

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPELLATE PANEL

Case No. 2012-210487

Emma Hamilton

Appellant,

v.

Martin Color-Fi, Inc., Employer, and
Liberty Mutual Insurance Company, Carrier,

Respondents.

RECORD ON APPEAL

VOLUME II

Candy Hindersman, Esquire
Wilson, Jones, Carter and Baxley, P.A.
4500 Fort Jackson Blvd.
Columbia, SC 29209
(803) 782-2520
Attorney for Respondents

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The Bryan Law Firm of S.C., L.L.P.
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Sumter, SC 29151-2038
(803) 775-1263
Attorney for the Appellant

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SC Court of Appeals

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dated January 23, 201212**

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KINGSTREE SURGICAL ASSOCIATES

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INDEPENDENT MEDICAL REVIEW:

PATIENT: EMMA R. HAMILTON

DOB: 12/4/1964

ADDRESS: 2227 BOBWHITE DRIVE, SUMTER, S.C. 29154

SS#: 249-17-0683

PHONE: 803-481-9425

EMAIL: Jesusfreak2Sumter@yahoo.com

PREPARED FOR: JOSEPH T. MCELVEEN, JR., ESQ.

ADDRESS: PO BOX 2038

SUMTER, S.C. 29151

FAX: 803-778-1300

DATE: June 1st, 2009

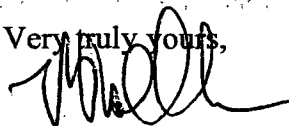
Dear Mr. McElveen;

I had the pleasure of seeing your client, Ms. Hamilton on 6/1/09, and I have prepared the following report in accordance with my exam and review of her records and radiographs.

I enclose herewith and make as part of my report the standard worksheets for the calculation of disability ratings as per the recognized standard of the AMA Guidelines. In brief summary my exam reveals tentative evidence of a 7% whole person impairment related to her workplace trauma. Causality is established. She is not at MMI and will require further treatment and assessment. Full details of this process are provided in the body of this report.

If there are any questions, please feel free to contact my office accordingly.

Very truly yours,



Blake H. Moore, MD FACS

HAMILTON-PG. 2

BACKGROUND:

Ms. Hamilton is a 44 year old female who indicates that she was injured via a crush injury circa 7/22/2008 while employed. She reported right wrist/hand pain and numbness. She sought medical care. She has undergone treatment. She now reports difficulties with many basic activities of daily living, continued pain, weakness and loss of function. Independent medical review is requested so as to establish a disability determination as per standard guidelines.

MATERIALS REVIEWED:

In making this assessment I had the opportunity to meet with Ms. Hamilton on 6/1/09. X-Rays were made available for my personal review, and I concur with the radiologist's written reports. Medical records were received from the following sources and were reviewed:

- 1) Midlands Orthopaedics
- 2) Michael Green, MD
- 3) James Gee, MD
- 4) Eric Byrd, MD
- 5) Clarendon Memorial Hospital
- 6) Michael Faulstich, MD, PhD
- 7) Access PT
- 8) Marshall White, MD
- 9) Tuomey Hospital
- 10) Shelley Stevens, PA
- 11) Aaron Garrett, MD
- 12) Richard Patrick, MD
- 13) O. A. Pinilla, MD

In review of same it appears that Ms. Hamilton has received generally competent and professional care to date. I am concerned in reviewing this file, that on consecutive days Form 14B was filled out with different information but no rationale is described for the different information, nor is any rationale described for the different ratings assigned. As a minimum this bespeaks a misunderstanding of the principles of the AMA Guidelines, on a broader scale it suggests a troubling ethical dilemma. Clearly cutting an assigned rating in half warrants an explanation in the notes to explain the rationale for this decision, in the absence of explanation this decision must be questioned.

PAST MEDICAL HX:

ASTHMA
GERD
SEIZURE DISORDER

HAMILTON-Pg. 3

PAST SURGICAL HX:

TONSILLECTOMY

ALLERGIES

SULFA

MEDICATIONS:

NSAIDs

IBP 800

DARVOCET N-100

TUMS

PRIMATENE

SOCIAL HX:

TOBACCO: 1 pack per day cigarette

ETHANOL: DENIED

DRUGS OF ABUSE: DENIED.

FAMILY HX

CARDIAC: Mother

DIABETES: Mother, Maternal Aunt, Maternal Uncle, Brother, MGM

CANCER: Maternal Uncle-Colon Cancer

GYN HX:

LMP-5/1/09; Gravida 3 Para 3003; 3 x NSVD; Last Pap-2004, Last Mammo:
Never.

REVIEW OF SYSTEMS:

Complains of insomnia, sinusitis, dyspnea, right hand numbness, GERD, seizure disorder (last 10 years ago), back pain and arthralgias.

HISTORY:

Ms. Hamilton appeared calm in recounting her history. Her demeanor, grooming and attire were appropriate. She appeared quite credible. She reports a workplace with regular heavy lifting. On the day in question her hand and wrist were crushed in a roller. She reported hand pain and numbness. She denied any pre-existing orthopaedic history.

HISTORY-Continued:

She described a typical day in her life and how her problems affected her. She reports that sleeping is an issue 7 nights a week. She uses 2 extra pillows to prop her hands. She has problems with styling her hair, donning cosmetics, and with jewelry clasps. She has problems dressing with buttons and zippers. She reports problems clasping her bra.

She reports that she is slow with chores and pain is limiting, particularly with food preparation, lifting, and opening jars. She reports problems with keyboard entry. Her coital activity has decreased with her citing a lack of interest in her appearance and socialization as key factors.

She reports some basic limitations. She reports a maximal lifting limit of 10 pounds.

She reports triggering of her fingers at time, as well as pain and swelling in her digits. She reports pain in driving her car as shifting causes pain.

She completed high school and worked 1.5 years on an Associate's degree as a paralegal but did not complete the certificate program. She has worked in jobs in construction, painting, and insulation. She expressed a desire to study computer science in transitioning to a light duty type employment option.

EXAM:

Hgt: 5'3", Wgt: 185 lbs. BP: 140/85 P: 78 R: 20 O2Sat: 98% RA-b/I T: 98.0

HEENT: Conj.: Pink, Sclerae: Anicteric, No carotid bruit. (-) JVD

Lung: Bilateral expiratory wheeze.

Cor: Regular rate and rhythm, no murmur.

Abd: Soft, Nontender, No masses or organomegaly.

GU: Deferred.

Rectal: Deferred.

Upper Extremity: FROM at shoulder/elbow/digits. Triggering reported but not observed. Right hand dominant. Right: +Tinnels, +Phalens. Allen test normal. Palpable radial/ulnar pulses. Significant tenderness to palpation at anatomic snuffbox on right. Right wrist: Palm Flex-55, Dorsiflex-60, UD-25, RD-20.

Strength: Pinch: R-11 lbs., L-18 lbs.; Grip: R-50 lbs., L-80 lbs.; Variance curves revealed reliable data acquisition, with moderate (30-60%) Right sided strength loss noted.

Lower Extremity: FROM hip/knee/ankle; Normal gait.

Neuro: Cervical FROM ; Thoracic-FROM; Lumbar: FROM; (-) SLR, Normoreflexia. No gross scoliotic deformity. No Waddell signs noted.

FINDINGS AND DISCUSSION:

Ms. Hamilton reports a workplace crush injury with ongoing hand pain, weakness and numbness. Multiple questions are posed at this time. Firstly is the question of causality. Given the mechanism of the injury, and the temporal relations established there is a clear causal relationship to the workplace. This is opined to the standard of reasonable medical certainty.

Ms. Hamilton is a candidate for ongoing conservative care at this time including pharmacotherapy, orthotic bracing, possible TENS provision and such to minimize her ongoing complaints of pain. She has ongoing pain and weakness. She claims that she has requested ongoing Occupational Therapy for weakness and has been denied this intervention. My grip strength testing was consistent with her PT studies, and demonstrates a highly significant loss of grip and pinch strength in her dominant hand. Her request seems quite reasonable and supported by the medical facts. When the proper definition of MMI is analyzed she has not achieved a plateau that is unlikely to change within the next year with intervention, as I believe her strength will augment with rehab efforts provided. She is NOT at MMI, and further treatment is indicated.

I am also concerned that her MRI has largely been ignored. I reviewed these images and note subchondral cystic degeneration along the lunate bone. Two diagnoses are suggested including the "ulnar abutment syndrome" or evolving "avascular necrosis". Her ongoing localizing tenderness at the anatomic snuffbox confirms clinically this radiographic finding. With an extensive period of conservative care resulting in unsatisfactory results, potential surgical care is not unreasonable. Once again she clearly is NOT at MMI.

She self defined simple limitations as noted supra and these reasonable accommodations should be honored as appropriate. If more specificity were required an FCE could be obtained. She appears capable of only a LIGHT DUTY level of activity given her observed exam and self reported problems. As she has lost her job to a "lay off" this is somewhat of a moot point. Her expressed "functional rehabilitative plan" in studying computer science seems prudent and reasonable and consistent with her current abilities, although she does report wrist pain with keyboarding that may require monitoring. Most vocational studies have demonstrated that 4 hours of keyboarding may be accomplished without adverse effect.

Assignment of an impairment rating is as per the 6th Edition of the AMA Guidelines as noted herein. It is noted that as per the AMA Guidelines a rating may only be assigned once a patient is at MMI, thus this is provided as an academic discussion and should be reassessed once she attains MMI.

Her MRI of the wrist defines abnormal bone architecture of the lunate defining a Class 1 grid with a 7% UE rating under Table 15-3 (pg. 396).

FINDINGS AND DISCUSSION-Continued:

Her mild loss of ROM in the right wrist is alternatively assessed under Table 15-32 (pg. 473). Accordingly her loss of flexion and Ulnar deviation sum to a combined 5% UE rating. As the DRE exceeds this, it is deferred.

Finally her strength issues are reviewed. Strength was a ratable factor under the 5th edition of the AMA Guidelines, it is no longer an independent rating factor under the 6th Edition. For a typical 40 year old she demonstrates marked bilateral strength loss (expected right 108.2 lbs/ left 104.1). Using the uninjured left hand as a control the right hand demonstrates a 38% loss of strength. This would define a 20% UE factor for the right hand. Given the AMA Guidelines requirement of normal ROM this rating element must be deferred.

I indicated that I found her 2 "14B" forms citing values differing by 50% troubling. For a listed rating to be legitimate under the AMA Guidelines a rating physician should cite the rationale behind its derivation (as in this report where page and table are listed). Accordingly, I believe that these 14B reports should be disregarded as they clearly do not meet this fundamental standard, and are thus inappropriate.

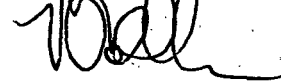
I spent 1:5 hours in obtaining the history and exam of Ms. Hamilton. I spent 90 minutes reviewing her records. I spent an additional 3 hours in researching and preparing this report. I believe this to be a fair and accurate assessment of her current functional status.

Thus, this tentative 7% whole person rating is the current best estimate of her functional capacity at this interval as per interpretation of the AMA Guidelines related directly or indirectly to her workplace trauma.

She clearly needs further assessment and treatment.

If there are any further questions or concerns please advise accordingly.

RESPECTFULLY SUBMITTED



BLAKE H. MOORE, MD, FACS-6/1/09

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INDEPENDENT MEDICAL REVIEW:

PATIENT: EMMA HAMILTON
DOB: 12/4/1964
ADDRESS: 2227 BOBWHITE DRIVE, SUMTER, SC 29154
SS#249-17-0683
Phone: 803-481-9425

PREPARED FOR: JOSEPH MCELVEEN, ESQ.
ADDRESS: PO BOX 2038
SUMTER, S.C. 29151

DATE: September 4th, 2010

Dear Mr. McElveen;

I received your recent note and have reviewed my files and notes in regards to the above listed case. In review of same it does clearly appear that she is in need of ongoing further treatment. As you noted in Dr. Fulton's reports it is clearly documented that she has ongoing impairment to her right wrist and hand. He reports that reaching and grasping is limited to five minutes per occasion, and only four occasions per day. She is prohibited in these same notes from heavy grasping. Likewise you correctly note that her nerve conduction studies reveal different conduction velocities in the contralateral hands.

As previously noted her prior MRI revealed "subchondral cystic degeneration along the lunate bone" that is consistent with an ulnar abutment syndrome or an evolving avascular necrosis.

Her reports from occupational health and the attendant restrictions as place have functionally rendered her incapable of returning to her prior level of industrial work and her injuries have rendered her functionally disabled as to her prior employment. As you are aware she has been terminated from her prior employment because she was unable to meet these job duties.

It is my opinion that she would benefit from ongoing treatment. Given her persistent pain either a repeat MRI or a triple phase bone scan should evaluate the progressive nature of her wrist discomfort and can either confirm or exclude ulnar abutment and/or avascular necrosis (Kienbock's Syndrome). Her prior cystic degeneration strongly suggests this as the etiologic factor in her ongoing pain. It is comparatively likely that she will eventually require surgical repair. For the purposes of

SEP 1 - 2010

EMMA HAMILTON

ADDENDA:

Dear Mr. McElveen;

In response to your questions, I offer the following brief addenda. She did not mention to me problems with buttoning her blouse. This is a standard question that I ask in my interview. She did describe problems donning a bra, and with jewelry clasps, such that this is credible, and consistent with what she reported to me.

She did not specifically mention problems with hygiene following defecation. This is potentially significant. I recall a case some time back where I was asked to evaluate a patient who had severe shoulder problems that led to a "frozen shoulder". He was completely unable to wipe himself after defecation and relied on either a bidet or his wife to assist with bowel hygiene. He was unable to leave the house without assistance, in case this assistance was needed without wearing a diaper. In this case I opined as the expert that he should receive a rating for functional GI incontinence as he was unable to achieve proper hygiene.

In this case if her problems rise to that level, this assignation could be considered. I would need further information from the patient to make this assessment.

Your next question concerned the possible diagnosis of compartment syndrome. This is a not uncommon sequella of crush injuries. This is a diagnosis that is made following the injury by measuring tissue pressure. Typically in the long term muscle atrophy is noted. On my exam I saw no obvious signs of muscular atrophy or wasting such that compartment syndrome cannot be supported by her current exam.

It appears that her primary problems at this time are an untreated avascular necrosis of her carpi navicularis. I believe that this accounts for the majority of her ongoing problems.

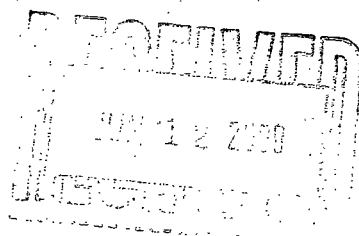
I hope that this answers your questions. If I can provide any further information, please advise my office accordingly.

Sincerely;



BLAKE H. MOORE, MD FACS

6/4/08



Street

5

29202-1715

5723



WCC File #: 0810330

Carrier File #: WC550-614499

Carrier Code #: 417

Employer FEIN #: 01-0396065

Claimant's Name: Emma Hamilton SSN: 249-17-0683

Employer's Name: FORMED FIBER TECHNOLOGIES INC

Address: 2227 BOB WHITE DR SUMTER SC 29154-0000

Address: 320 NEELEY ST

City: SUMTER

State: SC

Zip: 29154-0000

City:

State:

Zip:

Home Phone: 8037203053

Work Phone:

Insurance Carrier Liberty Insurance Corporation

Preparer's Name: Amy Dodge

Law Firm:

(800) 532-7706

Date of Injury: 07/22/2008 (m/d/yyyy)

Date of Notice: 08 (m/d/yyyy)

I. Payment of Temporary Compensation

Check one: [X] Initial period

(choose A, B, or C)

[X] A. Temporary Total at the compensation rate of \$ 344.36 per week. For date of first payment was 01/16/2009 (m/d/yyyy)

[] B. Temporary Partial at the compensation rate of \$ per week. Note: When Temporary partial payment here. Supplement this report throughout the period of Temporary Partial Compensation by filing a Form 15 after the date of injury and each six months thereafter until the file is closed. For this period of disability, disability began on (m/d/yyyy), and the date of filing payment was (m/d/yyyy)

Calculation of Temporary Partial rate:

Average weekly before injury	\$
- Current weekly wage	\$
= Difference in wages before injury and now	\$
x .6667	\$
Temporary Partial Compensation Rate	\$

[] C. Salary in lieu of [] Temporary total [] temporary partial compensation in the amount of per week. began on (m/d/yyyy) and the date of first payment of salary in lieu of temporary compensation was (m/d/yyyy)

THIS SECTION MAY BE USED ONLY WITHIN 150 DAYS AFTER NOTICE TO EMPLOYER OF INJURY, ATTACH DOCUMENTATION AS TO THE REASON FOR THE TERMINATION.

II. Termination of Temporary Compensation Temporary compensation payments were stopped on (m/d/yyyy) for the following reason:

- Claimant has returned to work at least 15 days and no temporary partial compensation is due.
- Claimant agrees he/she is able to return to work and has signed a Form 17
- Based on a good faith investigation, the claim is denied. Reason for denial:
- Claimant has been released to return to work without restrictions and employment has been offered.
- Claimant has been released to return to work at limited duty and employer has provided limited duty work consistent with the terms upon which the Employee has been released.
- Claimant has refused medical treatment, examination, or evaluation. Note: Benefits must be resumed if claimant accepts the treatment, examination, or evaluation. Additional report must be filed if compensation is resumed.

I certify that this form has been served on the claimant per R.67-211.

Signature of Claims Administrator: Christina Crane

January 28, 2009

Date (m/d/yyyy)

III. Notice to Injured Worker or Legal Representative when Temporary Compensation Has Been Stopped:

The employers representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that temporary compensation should not have been stopped, you may request a hearing by signing below and returning this form to the SCWCC Judicial Department at the address at the top of the form. A hearing will be held within 60 days of receipt of your request to determine if temporary compensation has been properly terminated.

MY SIGNATURE BELOW INDICATES THAT I DO NOT AGREE WITH THE TERMINATION OF TEMPORARY COMPENSATION, I REQUEST A HEARING TO DETERMINE WHETHER I AM ENTITLED TO FURTHER TEMPORARY COMPENSATION PAYMENTS.

Check one: Form 115(11) [] has [] has not been received.

Signature of Claimant or Legal Representative

Date (m/d/yyyy)

Employers representative must complete and file Form 15 with Claims Department within ten days after compensation begins or is terminated. Employers representative must serve the Form 15 on the claimant when compensation begins per R.67-211. Employer's representative must prepare and serve Form 20 within thirty days of beginning compensation per R 67-1603. Employer's representative must serve per R.67-211 two copies of the Form 15 on claimant immediately on termination of compensation with documentation attached as to the reason for the termination. Injured worker may contest termination of compensation by completing section III of the Form 15 and filing it with Judicial Department.

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330

Carrier File # WC550-614499

Carrier Code #

Employer FEIN

Emma Hamilton 249-17-0683
Claimant's Name SSN
2227 Bobwhite Drive, Sumter, SC 29154
Address City State Zip
(803) 481-9425
Home Phone Work Phone

Martin Color-Fi, Inc.
Employer's Name
320 Neeley Street, Sumter, SC 29150
Address City State Zip
Liberty Mutual Insurance Company
Insurance Carrier

Candace G. Hindersman (803) 227-2888
Preparer's Name Phone #

The date of injury reported on the Form 12A is: 7/22/2008

Check applicable section(s). The employer's representative requests a hearing to:

I. Stop payment of compensation. Compensation payments are current as of _____ date and shall continue until otherwise ordered or until a Form 17 is signed by the claimant. A Form 17 was offered and refused on _____ date

The basis of the stop payment hearing is (check one):

- (a) The authorized health care provider states the claimant has reached maximum medical improvement.
- (b) The authorized health care provider states the claimant is able to return to the same or other suitable job and has assigned an impairment rating, if any, and the same or suitable job has been offered to the claimant.
- (c) The authorized health care provider states the claimant is unable to return to the same or other suitable job and has assigned an impairment rating, if any.

II. Terminate temporary compensation suspended per R.67-505. Date suspended: _____

The basis for suspension of benefits is (check one):

- (a) The claimant refuses medical treatment.
- (b) The employer states the claimant is working, has worked for at least fifteen calendar days, and the claimant refuses to sign the Form 17. Requesting: Informal Conference Hearing

III. Pay compensation in the amount of \$ TBD, based on the following grounds: Claimant has reached maximum medical improvement.

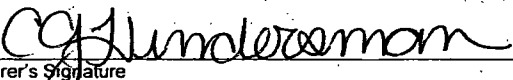
IV. Request Credit for overpayment of temporary compensation.

V. Reduce Payment of compensation from \$ _____ to \$ _____, based on the following grounds:

Compensation payments are current as of _____ date and shall continue until otherwise ordered or until a Form 17 is signed by the claimant.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Joseph T. McElveen, Jr., Esquire, 17 E. Calhoun Street, P.O. Box 2038, Sumter, SC 29151-2038; and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715

On the 20th day of April, 2009 by X first class postage, _____ certified mail, _____ personal service.


Preparer's Signature
Candace G. Hindersman
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

Attorney for Defendants
Title

April 20, 2009
Date

The claimant may respond by writing the preparer at the address above and filing a copy of the response with the Commission's Judicial Department at the address at the top of the form. Refer to R.67-208, R.67-21 1, R.67-505, R.67-506. and R.67-601 - R.67-616. Questions about the use of this form should be directed to the Judicial Department at (803) 737-5675.

South Carolina Workers' Compensation Commission
1612 Marion Street • P.O. BOX 1715
Columbia, SC 29202-1715
(803)737-5723



WCC File #: 0810330
Carrier File #: WC550-614499
Carrier Code #: 417
Employer FEIN #: 01-0396065

Claimant's Name: Emma Hamilton SSN: 249-17-0683 Employer's Name: FORMED FIBER TECHNOLOGIES INC
Address: 2227 BOB WHITE DR SUMTER SC 29154-0000 Address: 320 NEELEY ST SUMTER SC 29150-0000
City: SUMTER State: SC Zip: 29154-0000 City: _____ State: _____ Zip: _____
Home Phone: 8037203053 Work Phone: _____ Insurance Carrier Liberty Insurance Corporation
Preparer's Name: Amy Dodge Law Firm: _____ Preparer's Phone #: (800) 532-7706

1. Date of injury: 07/22/2008 2. Total Weeks of Compensation Paid: _____
(m/d/yyyy)

3. Type of Compensation Paid (TP or TT)/Periods of Payment:
Type: _____ From: _____ To: _____
(m/d/yyyy) (m/d/yyyy)
Type: _____ From: _____ To: _____
Type: _____ From: _____ To: _____

4. Date of First Payment: _____
(m/d/yyyy)

5. Total Amount Paid (a) Compensation: \$ 0.00
(b) Medical (Include Nursing, Hospital Drugs, Etc.): \$ 4,410.41

6. Informal Conference is Requested: yes no (check one)

Use these lines to send a memo to the Commission:

Christina Cranc (800) 532-7706 January 12, 2009
Employer's Representative Phone # Date

Type or print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's File is closed. Form 18 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request an informal conference. Refer to R.67-413, R.67-507, and R.67-804 for further information.

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803)737-5700

WCC File # 0810330
Carrier File # WC550-614499
Carrier Code # 417
Employer FEIN 01-0396065

EMMA HAMILTON		249-17-0683		FORMED FIBER TECHNOLOGIES INC			
Claimant's Name		SSN		Employer's Name			
22247 BOB WHITE DR		SUMTER SC 29154		320 NEELEY ST		SUMTER SC 29154	
Address		City State Zip		Address		City State Zip	
(803) 720-3053				LIBERTY MUTUAL GROUP			
Home Phone #		Work Phone #		Insurance Carrier			
		Amy Dodge		(080) 532-7706			
		Preparer's Name		Phone #			

1. Date of injury: 7/22/2008 2. Total Weeks of Compensation Paid: 14
month day year

3. Type of compensation paid (TP or TT)/Periods of Payment:
Type: TT From: 1/16/2009 To: 4/23/2009
Type: _____ From: _____ To: _____
Type: _____ From: _____ To: _____

4. Date of First Payment: 1/16/2009
month day year

5. Total Amount Paid (a). Compensation: \$4821.04
(b). Medical (Including Nursing, Hospital, Drugs, Etc.): \$7955.59

6. Informal Conference is Requested: yes no
(check one)

7. Use these lines to send a memo to the Commission:

Christina Crane (800) 532-7706 4/30/2009
Employer's Representative Phone# Date

Type or Print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's File is closed. Form 18 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request an informal conference. Refer to R.67-413, R.67-507, and R.67-804 for further information.

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330
Carrier File # WC550-614499
Carrier Code # _____
Employer FEIN _____

AMENDED

Emma Hamilton Claimant's Name	249-17-0683 SSN	Martin Color-Fi, Inc. Employer's Name
2227 Bobwhite Drive, Sumter, SC 29154 Address	City State Zip	320 Neeley Street, Sumter, SC 29150 Address City State Zip
(803) 481-9425 Home Phone	Work Phone	Liberty Mutual Insurance Company Insurance Carrier
Candace G. Hindersman Preparer's Name		(803) 227-2888 Phone #

The date of injury reported on the Form 12A is: 7/22/2008

Check applicable section(s). The employer's representative requests a hearing to:

I. Stop payment of compensation. Compensation payments are current as of 04/30/2009 and shall continue until 05/01/2009 otherwise ordered or until a Form 17 is signed by the claimant. A Form 17 was offered and refused on 05/01/2009

The basis of the stop payment hearing is (check one):

- (a) The authorized health care provider states the claimant has reached maximum medical improvement.
- (b) The authorized health care provider states the claimant is able to return to the same or other suitable job and has assigned an impairment rating, if any, and the same or suitable job has been offered to the claimant.
- (c) The authorized health care provider states the claimant is unable to return to the same or other suitable job and has assigned an impairment rating, if any.

II. Terminate temporary compensation suspended per R.67-505. Date suspended: _____

The basis for suspension of benefits is (check one):

- (a) The claimant refuses medical treatment.
- (b) The employer states the claimant is working, has worked for at least fifteen calendar days, and the claimant refuses to sign the Form 17. Requesting: Informal Conference Hearing

III. Pay compensation in the amount of \$ TBD, based on the following grounds: Claimant has reached maximum medical improvement.

IV. Request Credit for overpayment of temporary compensation.

V. Reduce Payment of compensation from \$ _____ to \$ _____, based on the following grounds:

Compensation payments are current as of _____ and shall continue until otherwise ordered or until a Form 17 is signed by the claimant.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Joseph T. McElveen, Jr., Esquire, 17 E. Calhoun Street, P.O. Box 2038, Sumter, SC 29151-2038; and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715

On the 7th day of May, 2009 by X first class postage, _____ certified mail, _____ personal service.

C. G. Hindersman
Preparer's Signature
Candace G. Hindersman
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

Attorney for Defendants
Title
Date May 7, 2009

The claimant may respond by writing the preparer at the address above and filing a copy of the response with the Commission's Judicial Department at the address at the top of the form. Refer to R.67-208, R.67-21 1, R.67-505, R.67-506. and R.67-601 - R.67-616. Questions about the use of this form should be directed to the Judicial Department at (803) 737-5675.



Claimant's Name: Emma Hamilton SSN: - - Employer's Name: Martin Color-Fi, Inc.
Address: 2227 Bobwhite Drive Address: 320 Neeley Street
City: Sumter State: SC Zip: 29154 City: Sumter State: SC Zip: 29150
Home Phone: (803) 840-5388 Work Phone: () - Insurance Carrier: Liberty Ins., Corp.
Preparer's Name: Joseph T. McElveen, Jr. Law Firm: Bryan Law Firm Preparer's Phone #: (803) 775-1263

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds: **Date of Injury or Illness: 7/22/2008**

- Injury Illness Repetitive Trauma
- 1a. The claimant sustained an injury to crush injury to right wrist and hand, affecting arm on 7/22/2008 in Sumter county, state of SC.
1b. Body part(s) affected are: crush injury to right wrist and hand, affecting arm.
Briefly describe how the accident occurred: The Claimant was running a machine when her hand was pulled into the machine and crushed by rollers.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 7/22/2008 in the following manner: Rusty McGee, Supervisor
6. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: _____
 (b) additional medical examination and treatment for: right wrist and hand.
7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: _____
8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one): Unknown at this time.
 (1) General Disability: Total (2) Specific Disability: Total _____
 (3) Wage Loss Partial Partial
9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$516.51, 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: Martin Color-Fi, Inc., 320 Neeley Street, Sumter, SC 29150.
- 11a. Further grounds or unusual aspects of claim: _____
- 11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Dr. James Gee, Industrial Medicine and Wellness, 250 Wesmark Blvd., Sumter, SC 29150.
- 11c. To the best of your knowledge, did you have any prior permanent disability? N/A
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.
 13b. I am requesting a hearing. A \$25 fee is required.
14. Estimated time needed for hearing: N/A

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

Joseph T. McElveen, Jr. Attorney for the Claimant jcmelveen@bryanlaw.com 7-21-10
Preparer's Signature Title Email Date

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

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330

Carrier File # WC550-614499

Carrier Code #

Employer FEIN

Emma Hamilton 249-17-0683
Claimant's Name SSN
2227 Bobwhite Drive, Sumter, SC 29154
Address City State Zip
(803) 840-5388
Home Phone Work Phone

Martin Color-Fi, Inc.
Employer's Name
320 Neeley Street, Sumter, SC 29150
Address City State Zip
Liberty Mutual Insurance Company
Insurance Carrier

Candace G. Hindersman
Preparer's Name

(803) 227-2888
Phone #

The date of injury reported on the Form 12A is: 7/22/2008

Check applicable section(s). The employer's representative requests a hearing to:

- I. Stop payment of compensation. Compensation payments are current as of 10/11/2010 and shall continue until 10/12/10 otherwise ordered or until a Form 17 is signed by the claimant. A Form 17 was offered and refused on 10/12/10 date

The basis of the stop payment hearing is (check one):

- (a) The authorized health care provider states the claimant has reached maximum medical improvement.
- (b) The authorized health care provider states the claimant is able to return to the same or other suitable job and has assigned an impairment rating, if any, and the same or suitable job has been offered to the claimant.
- (c) The authorized health care provider states the claimant is unable to return to the same or other suitable job and has assigned an impairment rating, if any.
- II. Terminate temporary compensation suspended per R.67-505. Date suspended: _____
The basis for suspension of benefits is (check one):
 - (a) The claimant refuses medical treatment.
 - (b) The employer states the claimant is working, has worked for at least fifteen calendar days, and the claimant refuses to sign the Form 17. Requesting: Informal Conference Hearing

- III. Pay compensation in the amount of \$ TBD, based on the following grounds: Claimant is at MMI.

