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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Melody L. James, Susan S. Barden, T. Scott Beck, Appellate Panel

WCC File No. 0800660

Cindy Ella Dózier, Employee, ... Appellant,

v.

American Red Cross, Employer, and Sedgwick CMS, Carrier, ... Respondents.

RECORD ON APPEAL

Stephen B. Samuels
SAMUELS LAW FIRM, LLC
1320 Richland Street
Columbia, SC 29201
(803) 779-4000

Wesley J. Shull, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607
(864) 272-2660

ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENTS

RECEIVED

AUG 23 2013

SC Court of Appeals

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BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Cindy Dozier, Employee,
Claimant,
vs.
American Red Cross, Employer, and
Cambridge Integrated Services/MD, Carrier,
Defendants.

CONSENT ORDER

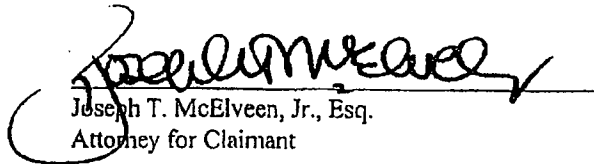
W.C.C. File No. 0800660

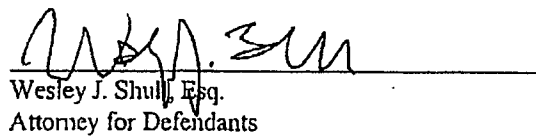
A hearing in this matter was scheduled before the undersigned Commissioner for December 12, 2008. Prior to the hearing in this matter the parties agreed to the following:

1. That the parties agree that Claimant sustained a January 17, 2008, compensable injury to her left wrist as a result of her employment with American Red Cross.
2. That the parties agree that Dr. Ugino shall be the authorized treating physician and shall address whether Claimant's alleged right wrist problems were caused by her work for Defendants.
3. That the parties agree that Dr. Ugino will also address Claimant's work status.
4. That the parties agree that, if Dr. Ugino writes Claimant out of work completely, she will be entitled to temporary total disability, to be paid prospectively from the date of Dr. Ugino's report.
5. That Defendants reserve the right to offer light duty work.
6. That the parties agree to hold the issue of alleged arrear temporary total disability in abeyance.

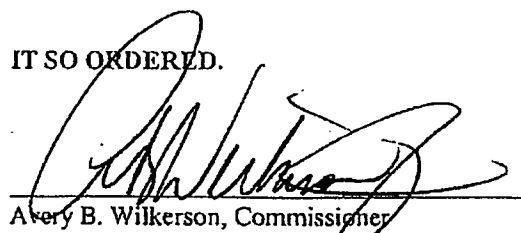
With the foregoing appearing reasonable to the undersigned, it is hereby adopted as the Interim Order of the Commission, and this case is to be returned to the General Files pending a proper hearing request by either party.

WE SO CONSENT:


Joseph T. McElveen, Jr., Esq.
Attorney for Claimant


Wesley J. Shull, Esq.
Attorney for Defendants

IT SO ORDERED.


Avery B. Wilkerson, Commissioner

Date: 12.28.2008

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date
served this order in the above entitled action upon all
parties to this cause by depositing a copy hereof,
postage paid, in the United States mail addressed to
the attorney or attorneys for said parties.

This 7 day of January, 2009
By Edouard A. Bag
Administrative Assistant to the Commissioner

JTM
WJS

Before the South Carolina Workers' Compensation Commission

WCC File No. 0800660

Cindy Dozier,
Employee/Claimant)

-v-)

American National Red Cross,
Employer)

and)

Old Republic Insurance Co.,
Carrier)

Defendants)

DECISION AND ORDER

Hearing Commissioner:

David W. Huffstetler

Claimant Represented By:

Stephen B. Samuels, Esq.

Defendants Represented By:

Wesley J. Shull, Esq.

Purpose of the Hearing:

To consider issues outlined in forms 50 and 51

Date of the Hearing:

November 3, 2009

Filed: 12/17/09

Statement of the Case

The Claimant takes the position she suffered injuries to both arms, her neck, and her back. She seeks payment of all causally-related medical treatment received to date, an award of compensation for temporary total disability beginning August 10, 2009, and additional medical treatment through Dr. Moore. The Defense takes the position the Claimant reached maximum medical improvement on August 14, 2009. They seek credit for all temporary compensation paid since that date and concede some permanent partial disability to the left arm only.

The Claimant testified that she is 39 years old and a high school graduate. She has worked as a Certified Nursing Assistant for 18 years, and was working as a Phlebotomist for the Red Cross. She further testified she injured her left arm while loading equipment on the date of accident, and her right arm injury arises out of repeated trauma from keyboarding. She reported both of these injuries to her supervisor.

On April 6, 2009 Dr. Boyd signed a questionnaire, indicating his opinion that the Claimant's arm problems arose out of her work. In a consent order dated December 24, 2008, the parties agreed to the left-arm injury and agreed to send the Claimant to Dr. Ugino for his opinion on the right arm. The parties stipulate that Dr. Ugino would not see the Claimant and they agreed to send the Claimant to Dr. McIntosh as the treating physician. The file contains a letter from Dr. McIntosh, which says he is willing to evaluate the Claimant and then decide if he wishes to treat her. There is no evidence to

show he actually treated the Claimant. In her testimony, the Claimant said she saw Dr. McIntosh one time.

In his report of October 23, 2009, Dr. Bethea opines the Claimant's neck complaints do not come from her accident at work.

Findings of Fact

1. All parties to this hearing are subject to and governed by the provisions of the South Carolina Workers' Compensation Act, as amended.
2. The Claimant's average weekly wage is \$632.95 with a compensation rate of \$421.99 per week.
3. The Claimant suffered injuries to both arms by accident arising out of and in the course of her employment. The injury to her right arm flows from repeated trauma while keyboarding. The opinion on causation given by Dr. Boyd is not refuted in the medical evidence.
4. The Claimant continues to be disabled from work due to the injuries to her arms.
5. The Claimant is in need of additional medical treatment for her injuries.

Conclusions of Law

1. Section 42-1-160 defines injury and personal injury.
2. Section 42-9-10 governs compensation for periods of total disability.

3. Section 42-9-20 governs compensation for periods of partial disability.
4. Section 42-15-60 governs medical treatment.
5. Section 42-9-30 governs compensation for permanent partial disability to those body parts identified therein.

Order

Therefore, upon consideration of the evidence and the record as a whole, it is ordered that:

The Defense shall provide the Claimant with medical treatment for both of her arms through a physician of their choosing.

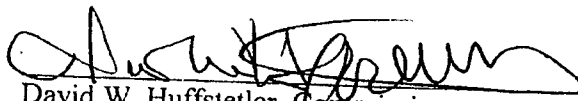
The Defense shall pay the Claimant compensation for temporary total disability effective August 10, 2009 and continuing until those benefits are terminated in accordance with the Act.

No hearing costs are assessed in this instance.

And it is so ordered.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this case by mailing a copy hereto, postage paid, to the address last addressed to the court.


David W. Huffstetler, Commissioner

This 17 December, 2009
By Kellie Lindley
Administrative Assistant to the Commissioner

SS
WS

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Cindy Ella Dozier,)

WCC FILE NO. 0800660

Claimant,)

-vs-)

American Red Cross,)

**APPELLATE PANEL
DECISION AND ORDER**

Employer,)

and)

Old Republic Insurance Company,)

Carrier,)

Defendants.)

DATE OF REVIEW HEARING: Hearing held and oral arguments presented in Columbia,
S.C. on May 18, 2010.

