORGANIC OR FLAMMABLE SLOPS?

24 A. I DO.

25 Q. ARE YOU PERIODICALLY ASKED TO DISPOSE THOSE SLOPS?

- 1 A. I DO.
- 2 Q. ARE YOU AWARE JUST GENERALLY OF MS. MURPHY'S
- 3 ALLEGATIONS REGARDING HER EXPOSURE?
- 4 A. I AM, YES.
- 5 Q. DID YOU ENCOUNTER MS. MURPHY ON THE MORNING OF
- 6 AUGUST 11TH, 2015?
- 7 A. I DID.
- 8 Q. OKAY. WHERE DID YOU ENCOUNTER HER?
- 9 A. FIRST FLOOR, AREA ONE, UNDERNEATH THE STAIRWELL
- 10 GOING OUTSIDE TO THE NORTH PATIO.
- 11 Q. OKAY. JUST FOR THE COMMISSIONER'S BENEFIT, WE'VE
- 12 BEEN KIND OF IDENTIFYING THESE DOORS AS THE DOOR
- 13 THAT LEADS TO FLAMMABLE SLOPS AND THE DOOR THAT
- 14 LEADS TO ORGANIC SLOPS. SO, WHICH OF THOSE TWO
- 15 DOORS WERE YOU CLOSER TO?
- 16 A. I WAS -- WE WERE CLOSER TO THE FLAMMABLE SLOPS DOOR.
- 17 Q. OKAY. AND YOU WERE OUTSIDE ON THE PATIO OR STILL
- 18 INSIDE THE BUILDING?
- 19 A. I HAD JUST COME INSIDE FROM OUTSIDE.
- 20 Q. OKAY. WHAT WERE YOU DOING OUTSIDE?
- 21 A. I DUMPED -- I HAD DUMPED SOME SLOPS IN THE FLAMMABLE
- 22 STORAGE DRUM.
- 23 Q. OKAY. WHAT PROTECTIVE GEAR WERE YOU WEARING?
- 24 A. FACE SHIELD, GLOVES AND A JACKET.
- 25 Q. OKAY. AND HOW LONG WERE YOU OUT THERE?

1 A. TWO MINUTES, THREE MINUTES.

2 Q. DID YOU ENCOUNTER ANY FUMES SUSPECTED TO BE H.F.
3 WHILE YOU WERE OUT THERE?

4 A. I DID.

5 Q. DID YOU HAVE A PHYSICAL REACTION TO THE EXPOSURE?

6 A. I DID.

7 Q. OKAY. WHAT WAS YOUR REACTION TO IT?

8 A. IT TOOK MY BREATH AWAY. IT MADE MY EYES START
9 BURNING, THE COUGHING. OF COURSE, IT MAKES YOU
10 COUGH. SO, THAT WAS ABOUT IT. IT WAS HARD -- HARD
11 TO CATCH MY BREATH.

12 Q. HOW LONG DID THOSE SYMPTOMS LAST?

13 A. I DON'T -- IMMEDIATELY, IT LASTED -- WELL, THE WORST
14 PART OF IT PROBABLY LASTED ABOUT FIVE MINUTES IF
15 THAT, BUT AFTER THAT, AFTER I GOT SOME AIR, IT
16 CLEARED UP.

17 Q. OKAY. NOW, HOW LONG AFTER YOU HAD FINISHED DUMPING
18 YOUR FLAMMABLE SLOPS AND REENTERED THE BUILDING WAS
19 IT BEFORE YOU SAW MR. MURPHY?

20 A. WITHIN A MINUTE, BECAUSE I CAME THROUGH THE DOOR,
21 AND SHE WAS COMING TOWARDS THE DOOR AS I CAME IN.

22 Q. I NEED YOU TO LOOK AT THE COMMISSIONER.

23 A. I'M SORRY.

24 BY COMMISSIONER BARDEN:

25 NO, HE'S FINE. YOU DON'T HAVE TO STARE AT ME.

1 JUST DO THE BEST YOU CAN.

2 BY THE WITNESS:

3 I APOLOGIZE.

4 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

5 Q. DID YOU HAVE ANY CONVERSATION WITH MS. MURPHY AT
6 THAT TIME?

7 A. I DID. I ASKED HER -- WELL, I ACTUALLY JUST TOLD
8 HER. I WAS COUGHING AND TOLD HER, I SAID, "I
9 WOULDN'T GO OUT THAT DOOR BECAUSE LONNIE'S GETTING
10 SOMETHING READY FOR MAINTENANCE."