- IV. Request Credit for overpayment of temporary compensation.

- V. Reduce Payment of compensation from \$ _____ to \$ _____, based on the following grounds:
Compensation payments are current as of _____ and shall continue until otherwise ordered or until a Form 17 is signed by the claimant.
date

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Joseph T. McElveen, Jr., Esquire, 17 E. Calhoun Street, P.O. Box 2038, Sumter, SC 29151-2038; and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715

On the 12th day of October, 2010 by X first class postage, _____ certified mail, _____ personal service.

Candace G. Hindersman
Preparer's Signature
Candace G. Hindersman
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

Attorney for Defendants
Title

October 12, 2010
Date

The claimant may respond by writing the preparer at the address above and filing a copy of the response with the Commission's Judicial Department at the address at the top of the form. Refer to R.67-208, R.67-21 1, R.67-505, R.67-506. and R.67-601 - R.67-616. Questions about the use of this form should be directed to the Judicial Department at (803) 737-5675.

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330

Carrier File # WC550-614499

Carrier Code #

Employer FEIN

Emma Hamilton 249-17-0683
Claimant's Name SSN
2227 Bobwhite Drive, Sumter, SC 29154
Address City State Zip
(803) 840-5388
Home Phone

Martin Color-Fi, Inc.
Employer's Name
320 Neeley Street, Sumter, SC 29150
Address City State Zip
Liberty Mutual Insurance Company
Insurance Carrier

Kristie L. Childers 803-227-2779
Preparer's Name Phone #

1. Date of injury: July 22, 2008
month day year

2. Total Weeks of Compensation Paid: 90

3. Type of Compensation Paid (TP or TT)/Periods of Payment:

Type: TT From: 01/16/2009 To: 10/07/2010
Type: From: To:
Type: From: To:

4. Date of First Payment: month day year

5. Total Amount Paid (a) Compensation: \$30,992.40

(b) Medical (Include Nursing, Hospital Drugs, Etc.): \$26,743.83

6. Informal Conference is Requested: yes no
(Check one)

7. Use these lines to send a memo to the Commission:

Candace G. Hindersman (803) 227-2888
Employer's Representative Phone
Candace G. Hindersman
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

October 12, 2010
Date

Type or print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's File is closed. Form 18 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request an informal conference. Refer to R.67-413, R.67-507, and R.67-804 for further information.

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

06/30/2010

EMMA HAMILTON 256804

Lexington Office

HISTORY: Emma Hamilton is a 45-year-old right hand dominant female here for an independent evaluation of her right hand. The patient previously worked as a color specialist at Color-Fi Corporation and sustained an on the job injury on July 22, 2008, when she reportedly caught her hand in a roller at work. She reported the immediate onset of sharp pain in the hand, which she did not have previously. She initially went to the emergency department where she was splinted and given pain medication and x-rays were taken. She then presented the following day to Dr. Gee who found the patient to have a roller type crush injury to the hand with no signs of compartment syndrome or vascular compromise. She was treated with analgesics and later with therapy. The patient has not yet returned to work since the time of her injury. She states that her hand continues to hurt and is made better with heat and rubbing it out and made worse with using it too much. She did undergo an extensive course of therapy including work hardening, which she states she felt was helpful in her recovery. She states that she was interested in working light-duties while she was recovering, but that no light-duties were available to her. She initially complained of some new onset tingling in her hand after the crush injury and this was evaluated with a nerve conduction study by Dr. Marshall White on November 3, 2008, which showed no signs of abnormalities in the right upper extremity. She also underwent imaging of her right hand with an MRI scan on November 26, 2008, which showed no signs of fracture in the hand or wrist. She did have some subchondral cystic degenerative changes in the ulnar aspect of the lunate bone.

PAST MEDICAL HISTORY: The patient information sheet was reviewed and signed. She has a history of depression and asthma. She does smoke. She denies alcohol use. She is divorced.

PHYSICAL EXAMINATION: She is in minimal distress. There are no signs of bruising or swelling noted about the right hand compared to the left. There is full range of motion of her fingers and wrist. There is no carpal instability. She is nontender over the lunate and nontender over the ulna. There is a negative Finkelstein's test. There is variable strength testing measurements with static and dynamic testing. There is a normal objective sensory examination of the median and ulnar nerve distributions. There is negative Tinel's at the elbow, negative Tinel's at the wrist. There are no signs of crepitus or carpal instability with wrist range of motion.

IMPRESSION:

STATUS-POST ROLLER INJURY TO RIGHT HAND
WHICH APPEARS TO BE RESOLVED FROM AN
OBJECTIVE STANDPOINT

Continued

Moore Orthopaedics
104 Saluda Pointe Drive
Lexington, South Carolina 29072
(803) 227-8124 Phone / (803) 227-8224 Fax

06/30/2010

EMMA HAMILTON 256804

Lexington Office

Continued

PLAN: I see no signs of ongoing swelling or loss of mobility. Her nerve studies were normal. I do not believe the cystic changes in her lunate were likely related to the injury, but rather represent likely pre-existing chronic changes, as she is not clinically painful in this area of her wrist. At this point in time, I see no contraindication to return to work without restriction. I see no evidence of permanent partial impairment to the right hand or wrist. I believe her treatment to date has been appropriate for her work related crush injury. I do not believe any further treatment or testing is medically necessary. Follow up with me is p.r.n.

David B. Fulton, M.D.

CC List:

DBF:ats47

DD: 06/30/2010 DT: 07/01/2010 09:38:18

47903

This document was electronically authenticated by David B. Fulton, M.D. on 07/08/2010
10:22:43.

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE

Candace G. Hindersman
Direct (803) 227-2888
Fax (803) 782-2527
cghindersman@wjlaw.net

4500 Fort Jackson Boulevard
Columbia, SC 29209
www.wjclaw.net

October 12, 2010

Ms. Virginia L. Crocker
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

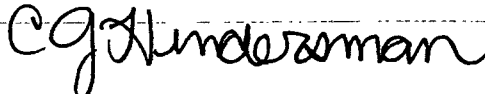
Re: Emma Hamilton vs. Formed Fiber Technologies, Inc.
WCC File No.: 0810330 DOI: 7/22/2008
Carrier: Liberty Mutual Insurance Company - Claim No.: WC550-614499
WJC&B File No.: 0010.02441

Dear Ms. Crocker:

Enclosed please find a Form 21, Employer's Request for Hearing, in the above-referenced matter, along with a \$25.00 check in payment of the Commission's filing fee. Also enclosed is a Form 20, a Form 18, Form 14B and notes regarding MMI for filing. Please note our representation for the record and provide us with copies of all future correspondence pertaining to this claim.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.

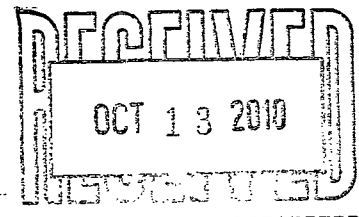


Candace G. Hindersman

CGH/ilg

Enclosures

cc (w/enclosure): Joseph T. McElveen, Jr., Esquire
Ms. Rasha Youssef (via e-mail)



South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330

Carrier File # WC550-614499

Carrier Code #

Employer FEIN

Emma Hamilton 249-17-0683
Claimant's Name SSN
2227 Bobwhite Drive, Sumter, SC 29154
Address City State Zip
(803) 840-5388
Home Phone Work Phone
Kristie L. Childers
Preparer's Name

Martin Color-Fi, Inc.
Employer's Name
320 Neeley Street, Sumter, SC 29150
Address City State Zip
Liberty Mutual Insurance Company
Insurance Carrier
803-227-2779
Phone #

Date of injury: 7/22/2008
month day year

1. Temporary Compensation Paid:

Number of Weeks	From	To	Amount
90	01/16/2009	10/07/2010	\$ 30,992.40
			\$
			\$
			\$
			\$

2. The claimant returned to work on _____ month day year With restrictions but at a salary not less than before the injury.
 Without restrictions.

3. The claimant agrees he or she was able to return to work on _____ month day year

I agree that I was disabled for the period(s) indicated and I was paid compensation as shown above. I UNDERSTAND THAT MY WEEKLY TEMPORARY COMPENSATION CHECKS WILL STOP; HOWEVER, I GIVE UP NO RIGHTS TO COMPENSATION FOR FUTURE DISABILITY, FOR PERMANENT DISABILITY, DISFIGUREMENT, OR MEDICAL CARE. The effect of this form has been fully explained to me, and I have received a copy of it. I understand that I should not sign this form until 15 days after I have returned to work or agree I was able to return to work.

Claimant's Signature

Employer's Representative Signature

(Check one) Witness Claimant's Attorney

Date Agreement Signed

File this form with the Claims Department no later than 31 days from the date the claimant returned to work to terminate temporary compensation after the first 150 days after employer's notice of the injury according to R.67-505. Within the 150 day period, obtain a Form 17 to document that claimant agrees he or she is able to return to work.

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 #: 0810330
Carrier File #: WC550-614499
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Emma Hamilton SSN: _____ Employer's Name: Martin Color-Fi, Inc.
Address: 2227 Bobwhite Drive Address: 320 Neeley Street
City: Sumter State: SC Zip: 29154 City: Sumter State: SC Zip: 29150
Home Phone: (803) 840-5388 Work Phone: () Insurance Carrier: Liberty Ins., Corp.
Preparer's Name: Joseph T. McElveen, Jr. Law Firm: Bryan Law Firm Preparer's Phone #: (803) 775-1263

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds: **Date of Injury or Illness: 7/22/2008**

- Injury Illness Repetitive Trauma
- 1a. The claimant sustained an injury to crush injury to right wrist and hand, affecting arm on 7/22/2008 in Sumter county, state of SC.
Body part(s) affected are: crush injury to right wrist and hand, affecting arm.
Briefly describe how the accident occurred. The Claimant was running a machine when her hand was pulled into the machine and crushed by rollers.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 7/22/2008 in the following manner: Rusty McGee, Supervisor
6. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: _____
 (b) additional medical examination and treatment for: right wrist and hand treatment as recommended by Dr. Blake Moore.
7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: _____
8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one): Unknown at this time.
 (1) General Disability: Total (2) Specific Disability: Total
 (3) Wage Loss Partial Partial
9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$516.51, 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: Martin Color-Fi, Inc., 320 Neeley Street, Sumter, SC 29150.
- 11a. Further grounds or unusual aspects of claim: The Defendant's requested a hearing on a Form 21 that is now scheduled for December 15, 2010. The Claimant request that this Form 50 hearing request be held on the same date and time as the Form 21 hearing set for the above listed date.
- 11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Dr. James Gee, Industrial Medicine and Wellness, 250 Wesmark Blvd., Sumter, SC 29150. Dr. Blake H. Moore Kingstree Surgical Associates 920 St. Andrews Rd., Columbia, SC 29212.
- 11c. To the best of your knowledge, did you have any prior permanent disability? N/A
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.
- 13b. I am requesting a hearing. A \$25 fee is required.
14. Estimated time needed for hearing: N/A

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

Joseph T. McElveen Attorney for the Claimant jcmeveen@bryanlaw.com 11-22-10
Preparer's Signature Title Email Date

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

CERTIFICATE OF MAILING

I, the undersigned employee of the law offices of Bahnmuller, Goldman, McElveen, Ford, Bultman & Rodriguez, P.A., attorneys for Emma Hamilton, do hereby certify that I have served the Defendants or counsel of record with the following document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Pleading(s):

Form 50-Hearing Request

Person(s) Served:

Candace Hindersman, Esquire
Willson, Jones, Carter & Baxley, PA
4500 Fort Jackson Blvd.
Columbia, S.C 29209

Annette A. Connor

SWORN to and subscribed before me
this 22 day of November, 2010

Heather S. Douglas

Notary Public for South Carolina

My Commission expires: 10/12/2017

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 0810330

Carrier File # WC550-614499

Carrier Code #

Employer FEIN

Emma Hamilton 249-17-0683
Claimant's Name SSN
2227 Bobwhite Drive, Sumter, SC 29154
Address City State Zip
(803) 840-5388
Home Phone
Work Phone
Candace G. Hindersman
Preparer's Name

Martin Color-Fi, Inc.
Employer's Name
320 Neeley Street, Sumter, SC 29150
Address City State Zip
Liberty Mutual Insurance Company
Insurance Carrier
(803) 227-2888
Phone #

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part.
The employer-insurance carrier in answer to the claim, respectfully shows:

- 1. It is (admitted) (denied) that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Defendants admit claimant sustained an injury but deny the extent of the injury alleged.
2. It is (admitted) (denied) that 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) that the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is (admitted) (denied) that at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
5. It is (admitted) (denied) that notice of injury was given the employer. The reasons for denial are:
6. It is (admitted) (denied) that the employee needs or is entitled to additional medical care as a result of injury. The reasons for denial are:
7. It is (admitted) (denied) that the employee is entitled to temporary total disability for the period(s) of:
8. It is (admitted) (denied) that the employee is permanently disabled. The reasons for denial are:
9. It is (admitted) (denied) that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$ 516.51 [To Be Provided] applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Defendants reserve the right to amend and to assert defenses as they become aware of them.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to Joseph T. McElveen, Jr., Esquire, Name

17 E. Calhoun Street, P.O. Box 2038, Sumter, SC 29151-2038 and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202

Address

on the 21st day of December, 2010 by [X] first class mail; [] personal service; [] certified mail.

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

Candace G. Hindersman
Preparer's Signature, Attorney for Defendants
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209

Kellie J. Bobo
Kellie J. Bobo, Certifier

December 21, 2010
Date

Refer to R.67-205 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

Emma Hamilton
WCC#0810330

The hearing Commissioner erred as follows in his Order dated February 24, 3011:

1. In characterizing Claimant's injury as getting "her hand and forearm caught in rollers" (Order, p. 7, para. 6), when the record established she suffered a "very significant roller type (crush) injury" (Defendants' APA p. 44), the error being that a "crush injury" of the dominant hand is a very serious injury.
 2. In characterizing the November 26, 2008, MRI as "essentially normal" (Order, p. 7, para. 8), when the MRI itself showed "subtle sclerosis" and "small subchondral cystic degenerative changes along the ulnar aspect of the lunate bone" (Defendants APA p. 65), the error being that no doctor commented upon these potential problems until Dr. Moore suggested the possibility of ulnar abutment or avascular necrosis (Claimant's APA p. 248) in June, 2010.
 3. In finding that Defendants made a good faith effort to get Claimant the treatment she needed (Order, p. 8, para. 19), the error being that the authorized treating physician attempted to refer Claimant to Dr. Marshall White, the neurologist who performed a nerve conduction study/electromyography on November 3, 2008 (Defendants' APA pp. 131-132), for a follow-up appointment to determine whether or not Claimant had "true reflex dystrophy" and whether certain treatment would be helpful; but such treatment was never provided (Defendants' APA pp. 54,56; Claimant's APA p. 83).
 4. In failing to order a return appointment to a neurologist to determine whether or not Claimant has reflex sympathetic dystrophy or other undiagnosed problem and whether further specialized treatment was needed, the error being that Claimant did not receive treatment ordered by the authorized treating physician and has continued to suffer problems with her dominant right hand with no physician pin-pointing what her problem is and what can be done to improve it.
 5. In finding that Defendants made a good faith effort to get Claimant the treatment she needed (Order, p. 8, para. 19), the error being that the authorized treating physician attempted to refer Claimant for a repeat MRI on February 18, 2010, and February 25, 2010, to see "if anything has changed since the previous MRI" (Defendants' APA pp. 105, 107, and 109); but such treatment was never provided.
 6. In failing to order a repeat MRI to determine whether or not whether Claimant's condition had changed, the error being that Claimant has continued to suffer problems with her dominant right hand with no physician pin-pointing what her problem is and what can be done to improve it.
 7. In failing to allow the referrals recommended by the authorized treating physician for a neurological referral and a repeat MRI, the error being that the Defendants unreasonably denied necessary medical treatment which might tend to lessen her disability.
 8. In drawing conclusions about the credibility of the Claimant based upon her assessment that the physicians to whom the Defendants referred Claimant treated her rudely (Order, p. 7, paras. 7, 9 and 10), the error being that the Claimant's assessment of the manners or demeanor of her doctors could well be correct and there is no way to prove that they did or did not treat her civilly and respectfully. Comments of Dr. Gee in his prepared records referenced by the Commissioner that there was some degree of animosity between him and Claimant [support the Claimant's concerns]. Were the doctors disrespectful to Claimant before she was to them, or was it the opposite? There is no way to tell; and, anyway, such is irrelevant in deciding this claim.
-
9. In finding that the nerve conduction study/electromyography was "unremarkable", the error being that, for instance, the "normal Amp" is greater than three, and Claimant's left arm "Amp (mV)" is 7.2 at the wrist, while the right arm is 3.2 at the wrist, suggesting that the situation with the injured, dominant right hand is considerably less stable than the left. Attention is invited to the fact that the authorized treating physician tried unsuccessfully to have Claimant seen again by the neurologist who performed the test.

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 8 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-205D. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

10. In failing to give considerable weight to the "valid" functional capacity evaluation that indicated Claimant cannot return to her former duties, the error being that the report was prepared by an authorized provider, McLeod Health, which had just completed a 21-visit course of work hardening with Claimant, and showed greatly reduced capacity for work and considerable functional problems, including pain. This evaluation should have led to more treatment or greater permanent disability.

11. In finding that Claimant's attempt to use post-hole diggers "brought her credibility into question" (Order, p. 8, para. 13), the error being that Claimant only tried to use the tool because she was determined to get better and to do all that she could do, but found that she could not use the post-hole diggers. The hearing Commissioner did not determine that Claimant lied about using the tool, he said the fact that she tried to use the tool reflects on the believability of her testimony, which is not a logical sequence. Claimant's activity throughout the time since her injury shows her as determined to work and to do as much as she can.

12. In giving any weight to the opinion of Dr. Green (Order, p. 8, para. 14), because Dr. Green assessed 2% permanent impairment one day and 1% (Defendants' APA p. 70), the next, the error being that, as Dr. Moore pointed out, reducing an rating by fifty percent without giving any reason raises questions about the reliability of the impairment was determined. Attention should be given to the fact that Dr. Green, like Dr. Fulton and Dr. Moore, was not a treating physician, but an independent medical examiner who did not form a patient-physician relationship with Claimant.

13. In giving any weight to the opinion of Dr. Fulton, the error being that he gave no consideration to the functional capacity evaluation which showed Claimant is unable to return to work.

14. In finding that Claimant had reached maximum medical improvement and ordering reimbursement of temporary total disability compensation, the error being that Dr. Green and Dr. Fulton were independent medical examiners, not authorized treating physicians, and the authorized treating physician, Dr. Gee, has not made a definitive statement as to maximum medical improvement, as required by Regulations 67- 505 and 596. Dr. Moore, also an independent medical examiner, concluded that Claimant was not at maximum medical improvement. Treatment requested by Dr. Gee was not approved by the Carrier, so that Claimant is not at maximum medical improvement.

15. In awarding only 10% permanent disability to the right arm, the error being that the severity of Claimant's injury and her functional loss due to the work injury require significantly greater permanent disability, especially where Claimant cannot return to the level of work she has done her entire life.

16. In questioning the credibility of Claimant, the error being that the overall tenor of the medical records shows Claimant to be an injured worker who fought unsuccessfully to save her job, tried everything she could to continue working, sought medical treatment that would allow her to get better and return to work, worked hard in physical therapy and work hardening to improve her function, understated her pain in an effort to be allowed to return to work, and gave full and valid effort on her functional capacity evaluation. If the Claimant's attitude at the hearing was troubling, it was from frustration and exasperation at being denied medical treatment ordered by the approved doctor, being told one thing only to have something else happen, and not being able to get better and return to work.

17. In finding that "Claimant's testimony was evasive and confusing at times, which brought her credibility into question" (Order, p. 8, para. 18), the error being that the Claimant's testimony was not evasive and confusing and no one can decipher how the hearing Commissioner reached this finding because no examples to back up the finding are given in the order.

18. In finding that Dr. Gee, the authorized treating physician, placed the Claimant at maximum medical improvement, the error being that Dr. Gee never concluded that the Claimant had reached maximum medical improvement. In fact, Dr. Gee ordered further treatment through work hardening in his report dated May 27, 2009.

19. In finding that the Claimant did not need a follow-up MRI and neurological appointment, the error being that the Commissioner should have at least determined why Dr. Gee asked for a second MRI more than once and a repeat neurological consult, which requests were denied, overlooked, and forgotten.

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 8 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-205D. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

20. In finding and concluding that the Claimant's entitlement to temporary compensation ended on June 30, 2010, the error being that the Defendants did not file for stop payment until October 12, 2010; and that, if the Claimant has in fact reached maximum medical improvement, any credit for overpayment should not have been allowed prior to the date of filing of the stop payment request. The Claimant resubmits her argument that she has not been found to be at maximum medical improvement by the authorized treating physician.

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 8 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-205D. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

CERTIFICATE OF MAILING

I, the undersigned employee of the law offices of Bahnmuller, Goldman, McElveen, Ford, Bultman & Rodriguez, P.A., attorneys for Emma Hamilton, do hereby certify that I have served the Defendants or counsel of record with the following document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address this 9th day of March, 2011:

Pleading(s):

Form 30-Appeal

Person(s) Served:

Candace Hindersman, Esquire
Willson, Jones, Carter & Baxley, PA
4500 Fort Jackson Blvd.
Columbia, S.C. 29209

Kathryn McElveen

SWORN to and subscribed before me
this 9 day of March, 2011

Heather S. Douglas

Heather S. Douglas
Notary Public for South Carolina

My Commission expires: October 12, 2017.

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 0810330

Emma Hamilton, Employee,
Claimant,
vs.
Martin Color-Fi, Inc., Employer,
Liberty Insurance Corporation, Carrier,
Defendants.

**CLAIMANT'S ANSWER TO THE
EMPLOYER'S REQUEST FOR A
HEARING ON A FORM 21**

YOU WILL PLEASE TAKE NOTICE that the Claimant, through her undersigned attorney, submits the following RESPONSE to the Amended Form 21, Employer's Request for Hearing, pursuant to Regulations 67-208B and 67-604B of the South Carolina Workers' Compensation Commission:

1. In the initial Employers' Request for Hearing, Paragraph 1 was left blank, and the Form 21 was rejected by the Commission as being incomplete. The Amended Form 21 requests "stop payment of compensation" because "the authorized health care provider states the claimant has reached maximum medical improvement". The authorized health care provider has NOT stated that Claimant has reached maximum medical improvement.
2. The authorized health care provider since Claimant's injury has been and continues to be Dr. James E. Gee, MD, orthopedist who works at Industrial Medicine and Wellness.
3. Dr. Gee diagnosed a "compression injury of the right hand and wrist", which resulted when her hand and wrist were crushed by the rollers of a machine she was operating. Claimant has continued to work on "light duty" for much of the time since her injury. As the Form 18

indicates, no temporary total disability compensation was paid until January 16, 2009, when the Claimant was "laid off" by Employer. She was still on "light duty" at the time of the layoff, and that is why temporary total disability compensation is being paid.

4. Claimant last saw Dr. Gee on December 4, 2008. He essentially told her that she needed more time to heal and that she did not need more aggressive treatment. He did request authorization for follow-up neurological testing, which has not been granted by the Carrier. On his Work Status Report for that visit, Dr. Gee continued the same restrictions. He wrote:

"Please, please bear with us. She will get better, but time is only way. There is no "quick fix". Please understand." Claimant was to follow up for an appointment in three months.

5. At this point, Carrier asked for a second opinion by way of an independent medical evaluation with Dr. Michael Green of Midlands Orthopedics. Claimant is informed and believes that she was required to participate in this evaluation by Section 42-15-80 or lose her workers' compensation benefits. She did not agree to a change of her authorized treating physician.

6. Upon information and belief, a physician performing an independent medical evaluation works for the person who hired him and does not form a physician-patient relationship with a claimant. Furthermore, the medical provider who performs an independent medical evaluation cannot be the medical provider selected to provide treatment or follow-up care unless the carrier and the employee agree. *See Medical Services Provider Manual*, pp. 31-32, "Independent Medical Evaluation (IME)". Therefore, the Form 14B of Dr. Green cannot be the basis for a stop payment based upon Claimant having reached maximum medical improvement. Only such a finding by Dr. Gee can justify stop payment.

7. The Amended Form 21 also states that a Form 17 was offered Claimant and refused on May 1, 2009. A Form 17 was mailed to Claimant's attorney on May 1, 2009, and received on May 5,

2009. Although Claimant has not refused to sign the Form 17, she does not agree that she can return to work without restrictions. She cannot return to work with restrictions at a salary not less than before the injury, because she is restricted to "light duty" and has been laid off by Employer. Furthermore, she does not agree that she was able to return to work. Therefore, she cannot sign the Form 17.

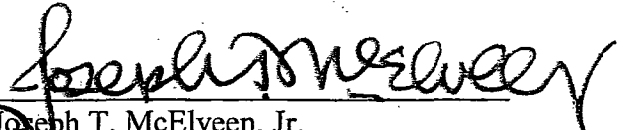
8. Claimant also submits that failure of Defendants to include a specific amount of compensation to be paid, as required on a Form 21, defeats the purpose for having the form and is a flaw that should result in rejection of the Amended Form 21.

WHEREFORE, Claimant respectfully submits that the requests of Defendants to stop payment and to pay compensation should be denied:

- (a) Because she has not been found to have reached maximum medical improvement by an authorized health care provider;
- (b) Because she continues to have limitations and restrictions which will allow her to work at full duty;
- (c) Because Employer will not provide light duty work as specified by the authorized health care provider;
- (d) Because the Amended Form 21 is not filled out completely; and
- (e) For such other and further reasons as the Commission may determine.

Respectfully submitted,

BAHNMULLER, GOLDMAN, McELVEEN,
FORD, BULTMAN & RODRIGUEZ, P.A.

By: 

Joseph T. McElveen, Jr.
Attorney for Claimant
17 East Calhoun Street
P.O. Box 2038
Sumter, S.C. 29151
(803) 775-1263
(803) 778-1300

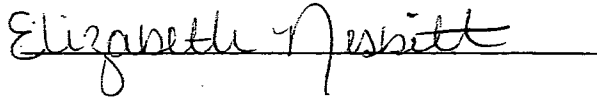
Sumter, South Carolina
May 5, 2009

CERTIFICATE OF MAILING

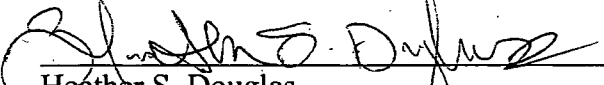
I, the undersigned employee of the law offices of Bahnmuller, Goldman, McElveen, Ford, Bultman & Rodriguez, P.A., attorneys for Emma Hamilton, do hereby certify that I have served the Defendants or counsel of record with the following document(s) by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Pleading(s): Claimant's Answer to the Defendant's Form 21-Request for a Hearing

Person(s) Served: Candy Hindersman, Esquire
Willson, Jones, Carter & Baxley, PA
4500 Fort Jackson Blvd.
Columbia, S.C 29209


Elizabeth Nesbitt

SWORN to and subscribed before me
this 15 day of May, 2009


Heather S. Douglas

Notary Public for South Carolina

My Commission expires: 10/12/2017

REQUEST FOR PROPOSED ORDER

This document is not an Order. It is a request for a proposed Order. The undersigned reserves the right to modify or delete any portion of this document.

WCC # 0810330

DATE/PLACE of HEARING: 12/15/2010, Camden, SC

CLAIMANT: Emma Hamilton

EMPLOYER: Formed Fiber Technologies, Inc.