APPEARANCES: Claimant represented by Stephen B. Samuels, Esquire, of
Samuels Law Firm, LLC. Employer & Carrier represented
by Wesley Shull, Esquire, of Gilbert and Shull.

APPELLATE PANEL: Commissioners Susan S. Barden, G. Bryan Lyndon, and
Andrea C. Roche.

FILED:

11/23/10

STATEMENT OF THE CASE

Claimant filed a Form 50 alleging she sustained compensable injuries to her left arm, right arm and neck/back on January 17, 2008. Claimant contends these were discrete injuries by accident as defined in § 42-1-160. Claimant contends in the alternative that her injuries are compensable as repetitive trauma injuries as defined in § 42-1-172. Claimant contends she has been diagnosed with carpal tunnel syndrome and Complex Regional Pain Syndrome (CRPS/RSD), both conditions being work-related. She seeks treatment as directed by Dr. Blake Moore, contending that although the parties agreed to Dr. McIntosh as the authorized treating physician, she was sent to Dr. McIntosh for a defense medical evaluation rather than for treatment. Claimant contends she is not at Maximum Medical Improvement (MMI) and seeks temporary total disability on a running award from August 11, 2009. If she is found to be at MMI, she contends she is permanently and totally disabled.

Defendants filed a Form 51 admitting an injury to the left wrist, but denying the injuries to the right arm and neck/back. Defendants contend Claimant is at MMI as of August 10, 2009. Defendants contend all temporary compensation due has been paid. Defendants further contend all necessary medical treatment has been provided. Defendants contend the only issue is the extent of permanent disability to Claimant's left wrist.

A hearing was held on November 3, 2009 in Columbia, S.C. before Commissioner David W. Huffstetler. Commissioner Huffstetler issued a Decision and Order on December 17, 2009. The Decision and Order concluded, in relevant part, that:

The Defense shall provide the Claimant with medical treatment for both of her arms through a physician of their choosing.

The Defense shall pay the Claimant compensation for temporary total disability

effective August 10, 2009 and continuing until those benefits are terminated in accordance with the Act.

Claimant timely filed a Form 30 (Request for Commission Review). Following presentation of briefs by the parties, the Appellate Panel of the Workers' Compensation Commission heard oral arguments on April 20, 2010.

ISSUES ON APPEAL

Claimant's Form 30 (Request for Commission Review) sets forth the following grounds:

1. Whether the Single Commissioner erred as a matter of fact and law in failing to order past causally related medical treatment to be paid by the Carrier pursuant to § 42-15-60?
2. Whether the Single Commissioner erred as a matter of fact and law in allowing Defendants to designate a treating physician when good cause existed to designate Dr. Moore or one of the other treating physicians, such good cause being shown by Defendants willful failure to provide treatment through the agreed upon authorized treating physician and the fact Defendants obtained *five* IME's?
3. Whether the Single Commissioner erred as a matter of law in failing to assess the mandatory 25% penalty for improper termination of temporary compensation?
4. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant injured her neck/back when such finding was supported by the opinions of the treating physicians?
5. Whether the Single Commissioner erred as a matter of fact and law in failing to exclude the report of Dr. Bethea?

Following review and consideration by the Appellate Panel of the evidence and testimony in the case, the briefs submitted by the parties, and oral arguments espousing the parties' respective positions on the issues on appeal, the Appellate Panel AFFIRMS AS MODIFIED the Decision and Order of Commissioner David W. Huffstetler.

FINDINGS OF FACT

1. All parties to this hearing are subject to and governed by the provisions of the South Carolina Workers' Compensation Act, as amended.

2. The Claimant's average weekly wage is \$632.95 with a compensation rate of \$421.99 per week.

3. The Claimant suffered injuries to both arms by accident arising out of and in the course of her employment. The injury to the right arm flows from repeated trauma while keyboarding. The opinion on causation by Dr. Boyd is not refuted in the medical evidence.

4. The Claimant continues to be disabled from work due to her injuries to her arms.

5. The Claimant is in need of additional medical treatment for her injuries.

6. Defendants shall pay for causally related medical care and treatment before the date of the Consent Order (December 24, 2008) and then after the date of the BTE test (June 29, 2009), which shall include all treatment outside those dates submitted in the APA submissions as well as causally related treatment after the last date in the APA submissions. The Claimant is not entitled to unauthorized medicals between those two dates.

CONCLUSIONS OF LAW

1. Section 42-1-160 defines injury and personal injury.

2. Section 42-9-10 governs compensation for periods of total disability.

3. Section 42-9-20 governs compensation of periods of partial disability.

4. Section 42-15-60 governs medical treatment.

5. Section 42-9-30 governs compensation for permanent disability to those body parts identified herein.

ORDER

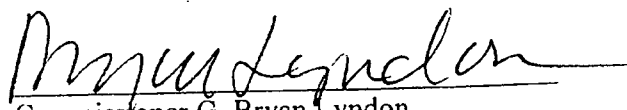
IT IS HEREBY ORDERED that the Decision and Order of Commissioner David W. Huffstetler, filed December 17, 2009, is AFFIRMED AS MODIFIED;

IT IS FURTHER ORDERED that the Defense shall provide the Claimant with medical treatment for both of her arms through a physician of their choosing;

IT IS FURTHER ORDERED the Defense shall pay the Claimant compensation for temporary total disability effective August 10, 2009 and continuing until those benefits are terminated in accordance with the Act.

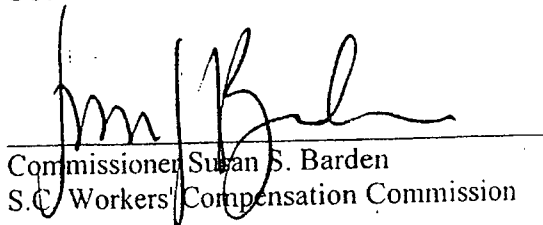
IT IS FURTHER ORDERED Defendants shall pay for causally related medical care and treatment before the date of the Consent Order (December 24, 2008) and then after the date of the BTE test (June 29, 2009), which shall include all treatment outside those dates submitted in the APA submissions as well as causally related treatment after the last date in the APA submissions. Claimant is not entitled to unauthorized medicals between those dates.

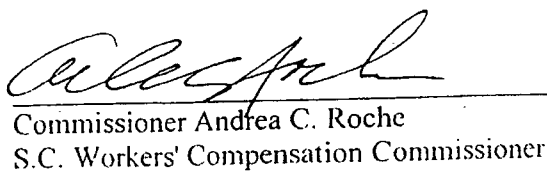
AND IT IS SO ORDERED.



Commissioner G. Bryan Lyndon
S.C. Workers' Compensation Commission

CONCURRING:


Commissioner Susan S. Barden
S.C. Workers' Compensation Commission

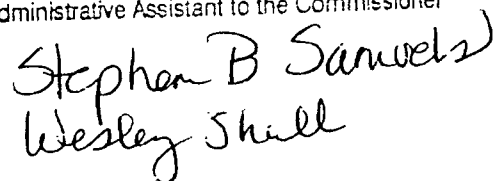
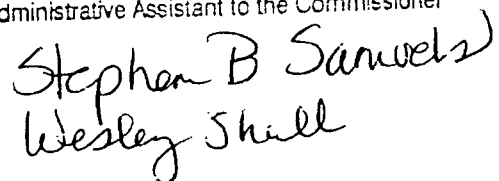

Commissioner Andrea C. Roche
S.C. Workers' Compensation Commissioner

CERTIFICATE OF SERVICE

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

This 23 day of November, 2010
By Valerie D. Decker

Administrative Assistant to the Commissioner

DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0800660

Cindy Dozier,	)
Employee,	)
Claimant,	)
vs.	)
American Red Cross,	)
Employer,	)
and	)
Sedgwick CMS,	)
Carrier,	)
Defendants.	)

HEARING:

Held in Columbia, South Carolina on February 6, 2012.