11 Q. OKAY. DID YOU TELL HER THAT THERE WERE SUSPECTED
12 H.F. FUMES OUTSIDE?

13 A. I DIDN'T COME STRAIGHT OUT AND SAY WHAT KIND OF
14 FUMES THERE WERE. I JUST TOLD HER THAT "I JUST GOT
15 GASSED, AND I WOULDN'T GO OUT THAT DOOR."

16 Q. DID YOU NOTIFY HER THAT THERE WAS SOME SORT OF
17 INHALATION DANGER ON THE OTHER SIDE OF THE DOOR?

18 A. I'M SURE SHE COULD TELL BY THE WAY I WAS COUGHING
19 AND HACKING, THERE WAS A REASON WHY I TOLD HER NOT
20 TO GO OUT THAT DOOR.

21 Q. ARE YOU CURRENTLY HAVING ANY PROBLEMS WITH BREATHING
22 AS A RESULT OF THAT EXPOSURE?

23 A. I AM NOT.

24 Q. DID YOU DEVELOP ANY HEART PROBLEMS AS A RESULT OF
25 THAT EXPOSURE?

1 A. NO, I HAVE NOT.

2 Q. DID YOU DEVELOP ANY LONG TERM HEALTH PROBLEMS AT ALL
3 AS A RESULT OF THAT EXPOSURE?

4 A. NO.

5 BY MR. LICHTY:

6 COMMISSIONER, THAT'S ALL THE QUESTIONS I HAVE.

7 BY COMMISSIONER BARDEN:

8 ALL RIGHT. MR. HALL.

9 BY MR. HALL:

10 THANK YOU.

11 CROSS EXAMINATION BY MR. HALL:

12 Q. MR. CAMPBELL, HOW LONG HAVE YOU BEEN WORKING AT
13 HALOCARBON?

14 A. GOING ON 11 YEARS.

15 Q. AND DO YOU KNOW MS. MURPHY?

16 A. I KNOW OF HER FROM WORK, YES.

17 Q. DO YOU CONSIDER HER A COMPETENT EMPLOYEE?

18 A. I DIDN'T WORK DIRECTLY WITH HER, SO I DON'T KNOW
19 WHAT HER ABILITIES WERE.

20 Q. ALL RIGHT. SO, YOU -- AT SOME POINT YOU LEARNED
21 THAT THERE WAS THIS WORKERS' COMPENSATION CASE; IS
22 THAT CORRECT?

23 A. ACTUALLY I DIDN'T JUST LEARN OF IT. I ACTUALLY WAS
24 UNDER THE UNDERSTANDING THAT THIS WAS DONE AND OVER
25 WITH 'TIL JUST RECENTLY WHEN I WAS ASKED TO COME

1 BY COMMISSIONER BARDEN:

2 PLEASE STATE YOUR FULL NAME FOR THE RECORD.

3 BY THE WITNESS:

4 LONNIE PARSONS.

5 BY COMMISSIONER BARDEN:

6 OKAY. IF YOU WILL TURN UP THE VOLUME. THIS IS
7 A BIG ROOM.

8 BY THE WITNESS:

9 OKAY. LONNIE PARSONS.

10 BY COMMISSIONER BARDEN:

11 THAT'S PERFECT. THANK YOU SO MUCH. PLEASE
12 ANSWER ANY QUESTIONS MR. LICHTY HAS. AS BEST YOU
13 CAN, IF YOU WILL DIRECT YOUR RESPONSES TO ME.

14 BY THE WITNESS:

15 YES, MA'AM.

16 BY COMMISSIONER BARDEN:

17 THANK YOU. GO AHEAD, MR. LICHTY.

18 DIRECT EXAMINATION BY MR. LICHTY:

19 Q. MR. PARSONS, WHERE DO YOU WORK?

20 A. HALOCARBON PRODUCTS.

21 Q. WHAT IS YOUR JOB TITLE THERE?

22 A. I'M A CHEMICAL OPERATOR.

23 Q. AND WHAT ARE YOUR RESPONSIBILITIES AS A CHEMICAL
24 OPERATOR?

25 A. RUNNING A UNIT, WATCHING, TAKE READINGS, RESPOND TO

1 ANYTHING THAT GOES ON WITH MY UNIT.

2 Q. OKAY. ARE YOU AWARE OF THE ALLEGATIONS THAT MS.
3 MURPHY IS MAKING IN REGARD TO HER ALLEGED EXPOSURE
4 TO H.F.?

5 A. YES, SIR.

6 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO ENCOUNTER
7 MS. MURPHY ON THE MORNING OF AUGUST 11TH, 2015?