CARRIER: Liberty Insurance Corporation

CLAIMANT'S ATTY: Joseph McElveen

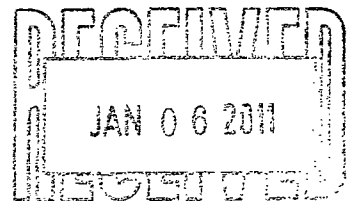
DEFENDANT'S ATTY: Candace Hindersman

FINDINGS OF FACT

1. Claimant injured right hand in an admitted work-related accident on July 22, 2008. The injury affects Claimant's right wrist.
2. Defendant to pay all causally related authorized medicals.
3. Claimant was a machine operator for Defendant. She has done construction work in the past and other labor intensive work.
4. Claimant was injured when she got her hand and forearm caught in rollers. She is right hand dominant.
5. Claimant was treated by Dr. Gee, she was dissatisfied with him and eventually saw Drs. Green and Fulton. She was also dissatisfied with her treatment by them.
6. Claimant had an MRI which was essentially unremarkable with no tendon or ligament injury.
7. Claimant stated Dr. Green was nasty to her much like Dr. Gee. She then saw Dr. Fulton.
8. She liked Dr. Fulton until he read her MRI then she said he also was nasty to her.
9. Claimant had an unremarkable nerve conduction study and physical therapy which she said did not help.
10. She also had an FCE which was valid and indicated she could not return to her former duties.
11. Claimant testified she had tried to use a posthole digger and was unable to. The fact that she even considered this brings her credibility into question.
12. Claimant was placed at MMI by Dr. Green on February 11, 2009 with a 2% impairment to the hand. He released her to full duty and stated she will not need future medicals.
13. Claimant was treated by Dr. Fulton and on June 30, 2010 he placed Claimant at MMI. He gave Claimant no restrictions and no evidence of impairment to the right hand or wrist.
14. Claimant was also seen by Dr. Moore for the purpose of an IME.
15. Greater weight was given to the opinions of Drs. Fulton and Green who are hand specialists versus the opinion of Dr. Moore.
16. Claimant's testimony was evasive and confusing at times which brought her credibility into question.
17. Defendant made a good effort to have Claimant see three doctors after being out for about two years.
18. I also find the report of Dr. Gee dated May 27, 2009 very persuasive and there is no mention of a follow-up MRI in this report. He also placed Claimant at MMI. At the hearing, Claimant sought a second MRI.
19. Compensation Rate: \$344.35 MMI June 30, 2010.
20. 10% PPD to RUE.

Commissioner's Notes for Decision and Order

Page 1 of 2



21. Defendant to receive credit for all compensation paid since June 30, 2010. MMI Date.

22. There is no evidence from an authorized provider that Claimant needs future medicals or imaging (See Forms 14-B).

INSTRUCTIONS: Candace Hendersman, attorney to prepare proposed Order. Proposed Order shall include Findings of Fact attached hereto. Any other Findings of Fact not inconsistent with those attached hereto may also be proposed. Proposed Order shall be submitted by February 11, 2011. If you need a transcript order it *immediately* from court reporter Jan Whitworth *in writing* at Post Office Box 551, Roebuck, SC 29376 (864) 494-2705. Provide a copy of the proposed order to opposing counsel or *pro se* claimant **before or at the same time** one is submitted to the Commission.



The Commission now requires **the original and three copies** of the proposed order with self-addressed, stamped envelope to each party.

FORMAT for DECISION & ORDER:

1. APA Submissions
2. Stipulations
3. Statement of Case (Contentions of parties, stated concisely)
4. Evidence of Case (synopsis of evidence, including testimony and medical reports)
5. Findings of Fact – numbered (*Do NOT delete any of the above findings; however, the prevailing party may add to support decision, except re: credibility.*)
6. Conclusions of Law (Cite code sections and case law as applicable.)
7. Award

cc: Joe McElveen, Esquire

G. Bryan Lyndon, Commissioner
South Carolina Workers' Compensation Commission
January 6, 2011

IN THE STATE OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

FULL COMMISSION
APPELLATE PANEL

WCC No. 0810330

Emma Hamilton

Appellant,

v.

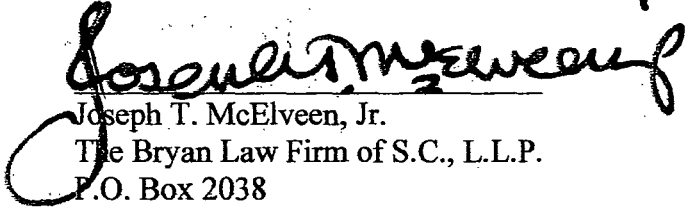
Martin Color-Fi, Inc., Employer and
Liberty Mutual Insurance Company, Carrier

Respondents.

NOTICE OF APPEAL

Emma Hamilton appeals the decision of the South Carolina Workers' Compensation Full Commission (Appellate Panel) dated January 23, 2012. Appellant received a copy of this decision on January 23, 2012.

February 22, 2012


Joseph T. McElveen, Jr.
The Bryan Law Firm of S.C., L.L.P.
P.O. Box 2038
Sumter, SC 29151-2038
(803) 775-1263
Attorney for the Appellant

Other Counsel of Records:
Candace Hindersman, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Blvd.
Columbia, SC 29209
(803) 782-2520
Attorney for the Respondent



Southern Reporting, Inc.

Transcript of the
Deposition of

Emma Hamilton

June 5, 2009

Hamilton vs. Martin Color-Fi, Inc., et al.
0810330

COPY

Southern Reporting, Inc.

Phone: 803.749.8100

Fax: 803.749.9991

Email: SouthernReporting@sc.rr.com

South Carolina Workers' Compensation Commission

W.C.C. File No. 0810330

Emma Hamilton,)	
)	
Claimant,)	
)	
vs.)	Deposition
)	
Martin Color-Fi, Inc.,)	of
)	
Employer,)	EMMA HAMILTON
)	
and)	
)	
Liberty Mutual Insurance)	
Company,)	
)	
Carrier/Defendants.)	
)	

The deposition of Emma Hamilton was taken before Kimberly T. Power, CCR, a notary public in and for the State of South Carolina, commencing at the hour of 11:15 a.m., Friday, June 5, 2009, at the Bryan Law Firm, 17 East Calhoun Street, Sumter, South Carolina.

Reported by
Kimberly T. Power, CCR

Page 2

1

APPEARANCES

2

For the Claimant:

Joseph T. McElveen, Jr., Esquire

Bryan Law Firm

3

17 East Calhoun Street

Sumter, South Carolina 29150

4

5

6

For Employer/Carrier:

Candace G. Hindersman, Esquire

Willson, Jones, Carter & Baxley

4500 Fort Jackson Boulevard

Columbia, South Carolina 29209

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Stipulations

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15

Examination by Ms. Hindersman

3

16

Examination by Mr. McElveen

55

17

18

19

EXHIBITS

20

(No exhibits.)

21

22

23

24

25

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1 A I did a long time ago.

2 Q And what --

3 A About 13 years ago.

4 Q Okay. What was that for?

5 A I was working at vocational rehabilitation
6 training clients and doing a lot of things and I
7 tore my rotator cuff, and they sent me to the
8 ~~doctor who sent me to therapy. And then the~~
9 insurance company decided they weren't going to
10 pay the therapist, and I had also somehow lost my
11 job. And I went and spoke with a lawyer and
12 mainly to ensure that the therapist got his money.
13 And we went through a deposition and all that, but
14 then my lawyer died, and that was Mr. Bagley. He
15 was a nice man. And I just let it go.

16 Q And what arm was that that you tore your rotator
17 cuff?

18 A It was this one. The right one.

19 Q Your right arm?

20 A Yes, ma'am.

21 Q And who were you employed with at that time?

22 A Vocational rehabilitation.

23 Q Is that in Sumter?

24 A Yes, ma'am.

25 Q So you never received a settlement as a result of

1 that injury?

2 A Oh, no, no, no. I was just trying to get my job
3 and make sure that the therapist got his money.

4 Q And what therapist did you see for that; do you
5 remember?

6 A It was off of Alice Drive. It was down at the
7 other end of Wesmark, the other end.

8 Q Okay.

9 A I don't know.

10 Q Did you see any orthopedic for that injury?

11 A Dr. Stroebel.

12 Q Okay. Did you have ongoing problems after that?

13 A Well, it was about, I guess, seven or eight months.
14 I couldn't lift my arm up, you know, real good and
15 all. About seven or eight months before I could
16 really use it again. So...

17 Q Okay.

18 A Here and there. But, you know -- you know, it's
19 all good.

20 Q And you said that was like 13 years ago?

21 A Around that time.

22 Q Okay.

23 A To the best of my knowledge. I -- I don't
24 remember.

25 Q Okay. Well, it sounds like you have a pretty good

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1 memory of that injury. So you probably remember
2 that deposition a little bit as well. This is
3 probably going to be kind of similar to that in
4 that I'm going to find out about your injury that
5 took place in July, July 22, 2008, and find out
6 the treatment that you've received, find out about
7 your ongoing problems. Also, I'd like to learn a
8 little bit about your employment history and your
9 educational background. And, finally, I will talk
10 to you about how you're doing now.

11 So if at any time I ask you a question that you do
12 not understand, if you'll stop me, I'll be happy
13 to rephrase the question. Otherwise, I'm going to
14 assume that understood my question and that your
15 answer is truthful. Is that fair?

16 A Yes, ma'am.

17 Q And as you can see, we have a court reporter here
18 that's taking everything down for the record. So
19 if you can bear with me and just try to give
20 verbal responses rather than uh-huh or unh-unh --

21 A Yes, ma'am.

22 Q -- then it will help us. You're doing a great job
23 so far.

24 A Okay.

25 Q So that shouldn't be a problem. If you need to

1 take a break, let me know. This shouldn't take
2 that long, though.

3 And before we get started, are you under the
4 influence of alcohol, drugs or anything that would
5 prohibit you from understanding my questions
6 today?

7 A No, no.

8 Q All right. Could you please state your full name
9 for the record?

10 A Emma R. Hamilton.

11 Q And what's your Social Security number?

12 A 249-17-0683.

13 Q And how old are you?

14 A Forty-four.

15 Q And what is your date of birth?

16 A December 4, 1964.

17 Q And your current home address?

18 A 2227 Bob White Drive.

19 Q Is that in Sumter?

20 A Yes, ma'am.

21 Q And how long have you lived there?

22 A Two years.

23 Q And do you live there alone?

24 A No, ma'am. I have two boys, my children.

25 Q And how old are they?

Page 8

1 A One will be 21 in July and the other one just
2 turned 19.

3 Q And are they dependent upon you for support?

4 A Yes. My 19-year-old, he goes to school, but he
5 recently got a job at the theater. So...

6 Q Okay. Is your 21-year-old employed?

7 A No, not at this time. He's looking.

8 Q All right. And are you married?

9 A No.

10 Q Are you divorced?

11 A Divorced. Divorced.

12 Q Okay. Do you receive any child support?

13 A No.

14 Q And other than your two boys, is anyone else
15 dependent upon you for support?

16 A No.

17 Q And how far did you go in school?

18 A I graduated high school, and then I went to tech
19 for about a year and a half, close to two years, I
20 think.

21 Q Is that a technical school in Sumter?

22 A Central Carolina Technical College.

23 Q And did you receive any degrees there?

24 A No, I didn't finish.

25 Q And what were you studying there?

1 A Paralegal.

2 Q Okay. Why didn't you finish?

3 A At the time, I was having some medical issues.

4 Q What kind of medical issues?

5 A I had a seizure disorder.

6 Q Do you have epilepsy?

7 A I haven't had any problems since, gosh, in the
8 past -- since about '94.

9 Q Okay. So were you ever diagnosed with epilepsy?

10 A Yes. I used to take medication way back around
11 '92, '93, but I haven't since then.

12 Q Okay. And who did you see for that condition?

13 A Dr. Pusey.

14 Q Okay.

15 MR. MCELVEEN: He's in Columbia now.

16 THE WITNESS: Yes.

17 BY MS. HINDERSMAN:

18 Q And did you receive your diploma when you
19 graduated from high school?

20 A Yes.

21 Q And do you have any other education beyond the
22 training or the schooling that you got at Central
23 Carolina Technical?

24 A No, ma'am.

25 Q Okay. And do you have any specialized job

Page 10

1 training?

2 A No.

3 Q Do you have any certificates or special
4 certifications?

5 A No, ma'am.

6 Q Are you proficient with a computer?

7 A Not -- basic computer stuff.

8 Q Can you e-mail?

9 A Yes.

10 Q Can you use a word processor like Word Perfect or
11 something like that?

12 A Yes, somewhat.

13 Q And can you read and write?

14 A Yes.

15 Q Have you served any time in the military?

16 A No.

17 Q Okay. This is the part of the deposition I'm
18 going to go over your work history and just do the
19 best you can. You don't have to give me exact
20 dates. I know sometimes it's challenging to
21 remember everywhere you've worked. But after you
22 graduated from high school, did you go to work
23 then?

24 A Well, I was working since I was little insulating
25 houses for many, many years. I've worked at

1 Young's. I've done things like tearing down
2 trailers and rebuilding them, putting up walls.
3 And I worked at vocational rehabilitation. The
4 Sumter County library, I worked there for about a
5 year. And then I went to Color-Fi.

6 Q Okay. Well, that was pretty quick through that.
7 Let me just go back over some of it. Now, when
8 you were insulating houses, were you employed by a
9 particular employer or were you independent?

10 A A friend of the family was a construction worker
11 and he got all of the side jobs insulating houses,
12 and he let me and my brother helped him sometime
13 too. I think I was like ten until I was about 20.

14 Q Okay.

15 A But it was good money. It was good money.

16 Q Was it physical work?

17 A Yes.

18 Q What was physical about it?

19 A We had to crawl under houses and you -- you had to
20 cut the insulation, measure, and put it in the
21 wall and then staple. I mean, it wasn't real
22 physical or strenuous or anything.

23 Q Okay. And when you were no longer insulating
24 houses, is that when you went to work at Young's?

25 A No. I went to work at Young's when I was about

Page 12

1 18. And then I had dropped out of school when I
2 was 16. And when I realized how stupid I was, I
3 tried to find a job, worked at Young's for maybe
4 six months. I don't remember. Then I decided I
5 was going back to get my diploma and I did, but
6 then I had children. So...

7 Q Okay. What did you do at Young's? I don't even
8 know what that is.

9 A Food -- Young's. Market, food store.

10 Q Okay. I guess it's a place in Sumter?

11 A A convenient store. Yes.

12 Q Okay. And what did you do for them?

13 A Everything. Waited on customers, stocked the
14 freezers, stocked the shelves. Basically
15 everything that you do in a convenient store. I
16 worked alone, and I had to tally up the money at
17 night and drop it in the safe. Things of that
18 nature.

19 Q Was it a physical job?

20 A Yes.

21 Q Okay. And then you said that for a while you were
22 tearing down trailers and rebuilding them?

23 A Right.

24 Q When were you doing that?

25 A Here and there on the side, but let me think.

1 About ten years ago I lived in Dalzell, and I was
2 helping the manager of the trailer park. When
3 people would move out and damage the places, we
4 would go in and tear the walls down and have to
5 put up new walls. And sometimes we would put up
6 sheetrock, and then I'd have to mud and sand and
7 all that sort of stuff, which I enjoyed it.

8 Q How long did you do that for?

9 A I've done it on and off throughout my life. But
10 that particular job, just a few months here.
11 Whenever a trailer came available.

12 Q Okay. And then you said you worked at voc rehab.
13 What were you doing there?

14 A I was training the clients in a sterile
15 environment, a sterile room, in the inspection of
16 blood collection tubes in the vacutainer system.
17 They would inspect the tubes and I also inspected.
18 I would stack them on a pallet and drop the pallet
19 and shrink wrap and set the pallet out to be
20 loaded on the truck. I'd bring pallets in and
21 out. I would assist people in the classes -- in
22 the computer training area of their classes. So a
23 lot of things. Whatever they called me to do in
24 between my job. They called me often to come and
25 help them with this or that or whatever. I've

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1 done a lot of things there.

2 Q Was your job at voc rehab physical?

3 A Very.

4 Q What was physical about it?

5 A Running back and forth, wrapping the pallets,
6 pulling the pallets in and out, loading the
7 pallets, and running back and forth to the
8 classroom to assist with the clients there.

9 Q Okay.

10 A I also did timecards and things like that.

11 Q Did you have any supervisory role there?

12 A Pretty much. I was like the manager of that -- of
13 that room. It was a sterile room.

14 Q And so did you have any employees that worked for
15 you?

16 A It was about 30. I mean, they were clients.

17 Q Or that you over --

18 A They were clients, but I oversaw about 30 or so of
19 the clients.

20 Q Okay. And how long did you work there?

21 A It was two or three years.

22 Q And what was your reason for leaving your
23 employment there?

24 A I tore my rotator cuff.

25 Q Okay. All right. And where did you go to work

1 after that?

2 A It was around that time when I was -- well, it
3 was -- like I said, it was like seven or eight
4 months before I could use my arm. But then around
5 that time I was -- after all that, I was tearing
6 down the trailers and putting them back together.
7 And I had taken a postal exam. I forgot about
8 that. And I did well on that, but the only jobs I
9 could get were in Columbia or West Columbia or
10 Cayce and I had no way to get there. So -- but it
11 was a long time before I could find employment.
12 I worked with a painting company. We went into
13 the Caterpillar plant and cleaned the machines of
14 the grease and oils and stuff and stripped them
15 down so they could be painted professionally.

16 Q And what was the name of that company that you
17 worked for?

18 A I don't know.

19 Q Okay. How long did you do that job?

20 A That was just a few months.

21 Q And was that job physical?

22 A Very.

23 Q And when you said you took your postal exam, what
24 would that qualify you to do if you could have
25 gotten a job locally?

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1 A Be a postal worker. I'm trying to think of the
2 year. Seems like it was '97 or '98. But after
3 three years, it expired.

4 Q Have you taken it again?

5 A No.

6 Q Do you have any plans to take that again?

7 A I don't think I could do it again.

8 Q Why can't you do it again, you think?

9 A Well, there was a lot on that test. I did very
10 well on the test back then, but it's a lot of
11 memorization of numbers and addresses and things
12 like that. I just don't think I could do it.

13 Q Okay. And so then you said you also worked at the
14 Sumter County library. What did you do there?

15 A I waited the front desk. I checked in the books
16 and checked the customers out. I attended to the
17 needs of the patrons. I answered the phones. I
18 shelved books. I worked in the computer lab
19 mainly sitting there and signing people to the
20 computers. I helped with reference from time to
21 time. Worked in the children libraries -- library
22 and I did the summer program with the children.

23 Q Okay. And how long were you employed there?

24 A A year.

25 Q And what was your reason for leaving there?

1 A I got the job at Color-Fi.

2 Q Okay. Was your job at the library physical?

3 A Very much.

4 Q What was physical about it?

5 A Running back and forth and shelving books,
6 checking books in and out, and just everything
7 pretty much that I did. I like to stay busy.
8 So...

9 Q And have you had any other jobs than all those
10 that we've discussed that you can think of?

11 A No.

12 Q Have you ever had a desk job or anything that's a
13 non-physical job?

14 A No, no.

15 Q And why haven't you ever had that?

16 A I've never been interested in -- I like to stay
17 busy and active.

18 Q Okay. And you said that you went to technical
19 school and had to quit before you got a degree.
20 Do you ever plan to go back and get that paralegal
21 degree?

22 A No, that's been too long.

23 Q Okay. And when did you go to work for Color-Fi?
24 Martin Color-Fi is what we're talking about,
25 right?

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1 A Right.

2 Q Okay.

3 A Well, they dropped the Martin.

4 Q Okay. And so Color-Fi. And it's also known as
5 Form Fiber Technologies, but we'll call it
6 Color-Fi for our purposes here, if that's okay?

7 A That's fine.

8 Q Okay.

9 A I want to say October 12th of 2001.

10 Q And what were you hired to do there?

11 A I started out as a temp on the draw line. And in
12 January sometime of '02 or the first part of
13 February, I finally got to be a color specialist,
14 which is where I was aiming, you know.

15 Q And why did you want to be a color specialist?

16 A Because it was very interesting and very physical
17 and the draw line is so dull and boring and you
18 just sit there. But a color specialist, you get
19 to run around and straighten out the colors and
20 it's just very exciting for me.

21 Q Is it a physical job?

22 A It's very physical.

23 Q What's physical about it?

24 A Well, you have to set up for changeovers for new
25 recipes, new colors. You pull your pigments --

1 boxes of pigments and you have to scoop, you know,
2 a lot of pigments out and fill up barrels and set
3 them up and put the hoses in the barrels, run up
4 and down the stairs carrying buckets full of
5 pigment. You have to change out the motor. You
6 have to make sure everything is properly done.
7 You punch in recipes, run back and forth
8 constantly changing the recipe. You have to do
9 your color checks, getting all your color checks
10 together, and then running out and running them
11 through the turbo, the machine that I had problems
12 with. And then you run back in and you check
13 them. If they're not right, you go out there and
14 you make your adjustments. There's time limits on
15 everything because you have to get that color
16 called good, you know, as quick as possible and
17 then you continue to make adjustments. But
18 it's -- it's very time -- you had a time limit on
19 everything.

20 Q So other than working on the draw line and as a
21 color specialist, did you have any other jobs that
22 you performed at Martin Color -- or at Color-Fi?

23 A I worked in the lab for a while after my injury.

24 Q And what did you do in the lab?

25 A Did tests on the raw materials that they used. I

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1 shredded paper also. Went through the files and
2 cleaned out -- purged the files.

3 Q Was it a sedentary job that you were being given?

4 A I tried to stay very active.

5 Q Okay.

6 A I got to look at things under the microscope,
7 things like that.

8 Q Were you able to perform the job that was provided
9 for you?

10 A Yeah. I mean, with this hand. (Witness
11 indicates.)

12 Q With your left hand?

13 A Yes.

14 Q Okay. And how long did you go back to work after
15 your injury?

16 A Went back a week after the injury and I worked up
17 until they shut down in December and I went back
18 in January. I was on the layoff list because of
19 my injury. So...

20 Q When you say you were on the layoff list because
21 of your injury, what do you mean by that?

22 A Well, they were letting people go and they really
23 didn't need a lot of people in the lab on that
24 side. The person that runs it mainly can handle
25 it, and the other person in there was on medical

1 leave. But as far as my job, I wasn't able to
2 come back to my job in January like they told me
3 to. And they said if I was not injured, they
4 would keep me because they have -- I have
5 seniority over a lot of people that they did keep.
6 ~~But they said~~ because of my injury, it put me at
7 the top of the list. So...

8 Q Who told you that?

9 A HR, Amy Moore.

10 Q Who was it?

11 THE COURT REPORTER: I'm sorry. Could you
12 repeat that?

13 THE WITNESS: HR, Amy Moore.

14 BY MS. HINDERSMAN:

15 Q And could you have gone back to your regular job?

16 A No.

17 Q And did they lay off others at that time?

18 A They laid off a lot of people. I think over half
19 the plant.

20 Q And was there someone who was also working in the
21 lab other than yourself?

22 A There were two people that that's their job. They
23 were just allowing me to help out.

24 Q Okay. So you basically worked from August to
25 December after your injury?

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1 A Yes.

2 Q Okay. And when you were working, what were you
3 making after your injury?

4 A Well, I was making the same pay. I think it was
5 12.20. But my hours were cut. I was only working
6 from 8:00 until 4:00 instead of my regular 12
7 hours.

8 Q How many hours a week did you work?

9 A I worked 48 hours one week and 36 the next before
10 the injury.

11 Q And did you earn 12.20 an hour?

12 A Yes.

13 Q Were you working anywhere else while you worked
14 for Color-Fi?

15 A No, I couldn't have handled it.

16 Q And were they good to you when you returned to
17 work with your injury?

18 A The employees, yeah.

19 Q And your supervisors?

20 A He was always pressuring me to get back to my job,
21 to go do my job. I could not do my job. And --
22 but he pressured me a lot and kept telling me if I
23 wasn't back by January, that I would not have a
24 job.

25 Q And who is he?

1 A Rusty McGee.

2 Q Was he your supervisor?

3 A Yes.

4 Q Did you have a good relationship with him?

5 A I thought so. I mean, we all got along, you know.

6 Q And do you think you could perform the color
7 specialist job now?

8 A No.

9 Q Why couldn't you perform it?

10 A Well, I don't think I'm going to be able to reach
11 in and scoop those buckets of pigment out and
12 constantly dump them over and run up and down the
13 stairs and change the motors out and things like
14 that.

15 Q Okay. And why couldn't you do that?

16 A Because my wrist.

17 Q Okay. Are you having pain in your wrist?

18 A I do.

19 Q And we'll get into that a little more later. And
20 did you ever have any discipline action taken
21 against you?

22 A Not that I recall.

23 Q Okay. And just tell me about what happened on
24 July 22, 2008.

25 A Well, actually, I was having a good day. I went

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1 to get my color checks around twelve o'clock. You
2 get them 8:00, 10:00, 12:00, so forth. I had to
3 wait on a can to come off, so it was like a few
4 minutes after 12:00. The other two had gotten
5 ahead of me.

6 And so when I got to the turbo, I had three color
7 checks. I wrapped them around the bar and I went
8 to run one through. It was a three denure, and
9 three denures have a tendency to get tangled up at
10 the other end and you have to keep your eye on
11 them. So I went to run it through, and I looked
12 down to see if it was knotting up down there. And
13 the next thing I know, my hand is going through
14 it, stuck up to about here, my wrist. (Witness
15 indicates.)

16 And I reach over. On -- on both sides of the
17 machine, there's a stop and a go button. Well, on
18 the right side, the stop button is at the top and
19 the go button is at the bottom. So when I reached
20 over to the left to hit the top button to stop it,
21 it didn't stop and it, you know, it just kept
22 going. So I reached the bottom one real quick.
23 Well, there was no button. My hand just went on
24 through the hole.

25 So by that time, it had done went through another

1 roller. It went through twice. Then I grabbed it
2 and was able to pull it out before it went through
3 the part that kind of cuts you.

4 Q Okay. And you're speaking of your right hand and
5 wrist?

6 A Yes, ma'am.

7 Q And so were people around when this happened?

8 A No.

9 Q Did someone come help you?

10 A I thought that one of the people in my department
11 was upstairs at -- it was another unit, but it was
12 their unit. And I hollered for him, but he didn't
13 come. And I figured I might had best ought to try
14 to make it back to the office before I passed out.
15 So I started walking toward the office. There's a
16 draw line and there's people there. I wanted to
17 get around people before I blacked out because
18 everything was going black.

19 And when I got to the draw line, I started to fall
20 and I was able to get myself up. And there were
21 people asking me, "Are you okay? Are you okay?"
22 And I was just trying to get to that door. And I
23 got to the door and I fell again, but I got it
24 open and I kind of crawled inside.

25 Then one of my co-workers saw me and he helped me

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1 to the stairs and he got the supervisor, Rusty
2 McGee. And he came out and he said, "Is it the
3 turbo, Emma?" And I just shook my head yes. And
4 the next thing I know, there's a lot of people
5 around me and he's calling people to, you know --
6 that have medical training.
7 And they put me in a wheelchair and I'm sitting
8 there and everything kept going black. And I just
9 kept saying I wanted to go to sleep, "I want to go
10 to sleep." And I can't remember a lot. But Eric
11 Hutchinson came in and he was looking at it. It
12 was swelling up real bad.
13 And they called an ambulance. And they kept
14 telling me they had to give me a shot of morphine,
15 a shot of morphine. I told them I don't like that
16 kind of stuff. I didn't want any shots. Just
17 stop the pain. But they -- they shot me up with
18 morphine.
19 They got me to the hospital and they gave me
20 morphine. Nothing they did would stop the pain
21 until right before I left. They put like a half
22 cast on and wrapped it up and then the pain kind
23 of quit. But they shot me up with a lot of
24 different medications, and I didn't like all that.
25 I remember telling them, "Can't you just give me

1 an anti-inflammatory and quit giving me all that
2 pain stuff?"

3 Q Okay. And just because I don't understand about
4 one of these machines, when you said the turbo and
5 I know it was a crush injury, what is it that was
6 on your arm?

7 A It's turbo. It's kind of a long machine.
8 Probably from the chest of drawer to the end of
9 this table, maybe. Maybe. It's been a long time
10 since I've seen it. And there's rollers. There's
11 these big rollers at each end and you wrap your
12 fiber around like so. It's going to be hard to
13 type that. (Witness indicates.)

14 Q Yeah. Just --

15 A Wrap it around the rollers like that. And then
16 you bring it on and then you wrap it around this
17 set of rollers and then you take it to a crimp
18 box. Well, it's a set of rollers down here.
19 They're kind of big steel rollers, and there's
20 maybe like a three-inch gap, if that. I never
21 measured it. It's a small gap. And it grabbed my
22 arm and my hand and it took it through sideways
23 like that and then brought it back around and took
24 it through like that. (Witness indicates.) But I
25 was able to pull it out before it hit the crimp

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1 box.

2 Q Okay. And when you were in the wheelchair, was
3 anything bothering you other than your right arm?

4 A Just the pain in my hand was killing me and I kept
5 wanting to go to sleep. I couldn't hear people.
6 I felt like I was going to pass out. Everything
7 kept going black. I think I got sick. I remember
8 somebody bringing me a garbage can.