APPEARANCES:

Claimant represented by Stephen B. Samuels, Esquire of Columbia, South Carolina.

Defendants represented by Wesley J. Shull, Esquire of Willson Jones Carter & Baxley, P.A, Greenville, South Carolina.

PURPOSE OF HEARING:

To determine the issues as set forth on the Forms 50 and 51; and any other issues which timely come before this Commission.

DECISION AND ORDER:

By Gene McCaskill, Commissioner

FILED:

May 24, 2012.

I. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing:

CLAIMANT'S A.P.A. SUBMISSIONS:

- APA #1: Records of Kingstree Surgical associates, dated 08/15/08, through 07/30/09, consisting of pages 1-40.
- APA #2: Records of Gerald J. Shealy, M.D., Medical University of South Carolina, dated 12/02/10, through 05/23/11, consisting of pages 41-99.
- APA #3: Records of Florence Neurosurgery and Spine, dated 04/06/09, consisting of pages 100-106.
- APA #4: Records of Lisa Mancuso, M.D., George Bitting, M.D., First Choice Healthcare, dated 04/06/09, through 09/16/09, consisting of pages 107-108.
- APA #5: Records of Physicians Imaging Center, dated, 12/03/10, consisting of pages 109-110.
- APA #6: Records of Timothy Zgleszewski, M.D., Palmetto Spine & Sports Medicine, dated 09/08/09, through 10/03/11, consisting of pages 111-205.
- APA #7: Records of Robert E. Brabham, Ph.D., Psychological and Training Services, P.A., dated 10/28/09, consisting of pages 206-213.
- APA #8: Records of Glen K. Adams, MRC, CRC, CEES, Adams & Wilkinson – Vocational Assessment, dated 10/03/11, consisting of pages 214-229.
- APA #9: Records of Glen K. Adams, MRC, CRC, CEES, Adams & Wilkinson – Peer Review, dated 10/03/11, consisting of pages 230-239.

CLAIMANT'S EXHIBITS:

- Ex. A: Deposition of Harriet Wilkinson, dated 10/29/09, consisting of pages 240-271.
- Ex. B: Wal-mart People Greeter Job Description, consisting of pages 272-273.
- Ex. C: Printout from CorVel Website, consisting of pages 274-279.

DEFENDANT'S A.P.A. SUBMISSIONS

- APA #1: Records of Robert Alexander, M.D., dated 12/08/10, consisting of pages 1-2.
- APA #2: Records of Carolina Hand Therapy, Inc., dated 01/24/11, through 05/23/11, consisting of pages 3-8.
- APA #3: Records of FirstChoice Healthcare, P.C., dated 01/26/09, through 12/02/10, consisting of pages 9-53.
- APA #4: Records of Michael Mease, M.D., and Timothy Pannell, M.D., dated 02/03/09, through 02/04/09, consisting of pages 54-55.

DEFENDANT'S EXHIBITS:

- Ex. A: Transcript testimony of Gerald J. Shealy, M.D., dated 08/26/11, consisting of pages 56-60.
- Ex. B: James Myers Vocational Evaluation, dated 09/26/11, consisting of pages 61-74.

II. STIPULATIONS

Counsel for the respective parties stipulated at the time of the hearing to the following issues:

1. The purpose of the hearing is to determine the issues as set forth in the Forms 50 and 51; and any other issues which may timely come before the Commission;
2. Claimant's accident occurred on January 17, 2008;
3. Claimant's average weekly wage was \$632.95 with a corresponding compensation rate of \$421.99;
4. Notices were timely and properly served upon all parties of interest;
5. Venue, set in Columbia, South Carolina, was proper as agreed by all parties;
6. That the South Carolina Workers' Compensation Commission has jurisdiction over the parties and issues involved;
7. The issue for determination was Claimant's degree of permanent disability resulting from the January 17, 2008, work-related accident; and any other issues which may have timely come before the Commission.

Without objection, the Commission's file was made a part of the record in this matter with the exception of any self-serving declaration or unstipulated medical reports.

III. STATEMENT OF THE CASE

Claimant sustained an admitted injury by accident to the left arm on January 17, 2008. The claim was originally scheduled for a hearing pursuant to Claimant's Form 50 for December 4, 2008, before Commissioner Avery B. Wilkerson. The issue to be determined was whether or not Claimant was entitled to temporary total disability benefits. Prior to this hearing, the parties entered into a Consent Order whereby they agreed that, "Claimant sustained a January 17, 2008, compensable injury to her left wrist as a result of her employment with American Red Cross." It was further agreed, "that Dr. Ugino shall be the authorized treating physician and shall address whether Claimant's alleged right wrist problems were caused by her work for Defendants" and "that the parties agree that Dr. Ugino will also address Claimant's work status."

Subsequent to entering into this Consent Order, Claimant hired new counsel, who filed an August 6, 2009, Form 50 alleging an injury to, "arms, back/neck," and alleging that Claimant also sustained "psychological overlay." Claimant further sought medical examination and treatment for, "neck, back, arms, psyche." On August 14, 2009, Defendants timely filed a Form 51 admitting an injury to her "left wrist only."

Claimant's counsel filed a second Form 50 on August 24, 2009, alleging an injury to her "arms, back/neck," and claiming that Claimant sustained, "psychological overlay." Defendants timely filed a September 17, 2009, Form 51 admitting an injury to Claimant's "left wrist only."

Pursuant to the Forms 50, a hearing was ultimately set before Commissioner David W. Huffstetler for November 3, 2009. At this hearing, Claimant's position was read into the record as follows:

The Claimant takes the position she suffered injuries to both arms, also to her neck and the back. She seeks payment of all causally related medical treatment received to date. She seeks an award of compensation for temporary total disability from September 8, 2008, forward. And seeks

additional treatment for her arms, **in particular for reflex sympathetic dystrophy** and asks that Dr. Moore be assigned as her treating physician. The defense admits an injury to the left arm only. They deny all other body parts and I assume that you also deny the request for Dr. Moore to be the treating physician.

Mr. Shull:

Yes, Sir. And we also take the position the claimant is at MMI.

November 3, 2009, Hr. Tr. p. 7, ll. 23-25, p.8, ll. 1-14, *emphasis added*.

Claimant's counsel did not object to the position, quoted above by the Hearing Commissioner at the November 3, 2009, hearing.

Pursuant to this hearing, the Hearing Commissioner issued a December 17, 2009, Decision & Order. This Decision & Order found as fact that, "The claimant suffered injuries to both arms by accident arising out of and in the course of her employment. **The injury to her right arm flows from repeated trauma while keyboarding.** The opinion on causation given by Dr. Boyd is not refuted in the medical evidence."¹

The December 17, 2009, Order specifically ordered, "The defense shall provide the claimant with medical treatment for both of her arms through a physician of their choosing."