8 A. YES, SIR.

9 Q. AND WHERE DID YOU ENCOUNTER HER?

10 A. OUT ON THE PATIO BY A PIECE OF EQUIPMENT THAT I WAS
11 WORKING ON.

12 Q. OKAY. AND WHAT WERE YOU DOING TO THE EQUIPMENT?

13 A. PREPARING IT FOR MAINTENANCE WORK.

14 Q. NOW, THERE WAS PRIOR TESTIMONY GIVEN REGARDING A
15 H.F. LEAK IN AN ECONOMIZER THAT -- AND THERE IS
16 EVIDENCE SUBMITTED INTO THE RECORD THAT IT HAD BEEN
17 DRAINED DOWN, AND THERE WAS AN EFFORT BEING MADE TO
18 VENT IT INTO A CARBOY TO PREPARE IT FOR MAINTENANCE.

19 A. YES, SIR.

20 Q. IS THAT THE PROCESS YOU WERE INVOLVED IN?

21 A. YES, SIR.

22 Q. OKAY. SO, HOW CLOSE WERE YOU TO THIS VENTING
23 CARBOY?

24 A. FROM ME TO YOU.

25 BY COMMISSIONER BARDEN:

1 AND THAT WOULD BE ---

2 BY THE WITNESS:

3 OR OVER THE TOP OF IT AT ANY GIVEN TIME.

4 BY COMMISSIONER BARDEN:

5 WOULD YOU SAY SIX TO TEN FEET? I CAN'T SEE.

6 BY THE WITNESS:

7 NO, MA'AM. TWO OR THREE FEET AWAY, SOMETIMES

8 EVEN STANDING OVER TOP OF IT, MOVING TO AND FROM.

9 BY COMMISSIONER BARDEN:

10 OKAY.

11 DIRECT EXAMINATION RESUMED BY MR. LICHTY:

12 Q. WERE YOU INVOLVED IN SETTING IT UP?

13 A. YES, SIR.

14 Q. HOW CLOSE -- THERE WAS WET INSULATION OUT THERE,
15 TOO, AS WELL; IS THAT CORRECT?

16 A. SIR?

17 Q. THERE WAS WET -- THERE WAS INSULATION THAT HAD BEEN
18 SOAKED WITH H.F. OUT THERE?

19 A. YES.

20 Q. AND WERE YOU CLOSE TO THAT?

21 A. YES, SIR.

22 Q. OKAY. WHAT KIND OF PROTECTIVE EQUIPMENT WERE YOU
23 WEARING?

24 A. GLOVES, JACKET, FACE SHIELD, PANTS.

25 Q. OKAY. WERE YOU WEARING EYEGLASSES?

1 A. I WEAR SAFETY GLASSES UP UNDER IT. YES, SIR, I'M
2 SORRY.

3 Q. WHEN YOU ENCOUNTER -- OR LET ME ASK YOU THIS: WE'VE
4 GONE THROUGH SOME TESTIMONY BEFORE ESTABLISHING WHAT
5 THE NORTH PATIO LOOKS LIKE. WHERE DID YOU ENCOUNTER
6 MS. MURPHY ON THE NORTH PATIO?

7 A. I SEEN HER COMING OUT OF THE DOOR ABOUT HALFWAY UP
8 THE PATIO. THERE'S TWO DOORS SIDE BY SIDE. I SEEN
9 HER COMING UP -- COMING TOWARDS ME. AS SOON AS I
10 SEEN HER, I STOPPED HER AND TOLD HER SHE NEEDED TO
11 STAY BACK.

12 Q. IS THAT THE DOOR NEAR THE ORGANIC SLOPS?

13 A. YES, SIR.

14 Q. OKAY. AND WHEN YOU -- WHEN YOU SAW HER COMING, DID
15 YOU GO AND SPEAK WITH HER?

16 A. AT THE TIME I WAS DOING SOMETHING. I TOLD HER TO
17 STOOP THERE. I WAS GETTING A PIECE OF EQUIPMENT,
18 AND YES, I DID APPROACH HER.