9 Q Were you losing any blood at that time?

10 A No. Thank God, I didn't bleed.

11 Q Okay. And so then what hospital were you taken
12 to?

13 A Toumey.

14 Q And were you admitted into the hospital?

15 A No.

16 Q Did they perform any surgery on you while you were
17 there?

18 A No. They -- their job was to, you know, stop the
19 pain. They told me to go see Dr. Ford the
20 following morning and tell him to check me for
21 compartment syndrome and said that was very
22 important.

23 Q So did you go see Dr. Ford the next morning?

24 A No. The next morning Color-Fi called and told me
25 that I could not see Dr. Ford, that I had to see

1 their doctor. It was Dr. Gee.

2 Q Okay. And so did you go see Dr. Gee?

3 A I did.

4 Q And what did Dr. Gee do for you?

5 A Basically he just gave me a thumb -- a hand splint
6 that went around my arm and my hand, and he gave
7 me an 800-milligram ibuprofen. And I can't really
8 remember. He didn't really do much of anything.

9 Q And so did you go back to see him?

10 A He told me to come back in a few days and said I'd
11 be out of work until I think the following Monday
12 or so. I can't remember.

13 Q And when you went back a few days later, what did
14 he do for you?

15 A Basically he said, okay, I'll see you next week.

16 Q Were any tests done by Dr. Gee?

17 A No. Well, finally in November I told him that I
18 needed an MRI. I wanted to find out what was
19 wrong with my hand. And he argued with me about
20 that for a long time.

21 Q Did you get the MRI?

22 A Finally, I did.

23 Q Okay. And do you know what the MRI revealed?

24 A Not really. After the MRI when I went back to see
25 him, he was pretty much telling me anything you

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1 want, you can have, that he was sorry about the
2 way he had treated me and he wanted to put my hand
3 in a cast, but he didn't. And he was talking to
4 me about -- he -- he was saying something about a
5 systematic thing that -- I don't know. It would
6 mutate the nerve cells or something. He never was
7 clear. He talked about the generation and
8 arthritis. And he said that he didn't really
9 understand everything and that he would -- was
10 going to send me to Dr. White who could explain
11 things to me more and something about getting a
12 shot in my neck.

13 Q So did you go see Dr. White?

14 A No, that never happened.

15 Q And did Dr. Gee ever diagnose you with anything or
16 recommend any surgical options?

17 A No. He was always yelling at me saying, "Is that
18 what you want? You want surgery? You want people
19 sticking probes in your arms?" I told him I just
20 want to know what's wrong with it. That's when I
21 was asking for the MRI. And I told him I wanted a
22 new doctor, and he was yelling at me. That was a
23 long day.

24 But that's whenever I went and got an attorney.

25 And then after he had discussed with me about the

1 MRI and was being all nice, the next visit he had
2 knowledge I had an attorney. And after that, he
3 said everything was fine. And I told him I needed
4 therapy. I still need my therapy. I had to get
5 back to my job by January or it was going to be
6 gone. I had a lot of anxiety around that time
7 because of all the pressure, you know. Just get
8 it straight so I could get back to my job.

9 Q Okay. And did you ever see a neurologist?

10 A No. At the beginning --

11 Q Because I was thinking Dr. White was a
12 neurologist. I don't know.

13 A Well, at one point after three months, he said he
14 was going to send me -- I went to Dr. White. He
15 said he was sending me to make sure that all the
16 nerves were awake. And I told him, "I assure you
17 they are." I mean, I could feel them. And I went
18 to Dr. White, and Dr. White said that he was asked
19 to check to see if I had a ~~pre-existing~~ condition
20 or a family history of any nerve problems or nerve
21 damage. And he told me no, I do not.

22 Q And did you like Dr. White?

23 A Did I like him?

24 Q Yeah.

25 A Yeah, I thought he was nice. I didn't see him

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1 long, but yes.

2 Q And did he recommend any more treatment for you?

3 A No. His job was just to check the results, and
4 that's what he did.

5 Q Okay. All right. And you said you went to
6 physical therapy. Did that help you?

7 A Yes. That was the hand therapist.

8 Q How long did you participate in that?

9 A Well, I had 18 visits. So I didn't do all of
10 them. But I got to play with the putty. At that
11 point, I couldn't really open my hand and I
12 couldn't do a lot with it. And that -- what was
13 his name? Buzz is what I call him. Edward
14 Cornell, I think is his name. He looked at my
15 hand and told me that it was severely damaged, and
16 he recommended I get an MRI before I do any kind
17 of therapy or treatment or anything. And he said
18 there was a lot of soft tissue damage and
19 different things. He didn't want to touch it, and
20 I begged him to please, just let me do something,
21 you know. I needed my job. And so he gave me
22 some putty to play with, you know, and I did. But
23 it helped a lot. I could open my hand and stuff
24 like that.

25 Q And are you still seeing Dr. Gee?

1 A Yes. But Dr. -- I mean, the therapist, he also
2 said that I would need extensive physical therapy
3 beyond what he had. He didn't have any equipment
4 or anything. He said either that or a work
5 hardening program, and Dr. Gee denied me that.
6 But his nurse told me don't listen to him, that
7 she was going to talk to Frank, who was the
8 adjuster at the time. And she was going to set me
9 up with either therapy or the work hardening
10 program, but then I never heard anything about
11 that. So I kept asking for it.

12 Q Did you talk to Dr. Gee about the work hardening?

13 A Plenty of times. He says that -- he told me to
14 get a bag of rocks, around 30 pounds of rocks, and
15 do push-ups. I told him I cannot do that. And it
16 was in December he told me to get some two pound
17 weights, and I did. And, you know, just basically
18 do the basic exercises like I've been doing.

19 Q Okay.

20 A So...

21 Q And then is Dr. Gee recommending anything else for
22 you right now?

23 A No. All Dr. Gee basically does when I walk in is
24 hand me a paper and say, okay. I'll see you in
25 two weeks or see you in a month or see you in two

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1 months. He doesn't listen to anything I say. He
2 pretty much ignores me. He doesn't want to hear
3 it. So...

4 Q And other than Dr. Gee, the physical therapist and
5 Dr. White, have you seen anyone else?

6 A I went to see Dr. Green. I thought I was going to
7 the -- I had asked for another doctor. I thought
8 they were sending me to another doctor to treat me
9 and, you know, get me this therapy and stuff.
10 Dr. Green, he's just -- he's got a very nasty
11 attitude and disposition. He saw me all of two
12 minutes and was very nasty and rude.

13 Q How was he nasty to you?

14 A Well, he walks in, he tells me, open and close --
15 open your hand, close your hand, open your hand,
16 close your hand, you know, do this, do that. So I
17 was doing it. And he was talking so fast, I was
18 basically watching his mouth to, you know, try to
19 process what he's saying. And he's saying, "Open
20 your hand, close your hand." So I was doing that.
21 And he grabbed my hand and opens and closes it.
22 He said, "Open, close. Open, close." And I just,
23 you know, kind of looked at him. And he tells me,
24 "Sit down." And then he starts flipping my hand
25 this way and flipping it that way and then he gets

1 his little measure thing out and measures, and
2 then he sticks me with these things and, you know,
3 "Tell me if you feel one or two," and I felt them
4 all.

5 And he just yells at me, "You can work. Go out
6 there and put you in some applications." I told
7 him, "I've been working." I said, "I've been
8 working with my left hand up until, you know, last
9 month whenever I got laid off." And I told him I
10 needed therapy. And he said, "Yeah, yeah. You
11 can't" -- he asked me about my job. I told him
12 what I do on my job. "Well, you can't do your job
13 again, but you can work." I said, "That's not the
14 issue. The issue is getting my hand fixed. I
15 want to get back to my job, you know."

16 So -- but we spent all of two minutes together.
17 And he refused to look at the MRI. He said he
18 wasn't looking at that thing. So...

19 Q And did he recommend anything else for you?

20 A He told me he was setting up the work hardening
21 program.

22 Q Did he think you would benefit from work
23 hardening?

24 A Well, yes. He's the one that suggested that and
25 said he was going to set that up with the

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1 adjuster. So...

2 Q Was he recommending anything else?

3 A No.

4 Q Okay. And other than Dr. Green, Dr. Gee, Toumey,
5 and the physical therapist, who have you seen?

6 A I finally saw Dr. Moore.

7 Q And how did you end up going to see Dr. Moore?

8 A Well, I was supposed to go see him around the
9 first of the year. In December I had spoken to
10 Joe about any decent doctors I could go to, and he
11 had mentioned Dr. Moore. And I didn't have
12 insurance at that time. But at the first of the
13 year, I would have had insurance and I was going
14 to go pay on my own. So -- but then after I got
15 laid off, I no longer had insurance. So I just
16 never brought it up again. But then last week,
17 Joe finally, you know, set me up that appointment
18 with Dr. Moore.

19 Q Okay. And what did Dr. Moore do for you?

20 A Well, he told me to do this and do that. He
21 reached over and grabbed my hand and felt here an=
22 d there. He was very nice. Very nice man. He
23 listened to me. He looked at the MRI. He read
24 through the MRI report.

25 Q And how long did you see Dr. Moore?

1 A Gosh, about an hour and a half, two hours. It was
2 a long time.

3 Q Did you tell him everything that was bothering you
4 at the time?

5 A I didn't remember everything, but I told him
6 basically, you know. He asked me a lot of
7 questions and I answered them.

8 Q And is he recommending anything else for you?

9 A He said I needed physical therapy or the work
10 hardening. I can't remember.

11 Q Okay. And are you scheduled for any other
12 appointments other than the one you have with
13 Dr. Gee in a couple months?

14 A No, not at this time.

15 Q And have you worked anywhere since you were laid
16 off at Color-Fi?

17 A No.

18 Q Have you looked for any jobs?

19 A No. I thought about going to school. I talked to
20 some friends about jobs like at Wal-Mart. Is
21 there anything that I could do that, you know, I
22 could basically use my left hand. They're
23 checking into that. But I thought about going
24 back to school, but then I was waiting on this
25 work hardening. So I didn't schedule that.

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1 They kept -- workers' comp kept saying they were
2 scheduling it. They were going to schedule it.
3 And they kept saying that. Then, oh, yes,
4 management is going to call you and things like
5 that and it never happened. A few months ago I
6 spoke with Heather and I told her, "Just take them
7 to court. Let's take them to court because they
8 keep putting me off."

9 And supposedly Color-Fi will hold you a position
10 for up to a year, you know. And I wanted to just
11 get my hand fixed, my arm fixed, and strengthen it
12 up so I could get back to a job, hopefully my job.
13 Anyways, they asked us not to take them to court.
14 They were setting it up. They were going to set
15 it up. Then about a month and a half ago, this
16 comes up and they're taking me to court. So...

17 Q Okay. And so have you applied for any jobs
18 anywhere?

19 A No. Because once you apply, if it doesn't work
20 out, you have to wait a whole year before you can
21 reapply. I don't want to mess up any
22 opportunities. You know what I'm saying?

23 Q Where were you thinking about applying that they
24 have that rule?

25 A Everybody. I mean, once you put in an

1 application, they ask have you ever put in an
2 application here before and things like that.

3 Q Okay. So you think you should wait to apply?

4 A Until I can use my arm, yes.

5 Q Okay. And what were you thinking about going back
6 to school to do?

7 A Thought about a lot of things and settled on
8 computer technology.

9 Q Are you enrolled in any classes to do that?

10 A No. It was just a thought.

11 Q What would be your goal in going to school for
12 computer technology?

13 A Well, everything is pretty much gone to computers.
14 And if you have computer knowledge, you can pretty
15 much get a job.

16 Q Okay. And have you been receiving weekly checks
17 since you were laid off at Color-Fi?

18 A I was getting them regularly. But since this
19 started, I don't get them. Like I haven't got one
20 this week yet and they normally come on Monday.
21 I'm going to have to keep calling Heather who has
22 to keep calling them. Last week I got two at the
23 same time because they were a week behind. That
24 just started when these court proceedings came up.

25 Q Okay. Other than all the doctors we've already

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1 discussed, have you seen anyone else for your
2 injury?

3 A I don't think so.

4 Q Okay. And are you currently written out of work?

5 A Excuse me?

6 Q Are you currently given a doctor's excuse not to
7 work?

8 A Well, he still says the same, you know, light
9 duty.

10 Q Okay. And do you think there's any kind of job
11 that you could be doing?

12 A I've thought about it and thought about it.
13 Nothing that would pay the bills.

14 Q What kind of jobs do you think you could do but
15 that wouldn't be very lucrative?

16 A I don't know, really.

17 Q Do you think you could do a desk job?

18 A Such as? I mean, what? Filing things and things
19 like that?

20 Q Or answering phones or a hotel clerk or anything
21 like that?

22 A I don't know how proficient I would be. That's...

23 Q Okay. And tell me about the pain that you're
24 currently in.

25 A Well, I've been telling Dr. Gee forever I think my

1 bone is cracked along through here. I had --
2 well, there's pain in here, up through here.

3 (Witness indicates.)

4 Q You're pointing to your right hand?

5 A My right hand. Up along my wrist and up my thumb.
6 Pain in the back of my hand back here, over on the
7 left side of it or the right side of it. In
8 here -- there was a deep bruising in here for a
9 long time. I don't feel it so much the past
10 couple of months. But he just says that it's just
11 a bruise, that it can take up to two years to go
12 away. I don't know. It felt like more than a
13 bruise. Just pain shooting through it here and
14 there.

15 Q Is there anything that makes the pain --

16 A Weakness. Excuse me?

17 Q Is there anything that makes the pain in your
18 right wrist and hand worse?

19 A It depends on what I do. I try to do a lot of
20 things. I try to use my right hand first, you
21 know. And if I can't use my right hand, then I
22 grab it with my left hand real quick. But
23 sometimes it gets aggravated and that will
24 intensify the pain. Like when Dr. Moore squeezed
25 on my wrist the other day, it's been kind of

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1 agitated since then. The weights, I have to do
2 those exercises every day. When I do this when I
3 come over this way, it aggravates it a lot. And I
4 go down, that aggravates it a lot. (Witness
5 indicates.)

6 Q So when you move your wrist around, it hurts?

7 A Right. And it pops a lot.

8 Q So you said sometimes shooting pain. How
9 frequently do you have that?

10 A I mean, it's really nothing to complain about.
11 That's just here and there. Pain running through
12 my fingers. But, you know, it's not really my
13 main concern.

14 Q And do you have any throbbing or anything that's a
15 constant pain?

16 A No, not so much anymore. But one thing, it sleeps
17 all the time. Whenever I get up in the morning,
18 it's asleep. If I get up in the middle of the
19 night, it's asleep. That's kind of aggravating.
20 But once I'm up and I get it moving, you know, and
21 checking it around a bit, then it's good. But my
22 fingernails still have not grown back, and I don't
23 know why that is.

24 Q And is there anything that makes your pain any
25 better?

1 A Well, I like heat on it. But they say put ice on
2 it, but the heat makes it feel better. The ice
3 tends to make it feel more brittle. Or if I
4 just -- I can grab it like this every so often
5 throughout the day and it will -- you hear pop,
6 pop, pop, pop, and that kind of takes away the
7 cramping in the back of my hand and some in here.
8 Just pressing it against my stomach or something
9 like that for a minute. (Witness indicates.)

10 Q Okay. And how far does the pain extend up?

11 A Well, when I have the pains running through
12 sometime around like through here or --

13 Q Up to -- through your forearm?

14 A Yeah. But, you know...

15 Q Okay. And on a scale of one to ten, ten being the
16 worse, what was your pain immediately after the
17 accident?

18 A Beyond a ten.

19 Q Okay. And what is it now on average?

20 A Although it's constant, I mean, I would say a two
21 or three. But I don't really rate pain like other
22 people. I can tolerate a lot. I don't know. You
23 get used to it, I guess.

24 Q And have your symptoms improved at all?

25 A I've come a long way since then.

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1 Q Okay. And is anything else bothering you?

2 A No.

3 Q Have you ever had any previous injuries to your
4 right arm? I know you talked to me about the
5 right shoulder.

6 A Just I pulled that rotator cuff and had an
7 impingement or something.

8 Q Okay. Other than that, have you had any other
9 workers' comp related injuries?

10 A No.

11 Q And are there things that you used to do that you
12 can no longer do?

13 A A lot of things.

14 Q What, for example?

15 A I used to do just basic. Can't open jars anymore.
16 The most irritating one is personal things, you
17 know. Going to the bathroom cleaning yourself
18 afterwards. That's the really one that you need.
19 And -- but just picking up things, I fumble a lot
20 of things. I used to be able to fix things and I
21 was very fast and good. Now turning that
22 screwdriver, I just can't turn it like I used to.
23 It takes forever and I end up using my left hand
24 anyways and it slips a lot. I used to build
25 things and I can't do that anymore, like use a

1 hammer properly. I don't have the strength it
2 seems or my arm tires out too quickly at the wrist
3 like someone is choking it. Using a staple gun, I
4 can't use it like I used to. It's just a lot of
5 things, basic things, you know.

6 Q Can you do chores around the house?

7 A Well, I do chores around the house. If I can't
8 use my right hand, then I use my left hand. But
9 like I say, I try to do everything with my right
10 hand first.

11 Q And what about yard work and things like that, can
12 you do that stuff?

13 A I can, but not with my right hand. I mean, I can
14 use my arm, my left hand, and I do it and I do
15 what I have to do. But my boys mostly take care
16 of that. So...

17 Q You can use your arm? What do you mean by that?

18 A Like I can hold the rake like this and kind of,
19 you know, use this part of my arm as leverage.

20 Q The upper part of your right arm?

21 A Yeah, as leverage. But I don't do that. I have
22 and my boys come out there and just do it. So I
23 don't mess with that.

24 Q What about picking up ten pounds, do you think you
25 could do that?

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1 A I'm not sure. I don't know.

2 Q Can you drive?

3 A I drive with my left hand.

4 Q Are you right-handed or left-handed?

5 A I'm right-handed.

6 Q Are there any hobbies or things you used to enjoy
7 that you can no longer do?

8 A Like I said, I used to fix things, build things,
9 you know, just make things.

10 Q What kinds of things did you use to fix and build?

11 A I used to fix anything. I used to build about
12 anything. We were putting up a fence about a
13 month or so ago because my dog had puppies and we
14 were fencing in the backyard with posts and
15 regular fence. I couldn't slam down the post hole
16 diggers. And then when it come to pulling the
17 fence across, I was going to tack it down with a
18 staple gun while my son and his friend pulled it.
19 Like I said, I could only squeeze it a few times
20 and then I would have to take it out and use my
21 left hand. I was too slow with that.

22 Then when they got so much built, I said, well,
23 I'm going to start hammering these nails in. And
24 that didn't happen really. So they basically did
25 it all by themselves. I enjoyed building things,

1 fixing things. Painting, I enjoyed painting. I
2 can't really do that with my right hand anymore.

3 Q Okay. And have -- you've seen a few different
4 doctors. Have any of them recommended surgery?

5 A They talk against surgery, like I said. Dr. Gee
6 said that people who have surgery, 99 percent of
7 them come back with more trouble than they had
8 before.

9 Q What about Dr. Green and Dr. Moore?

10 A Like I said, I only spoke with Dr. Green for like
11 two minutes at the most. Dr. Moore, he talked
12 about surgeries. He said I may have to have a
13 bone graft where they take a piece of my bone out
14 of my hip and put it into my wrist.

15 Q Okay. And do you have a family physician?

16 A No.

17 Q Are you on any medication right now?

18 A No. I have ibuprofen and Darvocet.

19 Q And who's prescribed the Darvocet?

20 A Dr. Gee.

21 Q And does that medication -- how often do you take
22 the Darvocet?

23 A Not too often. I used to take it, you know. I
24 haven't taken it in a few months. It's -- I had
25 to take -- be in a lot of pain -- in a lot of pain

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1 to take any medications, even for a headache, you
2 know.

3 Q Okay. And have you been involved in any other
4 accidents that have required medical care other
5 than your shoulder injury?

6 A I injured my back a few years ago at Color-Fi.
7 When I reported that, they asked me did I want to
8 keep my job? Did I not want to work there? The
9 person on my shift, we split the units up with
10 three people, me and two others. One was out on
11 medical leave, and the other one is kind of old
12 and doesn't really do a lot. So I was doing all
13 the fill-ups and the color checks and everything
14 by myself.
15 And after two weeks of that, my back was hurting
16 really bad and I reported that. And they kind of
17 threatened my job. And I told our secretary that
18 I was leaving and I was going home and going to
19 bed, that my back was hurting. And I left. When
20 I came back the weekend, I tried, you know, to
21 stick it out and ended up leaving and going to the
22 hospital. I told the floor supervisor that I was
23 leaving, that my back was hurt and I had to go to
24 the hospital.
25 And the doctor put me out. He was going to put me

1 out for a couple of weeks. I begged him not to.
2 So he give me some medicine. When I went back to
3 work, they put me out and told me I could not work
4 there with medicine and that I could not come back
5 until I got a physician to say I was 100 percent
6 better.

7 So I was out for three months, basically, with no
8 pay and I had to pay all the bills. And I asked
9 them, "Well, are you going to put this under
10 workers' comp?" And HR told me no, because no one
11 made an incident report. And I told her that I
12 had reported it to my department manager -- my
13 department head. And she said, yes, that they had
14 discussed that and she told him that he could not
15 talk to me the way he did. And I said, "So you
16 had knowledge of it too?" And she said, "Yes.
17 However, no one documented it. Therefore, we
18 can't give you workers' comp."

19 I told her whatever. I said, "Am I going to get
20 unemployment?" And she said, "No, because you
21 cannot receive unemployment if you're injured."
22 And so I, you know, kind of got stuck. I could
23 have at any time went and got a lawyer and, you
24 know, sued for workers' comp, but I didn't. I
25 just stayed out and paid the doctors myself, my

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1 insurance.

2 Q When -- when did you hurt your back?

3 A February of -- I don't know if it was 2006 or
4 2007. I'm not sure.

5 Q Okay. And did your back recover from that?

6 A Well, it took a long time. Although I went back
7 to work in three months, I had a lot of problems.
8 And finally in October, November I started going
9 to a chiropractor and they fixed me right up.
10 So...

11 Q So did it get better?

12 A Yes.

13 Q What chiropractor did you see?

14 A Dr. Friday.

15 Q And what doctor did you see when you went on your
16 own?

17 A I don't know his name. I can't remember. I went
18 to therapy. He sent me to therapy for a while
19 at -- out on Alice Drive on Wesmark. I don't
20 think I ever knew his name.

21 Q And what hospital did you go to when you left work
22 that day?

23 A Toumey. I had went by FastER. They were closed.
24 I went by other places. They were closed. I went
25 to Tuomey.

1 THE COURT REPORTER: What was the first one
2 you said?

3 THE WITNESS: FASTER.

4 THE COURT REPORTER: FASTER.

5 BY MS. HINDERSMAN:

6 Q Okay. Other than that injury, have you had any
7 other injury accidents or injuries that have
8 required medical care?

9 A Years ago when I worked at rehab, a metal sheet
10 fell on my foot and it busted my toe inside and
11 they took me to Doctor's Care and they had to cut
12 my toenail off and put stitches in, and that was
13 very painful. They paid for that and my
14 medication, and I was out for probably a couple
15 weeks. I don't remember.

16 Q Where did you go for treatment for that?

17 A Doctor's Care.

18 Q Okay. Is that in Sumter?

19 A Yes. I don't know if it's still here. It was on
20 Broad Street.

21 Q And did you get better from that?

22 A Yes.

23 Q Which foot was that?

24 A It was my left foot.

25 Q Okay. Any other accidents or injuries that have

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1 required medical care that you can think of?

2 A Not at this time.

3 Q Okay.

4 A I mean, I didn't sue them for money and all with
5 my foot. You know, they paid for it to get
6 stitches and the stitches to come out, my
7 medication, and that was painful. But, you know.

8 Q Okay. And have you ever had any serious illness?

9 A Just the seizure disorder.

10 Q Okay. Have you been hospitalized other than
11 anything we've already discussed?

12 A I'm thinking. Tonsillectomy when I was younger.
13 Around the time I was having the seizure disorder,
14 I was hospitalized for a couple of weeks. That's
15 when I found out I was allergic to sulfur. I
16 was -- they did a colonoscopy because I was
17 bleeding. I was just very sick and weak, and I
18 don't remember what it was about. But that was a
19 long time ago.

20 Q Okay. You recovered from all that?

21 A Oh, yeah, I recovered.

22 Q And you were at Toumey for that?

23 A Yes.

24 Q Okay. Have you had to go to the emergency room
25 other than for the injuries we've discussed?

1 A Not that I recall.

2 Q Have you been involved in any car accidents?

3 A When I was a teenager.

4 Q Did you have any injuries as a result of that?

5 A Yeah. It was a motorcycle accident, actually. I
6 came down and my helmet cracked and I had a lot of
7 head -- you know, head injuries. And that's, I
8 guess, where the seizure disorder thing came in,
9 I'm assuming. I don't know. And I hurt my back.
10 I went to the doctors for a long time.

11 Q What doctors did you go to for that?

12 A I couldn't tell you. I know Dr. Picket was one.
13 There was one in Florence. There was some in
14 Columbia. I had a lot of EKGs -- not EKGs. EEGs,
15 is it called? MRIs and things like that. That
16 was a long time ago.

17 Q And you said you injured your head and your back?

18 A Yeah. I had went to Toumey initially and they
19 said I needed back surgery at that time, but I
20 didn't, you know. I recovered. And my knee --
21 and my left knee, that was -- the car hit my left
22 knee and it was swollen real big.

23 Q And was there a lawsuit involved with that
24 accident?

25 A I think my mother sued them to pay for the

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1 hospital bills and all the doctors and stuff.

2 Q Okay. And did you eventually recover after that
3 accident?

4 A Yes. Yes.

5 Q And this is a standard question we ask, but have
6 you been arrested or convicted of a crime --

7 A No.

8 Q -- during the last ten years?

9 A No.

10 Q Okay. And have you been satisfied with the
11 treatment you've received?

12 A No, I have not.

13 Q Why haven't you been satisfied?

14 A Because I haven't received any treatment, really.
15 And any time I try to discuss serious things with
16 Dr. Gee about my treatment, he just yells and goes
17 off on me and things like that. So...

18 Q Do you think that you need something more for your
19 wrist?

20 A I think I need therapy. I don't know what all I
21 need because I'm not sure what's wrong with it.

22 So -- but I know I need therapy to strengthen it.

23 Q Are you talking about physical therapy or the work
24 hardening?

25 A I don't know the difference.

1 Q Okay.

2 A Physical therapy, you know, where you get in there
3 and you really get to work and strengthen it and
4 then they see what problems you have.

5 Q Okay. And have you filed for unemployment?

6 A No. The plant filed for unemployment initially,
7 but -- for everybody that was on layoff. But I
8 was injured, so workers' comp took over that. And
9 that was --

10 Q Okay. Have you filed for any other benefits?

11 A No.

12 MS. HINDERSMAN: I think that's all I have.
13 Just let me make sure that I covered
14 everything real quick. That's all I have.

15 EXAMINATION

16 BY MR. MCELVEEN:

17 Q Emma, you mentioned -- I have a couple questions.
18 You mentioned at voc rehab, that you assisted in
19 the classrooms. What did you do in the
20 classrooms?

21 A A lot of things. Some people in there study for
22 GED. And Beth Cothran was over all that. I
23 remember her title now. But she just had me do a
24 lot of things for her. Like they had to take a
25 test on the computer, and I was familiar with the

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1 test and how to do that. I didn't teach them
2 computer or anything like that, but -- so I
3 assisted the clients in getting them on the
4 computer and getting them started. And if they
5 had any questions, I was there to answer them.
6 And I don't know if it was three to five clients.
7 I don't remember how many computers they had. But
8 I tried to get people in there and that was in
9 between doing my other job.

10 Q Now, what you -- the voc rehab out there, they
11 have a place where I think people with
12 disabilities come to try to work?

13 A Right.

14 Q Is it pretty basic work?

15 A Like I said, blood collection tubes where you flip
16 the tubes up -- you know, you get your box and
17 your flip the tubes up with both hands and look
18 for all kind of defects and stuff. And the bad
19 ones you throw away. The good ones you put them
20 in the good box. And they have one where they --
21 something about the base for batteries. I'm not
22 sure what they do with that. Dipping tools in the
23 Teflon. And then they have a wood shop where they
24 make pallets, stuff like that.

25 Q So you just worked in the place where the tubes

1 were?

2 A I did everything pretty much. They shut down
3 every so often and I would -- you know, they would
4 let people like a skeleton crew work during
5 shutdown and I was up there.

6 Q What was your job title?

7 A Support functions, lead person.

8 Q And what was your hourly rate of pay?

9 A I had a made-up job. Back then I think it was
10 under \$5.

11 Q So how long ago would that have been?

12 A It was a long time ago. Around '94, '95, '96.
13 Somewhere around there.

14 Q Just to clarify. You said you worked in the
15 computer lab at the library. What did you do
16 there?

17 A Oh, basically just sat there and assigned people
18 to certain computers. That wasn't no big deal.

19 Q You said you did the summer program with the
20 children. What did that involve from your
21 standpoint?

22 A Well, you have to set up a lot of things. You
23 read to the children. They come together at the
24 marketplace library on Wesmark, and the children
25 gather together certain days of the week or every

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1 day. I can't remember. And you read to them, you
2 do arts and crafts, things like that.