On December 30, 2009, Claimant appealed this Order via a Form 30, making the following exceptions:

1. Whether the Single Commissioner erred as a matter of fact and law in failing to order past causally related medical treatment to be paid by the carrier pursuant to § 42-15-60?
2. Whether the Single Commissioner erred as a matter of fact and law in allowing Defendants to designate a treating physician when good cause

¹ A "Dr. Boyd" was never a treating physician in this claim; however, on page 81 of Claimant's A.P.A., Submissions submitted prior to this hearing, there was a causation statement completed by Dr. George Bitting stating, "In my opinion to a reasonable degree of medical certainty, the problems which I have diagnosed and for which I have been treating Ms. Dozier were most probably caused by the work injury described by Ms. Dozier either directly, by aggravation of a pre-existing condition(s), repetitive trauma, or a combination of all three." This opinion was specifically pointed out to the Hearing Commissioner by Claimant's counsel as a medical report on which he was relying to prove that her right arm problems were caused by repetitive trauma. (Hr. Tr. p. 15, ll. 8-21)

existed to designate Dr. Moore or one of the other treating physicians, such good cause being shown by Defendant's willful failure to provide medical treatment through the agreed upon authorized treating physician and the fact that Defendants obtained *five* IMEs?

3. Whether the Single Commissioner erred as a matter of fact and law in failing to assess the mandatory 25% penalty for improper termination of temporary compensation?

On January 4, 2010, Claimant filed an Amended Form 30 adding the following exceptions:

4. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant injured her neck/back when such finding was supported by the opinions of the treating physicians?
5. Whether the Single Commissioner erred as a matter of fact and law in failing to exclude the report of Dr. Bethea?

Appellate arguments were heard on April 20, 2010, by the Full Commission.

Pursuant to this appeal, the South Carolina Workers' Compensation Commission Full Commission issued an Order which stated in the "Statement of the Case" portion of the Order, "Claimant contends she has been diagnosed with carpal tunnel syndrome and Complex Regional Pain Syndrome (CRPS/RSD), both conditions being work-related. She seeks treatment as directed by Dr. Blake Moore, contending that although the parties agree that Dr. McIntosh is the authorized treating physician, she was sent to Dr. McIntosh for a defense medical evaluation rather than for treatment." This Order was drafted by Claimant's counsel, and included all five issues for appeal as were originally appealed by her, including the issue of whether or not the Hearing Commissioner erred by failing to find that Claimant injured her neck/back and the issue of whether or not the Hearing Commissioner erred by failing to authorize Dr. Moore as the authorized treating physician (at that point in time, Dr. Moore had opined that Claimant suffered from RSD/CRPS).

The Full Commission Order dated November 23, 2010, further affirmed the Hearing Commissioner, but added a finding stating, "Defendants shall pay for causally related medical care

and treatment before the date of the Consent Order (December 24, 2008) and then after the date of the BTE test (June 29, 2009), which shall include all treatment outside those dates submitted into the A.P.A., Submissions as well as causally related treatment after the last date in the A.P.A., Submissions. The claimant is not entitled to unauthorized medicals between those two dates."

Neither party appealed this Order.

Claimant filed a Form 50 on October 17, 2011. On this Form 50, Claimant alleged an additional alleged injured body part, making her allegations, "both arms, central nervous system." At this hearing, Claimant requested permanent total disability and requested a lump sum award. Defendants timely filed a November 15, 2011, Form 51 which admitted injuries "only to the bilateral wrists. All other alleged injuries are denied."

A hearing was set before the undersigned Commissioner for February 6, 2012, pursuant to Claimant's Form 50. At the hearing, Claimant argued that she was entitled to a finding of permanent and total disability under S.C. Code § 42-9-10, based on the medical restrictions placed on her by her authorized treating physicians. Specifically, they contended that the restrictions placed on her by Dr. Shealy and Dr. Zgleszewski of 5 pounds indicated that she could not return to the workforce. In addition, Claimant argued that she was unable to return to work due to Dr. Zgleszewski's assertion that she would not be able to use either upper extremity on a repetitive basis "secondary to her CRPS and chronic pain from her failed CTS surgery." Claimant also pointed to the vocational reports of Glen K. Adams, Robert Brabham, and Harriet as further evidence of total disability.

On the record, Claimant objected to Defendant's Exhibit C, *A.M.A. Guides 5th Edition* re: Complex Regional Pain Syndromes, (pp. 495-497) on the basis that it was hearsay. The undersigned took held this issue under abeyance and now rules that Defendants' Exhibit C, which

is a portion of the the *A.M.A. Guides 5th Edition*, should be stricken from the record as an exhibit under the Hearsay Rule, specifically S.C. R.E. 803 (18), which enumerates the hearsay rule exceptions and states:

Learned Treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not received as exhibits. This rule is in addition to any statutory provisions on this subject.

Thus, pursuant to S.C. R.E. 803 (18), the undersigned finds that *The A.M.A. Guides 5th Edition* is an exception to the Hearsay Rule as a Learned Treatise. The undersigned also takes judicial notice that it is a reliable authority on the subject of medicine. However, pursuant to S.C. R.E. 803 (18), *The A.M.A. Guides 5th Edition* cannot be submitted into evidence as an exhibit.

In addition, Claimant sought lifetime medical treatment pursuant to S.C. Code § 42-9-10 and S.C. Code § 42-15-60 to be provided through Dr. Zgleszewski. Claimant further asserted that it was improper for Defendants to deny Claimant's alleged CRPS, arguing that this was supposedly the first time the issue had been raised since the prior hearing, and contending that the ability to deny Claimant's alleged CRPS was waived and that Defendants were estopped from denying the alleged CRPS.

At the hearing, Defendants argued that Claimant was entitled to a permanent partial disability award to the wrists only and denied all other allegations. Defendants further argued that it was read into the record at the November 3, 2009, hearing that Claimant sought a finding of compensable CRPS/RSD and treatment for same, and that the Order that was eventually issued by the Hearing Commissioner did not make a finding to this effect; rather, the December 17, 2009, Order gave Defendants the right to choose the treating physician. Thus, Defendants argued that,

since Claimant had already sought a finding for compensable CRPS/RSD and treatment for same, she could not attempt to re-litigate the issue at a subsequent hearing, and the doctrine *res judicata* barred Claimant from re-litigating this issue. Assuming, however, that Claimant could raise the issue of RSD/CRPS as a compensable condition, Defendants contended that the overwhelming preponderance of the credible medical evidence did not support a medical diagnosis of RSD/CRPS. Further, Defendants pointed to Dr. Zgleszewski's testimony in which he admitted he did not physically observe the majority of the symptoms associated with RSD/CRPS during his treatment of Claimant, and also Dr. Zgleszewski's deposition admission that Claimant did not meet the requirements for diagnosis of RSD/CRPS under the *A.M.A. Guides Fifth Edition*, which is what he used to render her impairment ratings.

Defendants further argued that they were not estopped from denying that Claimant sustained compensable CRPS/RSD because they authorized a series of three stellate ganglion blocks. In the alternative, Defendants argue that if the RSD/CRPS was to be found compensable, Dr. Zgleszewski, in his deposition testimony, had translated his ratings to include the RSD/CRPS; therefore, a permanent partial disability rating as to Claimant's arms could still be rendered even if the RSD/CRPS was found to be compensable.

Defense counsel further pointed to the vocational evaluation performed by James Myers, which found several jobs Claimant could perform within her 5 pound lifting restriction. Defendants sought an award of permanent partial disability to each arm commensurate with the 5% impairment rendered by Dr. Gerald Shealy, who performed Claimant's bilateral carpal tunnel release surgeries. Defendants asserted a maximum medical improvement date of August 9, 2011.