19 Q. OKAY. AT THE TIME, THAT YOU SPOKE WITH HER, DID SHE
20 -- WAS SHE DEMONSTRATING ANY SIGNS OF PHYSICAL
21 DISTRESS?

22 A. NO.

23 Q. WAS SHE COUGHING?

24 A. NOT THAT I REMEMBER.

25 Q. OKAY. WAS SHE RED IN THE FACE?

1 A. NOT THAT I COULD TELL.

2 Q. OKAY. WAS SHE ABLE TO SPEAK WITH YOU IN AN
3 UNLABORED MANNER?

4 A. OH, YES, SIR.

5 Q. OKAY. AND WHAT WAS YOUR -- WHAT DID YOUR
6 CONVERSATION CONCERN?

7 A. OH, SHE ASKED ME "WHAT WAS THAT SMELL?" I TOLD HER
8 IT WAS H.F., AND I WAS GETTING A PIECE OF EQUIPMENT
9 READY. I NOTICED SHE HAD HER SLOPS BOTTLE IN HER
10 HAND. I ASKED HER IF I CAN DUMP IT FOR HER. SO, I
11 DUMPED IT AND TOOK THE SLOPS BOTTLE BACK TO HER.

12 Q. TO DUMP THE FLAMMABLE SLOPS FROM WHERE YOU GOT THEM
13 FROM MS. MURPHY, DID THAT REQUIRE YOU TO WALK PAST
14 THE CARBOY?

15 A. YES.

16 Q. HOW MANY TIMES?

17 A. ONCE BACK AND ONCE BACK.

18 Q. OKAY. DID YOU OVERSEE THE ENTIRE PROCESS OF
19 PREPARING THAT AREA FOR MAINTENANCE?

20 A. YES, SIR.

21 Q. OKAY. AND HOW LONG DID THAT PREPARING FOR
22 MAINTENANCE TAKE?

23 A. I WAS OUT THERE PROBABLY RIGHT AT EIGHT HOURS DURING
24 THE NIGHT.

25 Q. OKAY. DID YOU DEVELOP ANY ADVERSE PHYSICAL

1 CONDITIONS AS A RESULT OF BEING OUT THERE ALL NIGHT?

2 A. NO, SIR.

3 Q. DID YOU DEVELOP ANY RESPIRATORY ISSUES?

4 A. NO, SIR.

5 Q. OKAY. ANY ISSUES WITH YOUR HEART?

6 A. NO, SIR.

7 Q. ANYTHING AT ALL?

8 A. NO, SIR.

9 BY MR. LICHTY:

10 COMMISSIONER, THAT'S ALL THE QUESTIONS I HAVE.

11 BY COMMISSIONER BARDEN:

12 THANK YOU. PLEASE, ANSWER ANY QUESTIONS MR.

13 HALL HAS.

14 CROSS EXAMINATION BY MR. HALL:

15 Q. MR. PARSONS, HOW LONG HAVE YOU BEEN AN EMPLOYEE
16 THERE?

17 A. ELEVEN YEARS.

18 Q. ELEVEN YEARS. DO YOU MAKE PRETTY GOOD MONEY THERE?

19 A. I MAKE MY BILLS.

20 Q. DOES YOUR WIFE WORK?

21 A. YES, SIR.

22 Q. IN YOUR STATEMENT -- DO YOU REMEMBER YOU GAVE A
23 STATEMENT; DO YOU REMEMBER THAT?

24 A. (NODS HEAD UP AND DOWN)

25 BY COMMISSIONER BARDEN:

1 A. MEZZANINE.

2 Q. WERE YOU UP ON THE MEZZANINE?

3 A. YES, SIR.

4 Q. AND THE CARBOY WAS DOWN BELOW, YES?

5 A. YES, SIR.

6 Q. H.F. IS HEAVY, ISN'T IT, CORRECT?

7 A. YES, SIR.

8 Q. IT'S GOING TO GO TO THE LOW POINT, YES?

9 A. YES.

10 Q. BUT YOU WERE UP ABOVE IT, YES?

11 A. I WAS UP ABOVE IT. I WAS BESIDE IT, AND...

12 Q. YOU HAD ON PERSONAL PROTECTIVE EQUIPMENT?

13 A. YES, SIR.

14 BY COMMISSIONER BARDEN:

15 IS THAT A YES?

16 BY THE WITNESS:

17 YES, MA'AM.

18 BY COMMISSIONER BARDEN:

19 THANK YOU.

20 CROSS EXAMINATION RESUMED BY MR. HALL:

21 Q. SO, YOU DON'T KNOW WHENEVER MONICA OPENED THE DOOR
22 TO THE FLAMMABLE SLOPS AREA, DO YOU?

23 A. NO, SIR.

24 Q. ALL RIGHT. AND AGAIN, JUST THIS IS ALREADY IN THE
25 RECORD; I'M NOT GOING TO BELABOR IT, BUT THIS IS A