3 Q And you did that?

4 A Yeah. Me and like three other people.

5 Q What was your title at the library?

6 A I don't -- never thought about a title.

7 Q How much did you get paid?

8 A That was through DSS. They were -- I don't
9 remember what it was called. They were helping me
10 get a job and told me that the library would be
11 the best place to go. It was like volunteer, you
12 know, because at that time I was receiving food
13 stamps.

14 Q Now, Ms. Hindersman asked you if you had had any
15 discipline action against you. Let me ask it a
16 different way. Have you ever been written up at
17 work?

18 A I'm trying to think. Let me think. I know one
19 time Charles Baxter came in and the lead person,
20 she was reading a book. The other person was --
21 she wasn't even supposed to be there. She was on
22 medical. But she had taken some medicine and we
23 were just talking, but then she fell asleep. I
24 was sitting there twisting in my chair back and
25 forth, swivel chair, waiting to do my color

1 checks.

2 It was like 20 minutes to 6:00. He comes in and
3 says, "What's going on?" I said, "Hey, Charles."
4 And he wrote her up for sleeping and this one up
5 for reading. And then in the end, I got written
6 up for sleeping, but I wasn't sleeping. And I
7 went and told him I wasn't the one sleeping. I
8 was the one talking to you. And he said, yeah, he
9 didn't -- that I wasn't the one sleeping. But I
10 got wrote up for it anyway and he was supposed to
11 go talk to Amy, the HR. But it never got
12 resolved. And I put in an appeal and I never got
13 it.

14 Q So have you ever been told you were in danger of
15 being fired or let go or penalized for anything
16 you did or didn't do at work?

17 A Only whenever I hurt my back and he asked me did I
18 not want to work there, did I not want to keep my
19 job. That's all I can remember at this time. I
20 mean, if you know something, bring it to my
21 attention and I can answer it.

22 Q Now, you -- you were talking about pain when
23 Ms. Hindersman was asking you questions, and you
24 said pain was not your main concern. What is your
25 main concern?

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1 A Strengthening it so that I can get back to work,
2 fixing it to where I can use it properly and
3 strength pretty much.

4 MR. MCELVEEN: That's all the questions I
5 have.

6 MS. HINDERSMAN: I don't have anything
7 further.

8 (Whereupon, there being no further
9 questions, the deposition was
10 concluded at 12:21 p.m.)

11 Signing waived.

12 FURTHER WITNESS SAITH NOT.

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15 by the speaker.)

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810330

EMPLOYEE/CLAIMANT: EMMA HAMILTON



EMPLOYER: FORMED FIBER TECHNOLOGIES

INSURER: LIBERTY INSURANCE CORPORATION

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE WITHIN HEARING WAS TAKEN ON THE 15TH DAY OF DECEMBER, 2010, COMMENCING AT THE HOUR OF 4:25 P.M., IN CAMDEN, SOUTH CAROLINA, BEFORE THE HONORABLE BRYAN LYNDON, ATTENDED BY COUNSEL AS FOLLOWS:

JAN L. WHITWORTH
VERBATIM REPORTER

JAN L. WHITWORTH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, S.C. 29376

APPEARANCES

JOSEPH T. McELVEEN, JR., ESQUIRE, OF THE FIRM
BRYAN LAW FIRM
POST OFFICE BOX 2038
SUMTER, SOUTH CAROLINA 29151-2038

ATTORNEY FOR THE EMPLOYEE/CLAIMANT,

CANDACE G. HINDERSMAN, ESQUIRE, OF THE FIRM
WILLSON, JONES, CARTER & BAXLEY, P.A.
4500 FT. JACKSON BLVD
COLUMBIA, SOUTH CAROLINA 29209

ATTORNEY FOR THE EMPLOYER/INSURER.

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CERTIFICATE OF NOTARY PUBLIC.....	55

1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN CAMDEN, SOUTH
4 CAROLINA.

5 * * * * * * * * * * * * * * * *

6 **BY COMMISSIONER LYNDON:**

7 TODAY'S DATE IS DECEMBER THE 15TH, 2010. THIS
8 IS SOUTH CAROLINA WORKERS' COMPENSATION CASE FILE
9 NUMBER 0810330. EMMA HAMILTON IS THE CLAIMANT
10 REPRESENTED BY ATTORNEY JOE McELVEEN VERSUS THE
11 EMPLOYER FORMED FIBER TECHNOLOGIES. LIBERTY
12 INSURANCE IS THE CARRIER. CANDACE HINDERSMAN IS THE
13 ATTORNEY FOR THE DEFENDANT. THE PURPOSE OF THIS
14 HEARING IS TO DETERMINE ISSUES RAISED ON A PROPERLY
15 FILED FORM 21 STOP-PAYMENT APPLICATION. THE DATE OF
16 ACCIDENT WAS 7/22/08. THE CLAIMANT'S AVERAGE WEEKLY
17 WAGE IS \$516.51; COMP RATE IS \$344.45.

18 ARE THERE ANY OBJECTIONS TO APAs, JURISDICTION,
19 VENUE, OR ANY OTHER ITEMS?

20 **BY MS. HINDERSMAN:**

21 NONE FROM THE DEFENDANTS.

22 **BY MR. McELVEEN:**

23 NONE FROM THE CLAIMANT.

24 **BY COMMISSIONER LYNDON:**

25 THEN WITHOUT OBJECTION, THE COMMISSION FILE

1 BECOMES A PART OF THE RECORD WITH THE EXCEPTION OF
2 SELF-SERVING DECLARATIONS AND UNSTIPULATED MEDICAL
3 REPORTS.

4 PRIOR TO GOING ON THE RECORD, WE HAD ACTUALLY
5 AN EXTENSIVE PREHEARING CONFERENCE REVIEWING THE
6 MEDICAL REPORTS, AND I ASKED MR. McELVEEN IF I COULD
7 AT LEAST SPEAK TO THE CLAIMANT TO REVIEW SOME OF THE
8 INFORMATION THAT WE WENT OVER, AND IT WAS DECIDED,
9 AND I APPRECIATE THE EFFORTS THE PARTIES MADE TO TRY
10 TO RESOLVE THIS CASE. THAT WAS NOT POSSIBLE, AND
11 WE'RE GOING FORWARD. IT'S THE POSITION OF THE
12 DEFENDANT THAT AS A RESULT OF AN ADMITTED ACCIDENT
13 THE CLAIMANT HAD, SHE HAD A CRUSH INJURY ON 7/22/08
14 TO HER RIGHT HAND THAT ACTUALLY AFFECTED HER ARM. I
15 BELIEVE THE RATINGS FROM THE STANDPOINT OF THE
16 DEFENDANT ARE TO THE HAND. THAT SHE REACHED M.M.I.
17 THERE ARE NUMEROUS DATES GOING BACK TO FEBRUARY OF
18 '09, BUT THE LAST WAS FROM DR. FULTON WHO GAVE THE
19 CLAIMANT A RATING ON 6/30/09 STATING THAT SHE WAS AT
20 M.M.I., AND COUNSEL STATES THAT I SHOULD GIVE
21 GREATER WEIGHT TO THE FACT THAT THE CLAIMANT HAS NOT
22 SEEN ONE, BUT TWO HAND SPECIALISTS: DRS. GREENE AND
23 FULTON. ALSO, SHE HAS SEEN DR. GEE, ALL OF WHOM
24 HAVE STATED THE CLAIMANT -- THE ONLY PATHOLOGY THAT
25 I COULD REALLY FIND, ACCORDING TO COUNSEL, SHE'S

1 NEGATIVE FOR R.S.D. SHE DOES HAVE SOME EITHER
2 SPURRING OR CYSTS THAT AUTHORIZED PROVIDERS SAY ARE
3 NOT RELATED TO THIS ACCIDENT. THAT HER INJURIES HAD
4 MOSTLY RESOLVED. SHE HAS A NORMAL HAND. HER
5 TINEL'S SIGN IS NEGATIVE BOTH IN THE ELBOW AND THE
6 HAND. SHE IS NEGATIVE FOR CARPAL TUNNEL SYNDROME,
7 AND COUNSEL STATES THAT FOR TWO YEARS -- AND THE
8 CLAIMANT DID WORK TO HER CREDIT FOR ABOUT SIX
9 MONTHS, I BELIEVE, AT LIGHT DUTY OR MODIFIED DUTY,
10 BUT SINCE '08, THIS CLAIM HAS BEEN OUT THERE, AND
11 IT'S TIME TO BRING IT TO A CLOSE. THAT THE
12 OVERWHELMING MEDICAL EVIDENCE INDICATES THE CLAIMANT
13 IS AS GOOD AS SHE IS GOING TO GET. THERE'S AN
14 M.R.I. THAT'S ESSENTIALLY NORMAL. SHE'S HAD A NERVE
15 CONDUCTION STUDY. SO, THE POSITION OF THE DEFENDANT
16 IS THAT THE CLAIMANT HAD AN ACCIDENT, AND WHILE IT
17 COULD HAVE BEEN MORE SERIOUS, IT WAS NOT. SHE HAD A
18 DECENT OUTCOME ACCORDING TO THE DOCTORS AND WAS
19 GIVEN VERY CONSERVATIVE RATINGS, AND ANY PERMANENT
20 PARTIAL DISABILITY WOULD BE IN LINE WITH THESE
21 IMPAIRMENT RATINGS, WHICH ARE THE TWO PERCENT AND
22 ONE PERCENT. THESE ACCORDING TO 14-Bs. THE
23 DEFENDANT ALSO SEEKS A CREDIT FOR ALL BENEFITS PAID
24 BEYOND 6/30 OF THIS YEAR, OF 2010, AND AGAIN, THAT
25 SHE BE FOUND TO BE AT M.M.I. AND GRANTED A STOP

1 PAYMENT OF BENEFITS.

2 THE POSITION OF THE CLAIMANT IS THAT SHE'S NOT
3 AS GOOD AS SHE'S GOING TO GET. SHE WANTS MORE
4 TREATMENT, WHATEVER THAT MAY REQUIRE. THAT SHE HAD
5 A GOOD HAND PRIOR TO THIS INJURY. SHE IS RIGHT
6 HANDED. SHE DOESN'T HAVE A JOB, AND THAT SHE IS
7 LITERALLY LEFT OUT THERE WITH NO REAL OPTIONS. AND
8 SO, SHE WANTS HER WEEKLY BENEFITS TO CONTINUE. SHE
9 WANTS MORE MEDICAL TREATMENT TO SEE OTHER DOCTORS,
10 AND HER HOPE IS TO GET WELL. NOW, IF I DO FIND THAT
11 SHE IS AT MAXIMUM MEDICAL IMPROVEMENT, COUNSEL DID
12 STATE THAT THERE'S A RATING FROM DR. MOORE, WHICH
13 ACTUALLY IS LOW. IT'S ACCORDING TO THE SIXTH
14 EDITION. IT WAS 20 PERCENT -- I BELIEVE IT
15 CONFIRMED TO 20 PERCENT TO THE UPPER EXTREMITY.
16 COUNSEL STATES 30 PERCENT WOULD BE A MORE ACCURATE
17 READING OF THAT SIXTH EDITION DUE TO GRIP STRENGTH
18 OR ARM STRENGTH. BUT AT ANY RATE -- AND IT'S ALSO
19 DENIED THAT IT WOULD BE FAIR TO THE CLAIMANT TO
20 AWARD A CREDIT GOING BACK SIX MONTHS. IT'S NOT HER
21 FAULT THAT THIS HAS BEEN RUNNING ON AND ON, AND THAT
22 IF SHE IS AT M.M.I., HER PERMANENT PARTIAL
23 DISABILITY TO THE RIGHT UPPER EXTREMITY IS
24 SUBSTANTIAL AND CERTAINLY MORE THAN THE CONSERVATIVE
25 RATINGS GIVEN BY THE DEFENDANT.

1 ANYTHING TO ADD TO THAT?

2 **BY MS. HINDERSMAN:**

3 THE ONLY THING THE DEFENDANTS WOULD LIKE TO ADD
4 IS THAT THE COMMISSIONER IN OUTLINING THE
5 DEFENDANTS' POSITION INDICATED THAT THE INJURY HAS
6 IMPACTED THE RIGHT HAND AND THE RIGHT ARM, AND THE
7 DEFENDANTS' POSITION BASED ON THE 14-B SUBMITTED BY
8 DR. GREENE, WE MAINTAIN THAT IT HAS ONLY AFFECTED
9 THE RIGHT HAND, AS HE DID NOT INDICATE THE RIGHT ARM
10 WAS AFFECTED ON PAGE 69 AND PAGE 70 OF THE
11 PREHEARING BRIEF, AND THAT WOULD ALSO BE SUPPORTED
12 BY DR. FULTON'S REPORT ON DEFENDANTS' PAGE 70 OF
13 THEIR APA SUBMISSION WHERE HIS IMPRESSION WAS THE
14 CLAIMANT SUSTAINED A ROLLER INJURY TO THE RIGHT
15 HAND.

16 **BY COMMISSIONER LYNDON:**

17 AND I MISSPOKE IF I SAID THAT. IT IS CLEAR IN
18 MY MIND THE POSITION OF THE DEFENDANT IN OUR
19 PREHEARING CONFERENCE, AND I APOLOGIZE WHEN I CALLED
20 THE CASE NOT STATING IT CORRECTLY, BUT THIS,
21 ACCORDING TO THE DEFENDANT, IS A HAND INJURY AND
22 DOES NOT GO INTO THE ARM.

23 **BY MR. McELVEEN:**

24 COMMISSIONER, THE REPORT FROM GREENE SAYS "BODY
25 PARTS INJURED: RIGHT HAND/WRIST." I DON'T BELIEVE

1 THE WRIST IS PART OF THE HAND. SO, I WOULD SUBMIT
2 THAT THE INJURY WAS TO THE ARM.

3 BY COMMISSIONER LYNDON:

4 ALL RIGHT, SIR. I APPRECIATE THAT.
5 MS. HAMILTON, WOULD YOU STATE YOUR FULL NAME
6 FOR THE RECORD.

7 BY THE WITNESS:

8 EMMA R. HAMILTON.

9 BY COMMISSIONER LYNDON:

10 AND YOU ARE SOFT SPOKEN, SO SPEAK LOUDLY SO JAN
11 CAN HEAR YOUR VOICE.

12 BY THE WITNESS:

13 OH, OKAY.

14 BY COMMISSIONER LYNDON:

15 THAT'S FINE.

16 BY MR. McELVEEN:

17 I DON'T THINK -- THAT DOESN'T AMPLIFY YOUR
18 VOICE.

19 BY COMMISSIONER LYNDON:

20 * * * * * * * * * * * * * * *

21 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
22 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
23 MATTER HEREIN:

24 EMMA HAMILTON,

25 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:

1 **BY COMMISSIONER LYNDON:**

2 DO YOU WANT TO RESERVE EVERYTHING FOR CROSS?

3 **BY MS. HINDERSMAN:**

4 THAT'S CORRECT.

5 **BY COMMISSIONER LYNDON:**

6 ALL RIGHT. ANSWER ANY QUESTIONS YOUR LAWYER
7 MAY HAVE, PLEASE, MA'AM.

8 **BY MR. McELVEEN:**

9 THANK YOU.

10 **DIRECT EXAMINATION BY MR. McELVEEN:**

11 Q. EMMA, HOW OLD ARE YOU, AND WHAT IS YOUR DATE OF
12 BIRTH?

13 A. I'M 46. IT'S DECEMBER 4TH, 1964.

14 Q. AND YOU LIVE IN SUMTER COUNTY?

15 A. YES, SIR.

16 Q. YOU'VE LIVED THERE MOST OF YOUR LIFE?

17 A. ALL MY LIFE, YES.

18 Q. AND I BELIEVE YOU'VE BEEN MARRIED, BUT YOU ARE
19 DIVORCED?

20 A. RIGHT.

21 Q. HOW LONG AGO DID YOU DIVORCE?

22 A. IT WAS 1990, I THINK.

23 Q. AND YOU HAVE THREE CHILDREN?

24 A. YES.

25 Q. I BELIEVE TWO OF THEM ARE BASICALLY ON THEIR OWN,

1 BUT ONE STILL LIVES WITH YOU?

2 A. YES.

3 Q. HOW OLD IS THAT CHILD?

4 A. HE IS 22.

5 Q. DOES HE DEPEND ON YOU FOR HIS SUPPORT?

6 A. YES.

7 Q. WHY?

8 A. WELL, HE HAS A LOT OF MENTAL ILLNESS. HE'S BEEN
9 GOING TO COUNSELING SINCE HE WAS A CHILD.

10 Q. NOW, AS FAR AS YOUR EDUCATION, DID YOU FINISH HIGH
11 SCHOOL?

12 A. YES, SIR.

13 Q. SO, YOU GOT A HIGH SCHOOL DIPLOMA?

14 A. YES, SIR.

15 Q. AND WHEN WAS THAT?

16 A. 1986.

17 Q. WHAT SCHOOL DID YOU GO TO?

18 A. SUMTER HIGH SCHOOL.

19 Q. AND HAVE YOU HAD ANY SCHOOLING AFTER YOU GOT OUT OF
20 HIGH SCHOOL?

21 A. I WENT TO TECH FOR A WHILE.

22 Q. HOW LONG?

23 A. I THINK IT WAS AROUND 15 MONTHS, ABOUT A YEAR AND A
24 HALF.

25 Q. DID YOU GET A CERTIFICATE OR ANY DIPLOMA OR ANYTHING

1 FROM THERE?

2 A. NO, SIR.

3 Q. SO, YOU STOPPED IT BEFORE YOU COMPLETED IT?

4 A. YES, SIR.

5 Q. WHY?

6 A. WELL, I WAS HAVING SOME MEDICAL ISSUES. MY SISTER
7 WAS MURDERED THE YEAR BEFORE THAT, AND I TRIED
8 KEEPING IT ALL IN. SHE HAD WANTED ME TO GO BACK TO
9 SCHOOL, SO I WENT BACK TO SCHOOL. I HAD ALSO HAD A
10 BABY THE YEAR BEFORE THAT, AND I GUESS EVERYTHING
11 JUST GOT TO BE TOO MUCH. I STARTED HAVING SEIZURES.
12 I HAD AN ULCER, AND I WAS TAKING A LOT OF
13 MEDICATIONS AND STUFF.

14 Q. THIS WAS ABOUT WHEN, WHAT YEAR?

15 A. THAT WAS IN -- I WENT BACK TO SCHOOL IN '92 --
16 AROUND '92 -- '91, '92, '93, IN THAT TIME. SO, I
17 EVENTUALLY -- I INTENDED TO TAKE A SEMESTER OFF, BUT
18 I JUST NEVER...

19 Q. YOU JUST NEVER WENT BACK?

20 A. NO.

21 Q. NOW, YOU WERE WORKING AT MARTIN COLOR-FI WHEN YOU
22 WERE INJURED?

23 A. YES, SIR.

24 Q. HOW LONG HAD YOU BEEN WORKING THERE?

25 A. SINCE OCTOBER THE 12TH OF 2001.

1 Q. THAT'S WHEN YOU STARTED?

2 A. YES, SIR.

3 Q. AND DO YOU REMEMBER WHAT YOUR DATE OF INJURY WAS?

4 A. JULY 22ND OF '08.

5 Q. OKAY. SO YOU'VE BEEN THERE AROUND SEVEN YEARS?

6 A. YES.

7 Q. WHAT KIND OF WORK WERE YOU DOING THERE?

8 A. I STARTED OFF ON THE DRAW LINE, AND THEN I MOVED TO
9 A COLOR SPECIALIST I THINK THE FIRST PART OF '02.

10 Q. WHEN YOU GOT HURT, WHAT WERE YOU DOING?

11 A. COLOR SPECIALIST.

12 Q. AND BEFORE YOU WENT TO WORK AT COLOR-FI, WHAT KIND
13 OF JOBS HAVE YOU HELD?

14 A. MOSTLY CONSTRUCTION-TYPE JOBS AND PAINTING, THINGS
15 LIKE THAT OF THAT NATURE.

16 Q. WHEN DID YOU START WORKING?

17 A. EXCUSE ME.

18 Q. WHEN DID YOU START WORKING TO EARN MONEY?

19 A. OH, GOSH, SINCE I WAS A CHILD. I WAS PROBABLY
20 AROUND SIX OR SEVEN. I WAS RAKING YARDS AND CUTTING
21 GRASS, THINGS LIKE THAT, AND WHEN I WAS TEN, I
22 STARTED INSULATING HOUSES, AND I DID THAT FOR A LONG
23 TIME.

24 Q. SO, YOU'VE DONE HOUSE PAINTING?

25 A. YES, I'VE PAINTED HOUSES.

1 Q. AND ANY JOBS IN FACTORIES OR COMMERCIAL?

2 A. COLOR-FI IS PRETTY MUCH THE ONLY FACTORY, AND I
3 WORKED AT YOUNG'S FOOD MARKET. I PLANTED PINE TREES
4 FOR THE FOREST COMMISSION.

5 Q. IS IT FAIR TO SAY MARTIN COLOR-FI IS THE BEST JOB
6 YOU EVER HAD?

7 A. ABSOLUTELY. WELL, INSULATING HOUSES PAID REAL GOOD
8 MONEY WAY BACK THEN. IT WAS 350 A WEEK, AND COLOR-
9 FI PAYS ABOUT THE SAME.

10 Q. NOW, WOULD YOU TELL THE COMMISSIONER HOW YOU GOT
11 HURT.

12 A. I WAS GOING TO GET MY 12 O'CLOCK COLOR CHECKS. I
13 GOT THEM, AND I SET THEM ON THE ---

14 **BY COMMISSIONER LYNDON:**

15 IF I COULD JUST INTERRUPT. IT'S AN ADMITTED
16 ACCIDENT. SO, YOU CAN TELL US BRIEFLY. THEY ADMIT
17 YOU HAD A CRUSH INJURY. SO, RATHER THAN GOING INTO
18 A GREAT DETAIL.

19 **THE WITNESS RESUMES ANSWER:**

20 A. OKAY. I WAS BASICALLY RUNNING MY FIBER THROUGH.
21 YOU RUN THEM THROUGH ONE SET OF ROLLERS DOWN HERE.
22 THEN YOU PULL IT ACROSS AND RUN IT THROUGH THIS SET
23 OF ROLLERS LIKE AROUND THIS ONE AND UP AROUND THAT
24 ONE AND AROUND THAT ONE, AND I LOOKED BACK TO CHECK
25 TO SEE IF THE FIBER WAS KNOTTING UP, BECAUSE IT WAS

1 A THREE DENIER. THAT'S A THICKNESS, AND IT TENDS TO
2 FLY AWAY. SO, ANYWAY, THE ROLLERS, THEY CAUGHT MY
3 HAND AND ARM ABOUT PARTIAL WAY UP MY ARM AND PULLED
4 IT THROUGH THIS WAY THUMB DOWN (WITNESS INDICATES)
5 AND THEN PULLED IT AROUND THE OTHER -- THROUGH THE
6 OTHER ROLL.

7 Q. OKAY. DID YOU STOP THE MACHINE OR WHAT DID YOU DO?

8 A. WELL, WHENEVER INITIALLY IT CAUGHT MY ARM, I REACHED
9 OVER TO PUSH THE STOP BUTTON, BUT I'M USED TO THE
10 BUTTONS ON THE LEFT SIDE -- I MEAN, ON THE RIGHT
11 SIDE WHERE THE STOP IS AT THE TOP, AND THE GO BUTTON
12 IS AT THE BOTTOM. IT WAS REVERSED ON THE OTHER
13 SIDE. SO, IT DIDN'T WORK. SO, WHEN I REACHED DOWN
14 AT THE BOTTOM TO HIT THE STOP BUTTON, THERE WAS A
15 HOLE THERE. THE BUTTON WAS MISSING.

16 Q. HOW DID YOU GET YOUR ARM OUT?

17 A. WHEN IT CAME THROUGH THE SECOND ROLLER AROUND LIKE
18 THAT (WITNESS INDICATES), I WAS ABLE TO PULL IT, AND
19 ANYWAY, I GOT IT OUT.

20 Q. SO, HOW FAR UP ON YOUR ARM DID IT ---

21 A. ABOUT IN HERE (WITNESS INDICATES).

22 Q. SO, ABOUT HALFWAY BETWEEN YOUR WRIST AND YOUR ELBOW?

23 A. YES.

24 Q. AND YOU SAID IT WENT IN THUMB DOWN?

25 A. RIGHT. IT COME AROUND WITH THE FIBER LIKE THAT

1 (WITNESS INDICATES).

2 Q. OKAY. NOW, YOU GOT TREATMENT FOR A WHILE WITH DR.
3 GEE, IS THAT CORRECT?

4 A. I SAW DR. GEE FOR A WHILE.

5 Q. WERE YOU SATISFIED WITH DR. GEE'S TREATMENT?

6 A. NO, ABSOLUTELY NOT.

7 Q. NOW AS BRIEFLY AS YOU CAN, CAN YOU TELL US IN JUST A
8 FEW SENTENCES WHY YOU WEREN'T SATISFIED; TELL THE
9 COMMISSIONER.

10 A. WELL, HE BASICALLY JUST YELLED AT ME ALL THE TIME.
11 I KEPT TELLING HIM I WOULD LIKE TO KNOW WHAT WAS
12 WRONG WITH MY HAND AND GET IT FIXED, BECAUSE I WAS
13 GOING TO LOSE MY JOB, AND HE KEPT TELLING ME TO JUST
14 SHUT UP AND BE PATIENT FOR A COUPLE OF YEARS AND
15 STOP COMPLAINING. HE WAS ALWAYS YELLING ANY TIME I
16 ASKED FOR ANYTHING. WHEN I ASKED FOR THE M.R.I., I
17 HAD TO SIT THERE FOR AN HOUR AND A HALF WITH HIM
18 YELLING AND VERBALLY ABUSING ME. I'M NOT SATISFIED
19 WITH HIM AT ALL.

20 Q. NOW, DID HE EVER SEND YOU -- DID HE SEND YOU FOR A
21 NERVE CONDUCTION STUDY WHERE THEY PUT SOME NEEDLES
22 IN YOU?

23 A. THEY DIDN'T PUT NO NEEDLES IN ME.

24 Q. YOU DIDN'T HAVE A NERVE CONDUCTION STUDY; YOU WENT
25 TO DR. WHITE?

1 A. I WENT TO DR. WHITE, RIGHT, AND THEY TOLD ME THEY
2 WERE CHECKING ME FOR CONTRIBUTORY FACTORS AND A
3 FAMILY HISTORY AND SOMETHING ELSE. NO, THEY JUST
4 PUT THOSE LITTLE STICKY THINGS ON YOUR ARM. THEY
5 DIDN'T STICK NEEDLES.

6 Q. NOW, WHEN YOU HAD THE M.R.I., DID DR. GEE EVER USE
7 THE WORD TO YOU REFLEX OR REFLEX DYSTROPHY OR
8 ANYTHING LIKE THAT?

9 A. NO, SIR.

10 Q. YOU NEVER HEARD HIM SAY THAT?

11 A. NO, SIR. AFTER THE M.R.I., HE ASKED ME IF HE COULD
12 SEVER MY NERVES. I TOLD HIM NO, HE COULD NOT SEVER
13 MY NERVES, WHY WOULD HE WANT TO, AND SO THEN HE WENT
14 ON -- HE ASKED IF I WOULD -- HOW ABOUT GETTING A
15 SHOT IN MY NECK, AND I ASKED HIM WHAT THE SHOT WAS
16 FOR. HE KEPT SAYING DR. WHITE WOULD -- HE COULDN'T
17 EXPLAIN IT; DR. WHITE WOULD HAVE TO EXPLAIN IT TO
18 ME. BUT HE EVENTUALLY SAID SOMETHING ABOUT SOME
19 KIND OF NERVE BLOCK. AND THEN HE WANTED TO PUT A
20 CAST ON MY HAND, BUT HE DIDN'T DO THAT EITHER,
21 BECAUSE HE SAID I DIDN'T LIKE TO WEAR THE SPLINT.

22 Q. I'M LOOKING AT PAGE 105 OF THE CLAIMANT'S APAs,
23 FEBRUARY -- WELL, IT'S FEBRUARY 18TH, BUT IT LOOKS
24 LIKE IT WAS SIGNED FEBRUARY 22ND, AND DR. GEE SAYS
25 THE FIRST THING THAT NEEDS TO BE DONE IS GET ANOTHER

1 M.R.I. OF HER WRIST AND MAYBE GET ONE MORE THAN ONE
2 OPINION AS WELL AS SEE IF ANYTHING HAS CHANGED SINCE
3 THE PREVIOUS M.R.I. DID YOU EVER GET THAT SECOND
4 M.R.I.?