IV. EVIDENCE OF THE CASE

CLAIMANT'S TESTIMONY:

Claimant was 41-years-old on the day of the hearing. (Hr. Tr. p. 20, ll. 9-10) Claimant testified that she graduated High School after the 12th grade and also obtained training and licenses as a Certified Nurse's Assistant and as a Phlebotomist. (Hr. Tr. p. 21, ll. 20-23) Prior to working for Defendant, Claimant worked at a Certified Nurse's Assistant for 18 years. (Hr. Tr. p. 21, ll. 1-2)

Claimant testified that she received three stellate ganglion blocks and received four carpal tunnel injections by Dr. Zgleszewski since her treatment by him was authorized. (Hr. Tr. p. 24, ll. 23-25, p. 25, ll. 1-6) When asked by her attorney if the stellate ganglion blocks helped her, Claimant stated, "Yes. I got some relief for about a week," but that after one week the blocks, "wore off." (Hr. Tr. p. 25, ll. 7-10)

Claimant testified that she was referred to Dr. Gerald Shealy by Dr. Zgleszewski, for bilateral carpal tunnel release surgeries. (Hr. Tr. p. 26, ll. 7-12) Claimant stated that the surgeries performed by Dr. Shealy were unsuccessful and stated that she continues to have pain in, "both wrists, hands, both shoulders, and neck."

When asked why her neck and shoulders hurt, Claimant stated her belief that, "It comes from the carpal tunnel where I stay crunched up all the time." (Hr. Tr. p. 26, ll. 20-25) **Claimant testified that her neck hurt her the most, ranking it as a nine on a ten-point scale.** (Hr. Tr. p. 27, ll. 1-5)

With respect to describing "changes in the appearance of your hands," Claimant described, "nails brittle, skin be blotchy sometimes . . ." (Hr. Tr. p. 28, ll. 3-6) Specifically, Claimant was asked if she had any problems with swelling in her hands and stated, "Yes, sir. They stay swelling all the time." (Hr. Tr. p. 28, ll. 7-8) Claimant further testified that her right hand was "extremely

sensitive to touch.” (Hr. Tr. p. 28, ll. 13-15) Claimant elaborated, “Well, I can’t hardly stand anything to touch my right hand. The left one is not as bad as the right one.” (Hr. Tr. p. 28, ll. 19-21)

Upon cross-examination, Claimant denied that she had asked Dr. Shealy to give her a 5 pound lifting restriction, despite his medical note and deposition testimony that the restrictions were given per “her request” (see more detailed description of Dr. Shealy’s testimony and report, *infra*). Claimant elaborated on this denial stating, “I can explain, sir. He told me – Dr. Shealy said he doesn’t normally put any of his patients on a weight restriction. He asked me how many pounds could I lift, and I told him I couldn’t even lift a gallon of milk. So he said he said he would put me on a five pound restriction.” (Hr. Tr. p. 33, ll. 10-15) Claimant further admitted that she and her prior attorney had chosen Dr. Moore, Dr. Bitting, and Dr. Mancuso for her treatment.

When presented with Dr. Mancuso’s January 26, 2009, note, which was Claimant’s first treatment with Dr. Mancuso, and asked as to the issue of whether or not she reported temperature changes or sudomotor changes to Dr. Mancuso, Claimant stated that she could not remember:

Q: That you denied temperature changes or sudomotor changes in your arms and hands. And to clarify, sudomotor changes means unusually moist or unusually dry. Did you deny – when they asked you, did you deny that you had temperature changes in your hands and arms?

A: I don’t really remember.

Q: Okay. So you could have denied it if you don’t remember?

A: I just don’t remember. I mean, I’ve been through so many doctors. So ...

Q: Okay. You denied sudomotor changes or you denied moistness or dryness in your arms and hands on that day as well?

MR. SAMUELS: Objection, Your Honor. Asked and answered. She’s already said –

THE WITNESS: I mean, what day is that?

MR. SHULL: I asked her as to temperature changes.

BY MR. SHULL:

Q: With respect to moistness, did you deny that on that date as well?

A: Sir, I really don't remember on that day you're talking about.

Q: So you could have denied on that date?

A: I haven't seen Dr. Mancuso maybe but two times.

Hr. Tr. p. 35, ll. 22-25; p. 36, ll. 1-23.

Claimant further testified that her nails had become brittle by the time her treatment began with Dr. Mancuso on January 26, 2009. (Hr. Tr. p. 37, ll. 9-12) Claimant was also questioned if she reported "brittle nails, blotchy skin, and hair falling out" to her chosen physicians, Dr. Mancuso, and Dr. Bitting, and stated that she did report them to Dr. Mancuso, but not Dr. Bitting because she had only "seen him I think once." (Hr. Tr. p. 39, ll. 14-24)

Claimant was asked if she was aware that Dr. Zgleszewski's notes contain no mention of hair loss and answered, "I don't know why, but he knows and his nurses as well because I reported it to them on visits that I went in." (Hr. Tr. p. 40, ll. 12-16) Claimant further testified that she told Dr. Zgleszewski about nail changes and that he knew about the coolness of her hands that she claimed. (Hr. Tr. p. 39, ll. 23-25; p. 41, ll. 1-3)

Claimant was not wearing splints at the hearing, despite having been prescribed them, stating that she did not wear those because, "They make them hurt worse." (Hr. Tr. p. 42, ll. 15-16)

Claimant admitted that she had not applied for any jobs since she had been released by her doctors. (Hr. Tr. p. 46, ll. 18-25; p. 47, ll. 1-5)

Claimant stated that she had not reviewed the vocational report produced by Mr. James Myers and submitted into evidence by Defendants. However, Claimant was asked if she felt as though she could return to work as a greeter at Wal-mart and stated that she did not think she could. (Hr. Tr. p. 50, ll. 2-6).

MEDICAL EVIDENCE SUBMITTED BY THE PARTIES:

The undersigned reviewed the medical evidence reviewed by the parties.

1. Dr. Blake Moore:

Claimant treated with Dr. Blake Moore at her and her prior attorney's behest from August 15, 2008, through July 30, 2009. (Cl. A.P.A., #1) In a letter dated August 20, 2008, Dr. Moore wrote Claimant's prior attorney a letter. (Cl. A.P.A., #1, p. 32) In this letter Dr. Moore noted, "She was noted with marked hypersensitivity in her left hand. She described temperature sensitivity, and was noted with resting edema." (*Id.*)

On August 30, 2008, Dr. Moore completed a handwritten note in which he indicated that Claimant's skin was warm and that the color was good. (Cl. A.P.A., #1, p. 31)

On September 20, 2008, Dr. Moore completed another handwritten note that indicated that Claimant's skin was warm and her color was good. (Cl. A.P.A., #1, p. 20)

On April 9, 2009, Dr. Moore again noted that Claimant's skin was warm and the color was good. (Cl. A.P.A., #1, p. 2)

The undersigned reviewed the entirety of the medical records submitted into evidence by Claimant of Dr. Moore. None of Dr. Moore's hand-written notes indicate that he ever observed her skin temperature was abnormal, that the color wasn't anything other than "good," or that he noted mottled skin, brittle nails, or hair loss.