5 A. NO, SIR, I SURE DIDN'T.

6 Q. WAS ANY MENTION EVER MADE TO YOU OF SENDING YOU BACK
7 TO A NEUROLOGIST FOR ANOTHER VISIT?

8 A. YES, SIR.

9 Q. DID THAT EVER HAPPEN?

10 A. NO, SIR. THAT NEVER HAPPENED.

11 Q. NOW, WHEN YOU WENT TO SEE DR. GREENE, HOW MANY TIMES
12 DID YOU SEE HIM?

13 A. I SAW HIM ONCE FOR ABOUT TWO TO THREE MINUTES, AND
14 HE WAS VERY NASTY AND RUDE.

15 Q. OKAY. SO, YOU WERE THERE TWO TO THREE MINUTES WITH
16 HIM?

17 A. YES, SIR, AND HE REFUSED TO LOOK AT THE M.R.I.

18 Q. SO YOU DID NOT SEE HIM LOOK AT THE M.R.I.?

19 A. HE SAID HE WAS NOT LOOKING AT THAT THING.

20 Q. OKAY. AND HAD YOU HAD THE FUNCTIONAL CAPACITY
21 EVALUATION AT THAT TIME?

22 A. NO, SIR.

23 Q. AND YOU ALSO WENT TO DR. FULTON?

24 A. RIGHT.

25 Q. AND WERE YOU SATISFIED WITH -- HOW MANY TIMES DID

1 YOU SEE HIM?

2 A. I SAW HIM ONCE. HE WAS VERY NICE. I LIKED HIM, AND
3 HE WAS VERY HELPFUL AND TELLING ME THAT IT SOUNDED
4 LIKE I HAD SOME NERVE PROBLEMS GOING ON, AND HE WAS
5 GOING TO GET SOME TESTS AND SO FORTH AND SO ON, AND
6 HE SAID "LET ME TURN" -- THE NURSE HAD LOADED UP MY
7 M.R.I. INTO THE COMPUTER, AND HE SAID "LET ME LOOK
8 AT THIS M.R.I. REAL QUICK, AND THEN WE WILL DISCUSS
9 WHAT WE'RE GOING TO DO." SO, HE TURNED THE MONITOR
10 ON. IT'S A SPLIT SCREEN PICTURE WITH TWO PICTURES
11 ON IT. THERE WAS A NOTE UP THERE WITH DR. GEE'S
12 NAME ON IT. HE TOOK ABOUT 30 TO 45 SECONDS TO LOOK
13 AT THAT, AND THEN HE TURNED AROUND AND TOLD ME I
14 COULD LEAVE. AND I SAID "WELL, WHAT ABOUT THE TESTS
15 AND STUFF? WHAT ABOUT, YOU KNOW, THE PAIN SHOOTING
16 UP THROUGH HERE AND WHY IT SLEEPS ALL THE TIME AND
17 EVERYTHING?" HE SAID "THERE WAS NOTHING WRONG WITH
18 YOU THEN. THERE IS NOTHING WRONG WITH YOU NOW.
19 THERE NEVER WAS. NOW GET OUT."

20 **BY COMMISSIONER LYNDON:**

21 WHO WAS THAT - FULTON?

22 **BY THE WITNESS:**

23 DR. FULTON, BUT HE WAS VERY NICE BEFORE HE
24 TURNED ON THAT MONITOR AND READ THAT NOTE. DR.
25 GREENE HAD THROWN ME OUT, TOO, AFTER TWO MINUTES AND

1 TOLD ME TO GET OUT, I COULD LEAVE.

2 **DIRECT EXAMINATION RESUMED BY MR. McELVEEN:**

3 Q. SO, HOW LONG WERE YOU IN DR. FULTON'S OFFICE?

4 A. I DON'T KNOW, FIVE TO TEN MINUTES MAYBE BEFORE HE
5 TURNED ON THAT MONITOR.

6 Q. NOW, HAVE YOU GOTTEN -- YOU'VE BEEN TO SEE DR. MOORE
7 ONE TIME, ALSO, I BELIEVE?

8 A. YES, SIR.

9 Q. AND HOW LONG DID HE SPEND WITH YOU?

10 A. GOSH, ABOUT AN HOUR AND A HALF, TWO HOURS. IT WAS A
11 LONG TIME.

12 Q. NOW, YOU WENT THROUGH PHYSICAL THERAPY, IS THAT
13 RIGHT?

14 A. YES, SIR.

15 Q. AND YOU HAD SOME OCCUPATIONAL THERAPY?

16 A. YES, SIR.

17 Q. THAT WAS WHAT YOU HAD AT ---

18 A. THE WORK HARDENING. I SAW A HAND THERAPIST
19 ORIGINALLY.

20 Q. MR. CORNELL?

21 A. CORNELL, RIGHT, AND HE DIDN'T WANT TO TOUCH MY HAND
22 INITIALLY. HE SAID THAT I NEEDED -- SHOULD GET AN
23 M.R.I. BECAUSE I HAD A LOT OF TISSUE DAMAGE AND
24 OTHER TYPE DAMAGE AND "JUST GET AN M.R.I.," AND I
25 BEGGED HIM TO PLEASE JUST LET ME, YOU KNOW, WORK IT

1 OUT, BECAUSE I DIDN'T WANT TO LOSE MY JOB. THEY
2 KEPT THREATENING MY JOB. SO, I GOT TO PLAY WITH
3 PUTTY AND STUFF LIKE THAT, LITTLE HAND TOOLS, YOU
4 KNOW.

5 Q. ONE THING THAT KEPT BEING MENTIONED IN THESE RECORDS
6 FROM THE PHYSICAL THERAPISTS AND THE OCCUPATIONAL
7 THERAPISTS IS THAT YOU WERE UNDERSTATING YOUR PAIN?

8 A. WELL, IF YOU SAY YOU ARE IN PAIN, THEY ARE GOING TO
9 THROW YOU OUT. I JUST WANTED TO GET FIXED SO I -- I
10 WAS GOING TO LOSE MY JOB. I MEAN, AFTER I WAS LAID
11 OFF, THEY SAID I STILL HAD ONE YEAR TO GET BETTER,
12 YOU KNOW, TO GET 100 PERCENT, AND I COULD COME BACK
13 TO MY JOB. SO, THAT'S ALL -- I WAS JUST TRYING TO
14 GET BACK TO MY JOB BEFORE THE TIME RAN OUT.

15 Q. NOW, DO YOU REMEMBER GOING FOR THE FUNCTIONAL
16 CAPACITY EVALUATION WITH MR. ZELENKA OVER AT McLEOD?

17 A. YES, SIR.

18 Q. DID HE TALK TO YOU ANY ABOUT YOUR RESTRICTIONS?

19 A. AFTER THAT, HE PRETTY MUCH SAID THAT MS. NOBLES AND
20 HE BOTH, THEY WORK RIGHT THERE SIDE BY SIDE. THEY
21 SAID THEY THOUGHT ABOUT IT AND THEY HAD NO IDEA WHAT
22 TYPE OF JOB I WOULD BE ABLE TO DO. BUT, NO, HE
23 DIDN'T -- THEY DIDN'T REALLY DISCUSS IT.

24 Q. DID THEY TELL YOU THAT YOU WOULD NOT BE ABLE TO DO
25 THE JOB YOU HAD?

1 A. YES, SIR. THEY SAID I WOULDN'T BE ABLE TO DO THAT
2 JOB AGAIN, THAT TYPE OF WORK AGAIN.

3 Q. DID THEY TELL YOU THAT YOU COULD LIFT NO MORE THAN
4 TEN POUNDS OCCASIONALLY AND CARRY ONLY TEN POUNDS?

5 A. NO, SIR, BUT I GOT A COPY OF THE REPORT IN AUGUST,
6 AND I READ ALL OF THAT IN THERE. IT SAID ---

7 Q. DID THEY TELL YOU YOU WOULD NEVER BE ABLE TO DO ANY
8 RIGHT-ARM GRASPING?

9 A. WELL, THEY DIDN'T REALLY DISCUSS THE REPORT. THEY
10 JUST SAID THEY WOULD SEND THE REPORTS TO MY DOCTOR
11 WHEN THEY WERE DONE.

12 **BY MR. McELVEEN:**

13 COMMISSIONER, ALL OF THAT IS ON PAGE 159 AND
14 160.

15 **BY COMMISSIONER LYNDON:**

16 I'VE READ IT.

17 **THE WITNESS RESUMES ANSWER:**

18 A. MS. NOBLES HAD -- SHE PUT ME OUT OF THERAPY SEVERAL
19 TIMES, AND I KEPT BEGGING HER TO PLEASE LET ME STAY,
20 BUT SHE PUT ME OUT, AND DR. GEE SENT ME BACK, AND
21 SHE WROTE ME OUT AGAIN, I THINK, AND DR. GEE SENT ME
22 BACK, AND THE LAST TIME, YOU KNOW, WHEN SHE WAS
23 TALKING ABOUT PUTTING ME OUT, I KEPT BEGGING HER TO
24 PLEASE JUST LET ME GET THROUGH THIS, YOU KNOW,
25 BEFORE I -- THIS IS MY LAST CHANCE TO GET TO MY JOB,

1 AND SHE TOLD ME I WAS DOING MORE HARM THAN GOOD AND
2 THAT -- THAT ABILITY AND DETERMINATION ARE TWO
3 DIFFERENT THINGS.

4 Q. LET ME ASK YOU ---

5 A. SHE PUT ME THROUGH A SERIES OF TESTS. SHE TOLD ME
6 THE NEXT DAY SHE WAS GOING -- WE WERE GOING TO SEE
7 WHERE IT WENT. SHE PUT ME THROUGH A WHOLE SERIES OF
8 STRENUOUS THINGS, AND THEN SHE DETERMINED TO SEND ME
9 HOME AFTER THAT.

10 Q. DO YOU REMEMBER TAKING A DEXTERITY TEST? I THINK
11 YOU WERE REQUIRED TO TURN THINGS, PUT THINGS IN A --

12

13 A. I DID A LOT OF LITTLE THINGS LIKE THAT.

14 Q. WHAT HAPPENED WHEN YOU WERE TRYING TO DO THOSE
15 TESTS?

16 A. I DON'T KNOW ONE FROM THE OTHER. THAT MUST BE THE
17 DAY WHEN SHE PUT ME THROUGH THE SERIES OF EVENTS.
18 THE ---

19 Q. DID YOUR HAND GIVE OUT?

20 A. IT WOULD TIRE OUT, YOU KNOW, WHENEVER I WAS DOING
21 THESE THINGS, MY ARM WOULD TIRE OUT THROUGH HERE
22 (WITNESS INDICATES) AND MY WRIST, YOU KNOW, ALL UP
23 THROUGH HERE (WITNESS INDICATES) AND MY HAND.

24 Q. ALL UP THROUGH WHERE?

25 A. MY FOREARM AND THE WRIST AREA AND THE HAND.

1 **BY MR. McELVEEN:**

2 COMMISSIONER, IT'S ON PAGE 167, A MEASUREMENT
3 OF GRIP STRENGTH, WHICH I THINK SHOWS SIGNIFICANT
4 LOSS OF STRENGTH THERE.

5 **DIRECT EXAMINATION RESUMED BY MR. McELVEEN:**

6 Q. WHAT KIND OF PROBLEMS ARE YOU HAVING WITH YOUR ARM
7 NOW?

8 A. WELL, IT LACKS ENDURANCE, AND I STILL FEEL THAT I
9 HAVE CRACKED BONES ALONG MY WRIST UP MY THUMB AREA,
10 AND UP HERE (WITNESS INDICATES) IN MY WRIST WHERE IT
11 CAUGHT IT; I STILL FEEL I HAVE CRACKED BONES.

12 Q. AND YOU ARE POINTING SEVERAL INCHES ABOVE YOUR WRIST
13 THERE?

14 A. YES, SIR. AND INSIDE MY HAND UP THROUGH THE
15 (WITNESS INDICATES) -- HOW WOULD YOU...

16 Q. UP THROUGH THE MIDDLE OF YOUR WRIST?

17 A. AND UP THROUGH THE SIDE OF MY HAND ON THE INSIDE AND
18 OVER IN THE THUMB AREA AND THE BACKSIDE OF MY HAND
19 AND MY FINGERS.

20 Q. NOW, DID YOU HAVE ANY HOBBIES BEFORE YOU HAD THIS
21 ACCIDENT THAT YOU CAN'T DO NOW OR CAN'T DO AS WELL?

22 A. I USED TO DO A LOT OF THINGS, HOBBIES. I DID A LOT
23 OF WOOD-WORKING THINGS. I GARDENED. I PAINTED. I
24 LOVED TO PAINT, AND I MADE LITTLE THINGS, YOU KNOW,
25 WOODWORK WITH LIKE A RAZOR KNIFE AND A PIECE OF

1 WOOD. I COULD MAKE THINGS.

2 Q. ARE YOU ABLE TO DO THOSE THINGS NOW?

3 A. NO, SIR.

4 Q. WHY NOT?

5 A. MY FINGERS LOCK UP. THEY -- WHEN I CLOSE MY HAND,
6 IT'S LIKE MY HAND LOCKS UP. THE MUSCLES LOCK UP IN
7 THERE OR SOMETHING. I CAN'T HOLD A PAINTBRUSH
8 PROPERLY TO, YOU KNOW, TRIM THINGS OUT, AND WITH A
9 ROLLER, I CAN'T PUT THE PRESSURE I NEED TO ON THE
10 ROLLER, BECAUSE THE SIDE OF MY THUMB AREA, AND I
11 DROP THINGS A LOT. MY FINGERS FUMBLE THINGS. IT
12 TAKES FOREVER WHEN I'M TURNING A SCREWDRIVER. I END
13 UP DOING EVERYTHING WITH MY LEFT HAND OR TRYING TO.
14 AND I CAN'T DIG A HOLE LIKE I USED TO. I TRIED
15 USING THE POSTHOLE DIGGERS AGAIN THE OTHER DAY. I
16 CAN'T SLAM THOSE DOWN. AND THERE'S A LOT OF THINGS
17 I CAN'T -- A STAPLE GUN, I CAN'T SQUEEZE THAT LIKE I
18 USED TO. IT'S A LOT OF SIMPLE LITTLE THINGS THAT
19 YOU SHOULD BE ABLE TO DO THAT YOU JUST CAN'T.

20 Q. ANY THINGS IN LIKE THINGS YOU DO EVERY DAY LIKE
21 COOKING, CLEANING?

22 A. THESE ARE EVERYDAY THINGS I DO. I MEAN, THEY ARE
23 EVERYDAY THINGS I DO. I NEEDED TO DIG THAT HOLE TO
24 FIX MY FENCE. YOU KNOW, I MEAN, A LOT OF PAINTING;
25 I NEED TO PAINT THE LIVING ROOM. IT NEEDS PAINTING.

1 THERE'S A LOT OF THINGS. THESE ARE MY EVERYDAY
2 THINGS I DO.

3 Q. HOW ABOUT LIKE AROUND THE HOUSE: COOKING, CLEANING?

4 A. I PRETTY MUCH QUIT ALL THAT. I DON'T USE DISHES
5 ANYMORE. I USE PAPER PLATES OR THE STYROFOAM CUPS
6 OR PLASTIC CUPS. I DON'T REALLY COOK ANYMORE.

7 Q. WHY DON'T YOU COOK?

8 A. I DON'T EAT FOR ONE, AND THE DISHES -- I HAVE LIKE
9 GLASS BAKING DISHES; THEY ARE HEAVY, TOO HEAVY TO --
10 ANYMORE. I JUST HAVE NO DESIRE TO DO ANYTHING
11 ANYMORE. I JUST WANT TO GO BACK TO MY JOB.

12 Q. NOW, I NOTICE THAT YOU PULL ON YOUR HANDS A LOT OF
13 TIME WHEN YOU'RE STANDING, YOU HOLD YOUR RIGHT HAND
14 WITH OUR LEFT HAND. WHY IS THAT?

15 A. WELL, IT WAS HURTING UP THROUGH HERE (WITNESS
16 INDICATES) EARLIER.

17 Q. THROUGH WHERE?

18 A. THE RIGHT SIDE, THE INSIDE THROUGH HERE (WITNESS
19 INDICATES).

20 Q. THROUGH YOUR WRIST?

21 A. I JUST HOLD IT AND RUB IT LIKE THAT (WITNESS
22 INDICATES). YEAH, IT HURTS SOMETIMES AND SOMETIMES
23 I CAN, YOU KNOW, SQUEEZE IT LIKE THAT (WITNESS
24 DEMONSTRATES), AND IT WILL POP BACK, YOU KNOW, POP A
25 FEW TIMES AND IT FEELS BETTER, OR I CAN HOLD IT UP

1 AGAINST MY STOMACH OR SOMETHING LIKE THAT FOR IN
2 HERE. WHENEVER IT GETS TIRED, I RUB THOSE MUSCLES
3 OUT OR SOMETHING, YOU KNOW.

4 Q. ONE MORE TIME, IF YOU WOULD, POINT OUT EXACTLY WHERE
5 YOU FEEL YOU STILL HAVE PROBLEMS ON YOUR RIGHT ARM,
6 AND TELL US -- JUST TRY TO DESCRIBE WHAT YOU'RE
7 POINTING TO.

8 BY COMMISSIONER LYNDON:

9 AND THE RECORD CAN REFLECT THAT SHE ACTUALLY
10 HAD AN M.R.I. OF THE WRIST. SO, I DON'T THINK
11 THERE'S ANY DOUBT THAT THE ROLLER PULLED -- I KNOW
12 THE RATINGS ARE TO THE HAND. I BELIEVE THERE'S NO
13 DOUBT. THE REPORTS I READ SAID THAT HER ARM
14 ACTUALLY WENT INTO THE ROLLERS. AND YOU WILL GET
15 YOUR CHANCE TO SAY WHETHER THAT DID OR DID NOT
16 HAPPEN. HE IS ASKING YOU TO DESCRIBE IT, AND YOU
17 ARE SAYING MID FOREARM, UP TO YOUR MID FOREARM?

18 BY THE WITNESS:

19 ABOUT RIGHT HERE (WITNESS INDICATES).

20 BY COMMISSIONER LYNDON:

21 I UNDERSTAND. WE CAN MOVE ON.

22 DIRECT EXAMINATION RESUMED BY MR. McELVEEN:

23 Q. YOU ARE ASKING FOR MORE MEDICAL TREATMENT, IS THAT
24 RIGHT?

25 A. RIGHT. I JUST WANT TO FIND OUT WHAT THE PROBLEM IS.

1 YOU KNOW, I MEAN, THEY DID THAT M.R.I. I DON'T KNOW
2 IF ANYBODY EVER LOOKED AT THE M.R.I. YOU KNOW, I
3 JUST WANT TO KNOW WHAT THE PROBLEM IS. JUST FIX IT
4 AND GIVE ME BACK MY JOB, YOU KNOW. BECAUSE I WORKED
5 HARD AT MY JOB. I EARNED EVERY PENNY I EVER GOT.

6 Q. THERE IS A -- DID ANYBODY EVER TALK TO YOU ABOUT
7 ULNAR OR A BUTTMAN(phonetic) SYNDROME?

8 A. I'VE HEARD THAT NAME. I DON'T REALLY KNOW. I THINK
9 WE DISCUSSED IT LAST TIME. I DON'T REALLY KNOW WHAT
10 THAT MEANS.

11 Q. HOW ABOUT AVASCULAR NECROSIS?

12 A. YES, DR. MOORE, HE HAD DISCUSSED TO ME ABOUT DEATH -
13 - BONE DEATH AND THINGS LIKE THAT, AND HE TOLD ME
14 THAT I HAD CRACKED BONES, AND THAT'S WHAT I HAD BEEN
15 COMPLAINING ABOUT FROM THE BEGINNING THAT I THOUGHT
16 MY BONES WERE CRACKED, BUT DR. MOORE SAID I HAD
17 CRACKED BONES, AND THAT IT -- AT THE BEGINNING THEY
18 COULD HAVE JUST USED TWEEZERS -- YOU KNOW, LIKE THE
19 TWEEZER THINGS AND PULLED OUT THE BROKEN PIECES OF
20 BONE. EVERYTHING WOULD HAVE REGENERATED ITSELF.

21 BUT NOW THAT IT'S BEEN SO LONG, THEY WOULD HAVE TO
22 TAKE BONE FROM MY HIP AND PUT IN THERE TO REGROW NEW
23 -- IT KILLS MUSCLE CELLS.

24 Q. LET ME JUST ASK YOU, DO YOU WANT THE M.R.I. THAT DR.
25 GEE ORDERED THAT WAS NEVER DONE SO HE CAN COMPARE

1 THE NEW ONE WITH THE OLD ONE TO SEE IF THERE HAVE
2 BEEN ANY CHANGES?

3 A. YES, THAT WILL BE FINE.

4 Q. DO YOU HAVE ANY IDEA OF WHAT KIND OF TREATMENT YOU
5 WANT, OR DO YOU WANT ANOTHER DOCTOR?

6 A. I DON'T KNOW WHAT I NEED. I MEAN, I JUST WANT
7 SOMEBODY TO FIX IT, TO FIND OUT WHAT THE PROBLEM IS.
8 YOU CAN'T FIX IT UNTIL YOU KNOW WHAT THE PROBLEM IS.

9 Q. SO, YOU DON'T FEEL THEY REALLY FOUND OUT WHAT THE
10 PROBLEM IS?

11 A. I DON'T FEEL THEY'VE EVER TRIED.

12 Q. COULD YOU GO BACK AND DO ANY JOB TODAY WITH THIS
13 INJURY THAT YOU'VE DONE BEFORE?

14 A. NO, SIR.

15 Q. HOW ABOUT THE CONVENIENCE STORE JOB?

16 A. WELL, THERE, YOU HAVE TO STOCK THE SHELVES. YOU
17 HAVE TO STOCK THE FREEZERS AND EVERYTHING. THAT
18 REQUIRES LIFTING HEAVY CASES AND STUFF LIKE THAT.

19 Q. NOW, DO ANY THINGS LIKE DRESSING, PERSONAL HYGIENE,
20 THINGS LIKE THAT THAT YOU HAVE A PROBLEM WITH?

21 A. NOT AS MUCH AS I USED TO. I USED TO HAVE A LOT OF
22 PROBLEMS WITH THE BUTTONS AND ZIPPERS AND THINGS. I
23 DON'T HAVE AS MUCH PROBLEMS. IT'S EASIER TO BUTTON
24 THAN UNBUTTON, BUT I WASN'T ABLE TO PUT -- I USED TO
25 SPEND A LOT OF TIME BRUSHING MY TEETH, AND I KEPT A

1 TOOTHBRUSH IN MY POCKET EVERYWHERE I WENT. I WASN'T
2 ABLE TO PUT THE PROPER PRESSURE ON THEM, AND A
3 COUPLE OF THEM ARE STARTING TO ROT. BUT I TRIED
4 USING MY LEFT HAND, AND IT JUST DIDN'T...

5 Q. HOW ABOUT THINGS LIKE BATHING, GOING TO THE
6 BATHROOM?

7 A. WASHING MY HAIR, IT TIRES -- THE ARM GETS TOO TIRED
8 WHEN I'M TRYING TO WASH ALL MY HAIR AND EVERYTHING.
9 BRUSHING MY HAIR, I CAN BRUSH IT TO A CERTAIN POINT,
10 AND THEN I USE MY LEFT HAND AND JUST PULL IT, YOU
11 KNOW, PULL IT UP THROUGH THE BRUSH, AND THEN JUST DO
12 IT WITH MY FINGERS. I JUST -- I DON'T PUT AS MUCH -
13 - AS MUCH INTO AS I USED TO ABOUT THOSE THINGS.
14 ANYMORE. I DON'T GO ANYWHERE ANYMORE. I QUIT
15 SOCIALIZING. SO, I DON'T KNOW.

16 Q. HOW ABOUT, DO YOU HAVE ANY PAIN IN THE ARM?

17 A. YEAH, THE PAINS THAT SHOOT DOWN LIKE THROUGH MY --
18 THE ARM THROUGH THE WRIST AND AROUND THE SIDE TO THE
19 BACK AND DOWN MY FOREARM.

20 Q. HOW OFTEN DOES THAT HAPPEN?

21 A. ABOUT ALL THE TIME. I MEAN, THROUGHOUT THE DAY AND
22 IT REALLY DEPENDS ON WHAT I'M DOING AS TO HOW
23 AGITATED, YOU KNOW, IT CAN GET.

24 **BY MR. McELVEEN:**

25 I DON'T THINK I HAVE ANY FURTHER QUESTIONS.

1 BY COMMISSIONER LYNDON:

2 ANSWER ANY QUESTIONS MS. HINDERSMAN MAY HAVE,
3 PLEASE.

4 CROSS EXAMINATION BY MS. HINDERSMAN:

5 Q. MS. HAMILTON, JUST TO CLARIFY, DID YOU JUST TESTIFY
6 THAT THE ROLLER PULLED YOUR HAND ALL THE WAY UP
7 THROUGH TO YOUR ELBOW?

8 A. OH, NO. NO MA'AM.

9 Q. OKAY. I JUST WANT TO BE CLEAR.

10 A. NO. IT WENT THROUGH LIKE THAT (WITNESS GESTURES),
11 AND IT GOT UP TO ABOUT THAT -- I DON'T KNOW.

12 Q. OKAY. JUST PAST YOUR WRIST?

13 A. ABOUT -- WHAT IS THAT, ABOUT THREE INCHES, FOUR
14 INCHES.

15 Q. OKAY. BUT WHEN YOU WENT TO THE HOSPITAL THAT DAY,
16 YOU DENIED HAVING ANY ELBOW PAIN; IS THAT CORRECT?

17 A. ALL I COULD FEEL WAS THE THROBBING AND THE SWELLING
18 IN MY HAND. IT WAS EXCRUCIATING.

19 Q. AND YOU WERE SENT FOR TREATMENT WITH DR. GEE THE
20 VERY NEXT DAY AFTER YOU WENT TO THE HOSPITAL, RIGHT?

21 A. YES, MA'AM.

22 Q. AND YOU CONTINUED TO SEE DR. GEE ALMOST EVERY WEEK
23 IN THE BEGINNING?

24 A. YES, MA'AM.

25 Q. AND WHEN YOU ACTUALLY SAW DR. GEE IN THE VERY

1 BEGINNING, YOU WERE ABLE TO EXTEND YOUR FINGERS?

2 A. NO. NO, I WOULD -- I TRIED. I WAS MOTIVATED AND
3 THINGS LIKE THAT. THOSE THINGS IN HIS REPORT, HE
4 JUST MAKES IT UP WHEN I LEAVE. MOST OF THE TIME, HE
5 HANDED ME A SLIP WHEN I WALKED IN AND SAID "SEE YA
6 NEXT TIME." AND I WOULD TRY TO DISCUSS THINGS WITH
7 HIM, AND HE WOULD SAY "I'LL SEE YA NEXT WEEK,"
8 THINGS LIKE THAT.

9 Q. SO, YOU'RE SAYING WHEN DR. GEE INDICATED ON HIS
10 AUGUST 13TH, 2008, REPORT MARKED DEFENDANTS' PAGE
11 38, THAT YOU COULD EXTEND YOUR FINGERS, HE JUST MADE
12 THAT UP?

13 A. WHAT DOES IT SAY?

14 Q. WELL, HE SAID THAT YOU COULD EXTEND YOUR FINGERS.
15 SO, HE JUST MADE THINGS ---

16 A. WELL, I MAY HAVE BEEN ABLE TO.

17 Q. YOU SAID HE MADE SOME THINGS UP IN HIS REPORT?

18 A. HE MADE A LOT OF THINGS UP, AND I LEFT MY REPORTS.
19 I SHOULD HAVE BROUGHT THEM.

20 Q. OKAY. SO, DID HE ALSO MAKE UP THAT YOU COULD MAKE A
21 FIST AT THAT POINT IN YOUR TREATMENT?

22 A. WELL, HE DIDN'T -- NO, I COULD DO LIKE THAT (WITNESS
23 DEMONSTRATES), HE SAID A REASONABLY GOOD FIST. I
24 COULD DO IT ABOUT DOWN LIKE THAT, AND I WOULD TRY TO
25 EXTEND MY FINGERS AND DO THAT LITTLE THING LIKE HE

1 WOULD TELL ME. I COULD DO WHAT HE WOULD TELL ME TO
2 DO.

3 Q. AND DR. GEE FELT YOU WERE MAKING STEADY PROGRESS AT
4 THAT TIME; DID YOU AGREE WITH THAT?

5 A. NOT AT ALL.

6 Q. AND IF YOU WERE HAVING ISSUES WITH YOUR HAND, DR.
7 GEE WOULD EVEN AGREE TO SEE YOU BEFORE YOUR
8 SCHEDULED APPOINTMENT, WOULDN'T YOU?

9 A. I HAVE NO IDEA, NOT THAT I KNOW OF.

10 Q. DO YOU DISAGREE WITH DR. GEE'S REPORT WHERE HE SAID
11 THAT HE AGREED TO SEE YOU BEFORE YOUR REGULARLY-
12 SCHEDULED APPOINTMENT BECAUSE YOU WERE HAVING
13 TROUBLE WITH YOUR WRIST?