2. Dr. Lisa Mancuso & Dr. George Bitting:

Claimant treated at First Choice Healthcare from January 26, 2009, through August 26, 2009. (Def. A.P.A., #3) Claimant was referred there by Dr. Blake Moore, with whom she treated at her prior attorney's behest. On January 26, 2009, Dr. Lisa Mancuso wrote Dr. Moore a letter stating, "Thank you very much for sending Ms. Dozier to me for her chronic arm pain. **I doubt that she has complex regional pain syndrome, formerly know as reflex sympathetic**

dystrophy, for a few reasons. One – there is no specific precipitating event, two – both limbs are affected, three – there are no sudomotor changes.” (Def. A.P.A., #3, p. 9, *emphasis added*)

On January 26, 2009, Claimant was given a health history questionnaire when her treatment at First Choice Healthcare began. This questionnaire contained a review of systems portion in which Claimant was asked: “Please check all symptoms or illnesses that you have **currently.**” (Def. A.P.A., # 3, p. 14, *emphasis added*) Specifically, Claimant was asked to check several boxes indicating which of the symptoms or illnesses that she had. Claimant was specifically asked to indicate whether or not she had the following symptoms: “Neurological: 1. **Loss of sensation.** 2. **Muscle weakness,** Skin: 1. **Color changes.** 2. **Texture changes.** 3. **Itching.** 4. **Hair changes.** 5. **Nail changes,** Paralysis.” **With respect to the neurological changes that she was asked to indicate, Claimant failed to indicate that she had sustained a loss of sensation or muscle weakness. With respect to the skin changes she was asked about Claimant failed to indicate that she had any of them rather choosing to indicate, “none of the above.”** (*Id.*) This review of systems was signed and dated by Claimant. (*Id.*)

On January 26, 2009, Claimant initially treated with Dr. Mancuso. On this date, Dr. Mancuso noted, “Ms. Dozier is a 38 year old patient seen for consultation in the office today, kindly referred by Dr. Moore for what pt says is consideration of a stellate ganglion block for chronic arm pain . . . The pain began approximately 1 year ago. **The onset was sudden. There was no precipitating event. The mechanism of injury was unknown.** The pain is poorly localized. The pain quality is achy, deep, sharp, shoot . . . **Denies temp changes or sudomotor changes in her arms/hands.** Has not had a three phase bone scan.” (Def. A.P.A., #3, p. 16) Under the “SENSATION” portion of the physical exam from this report, Dr. Mancuso noted, “Sensation to touch and pressure intact.” (Def. A.P.A., #3, p. 17) Under the ‘PLAN’ portion from this note,

Dr. Mancuso stated, "I doubt she has CRPS Complex Regional Pain Syndrome (formerly RSD) b/c: both limbs are affected and there are no sudomotor changes." (Def. A.P.A., #3, p. 18, *emphasis added*)

On January 26, 2009, Claimant was treated by Dr. Mancuso who requested an MRI of the cervical spine and a three phase bone scan of the bilateral upper extremities. (Def. A.P.A., #3, p. 19)

Claimant underwent a three phase bone scan on February 3, 2009. On the report from this bone scan Dr. Michael Richard Mease stated:

A triple-phase bone scan of the hands and wrist and distal forearms was performed following intravenous administration of 25.1 mCi of Tc 99m MDP. On early blood flow images there appears to be slight asymmetric increased activity projecting over the distal left forearm and midcarpal region and MCP region. Activity appears fairly symmetric on the blood pool and three-hour delayed images. Slight degree of activity in the radiocarpal regions bilaterally could reflect a component of degenerative change although is very minimal nonspecific although plain film correlation may be useful.

Def. A.P.A., #4, p. 54.

On February 10, 2009, Claimant returned to FirstChoice Healthcare and was treated by Dr. George A. Bitting, Dr. Mancuso's medical partner, who stated, "Reports were reviewed and scanned into the chart: MRI report, test results. Bone scan was nonspecific, degenerative changes; neg RSD changes." (Def. A.P.A., #3, p. 23) On the 'GENERAL EXAM' portion of the physical exam of this note, Dr. Bitting noted, "**SKIN: Warm, dry, no significant lesions, irritation, rashes or ulcers.**" (Def. A.P.A., #3, p. 24, *emphasis added*)

On March 17, 2009, Claimant returned to FirstChoice Healthcare and was treated by Dr. Bitting, who noted, "SENSATION: PERIPHERAL NERVES: Sensation to touch and pressure intact . . . SKIN: Warm, dry, no significant lesions, irritation, rashes or ulcers." (Def. A.P.A., #3, p. 28) Claimant treated again with FirstChoice Healthcare on April 16, 2009. On this date, the

authorized treating physician stated, "Three phase bone scan arms, this can pick up CRPS changes. I doubt she has CRPS Complex Regional Pain Syndrome (formerly RSD) b/c: both limbs are affected and there are no sudomotor changes." (Def. A.P.A., #3, p. 33) On this date, a referral was made to a hand surgeon.

Claimant returned to FirstChoice Healthcare on May 15, 2009. On this date it was noted that Claimant's "Sensation to touch and pressure was intact." Her skin was noted to be, "Warm, dry, no significant lesions, irritation, rashes or ulcers." It was recommended that Claimant "Continue conservative care." (Def. A.P.A., #3, p. 36)

On May 22, 2009, Claimant underwent a, "Bilateral upper extremity sensory and motor nerve conduction velocity study." The impression from this study was, "Electrophysiological evidence suggestive of a mild median mononeuropathy consistent with a mild carpal tunnel syndrome affecting both extremities, affecting the sensory component. There is no electrophysiological evidence of a cervical motor radiculopathy based on this study in the nerves and muscles tested." (Def. A.P.A., #3, p. 37)

Claimant returned to treat with Dr. Bitting on July 29, 2009. On this date Dr. Bitting stated, "**Pt. able to obtain gainful employment, no work restrictions from condition.**" (Def. A.P.A., #3, p. 44)

Claimant last treated at FirstChoice Healthcare on August 26, 2009. On This date, Dr. Bitting reiterated, "Imaging studies include a MRI of the cervical spine. Cervical spine series. Three phase bone scan arms, this can pick up CRPS changes. I doubt she has CRPS Complex Regional Pain Syndrome (formerly RSD) b/c: both limbs are affected and there are no sudomotor changes." On this date, a functional capacity evaluation was requested. (Def. A.P.A., #3, p. 51)

3. Dr. Andrew H. Rhea:

Claimant treated with Dr. Andrew H. Rhea, a neurosurgeon, on April 6, 2009. (Cl. A.P.A.,

#3) On this date, Dr. Rhea noted:

38-year-old female from Sumter South Carolina, referred through First Choice Healthcare. She complains of pain in the wrists and hands. This has been present since January 2008. She states it is related to her work. She states that she was involved in some repetitive work for the Red Cross involving pulling and lifting . . . She also has some neck pain but states that this came on after her cervical injections. She has some numbness and tingling in both hands.

Cl. A.P.A., #3, p. 100.

On this date, Dr. Rhea's Neuro/musculoskeletal exam revealed, "Sensory: Sensory exam was intact to light touch and pinprick throughout all 4 extremities and proprioception seems full."

(Cl. A.P.A., #3, p. 101) On this date, Dr. Rhea's impression was, "Vague pain in the wrists and forearms. She does have some cervical pain as well, but I don't believe her wrist and arm pain is a manifestation of cervical radiculopathy. She states it is secondary to repetitive injury and this may be some type of a sympathetic mediated pain syndrome". (*Id.*)

4. Dr. Timothy M. Zgleszewski:

Claimant treated with Dr. Timothy M. Zgleszewski for an independent medical examination at Claimant's attorney's behest on September 8, 2009. (Cl. A.P.A., #6, pp. 202-205)

Dr. Zgleszewski included in this report an explanation of the examination, stating:

Analysis is based upon the subjective complaints, history given by the examinee, review of medical records, tests provided to me and objective clinical findings on physical examination. History was provided by the examinee. Approximately 30 minutes were spent with the examinee. **This included taking a history and performing a detailed physical examination . . .**

Cl. A.P.A., # 6, p. 202, *emphasis added*.