14 A. I DON'T RECALL THAT, NOT AT ALL.

15 Q. I AM REFERRING ---

16 A. WHAT WAS THE DATE ON THAT?

17 Q. IT WAS BACK IN 2008. I AM REFERRING TO DEFENDANTS'
18 PAGE 40, IF YOU WANT TO LOOK AT THE PARAGRAPH.

19 A. OKAY.

20 Q. AND DO YOU SEE, MS. HAMILTON, WHERE DR. GEE SAID
21 "I'M SEEING HER A LITTLE EARLIER THAN I WOULD
22 NORMALLY SEE HER BECAUSE YOU WERE HAVING SOME
23 SITUATIONAL WORK PROBLEMS."

24 A. I DON'T KNOW WHY HE WOULD SEE ME EARLY, BUT YEAH,
25 THEY KEPT TELLING ME IF I DIDN'T GET BACK OVER THERE

1 AND DO MY JOB, I WAS GOING TO BE FIRED.

2 Q. BUT DOESN'T THAT SEEM TO INDICATE THAT DR. GEE DID
3 CARE ABOUT YOUR TREATMENT?

4 A. BUT I DON'T KNOW WHY HE WOULD PUT HE WAS SEEING ME
5 EARLIER. I DON'T RECALL EVER RESCHEDULING OR
6 CALLING IN TO SEE HIM, AND I ONLY RESCHEDULED AN
7 APPOINTMENT ONE TIME, AND THAT WAS IN, I THINK,
8 NOVEMBER OR DECEMBER, SOMEWHERE AROUND THERE OF '09,
9 BECAUSE MY CAR WOULDN'T START.

10 Q. AND DR. GEE WAS THE DOCTOR THAT RECOMMENDED PHYSICAL
11 THERAPY FOR YOU, WASN'T HE?

12 A. NO, I HAD TO BEG AND BEG FOR THAT.

13 Q. BUT HE DID GIVE YOU A SCRIPT TO ATTEND PHYSICAL
14 THERAPY?

15 A. FINALLY, YES.

16 Q. AND YOU WERE PLEASED WITH YOUR PROGRESS AND THERAPY,
17 WEREN'T YOU?

18 A. YES, I WAS.

19 Q. AND IN FACT, DR. GEE WANTED YOUR HAND TO GET BETTER,
20 DIDN'T HE?

21 A. WELL, NATURALLY, I WOULD HOPE.

22 Q. AND HE TOLD YOU THAT IT WOULD MAKE HIS DAY WHEN YOU
23 WERE ABLE TO USE YOUR HAND MORE, DIDN'T HE?

24 A. HE DIDN'T TELL ME THOSE THINGS.

25 Q. SO, ARE YOU DISAGREEING WITH HIS REPORT WHERE HE

1 SAID HE TOLD YOU IT MADE HIS DAY?

2 A. RIGHT. WHAT HE WRITES IN THE REPORT AND WHAT WE
3 DISCUSS ARE TWO TOTALLY DIFFERENT THINGS.

4 Q. AND YOU WERE FRUSTRATED WITH YOUR CARE, AND YOU
5 WANTED A SECOND OPINION; IS THAT CORRECT?

6 A. I WANTED A NEW DOCTOR, BECAUSE I KEPT SAYING
7 SOMETHING WAS WRONG WITH MINE.

8 Q. AND SO THAT'S WHEN YOU WERE SENT TO DR. GREENE; IS
9 THAT CORRECT?

10 A. THAT'S WHEN I GOT A LAWYER.

11 Q. OKAY. WELL, EVENTUALLY ---

12 A. AND I WENT TO DR. GREENE IN FEBRUARY AFTER I FILED
13 FOR WORKERS' COMP.

14 Q. OKAY. EVENTUALLY, YOU WERE SENT TO DR. GREENE FOR A
15 SECOND OPINION, IS THAT ACCURATE?

16 A. YES, MA'AM.

17 Q. AND DR. GREENE FELT YOU HAD A NORMAL EXAM WHEN HE
18 EXAMINED YOUR HAND?

19 A. HE DID A TEN-MINUTE SESSION. WHEN HE WALKED IN, HE
20 WAS TALKING REALLY REALLY FAST. HE TOLD ME TO OPEN
21 AND CLOSE MY HAND. SO, I'M WATCHING HIS MOUTH, AND
22 I'M OPENING AND CLOSING MY HAND, AND HE GRABS MY
23 WRIST AND TAKES MY HAND AND SAYS "OPEN, CLOSE, OPEN,
24 CLOSE," AND DOES LIKE THAT. (WITNESS DEMONSTRATES)
25 AND TELLS ME TO SIT DOWN. HE MEASURED MY HAND, AND

1 THEN HE STUCK MY FINGERS WITH THESE LITTLE THINGS TO
2 SEE IF I COULD FEEL THEM, AND I COULD FEEL THEM, AND
3 THEN HE TOLD ME TO "GO GET A JOB. YOU CAN WORK." I
4 SAID "I'VE BEEN WORKING UP UNTIL I GOT LAID OFF LAST
5 MONTH," AND HE TOLD ME TO GO AND PUT IN
6 APPLICATIONS. I SAID "I WANT MY HAND FIXED SO I CAN
7 GET BACK TO MY JOB. ANYWAY, HE TOLD ME TO GET OUT
8 EVENTUALLY. HE TOLD ME, "LEAVE. YOU GET OUT."

9 Q. EVEN THOUGH DR. GREENE SAID YOU NEEDED NO FURTHER
10 MEDICAL TREATMENT, HE SAID IT WOULDN'T BE A BAD IDEA
11 TO ENGAGE IN SOME WORK HARDENING; IS THAT CORRECT?

12 A. RIGHT.

13 Q. AND SO, AT THAT POINT, YOU HAD A LONG DISCUSSION
14 WITH DR. GEE ABOUT THE TREATMENT THAT YOU HAD HAD,
15 DIDN'T YOU?

16 A. NO. IT WAS IN OCTOBER AFTER EDWARD CORNELL HAD SEEN
17 ME. HE SAID I WAS GOING TO NEED EXTENSIVE THERAPY.
18 IT WAS OCTOBER OF '08, AND I HAD A LONG DISCUSSION
19 WITH DR. GEE ABOUT SENDING ME TO THE WORK HARDENING.
20 I HAD ASKED DALE, THE NURSE, AND SHE TOLD ME TO
21 DISCUSS IT WITH HIM, AND I -- HE SAID, "YOU DON'T
22 WANT TO GO THERE. YOU DON'T WANT TO MAKE THAT LONG
23 DRIVE EVERY DAY." I SAID, "I DON'T HAVE
24 TRANSPORTATION. THEY WILL PROVIDE ME
25 TRANSPORTATION," AND HE TOLD ME AFTER SOME TIME, HE

1 TOLD ME HE WOULD GO AND SET IT UP. OH, HE WENT OUT,
2 AND I OVERHEARD HIM ON THE PHONE, AND DALE OVERHEARD
3 HIM TALKING TO, I GUESS, FRANK, AND SAID THAT I
4 DIDN'T WANT TO GO, AND DALE TOLD ME -- SHE PUSHED ME
5 IN THE ROOM AND TOLD ME "DON'T WORRY ABOUT HIM."
6 SHE SAID, "I'M GOING TO CALL FRANK MYSELF, AND I'M
7 GOING TO SET IT UP FOR YOU."

8 Q. OKAY. BUT YOU TALKED TO DR. GEE AND YOU HAD A
9 CONVERSATION, AND HE TOLD YOU THAT YOU HAD HAD
10 TESTING, X-RAYS, AND M.R.I.s, AND NOTHING SHOWED
11 SIGNIFICANT DAMAGE?

12 A. NO, HE NEVER TOLD ME THAT.

13 Q. SO, ARE YOU DISAGREEING WITH HIS NOTE DATED MAY
14 27TH, 2009, AND I'M REFERRING TO PAGE 63 OF THE APA
15 SUBMISSIONS WHERE HE SAYS "SHE AND I HAD A VERY LONG
16 DISCUSSION, AND I ADVISED HER AS FOLLOWS:" WE CAN
17 READ NUMBER ONE. DO YOU SEE, MS. HAMILTON, WHERE HE
18 SAID THAT YOU'VE BEEN EVALUATED BY THREE PHYSICIANS,
19 A NEUROLOGIST, AN ORTHOPEDIC, AND A HAND SPECIALIST,
20 AND THAT YOU HAD NERVE CONDUCTION STUDIES, X-RAYS,
21 AND AN M.R.I., AND NONE OF THESE STUDIES SHOWED
22 SIGNIFICANT DAMAGE TO ANY STRUCTURES OF THE WRIST
23 AND ARM.

24 A. NO.

25 Q. ARE YOU DISAGREEING THAT YOU HAD THIS DISCUSSION?

1 A. RIGHT. HE NEVER DISCUSSED ANYTHING WITH ME. ALL HE
2 DID WAS YELL AT ME AND TELL ME TO BE PATIENT AND
3 SHUT UP OR QUIT COMPLAINING.

4 Q. AND HE IS NOT RECOMMENDING AN M.R.I. IN THIS NOTE,
5 IS HE?

6 A. OH, I DIDN'T READ THE ENTIRE THING, BUT NO. IN WHAT
7 YOU READ, IT DOESN'T.

8 **BY COMMISSIONER LYNDON:**

9 WHAT PAGE IS THAT?

10 **BY MS. HINDERSMAN:**

11 PAGE 63.

12 **BY THE WITNESS:**

13 IT WAS IN FEBRUARY OF -- WELL, HE TOLD ME
14 SEVERAL TIMES THAT HE WAS GOING TO ORDER ANOTHER
15 M.R.I. IN DECEMBER WHEN I WAS GOING TO WORK
16 HARDENING, HE TOLD ME THAT HE WAS GOING TO GET
17 ANOTHER M.R.I. WHEN THEY KEPT SENDING ME BACK, HE
18 TOLD ME TO JUST TRY TO GET THROUGH THAT PROGRAM, AND
19 THEN HE WOULD GET ME ANOTHER M.R.I. AND IN FEBRUARY
20 WHEN I WENT BACK TO HIM -- LET'S SEE, I HAD THE
21 F.C.E. IN JANUARY OF 2010. IN FEBRUARY OF 2010, I
22 WENT BACK TO DR. GEE, AND HE TOLD ME THAT HE WAS
23 GOING TO GET ME ANOTHER M.R.I.

24 **CROSS EXAMINATION RESUMED BY MS. HINDERSMAN:**

25 Q. AND DR. GEE OPINED THAT YOU HAD REACHED MAXIMUM

1 MEDICAL IMPROVEMENT IN THIS NOTE BETWEEN FEBRUARY
2 25TH, 2009, AND MARCH 25TH, 2009, DIDN'T HE?

3 A. I GUESS. I MEAN, THAT'S WHAT HE SAYS IN THAT PAPER.

4 Q. BUT HE DID SAY THAT HE AGREED THAT YOU COULD ENTER
5 THE WORK-HARDENING PROGRAM AS DR. GREENE HAD
6 SUGGESTED?

7 A. RIGHT. BUT IT WAS ACTUALLY EDWARD CORNELL THAT HAD
8 SUGGESTED THAT.

9 Q. SO, THAT WAS ACTUALLY DIFFERENT THAN WHAT YOU JUST
10 TESTIFIED WHEN YOU SAID THAT DR. GEE DIDN'T WANT YOU
11 TO DO THE WORK HARDENING?

12 A. RIGHT. IT WAS OCTOBER UNTIL DR. GREENE SAID IT, AND
13 WE KEPT PUSHING THE ISSUE. BUT IT WAS ACTUALLY
14 EDWARD CORNELL THAT SUGGESTED IT IN OCTOBER OF '08,
15 AND DR. GEE AND I WENT OUR ROUNDS ABOUT THAT.

16 Q. OKAY. THEN IN NOVEMBER, THE WORK HARDENING
17 PROFESSIONALS STARTED CALLING YOU TO SET UP THE WORK
18 HARDENING, DIDN'T THEY?

19 A. THE FOLLOWING YEAR, A YEAR LATER, NOT THAT YEAR.

20 Q. BUT WHEN THEY STARTED TRYING TO SET IT UP, THEY
21 CALLED YOU SEVERAL TIMES, AND YOU --

22 A. WHO DID?

23 Q. --- WEREN'T CALLING THEM BACK?

24 A. WHO CALLED ME SEVERAL TIMES?

25 Q. TUOMEY MEDICAL PROFESSIONALS.

1 A. THAT WOULD BE DR. GEE AND THEM. I DON'T KNOW.

2 Q. DO YOU SEE -- IF YOU WILL ---

3 A. I KEPT CALLING THEM.

4 Q. --- REFER TO PAGE 64 OF THE DEFENDANTS' PREHEARING
5 BRIEF WHERE THEY LEFT A MESSAGE ON YOUR CELL PHONE
6 ABOUT WORK HARDENING ON NOVEMBER 12TH.

7 A. THEY WERE CALLING THE WRONG NUMBER. IT WAS A NUMBER
8 THAT HAD BEEN DISCONNECTED. IT WAS A TRACK PHONE.

9 Q. AND THEN THEY ALSO CALLED YOU ON NOVEMBER 18TH, AND
10 THEN THEY CALLED YOU ON NOVEMBER 23RD, AND THEN YOU
11 CALLED THE OFFICE AND TOLD THEM THAT YOU HAD SOME
12 PERSONAL CONCERNS ABOUT THE WORK HARDENING. DID YOU
13 DO THAT?

14 A. NO, MA'AM. I DID NOT. WHAT KIND OF PERSONAL
15 CONCERNS?

16 Q. AND SO YOU FINALLY WENT TO THE WORK HARDENING, IS
17 THAT TRUE?

18 A. DECEMBER THE 1ST, YES.

19 Q. BUT EVEN WHILE YOU WERE IN THE WORK HARDENING, YOU
20 COMPLAINED OF PAIN, DIDN'T YOU?

21 A. NO, I DIDN'T COMPLAIN OF ANYTHING.

22 Q. THE PROVIDER OF THE WORK HARDENING STOPPED THE WORK
23 HARDENING BECAUSE OF YOUR CONTINUING REPORTS OF
24 DISCOMFORT, DIDN'T THEY?

25 A. NO. THEY WATCHED EVERYTHING YOU -- I DID COMPLAIN

1 TO THEM ABOUT ANYTHING. THEY WATCH EVERY MOVE YOU
2 MAKE EVIDENTLY, AND EVERY TIME -- IF I WOULD SIT
3 OVER THERE AND BE RUBBING MY ARM BEFORE I WENT ONTO
4 THE NEXT ACTIVITY OR IF I MADE A FACIAL EXPRESSION
5 OR WHATEVER IT MAY BE, THEN SHE WOULD STOP ME AND
6 SAY "ARE YOU OKAY?" I WOULD SAY, "OH, I'M FINE,"
7 AND I WOULD GO ON AND START TO DO WHAT I HAD TO DO,
8 AND SHE WOULD SAY "NO, WHAT'S YOUR PAIN LEVEL?" I
9 WOULD SAY "OH, ABOUT A ONE, YOU KNOW." SHE WOULD
10 SAY, "NO, I DON'T THINK YOU ARE TELLING ME THE
11 TRUTH," AND I SAID "IT'S FINE. IT'S FINE. I JUST
12 NEEDED TO STOP, YOU KNOW." I KEPT MAKING UP
13 EXCUSES. ANYWAY, EVENTUALLY, YOU KNOW, SHE SAID
14 THAT SHE DIDN'T FEEL I WAS BEING HONEST ABOUT THE
15 PAIN, AND I REALLY WASN'T. I JUST WANTED TO GET
16 BACK TO MY JOB.

17 Q. AND YOU KEPT WANTING TO SHOW THEM THE REPORT FROM
18 DR. MOORE AT WORK HARDENING, DIDN'T YOU?

19 A. NO, NO, NO. THEY TOLD ME I NEEDED TO GO GET SOME X-
20 RAYS OR AN M.R.I. OR SOMETHING TO CHECK FOR CRACKED
21 BONES, BECAUSE JOHN ZELENKA, HE WAS GRABBING AROUND
22 ON MY HAND TRYING TO FEEL WHAT HE COULD FEEL, AND HE
23 WOULD TOUCH A CERTAIN SPOT, AND I JERKED IT BACK AND
24 ASKED HIM, YOU KNOW, "DON'T DO THAT." AND HE TOLD
25 ME TO GET THE M.R.I. OR AN X-RAY. I TOLD HIM THAT I

1 HAD HAD ONE, AND THEN HE WAS SAYING SOMETHING ABOUT
2 I NEEDED TO SEE A SPECIALIST OR SOMETHING. I TOLD
3 HIM I HAD SEEN A SPECIALIST OR SOMETHING LIKE THAT.
4 I TOLD HIM -- OH, I NEEDED A SECOND OPINION. I TOLD
5 HIM THAT I HAD SEEN ANOTHER DOCTOR, MR. MOORE, AND
6 HE ASKED ME ABOUT HIM, WHAT HIS REPORT SAID. I TOLD
7 HIM I WOULD GET HIM A COPY OFF OF MY EMAIL, AND I
8 WENT IT TO HIM. SO, HE WANTED TO SEE IT.

9 Q. AND YOU WERE DOING THAT BECAUSE YOU REALLY DIDN'T
10 WANT TO PARTICIPATE IN THE WORK HARDENING EVEN
11 THOUGH DR. GEE WANTED YOU TO CONTINUE WITH THE WORK
12 HARDENING; ISN'T THAT TRUE?

13 A. OH, NO, I WAS MORE THAN EAGER.

14 **BY MS. HINDERSMAN:**

15 I'M REFERRING TO PAGE 221 OF THE ---

16 **BY THE WITNESS:**

17 I WAS VERY EAGER TO CONTINUE WITH THAT WORK
18 HARDENING, AND I KEPT BEGGING TO "PLEASE, DON'T SEND
19 ME HOME."

20 **CROSS EXAMINATION RESUMED BY MS. HINDERSMAN:**

21 Q. I AM GOING TO SHOW YOU THE REPORT. IT SAID THERE
22 WAS ANOTHER REPORT THAT YOU WANTED TO SHOW THEM ---

23 A. NO, NO, NO.

24 Q. --- AND THEY WERE GOING TO DISCONTINUE THE REPORT
25 DUE TO DISCOMFORT THAT YOU WERE HAVING.

- 1 A. NO, NO, NO. THEY -- I TOLD THEM WHENEVER I GAVE
2 THEM MR. MOORE'S REPORT, I SAID "IT SEEMS LIKE THERE
3 WAS ANOTHER PAPER WITH. YOU KNOW, THERE WAS ANOTHER
4 PAPER WITH THIS." I SAID, "I CANNOT FIND IT."
5 THAT'S WHAT THAT WAS ABOUT.
- 6 Q. OKAY.
- 7 A. AND, NO, THEY TOLD ME THEY WERE GOING -- WHEN THEY
8 FINALLY DISCONTINUED ME, THEY SAID THEY WERE GOING
9 TO DISCONTINUE ON AN ETHICAL DILEMMA WITH DR. GEE.
10 BECAUSE THEY HAD CALLED HIM MANY TIMES AND TRIED TO
11 DISCUSS ISSUES WITH HIM. I WAS NOT THERE WHEN THEY
12 HAD THEIR CONVERSATIONS.
- 13 Q. AND YOU WENT BACK TO DR. GEE AFTER YOU SAW DR.
14 MOORE, DIDN'T YOU?
- 15 A. DR. MOORE, YES.
- 16 Q. AND YOU SAID DR. GEE WOULD THROW YOU OUT OF HIS
17 OFFICE EARLIER?
- 18 A. DR. GREENE THREW ME OUT. YEAH, DR. GEE WOULD SAY
19 "HERE YOU GO. SEE YOU NEXT TIME," THINGS LIKE THAT.
- 20 Q. YOU SAID EARLIER HE WAS NASTY TO YOU AND THREW YOU
21 OUT?
- 22 A. THAT WAS DR. GREENE -- DR. GREENE.
- 23 Q. YOU SAID DR. GEE, YOU HAD PROBLEMS GETTING ALONG
24 WITH HIM, TOO, AND THAT HE WOULD ---
- 25 A. RIGHT.

1 Q. --- THROW YOU OUT.

2 A. NO. I SAID DR. GEE ALWAYS SAT THERE AND TOLD ME TO
3 SHUT UP AND QUIT COMPLAINING AND BE PATIENT FOR A
4 COUPLE OF YEARS. DR. GREENE THREW ME OUT. DR. GEE
5 JUST DIDN'T HAVE TIME TO MESS WITH IT.

6 Q. YOUR ATTITUDE TOWARD DR. GEE WAS NOT NICE OR
7 PLEASANT EITHER, WAS IT?

8 A. YES, IT WAS VERY PLEASANT MOST OF THE TIME EXCEPT
9 FOR WHENEVER -- I CAN EXPLAIN WHENEVER THE TIMES HE
10 PUTS THAT WE HAD -- THAT I HAD A NASTY ATTITUDE. I
11 CAN EXPLAIN THAT IF YOU WANT TO ASK THE QUESTION.

12 Q. IN FACT ON FEBRUARY 18TH, 2010, YOUR ATTITUDE WAS
13 NOT NICE OR PLEASANT TO DR. GEE THAT VERY DAY?

14 **BY MS. HINDERSMAN:**

15 AND I'M REFERRING TO APA SUBMISSION 105 OF THE
16 CLAIMANT'S PREHEARING BRIEF.

17 **THE WITNESS ANSWERS:**

18 A. RIGHT. ON THAT DAY, I WENT IN. I STARTED TAKING MY
19 SON WITH ME, SO THAT DR. GEE WOULDN'T YELL AT ME AND
20 ALL THAT SORT OF STUFF. IF MY SON WAS THERE, YOU
21 KNOW, I FIGURED I WOULD GET BETTER TREATMENT OR NOT
22 BE YELLED AT. SO, MY SON WAS SITTING IN THE CHAIR,
23 AND I WAS SITTING THERE. DR. GEE WALKS IN, AND HE
24 WANTS TO KNOW "WHY ARE YOU HERE?" I SAID, "OH, I
25 HAD AN APPOINTMENT." HE WAS "WHAT ARE YOU DOING

1 HERE?" I SAID, "YOU TOLD ME TO COME BACK AFTER THE
2 F.C.E. WAS DONE. IT WAS DONE IN JANUARY SOMETHING."
3 "WHY ARE YOU HERE?" AND I KEPT TELLING HIM WHY I
4 WAS THERE. THEN FINALLY, I GOT -- I SAID "THE HELL
5 IF I KNOW," AND I TOLD MY SON, "COME ON LET'S GO,"
6 AND I STARTED TO WALK OUT, AND HE SAYS, "HOLD ON.
7 HOLD ON. YOU DID SOMETHING TO THOSE PEOPLE. WHAT
8 DID YOU DO TO THOSE PEOPLE?" I SAID, "WHAT DID I DO
9 TO WHO?" "THOSE PEOPLE AT THE WORK HARDENING. YOU
10 DID SOMETHING TO THEM." AND HE KEPT ON QUESTIONING
11 ME WHAT DID I DO TO THEM. I SAID, "I HAVEN'T DONE
12 ANYTHING TO THEM." I DIDN'T EVEN HAVE THE REPORT,
13 YOU KNOW. BUT HE KEPT ON ACCUSING ME OF DOING
14 SOMETHING TO THOSE PEOPLE. I TOLD HIM, "I HAVEN'T
15 DONE ANYTHING," AND I TOLD MY SON, I SAID, "COME ON.
16 LET'S GO." AND HE SAID, "JUST HOLD UP A MINUTE.
17 HOLD UP. I'M GOING TO GO AHEAD AND GET YOU THAT
18 OTHER M.R.I., AND I'M GOING TO SEND YOU BACK TO A
19 SPECIALIST." HE SAID, "DO YOU WANT TO GO BACK TO
20 DR. GREENE?" I SAID, "NO, YOU TOLD ME YOU WOULD
21 SEND ME BACK TO DR. MOORE," AND HE SAID -- I SAID,
22 "I WILL NOT SEE DR. GREENE AGAIN," AND THAT'S HOW I
23 WAS UNPLEASANT.

24 Q. ALL RIGHT. AND HE SAID EITHER AN M.R.I., OR HE SAID
25 THAT HE WOULD SEND YOU FOR ANOTHER OPINION TO

1 ANOTHER HAND SPECIALIST?

2 A. THAT'S WHAT HE SAYS THERE, BUT HE TOLD ME HE WAS
3 GOING TO GET ME ANOTHER M.R.I.

4 **BY THE WITNESS:**

5 COULD I GET SOME WATER?

6 **BY COMMISSIONER LYNDON:**

7 YEAH, LET'S GO OFF THE RECORD. SHE WANTS SOME
8 WATER.

9 (OFF THE RECORD)

10 **BY COMMISSIONER LYNDON:**

11 WE'RE BACK ON THE RECORD.

12 **CROSS EXAMINATION RESUMED BY MS. HINDERSMAN:**

13 Q. ALL RIGHT. AND YOU WENT TO SEE DR. FULTON FOR A
14 SECOND OPINION OR THIRD -- A SECOND OPINION?

15 A. I DON'T KNOW. IN FEBRUARY WHEN DR. GEE SAID HE WAS
16 GOING TO SEND ME BACK TO DR. MOORE AND GET AN
17 M.R.I., I KEPT WAITING AND WAITING, AND I WOULD CALL
18 AND FIND OUT. THEY HAD -- THIS ONE DOCTOR CALLED
19 ME, I DON'T KNOW IN MARCH OR APRIL OR SOMEWHERE, AND
20 SAID I MISSED AN APPOINTMENT. I TOLD THEM I DIDN'T
21 KNOW ABOUT AN APPOINTMENT. AND THEN IT WAS A FEW
22 MONTHS LATER, I THINK I HAD AN APPOINTMENT TO SEE AN
23 ERROL McFADDEN, BUT THEY DIDN'T PROVIDE THE
24 TRANSPORTATION, AND MR. McFADDEN'S OFFICE HADN'T
25 HEARD OF ME, BUT THE OTHER DOCTOR CALLED ME BACK AND

1 SAID I MISSED ANOTHER APPOINTMENT. THEN FINALLY IN
2 JUNE, I GOT AN APPOINTMENT TO GO SEE DR. FULTON.

3 Q. AND YOU SAID YOU LIKED DR. FULTON WHEN YOU SAW HIM?

4 A. I DID.

5 Q. AND DR. FULTON BELIEVED YOUR TREATMENT WAS
6 APPROPRIATE, DIDN'T HE?

7 A. WHAT KIND OF TREATMENT?

8 Q. THE TREATMENT THAT YOU'VE HAD TO DATE FOR TWO YEARS.

9 A. WE HADN'T DISCUSSED ALL THAT. WE WERE JUST
10 DISCUSSING WHAT WAS GOING ON, AND HE WAS TALKING
11 ABOUT NERVE DAMAGE AND HOW ANYTIME YOU HAVE NERVE
12 DAMAGE, IT KILLS MUSCLE CELLS AND THINGS LIKE THAT.

13 Q. AND YOU ARE ABLE TO USE A COMPUTER TO EMAIL AND TO
14 USE THE WORD PROCESSOR, AREN'T YOU?

15 A. OH, I GUESS, YES.

16 Q. AND YOU SAID THAT YOU HAVE HAD JOBS MOSTLY IN
17 CONSTRUCTION; IS THAT CORRECT?

18 A. THAT TYPE OF WORK, YES.

19 Q. YOU ALSO WORKED AT THE SUMTER LIBRARY, DIDN'T YOU?

20 A. YES. IT WAS MORE OF A VOLUNTEER THING WHILE I WAS
21 WAITING TO FIND A JOB.

22 Q. YOU WAITED ON PEOPLE AT THE FRONT DESK AT THE
23 LIBRARY?

24 A. YES.

25 Q. YOU ALSO CHECKED CUSTOMERS, DIDN'T YOU?

1 A. THE PATRONS, YES, I CHECKED THEM IN AND OUT AND
2 ASSISTED THEIR NEEDS.

3 Q. AND YOU WORKED IN THE COMPUTER LAB AT THE LIBRARY AS
4 WELL?

5 A. WELL, THAT WAS MAINLY TO ASSIGN A COMPUTER AND MAKE
6 SURE THEY WEREN'T GETTING ON THE WRONG SITES.

7 Q. YOU HELPED WITH THE REFERENCE SECTION AS WELL,
8 DIDN'T YOU?

9 A. OH, NOT REALLY. I DON'T KNOW A LOT ABOUT THAT, BUT
10 I TRIED TO ASSIST THEM WITH THE REFERENCE IF THE
11 REFERENCE PERSON WAS GONE. I WOULD FIND -- THEY
12 WOULD ASK A QUESTION; I WOULD TRY TO FIND THE ANSWER
13 SOMEWHERE FROM SOMEBODY.