With respect to the diagnostic testing that Dr. Zgleszewski had reviewed in preparation for his independent medical report Dr. Zgleszewski stated:

The examinee has had interventional spinal procedures in the past with no reported benefit. The examinee has progressed through physical therapy and chiropractic therapy with [sic] no reported benefit. The examinee is taking Lyrica, Tramadol, Soma, Lortab, Darvocet and Darvon for the pain with little reduction of her discomfort. The examinee's diagnostic testing includes x-rays, Cervical MRI, EMG/NCS and **a bone scan performed to date.**

Cl. A.P.A.: #6, 203, *emphasis added.*

Dr. Zgleszewski further noted:

There is a positive Phalen's in both the right and left wrist. There is a positive Tinel's sign at the wrists bilaterally. There is a negative Tinel's sign at the bilateral elbow. There was a negative Finkelstein's bilaterally. There are negative neural tension signs [sic] in both arms in the median, radial and ulnar biases. Bilateral upper extremity motor examination was normal. **Bilateral upper extremity sensory examinat [sic] was normal to soft touch and pinprick.** Deep tendon reflexes at the bilateral biceps, triceps and brachioradialis are normal and symmetric today.

Cl. A.P.A.: #6, p 203, *emphasis added.*

Dr. Zgleszewski's diagnoses in his report were, "1. Left and right carpal tunnel syndrome

2. Cervical myofascial pain." (Cl. A.P.A., #6, p. 204)

With respect to medical treatment that he felt necessary, Dr. Zgleszewski stated:

The examinee will require myofascial stretch and release rehabilitation as well as rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination, but will require further diagnostic testing and treatment as outlined below prior to the initiation of rehabilitation therapy. The examinee will require trigger point injections the bilateral upper trapezius, levator scapulae and teres minor muscles ... The examinee will require carpal tunnel injections to the bilateral wrists. If no long term benefit is obtained, then they will need to be considered for a Carpal Tunnel Release. She had one injection to the left wrist and it was painful, which makes me wonder if it was done correctly as it should be almost pain free if not pain free.

Cl. A.P.A., #6, p 204.

On September 8, 2009, Dr. Zgleszewski rendered Claimant 16% impairment to the "back/spine" and 5% impairment ratings to both upper extremities. (*Id.*)

Nowhere in Dr. Zgleszewski's September 8, 2009, independent medical evaluation report did he note observations of allodynia, mottled skin, coolness of skin to the touch, hair loss or brittle nails.

On January 26, 2010, Claimant returned to treat with Dr. Zgleszewski, who noted, "Bilateral upper extremity sensory examination is normal to soft touch and pinprick today." Under the "Treatment Plan" portion of the note, Dr. Zgleszewski noted, "The patient will require his [sic] first therapeutic right stellate ganglion sympathetic block under fluoroscopic guidance." (Cl. A.P.A., #6, p. 188) On March 18, 2010, Dr. Zgleszewski performed a right stellate ganglion block.

On March 30, 2010, Claimant reported to Dr. Zgleszewski, who noted, "**Ms. Dozier reports absolutely no relief of pain and increased pain in the shoulders and increased hand symptoms s/p her last stellate ganglion block.** She states she has had effective blocks before but the [sic] were done through an anterior approach." (Cl. A.P.A., #6, p. 182, *emphasis added*)

On May 6, 2010, Claimant underwent a repeat right stellate ganglion block. (Cl. A.P.A., #6, pp. 179-180)

On May 18, 2010, Claimant returned to Dr. Zgleszewski who noted, "**Ms. Dozier reports little to no relief of pain s/p repeat stellate ganglion blocks, any pain relief that she did have only lasted several hours after the procedure and was felt in the beck [sic] only. She states she has had effective blocks before done in an anterior approach that decreased some of her shoulder pain but never her arm symptoms.**" (Cl. A.P.A., #6, p. 177, *emphasis added*) On this date, Dr. Zgleszewski further noted:

She has had a left carpal tunnel injection in the past with no benefit, but given she experienced increased pain during and after the injection it is possible that the injection may have placed incorrectly. We are recommending bilateral carpal tunnel injections, with a pain diary. In addition, she has cervical myofascial pain that has not been treated with rehabilitation therapy. We will order rehab today for the bilateral upper extremities and cervical region. If

she fails to achieve improvement of her cervical and upper extremity pain from her CRPS, we may recommend a trial of a spinal cord stimulator. In addition, if she does not benefit from a series of three carpal tunnel injections we may conside [sic] referral for carpal tunnel release.”

Cl. A.P.A., #6, p. 177.

On June 1, 2010, Claimant received a right carpal tunnel injection. (Cl. A.P.A., #6, pp. 174-175)

Claimant returned to Dr. Zgleszewski on June 10, 2010, where he noted, “She has noted benefit in reduction of symptoms and pain in both hands after the carpal tunnel injections but not optimal relief. Pain relief noted was only about 5-10%.” (Cl. A.P.A., #6, p. 171) Under the ‘Plan/Discussion’ portion of this note, Dr. Zgleszewski stated, “. . . if she does not benefit from a series of three carpal tunnel injections we may conside [sic] for carpal tunnel release.” (Cl. A.P.A., #6, p. 172)

Claimant underwent a left carpal tunnel injection performed by Dr. Zgleszewski on June 15, 2010. (Cl. A.P.A., #6, pp. 169-170)

On June 22, 2010, Dr. Zgleszewski noted, “She has had two carpal tunnel steroid injections to the left hand and one to the right hand. She is being seen in addition to her second carpal tunnel injection today so that we may take over prescribing her Darvocet.” (Cl. A.P.A., #6, p. 166) In addition, Dr. Zgleszewski performed a second right carpal tunnel injection on this date. (Cl. A.P.A., #6, p. 167)

On July 6, 2010, Claimant presented to Dr. Zgleszewski, who stated, “She has had two carpal tunnel steroid injections to the bilateral hands with benefit. She is still having pain and tingling in the hands, pain level today is reported at an 8/10.” (Cl. A.P.A., #6, p. 163) On this date Dr. Zgleszewski further noted, “She has noted some benefit from her carpal tunnel injections. We

will repeat them for the third and final time. If she does not get a long term benefit from this we will most likely refer her for a surgical consult for a carpal tunnel release.” (Cl. A.P.A., #6, p. 164)

On July 13, 2010, Claimant underwent a left carpal tunnel injection performed by Dr. Zgleszewski. (Cl. A.P.A., #6, pp. 161-162) On July 20, 2010, Claimant underwent a right carpal tunnel injection, performed by Dr. Zgleszewski. (Cl. A.P.A., #6, pp. 159-160) On this date, Dr. Zgleszewski further stated, “She has had 3 carpal tunnel injections with minimal benefit and will need to be evaluated by a hand surgeon for a carpal tunnel release.” (Cl. A.P.A., #6, p.158)

On November 16, 2010, Claimant was seen by Dr. Zgleszewski, who stated, “She was not acceptes [sic] as a patient by Dr. Constable and is now being referred to Dr. Shealy in the Charleston Hand Group with MUSC in Charleston, SC ... **for her left thumb pain, this is a carpometacarpal joint pain and would benefit from a custom made CMC joint splint once she has had her carpal tunnel release. She would wear this splint nightly and while doing activities associated with increased left thumb pain.**” (Cl. A.P.A., #6, p. 151, *emphasis added*)

Claimant was seen again by Dr. Zgleszewski on December 7, 2010. On this date he noted, **“For her left thumb pain, this is a carpometacarpal joint pain and would benefit from a custom made CMC joint splint once she has had her carpal tunnel release. She would wear this splint nightly and while doing activities associated with increased left thumb pain.”** (Cl. A.P.A., #6, p. 148, *emphasis added*)

On January 4, 2011, Claimant treated with Dr. Zgleszewski, who stated, “She is scheduled for her left CTR next week and the right will follow 2-3 weeks later. This will be done with Dr. Shealy at MUSC.” (Cl. A.P.A., #6, p. 145)

Claimant treated with Dr. Zgleszewski on February 1, 2011, who noted, “She has had her left CTR and reports relief from this procedure thus far. She is presently in rehab for her hands.