14 Q. AND YOU ALSO WORKED AT VOC. REHAB AS WELL, DIDN'T
15 YOU?

16 A. YES, MA'AM.

17 Q. AND YOU HAD A SUPERVISORY ROLE AT VOC. REHAB, DIDN'T
18 YOU?

19 A. PRETTY MUCH.

20 Q. YOU OVERSAW 30 CLIENTS OR EMPLOYEES, DIDN'T YOU?

21 A. YES, MA'AM.

22 Q. AND YOU ALSO TOOK A POSTAL EXAM, DIDN'T YOU?

23 A. YES, MA'AM.

24 Q. AND YOU DID WELL ON THAT TEST, DIDN'T YOU?

25 A. I DID.

1 Q. AND IT REQUIRED A LOT OF MEMORIZATION?

2 A. YES, MA'AM. THAT WAS A LONG TIME AGO, BUT, YES,
3 MA'AM.

4 Q. AND YOU TESTIFIED JUST NOW THAT YOU CAN'T COOK OR
5 CLEAN?

6 A. NO, I SAID I DON'T DO THOSE THINGS ANYMORE. I JUST
7 -- I DON'T DO MUCH OF ANYTHING.

8 Q. BUT YOU CAN DO CHORES AROUND THE HOUSE, CAN'T YOU?

9 A. WELL, I DO. IF I CAN'T DO IT WITH MY RIGHT HAND, I
10 DO IT WITH MY LEFT, YES.

11 Q. SO, YOU ARE ABLE TO DO THE CHORES?

12 A. WITH MY LEFT, RIGHT.

13 Q. IS THAT A YES?

14 A. YES.

15 Q. AND YOU ALSO CAN DO YARD WORK, CAN'T YOU?

16 A. WELL, NO. BACK WHEN I HAD MY SPLINT ON, I TRIED TO
17 HELP THEM AT THE CHURCH, AND I SAID, "WELL, SURE."
18 I THOUGHT I COULD DO EVERYTHING, YOU KNOW, BUT I HAD
19 -- I COULD BRACE WITH MY RIGHT ARM, YOU KNOW, AS
20 LEVERAGE AND KIND OF DO IT, BUT WHENEVER YOU HAVE TO
21 DO IT, THAT'S A DIFFERENT THING. AND LIKE I SAID,
22 I'VE TRIED TO DO THINGS OUTSIDE THAT I CAN NO LONGER
23 DO. I ONLY DID THE RAKING THING AT THE CHURCH BACK
24 WHEN I HAD MY SPLINT ON.

25 BY MS. HINDERSMAN:

1 I DON'T HAVE ANYTHING FURTHER.

2 **BY COMMISSIONER LYNDON:**

3 OKAY. MR. McELVEEN.

4 **RE-DIRECT EXAMINATION BY MR. McELVEEN:**

5 Q. DO YOU HAVE A COMPUTER AT HOME?

6 A. I HAVE A COMPUTER, YES. I DON'T HAVE THE INTERNET.

7 Q. WERE YOU PAID FOR WORKING AT THE LIBRARY?

8 A. NO, SIR.

9 Q. WAS THAT AN ASSIGNMENT FROM VOC. REHAB?

10 A. NO.

11 Q. THAT WASN'T CONNECTED WITH VOC. REHAB?

12 A. OH, NO, SIR, NOT AT ALL.

13 **BY MR. McELVEEN:**

14 COMMISSIONER, I KNOW YOU ARE GOING TO LOOK AT
15 THE RECORDS. I JUST ONCE AGAIN SAY THAT ON FEBRUARY
16 25TH, AN M.R.I. WAS GOING TO BE ORDERED. IT NEVER
17 WAS ORDERED. ON PAGE 83, IT IS MENTIONED THAT THIS
18 WOULD BE A REFERRAL, ANOTHER REFERRAL, TO THE
19 NEUROLOGIST. THAT NEVER TOOK PLACE. I KNOW YOU'RE
20 GOING TO LOOK THROUGH ALL THESE RECORDS, AND I KNOW
21 WE NEED TO GET OUT.

22 **BY COMMISSIONER LYNDON:**

23 I HAVE A COUPLE OF QUESTIONS TO ASK MYSELF,
24 JUST A COUPLE.

25 **EXAMINATION BY COMMISSIONER LYNDON:**

1 Q. ARE YOU ON ANY MEDICINE WHATSOEVER, OR HAVE YOU BEEN
2 ON ANY MEDICINE, PRESCRIPTION MEDICATION?

3 A. I WAS ON THE 800 MILLIGRAM IBUPROFEN AND DARVOCET.

4 Q. WHAT ARE YOU ON TODAY AS WE ---

5 A. OH, NOTHING.

6 Q. NOTHING. WHEN IS THE LAST TIME, IF YOU KNOW, JUST
7 ROUGHLY, THAT YOU WERE ON A PRESCRIPTION MEDICATION
8 FOR YOUR HAND?

9 A. THE OTHER NIGHT, I TOOK A HALF OF AN 800-MILLIGRAM
10 IBUPROFEN.

11 Q. SO, YOU STILL HAVE AN ACTIVE PRESCRIPTION FOR IT?

12 A. WELL, I STILL HAVE THE BOTTLE.

13 Q. YOU STILL HAVE THE BOTTLE, BUT DO YOU HAVE AN ACTIVE
14 PRESCRIPTION FOR ANY MEDICINE WHATSOEVER?

15 A. I DON'T KNOW. I GOT IT FROM DR. GEE BACK WHEN I WAS
16 DOING THE WORK HARDENING.

17 Q. THAT'S THE -- EITHER YOU KNOW -- BECAUSE YOU'RE A
18 SMART LADY.

19 A. RIGHT.

20 Q. YOU EITHER KNOW YOU HAVE ONE OR NOT. HAVE YOUR
21 PRESCRIPTIONS EXPIRED?

22 A. I DON'T HAVE ANY REFILLS.

23 Q. OKAY.

24 A. HE DIDN'T GIVE REFILLS.

25 Q. WHAT DO YOU DO ALL DAY?

1 A. I MOSTLY GO OVER AND SIT AROUND AT MY MOM'S. I
2 TRIED TO FIX THAT FENCE FOR MY DOGS. I PLAY WITH
3 THE DOGS, BUT I CAN'T GET IT FIXED, AND I DON'T WANT
4 TO SIT AROUND THE HOUSE. MY SON SITS THERE WITH THE
5 T.V. BLASTING OR HIS RADIO, AND I JUST GO SIT OVER
6 AT MY MOM'S.

7 Q. SO, YOU LIVE ALONE OR ---

8 A. AND SIT ON THE PORCH.

9 Q. --- YOU LIVE WITH YOUR SON?

10 A. MY SON LIVES WITH ME.

11 Q. YOUR SON LIVES WITH YOU?

12 A. I DID HAVE TWO STAYING THERE, BUT THE OTHER ONE LEFT
13 A FEW MONTHS AGO AND MOVED TO COLUMBIA.

14 Q. DO THEY CONTRIBUTE MONEY TO YOU?

15 A. NO.

16 Q. YOU KEEP THEM UP?

17 A. WELL, THE OTHER ONE MOVED TO COLUMBIA. HE HAD A JOB
18 WHEN HE WAS WORKING HERE.

19 Q. THE OTHER THING I WAS GOING TO ASK YOU, THE LAST
20 THING, BECAUSE I'VE DONE IT BEFORE MYSELF. YOU SAID
21 YOU TRIED TO USE A POST-HOLE DIGGER. HOW ON EARTH
22 COULD YOU DO THAT IF YOUR ARM IS BOTHERING YOU AS
23 BAD AS YOU SAY?

24 A. I CAN'T.

25 Q. I KNOW YOU CAN'T, BUT YOU TRIED.

1 A. RIGHT.

2 Q. THAT JUST CONFUSED ME A LITTLE BIT.

3 A. I KEEP TRYING TO DO THESE THINGS. I NEEDED TO GET
4 THIS HOLE DUG, AND I DON'T HAVE ANYBODY TO HELP ME.
5 SO, I WENT TO DO IT, BUT IT HURT BOTH SIDES OF MY
6 WRISTS INTO MY HAND, AND I COULDN'T DO IT. SO, I
7 GOT THE SHOVEL. I MEAN, I REALLY NEEDED TO GET THIS
8 THING FIXED.

9 Q. DID THAT MAKE YOUR HAND WORSE? I MEAN, I PUT ---

10 A. IT HURTS.

11 Q. --- A MAILBOX IN NOT LONG AGO, AND IT IS HEAVY.

12 A. YES, IT HURTS. SO, I GOT THE SHOVEL. SO, I WAS
13 GOING TO USE THE SHOVEL. SO, I WAS DIGGING THE
14 HOLE, YOU KNOW, PUSHING WITH MY FOOT AND THIS HAND,
15 BUT THEN YOU'VE GOT TO BE ABLE TO SCOOP THE DIRT,
16 AND YOU'VE GOT -- YOU KNOW, YOU STILL HAVE TO USE
17 TWO HANDS.

18 Q. BUT YOU FELT LIKE YOU COULD USE A POST-HOLE DIGGER?

19 A. NO. I JUST NEEDED TO GET THAT HOLE, YOU KNOW.

20 Q. AND YOU'VE GOT TWO SONS. HOW OLD ARE YOUR SONS?

21 A. AND I HAVEN'T TRIED. HE IS 22. HE WASN'T THERE,
22 BUT I NEEDED TO FIX THIS HOLE.

23 Q. OKAY.

24 **BY COMMISSIONER LYNDON:**

25 I DON'T HAVE ANY OTHER QUESTIONS. ANYTHING

1 ELSE?

2 BY MS. HINDERSMAN:

3 NOTHING FURTHER.

4 RE-DIRECT EXAMINATION BY MR. McELVEEN:

5 Q. IS THIS SON, THE 22 YEAR OLD, IS HE OF ANY HELP
6 DOING ANYTHING?

7 A. NO. HE IS MENTALLY ILL, AND -- NO, HE'S NOT.

8 BY MR. McELVEEN:

9 I DON'T HAVE ANYTHING FURTHER.

10 BY COMMISSIONER LYNDON:

11 IF THERE IS NOTHING ELSE, THEN THAT CONCLUDES
12 THE HEARING.

13 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
14 CONCLUDED AT THE HOUR OF 5:20 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0810330

EMPLOYEE/CLAIMANT: EMMA HAMILTON

EMPLOYER: FORMED FIBER TECHNOLOGIES

INSURER: LIBERTY INSURANCE CORPORATION

I, JAN L. WHITWORTH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 54 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF EMMA HAMILTON TAKEN ON THE 15TH DAY OF DECEMBER, 2010.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 1ST DAY OF MARCH, 2011.

JAN L. WHITWORTH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 3-12-2014

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 0921355

EMMA HAMILTON,)	
)	FULL COMMISSION HEARING
CLAIMANT,)	PANEL A
vs.)	
)	COMMISSIONER ROCHE-CHAIR
MARTIN COLOR-FI.)	COMMISSIONER BARDEN
INCORPORATED,)	COMMISSIONER BECK
)	
EMPLOYER,)	
)	
and)	
)	
LIBERTY INSURANCE)	
COMPANY,)	
)	
CARRIER,)	
DEFENDANTS.)	
)	

 COPY

THE WORKERS' COMPENSATION HEARING, TAKEN BEFORE
CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR THE
STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF
9:32 A.M., TUESDAY, OCTOBER 25, 2011, SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION, 1333 MAIN STREET,
COLUMBIA, SOUTH CAROLINA 29202.

**CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189**

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REPORTED BY

CORA ELLIS BRUTON
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131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

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EXHIBITS

(No Exhibits Proffered)

1 THE COURT REPORTER: Today is October 25th, 2011.

2 This is South Carolina Workers' Compensation Case

3 Number 0810330. This is the case of Emma Hamilton,

4 Claimant, versus Martin Color-Fi, Incorporated,

5 Employer and Liberty Insurance Company is the Carrier.

6 The Appellant is the Claimant represented by

7 Attorney Joseph T. McElveen, Jr.. The Respondent is

8 represented by Attorney Candace Hindersman.

9 Each side is allowed ten minutes for oral

10 argument and the Appellant three minutes in reply. You

11 are requested to argue the grounds of exception and

12 stay within the record.

13 THE COURT: All right. Mr. McElveen.

14 BY MR. McELVEEN: If it please the Commissioners.

15 The hearing in this case was scheduled to begin

16 at 1:30 on December 15th. It started at 4:25 and

17 ended at 5:20. When we left the Kershaw County

18 Courthouse several cases were still waiting to be

19 heard. This had to be a frustrating day for the

20 Commissioner and maybe another day he would have

21 looked at Emma Hamilton a little differently. I hope

22 this panel today will.

23 There was a lot of pressure on Emma that day too.

24 As the record points out the Commissioner actually

25 spoke to her about how things may not go her way. He

1 had a conference with her before it started about
2 perhaps she ought to settle the case, but Emma does
3 not believe that her injury has been effectively
4 treated. She went forward because she wants more than
5 anything else to get better. She doesn't care too
6 much about the money, she wants treatment. If you
7 read her work history you'll see that Emma has fought
8 to work herself into what she considered to be a good
9 job with Martin Color-Fi and she fought to keep that
10 job. She worked light duty for six months after the
11 injury even though it was difficult, then she -- then
12 she was laid off. And interestingly, she apparently
13 is still considered an employee of Martin Color-Fi,
14 but they won't let her return to work because of her
15 restrictions. I erroneously thought she had been
16 terminated, but that's not accurate.

17 I've always found industrial crush injuries to be
18 pretty significant and potentially disabling. Emma
19 described her injury. It definitely affected her arm
20 as the rollers pulled her in almost to her elbow and
21 she had to pull it out when the stop button didn't
22 work. Yet, Dr. Gee, the authorized doctor, did very
23 little for a long time telling Emma that time would
24 heal her problems. Over and over he says, "Time is
25 going to take care of this." And very little was done

1 until Emma, herself, started getting a little more
2 aggressive about it. She was fighting to keep her
3 job. Her understanding was that she had one year to
4 get back to work so she did become more aggressive
5 with Dr. Gee asking for an MRI and work hardening and
6 referral to other doctors. She didn't get a lawyer
7 until the time when she just felt like nothing was
8 being done for her. If you read her deposition
9 testimony and her hearing testimony you will see she
10 made no apologies for pushing for more treatment. Her
11 testimony on both occasions about Dr. Gee and Dr.
12 Green is very consistent. She had not been to Dr.
13 Fulton at the time of her deposition. The problem she
14 had with other orthopedists was that once they read
15 Dr. Gee's comments that her complaints were greater
16 than her objective symptoms they misread her. She is
17 a worker; she is not looking to get out of work.

18 The Commissioner was surprised that Emma tried to
19 use a posthole digger saying that if she was hurt as
20 bad as she said she was she wouldn't even try to use
21 them. Yet, read what Emma said. She wanted to get a
22 fence put up. She did things herself. She made
23 things. So she tried to use the posthole digger but
24 she could not use the posthole digger. If you read
25 further you will see that Emma tried to use a shovel

1 after that with one arm and her other shoulder, but it
2 wouldn't work. She explains why it wouldn't work.
3 One should not be shocked at what a hard worker
4 motivated to get a job done will try to do.

5 Take, for instance, the comments of the physical
6 therapist who handled her work hardening program and
7 functional capacity evaluation. Now from reading Ms.
8 Hindersman's cross examination she apparently thought
9 that Emma was faking pain with those therapists,
10 however, the therapist believe the opposite. Emma was
11 understating her pain because she wanted to get
12 released to return to work. The therapists were
13 afraid she was going to hurt herself. She was
14 understating her pain. They could see from her
15 behavior and her expressions that she was really
16 hurting, but she was saying, "No, I'm going on, I can
17 keep on doing this." I hope you understand why I
18 believe so strongly that a very bad decision has been
19 made in this case.

20 In my Brief I believe I explain the reasons this
21 case cries out for reversal and more medical
22 treatment. If this panel can do that -- cannot do
23 that then I ask that the true extent of Emma's
24 disability be recognized. Emma Hamilton deserves a
25 chance to get better. I know the Carrier has sent her

1 to two independent medical examiners who are
 2 orthopedists. In fact, they are -- they say they are
 3 hand specialists, however, both of the IME doctors are
 4 not treating doctors. The Commission's Medical
 5 Provider Manual says an IME doctor cannot be a
 6 treating doctor unless the parties agree. Why?
 7 Because an IME doctor does not form a
 8 physician/patient relationship with the -- with the --
 9 with the patient.

10 I would submit that the Form 21 of the Defendants
 11 should not have been -- should have been rejected
 12 because the authorized doctor, Dr. Gee, has not found
 13 Emma to be at maximum medical improvement as required
 14 by the Regulations. 67-506 says, "Authorized
 15 healthcare provider must report MMI in order for
 16 payment to be stopped." Dr. Gee has not made a
 17 finding of MMI. In fact, his last record in February
 18 25, 2010 recommended that she see a hand specialist
 19 and get another MRI. Claimant's APA page 108 and 109
 20 is where that is. There's really no finding of MMI by
 21 an authorized treating doctor. Emma continued to
 22 receive treatment long after Dr. Green said she was at
 23 MMI and he had said she needed work hardening even
 24 though he said she was at MMI. Dr. Fulton, like Dr.
 25 Green an IME doctor, had almost no contact with Emma.

1 Throughout the medicals you see statements from the
2 treating doctor that "there may be a tendon injury,
3 but it could be a lot of things", and that's a quote.
4 Or that Emma needs to return to a neurologist or that
5 she might have symptoms of reflex sympathetic
6 dystrophy, but no steps have been taken to find out
7 what is wrong with Emma. Nowhere in the records does
8 it say what her problem is other than she had a crush
9 injury.

10 Now Dr. Moore, an IME doctor I asked to evaluate
11 her, noted problems in the MRI. I don't pretend to
12 understand exactly what he said; I do understand what
13 Avascular Necrosis is, but look at his note on page 50
14 of the Claimant's APA. How can it hurt to let Emma
15 get the recommended tests? Isn't the system supposed
16 to try to get her better? Emma has a work related
17 problem. Read the FCE by Mr. Zalenka and the work
18 hardening reports. He's an experienced examiner who
19 carefully noted Emma's efforts and reactions. She
20 cannot return to the job she struggled to protect. In
21 fact, she has serious limitations on getting any job.

22 It the panel will not order more medical
23 treatment to help Emma get back to work then we ask
24 that significant permanent disability be added to what
25 she got from the Commissioner; ten percent of

1 the right upper extremity.

2 It's a little confusing -- Dr. Gee never gave a
3 permanent impairment rating, just like he never found
4 MMI. Dr. Green's ratings are --

5 COMMISSIONER ROCHE: I'm looking at page 63, Mr.
6 McElveen, and Dr. Gee says, "I felt she reached
7 maximum medical benefits as far as active orthopedic
8 care was concerned."

9 MR. McELVEEN: Where is that, now?

10 COMMISSIONER ROCHE: On page 63. It was his May
11 27th, 2009 note.

12 MR. McELVEEN: Now I think in --

13 COMMISSIONER ROCHE: Number 3. "At some point
14 between February 25th and March 25th I felt she
15 reached maximum medical benefits as far as active
16 orthopedic care was concerned."

17 MR. McELVEEN: Well, that's pretty indefinite. I
18 mean between March 25 and -- and April -- and February
19 25 and he still says on the same date -- no, that's
20 May 27th, 2009. It's actually February 25th -- I

21 think subsequent to that time he -- he did not say MMI
22 and there's a -- there's a Form 14B in there which he
23 put "no" when he put down MMI.

24 COMMISSIONER ROCHE: Yes, the 14B says, "To
25 be determined."

1 MR. McELVEEN: So, I mean it's --

2 COMMISSIONER ROCHE: And somebody has written out
3 beside it 2/25/09 which coincides with his note that
4 said at some point between February 25th '09 and March
5 25th '09.

6 And I didn't mean to stop you. Go ahead.

7 MR. McELVEEN: Well I -- I was looking because I
8 know that -- February 25th, 2010 which is page 109 of
9 the Claimant's APA says "Referral to hand specialist.
10 Patient has seen Dr. Green but wants to see Dr. Blake
11 Moore. I don't believe he's a hand specialist. She
12 continues to have symptoms." And then I believe the
13 page before that he says he's going to get an MRI.
14 And the question is, why do they say, well, I'm going
15 to send her back to a neurologist and I'm going to
16 send her to get another MRI, but it never happens?
17 Surely they have some reason for saying those things,
18 but they never happen. And here's a woman that's
19 having significant problems.

20 And I know my time's up, but I would ask for
21 medical treatment and I honestly believe that -- that
22 -- you know, this is a woman who's lost a job. She
23 can't do the job she had. She's got serious problems
24 and she's got a whole lot more than ten percent
25 impairment as we stand here today I believe.

1 Thank you.

2 THE COURT: All right. Ms. Hindersman.

3 BY MS. HINDERSMAN: Good morning, and may it
4 please the Commission.

5 I have a lot of notes, but you all can read the
6 Briefs, so I'm just going to address a few things and
7 try to clarify some things that were stated by
8 Claimant's counsel.

9 I think Dr. Gee summed it up best when he said on
10 page 63 of the APAs that, "The Claimant has been
11 evaluated by three physicians, a neurologist, an
12 orthopedic surgeon and a hand specialist. Underwent
13 both nerve conduction studies and an MRI with nothing
14 revealing any significant damage to the right wrist
15 and arm." In this case the Carrier went above and
16 beyond to try to give treatment. It was some -- often
17 Dr. Gee would treat and then would say, well, let's
18 send her for an evaluation to a hand specialist. And
19 so the Carrier did just that. They sent her to Dr.
20 Green. Dr. Green did not recommend any more
21 treatment, but it was a little bit ambiguous in his
22 note, admittedly, when he recommended work hardening.
23 And so the Carrier, rather than pursuing a Stop Pay,
24 they pulled their 21 and did the work hardening. At
25 that point she went back to Dr. Gee and once again

1 she's still complaining and Dr. Gee -- if you will
2 look at that note that was after his MMI note, he
3 doesn't change his opinion with regard to his MMI
4 note. And if Claimant's counsel wants to contend that
5 he changed his opinion then its Claimant's burden to
6 show where he says she's not at MMI anymore. He
7 actually says, "I know nothing to do at this time."
8 He does not necessarily say that any of the ongoing
9 problems she's having are even related to the work
10 injury. And if you'll look at Dr. Moore's note with
11 Dr. Fulton's note, what Dr. Moore says is causing her
12 problems Dr. Fulton indicates is not related to her
13 work related injury. And so page 105 was after Dr.
14 Gee's MMI note, but he says, "Let's send her for
15 another IME just to see." And so the Carrier did
16 that. So this was not a situation where the Carrier
17 was going out independently getting an independent
18 medical evaluation to try to usurp the treating
19 physician. They once again were doing what the
20 treating physician said and Dr. Fulton says, "I have
21 nothing more to offer her. Her treatment has been
22 appropriate." And so I think if you look at that, and
23 also the Commissioner had the opportunity to question
24 Ms. Hamilton with regard to her limitations and the
25 Commissioner indicated that he felt her testimony was

1 evasive. And also it's brought up in Claimant's Brief
2 that the FCE was not considered and in Finding of Fact
3 7, I believe off the top of my head, the Commissioner
4 did consider the FCE and actually awarded ten percent
5 to the upper extremity with ratings of one, two
6 percent and no impairment. And also, Dr. Gee -- this
7 is not a situation where we have an IME doctor that
8 Dr. Gee didn't comment on their opinion. Dr. Gee
9 says, "I defer to the hand specialist" on his 14B.
10 And so I believe that this is a little -- this can be
11 distinguished from a treating physician opinion and
12 then IME doctors for which the treating physician
13 never comments on the MMI statement. And Dr. Gee, in
14 his 14B says, "She's seen a hand specialist and I
15 defer to them."

16 And so I think that the weight that was given to
17 these hand specialists was appropriate in this case
18 and that Ms. Hamilton is at MMI. I request the
19 Commission to affirm the Commissioner's decision and
20 also to --

21 COMMISSIONER ROCHE: What kind of doctor is Dr.
22 Moore?

23 MS. HINDERSMAN: I'm sorry?

24 COMMISSIONER ROCHE: What kind of doctor is
25 Dr. Moore; do you know? Was that in the record?

1 MS. HINDERSMAN: I think that Joe would be better
2 equipped to even -- and I think he does a little bit
3 of everything from what I've seen in his reports.

4 But if you all -- I'd just request that you'll
5 affirm the decision of the Commissioner who sat and
6 heard the testimony and reviewed the evidence.

7 Thank you.

8 THE COURT: Mr. McElveen, you have three minutes
9 in reply.

10 BY MR. McELVEEN: The page 63, that's May 27th.
11 For another nine --

12 COMMISSIONER ROCHE: Yeah, I saw a later 14B
13 where Dr. Gee says "no" on the 14B about MMI.

14 MR. McELVEEN: Another nine months and you know,
15 there's -- there's a question and he's raised in the
16 records, "Does she have RSD?"; never answered. "Does
17 she have Avascular Necrosis developing in this area?";
18 never answered. The MRI says "subtle sclerosis along
19 the ulner aspect and alunate (inaudible).

20 COMMISSIONER ROCHE: Well, Dr. Fulton did address
21 the MRI findings and he didn't think they were
22 related.

23 MR. McELVEEN: He said that, but he saw her one
24 time, and I mean nobody has ever, I think, thoroughly
25 evaluated these to find out what her problem was. I

1 believe what I said in the Brief, too, was that the
2 FCE was not considered by Dr. Gee or Dr. Fulton. I
3 don't think it was in existence when she saw Dr.
4 Green.

5 I just would respectfully submit that this lady
6 needs more treatment and if she's not entitled to more
7 treatment then, I mean she's lost her livelihood. She
8 can't -- you know, she has very limited use of her --
9 her dominant arm. The disability with her age, her
10 lack of transferable skills, her lack of training that
11 she's really in a very, very bad way because of this
12 injury. And it was described by Dr. Gee over and over
13 as a very serious crush injury. She got a long time
14 in treatment and ten percent disability and you still
15 do not know why this woman's arm is so painful that
16 the occupational therapist, physical therapist could
17 tell how bad she was hurting even though she was
18 trying to work through it. And you don't have a lady
19 here who's -- who's not wanting to go -- not wanting
20 to work. I mean this is a working person; she wants
21 to work.

22 Thank you very much.

23 THE COURT: Thank you. That concludes the
24 hearing.

25 (The hearing concluded at 9:51 a.m.)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON) CERTIFICATE

BE IT KNOWN THAT I TOOK THE FOREGOING WORKERS' COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT CONSISTING OF 16 TYPEWRITTEN PAGES REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPTION OF THE TESTIMONY SO GIVEN AT THE TIME AND PLACE AFORESAID TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 6TH DAY OF JANUARY, 2012.

 CORA ELLIS BRUTON
 NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES JANUARY 18, 2015

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Case No. 2012-210487

Emma Hamilton

Appellant,

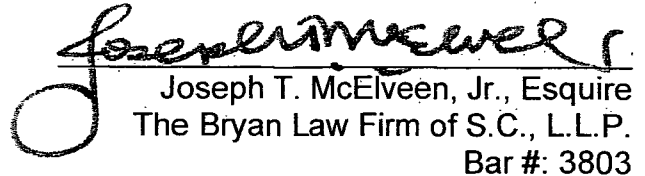
v.

Martin Color-Fi, Inc., Employer, and
Liberty Mutual Insurance Company, Carrier,

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 211(b), SCACR.


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Attorney for the Appellant

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Case No. 2012-210487

Emma Hamilton

Appellant,

v.

Martin Color-Fi, Inc., Employer, and
Liberty Mutual Insurance Company, Carrier,

Respondents.

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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPELLATE PANEL

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Attorney for the Appellant

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IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

WCC NO. 0810330

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Emma
Hamilton.....Appellant,

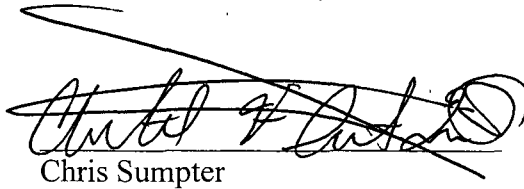
v.

Martin Color-Fi, Inc., Employer and
Liberty Mutual Insurance Company,
Carrier..... Respondents.

PROOF OF SERVICE

I certify that I have served the Appellant's Record on Appeal and Final Briefs on the Respondents, by hand delivering same, on October 9, 2012, addressed to their attorney of records, Candace Hindersman, Esquire, 4500 Fort Jackson Blvd., Columbia, SC 29209, on October 9, 2012.

10/9/12
Date


Chris Sumpter

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

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WCC NO. 0810330

SC Court of Appeals

Emma
Hamilton.....Appellant,

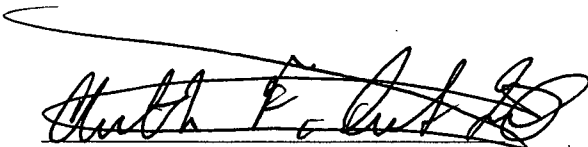
v.

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Carrier.....Respondents.

PROOF OF SERVICE

I certify that I have served a new copy of the Appellant's Record on Appeal on the Respondents, by hand delivering same, on November 1, 2012, addressed to their attorney of records, Candace Hindersman, Esquire, 4500 Fort Jackson Blvd., Columbia, SC 29209, on November 1, 2012.

11/1/12
Date


Chris Sumpter

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

WCC NO. 0810330

Emma
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v.

Martin Color-Fi, Inc., Employer and
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10/9/12

Date



Chris Sumpter

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