She will have her right CTR done in the near future. The patient states she has pain in her right and left hands, states she has pain in her right and left wrists." (Cl. A.P.A., #6, p. 141)

Claimant treated with Dr. Zgleszewski on March 29, 2011, who noted, "She notes that the left hand is more improved than the right hand." (Cl. A.P.A., #6, p. 135)

Claimant presented to Dr. Zgleszewski on June 28, 2011. On this date a bilateral upper extremity electrodiagnostic evaluation was performed. Dr. Zgleszewski's impression from this EMG was, "1. Abnormal electrodiagnostic examination. 2. Moderate bilateral carpal tunnel syndrome. 3. No evidence of a cervical radiculopathy, brachial plexopathy, peripheral polyneuropathy or myopathic process." (Cl. A.P.A., #6, p. 127)

Claimant treated again with Dr. Zgleszewski on July 5, 2011, who noted, "She has not had significant improvement in her hand symptoms post carpal tunnel release. She requires carpal tunnel injections under ultrasound guidance to each hand. Depending on how she responds, she may need to consider repeat carpal tunnel releases but she has already stated she may not want to repeat that surgery." (Cl. A.P.A., #6, p. 126)

On July 21, 2011, Claimant underwent, "1. Left carpal tunnel corticosteroid injection. 2. Ultrasound Guidance, musculoskeletal."

On July 26, 2011, Claimant underwent, "1. Right carpal tunnel corticosteroid injection. 2. Ultrasound Guidance, musculoskeletal." (Cl. A.P.A., #6, p. 119)

On August 9, 2011, Claimant treated again with Dr. Zgleszewski, who stated, "She is status post bilaterl [sic] carpal tunnel injections. She reports that she recieved [sic] minimal benefit in the left thumb; she experienced decreased tenderness. Despite the reduction in tenderness she reports difficulty with use and pain that 'runs up my arm.' Ms. Dozier reports no benefit with the right side." (Cl. A.P.A., #6, p. 116) Dr. Zgleszewski further stated on this date:

Based on the AMA Guides to the Evaluation of Permanent Impairment 5th Edition, the examinee has a 5% impairment rating to the left upper extremity and 5% impairment rating to the right extremity secondary to her left and right carpal tunnel syndromes and continued pain complaints and loss of function despite carpal tunnel release surgery and ultrasound guided carpal tunnel injections . . . Secondary to her CRPS of the bilateral upper extremities, her central nervous system has been affected by the work accident. Based on the AMA Guides to the Evaluation of Permanent Impairment 5th Edition, she has a 6% impairment to the whole person for the right arm CRPS and a 6% impairment to the whole person for the left arm CRPS. The combined impairment rating for her CRPS is therefore 12% to the whole person.

Cl. A.P.A., #6, pp. 116, 117.

On August 31, 2011, Dr. Zgleszewski completed a Form 14B Physician's Statement. (Cl. A.P.A., #6, p. 113) On this Form 14B, Dr. Zgleszewski stated that Claimant had a "5/5% medical impairment to RUE/LUE." Dr. Zgleszewski further stated that Claimant had sustained a "12% medical impairment to Central Nervous System." (*Id.*) Dr. Z indicated that Claimant could not return to her current employment and stated that she would need future medical care and described this as, "She requires pain medication management along with appropriate physician follow up visits and medication compliance testing. She has the option of proceeding with an SCS trial if her medication regimen does not provide adequate pain control." (*Id.*)

On October 3, 2011, Dr. Zgleszewski issued another medical report which was apparently in response to an email sent to him by Claimant's counsel on October 3, 2011:

Dear Attorney Samuels, I will address your questions from an email dated 10/3/2011.

1. I have reviewed the vocational evaluation from Corvel. There indeed is no mention of the diagnosis of complex Regional Pain Syndrome (CRPS) in the report. The only diagnosis mentioned is of Carpal Tunnel Syndrome (CTS. I would agree Ms. Dozier can lift up to 5 pounds; but secondary to not only her chronic hand pain from her failed CTS release surgery, but also her CRPS of the upper extremities, she can not use her hands on a repetitive basis. In my review of the Corvel Vocational Rehabilitation report, there is no mention of the repetitive nature of her jobs, or the proposed jobs, including no detailed

job description of her prior Phlebotomist position or any of the eleven positions recommended in the Corvel report. Knowing the detailed job description is vitally important for making any recommendations as to whether she would be able to return to those jobs based on her CRPS and CTS diagnoses. Her diagnosis of CRPS and her continued pain symptoms are ignored or omitted for whatever reason.

I would recommend an independent Vocational Assessment.

2. Ms. Dozier cannot return to work at her current job as a Phlebotomist. She has chronic pain secondary to her CRPS and CTS which would preclude her from any job position requiring lifting greater than 5 pounds. Dr. Shealy lists this five pound weight restriction as well. She is unable to use either upper extremity on a repetitive basis secondary to her CRPS and chronic pain from her failed CTS release surgery. Apparently Dr. Shealy stated in his deposition that he 'normally releases with no restrictions.' Since no two patients are alike, and since Carpal Tunnel Release surgery is not 100% successful, one needs to treat each patient as an individual. Categorical statement regarding work restrictions and accommodations are not possible due to the wide range of clinical presentations in individuals with CRPS. Work restrictions and accommodations are based upon the interaction between a person's medical impairment (if any) and the job requirements. Therefore, in my medical opinion from a medical standpoint, Ms. Dozier cannot perform even at a sedentary position if the job requires anything greater than less than occasional use of her arms given the diagnoses she has of CRPS and CTS. She cannot use either upper extremity on a repetitive basis.

What would be very helpful regarding the eleven positions mentioned in the Corvel report would be detailed job descriptions and not just a short summation of the job.

3. CRPS is a malfunction of part of the nervous system. The main symptom with CRPS is constant pain and often out of proportion to the severity of the initial injury. Nerves misfire, sending constant pain signals to the brain. **It develops in response to an event the body regards as traumatic, such as an accident or a medical procedure. This syndrome may follow 5% of all nerve injuries.** This is what Ms. Dozier has along with failed CTS surgery and continued pain symptoms.

Cl. A.P.A., #6, pp. 111, 112, *emphasis added*.

5. Dr. Gerald J. Shealy:

Claimant treated with Dr. Gerald J. Shealy, an orthopaedic hand surgeon, from December 2, 2010, through May 23, 2011. (Cl. A.P.A., #2) Dr. Shealy apparently requested that an MRI be

performed on Claimant's right wrist. Submitted into evidence is the report of radiologist Irene Darócha, which shows, "Fluid is present in the proximal carpal row without evidence of tendinous, ligamentous or osseous abnormality. Please correlate with clinical findings." (Cl. A.P.A., #2, p. 90)

On December 8, 2010, Claimant underwent bilateral EMGs. On this date, Dr. J. Robert Alexander, noted, "Performed electrodiagnostic examination upper extremities. Findings consistent with bilateral carpal tunnel syndrome. Please see report for details. Follow up with surgeon as scheduled." (Cl. A.P.A., #2, p. 86)

On December 16, 2010, Dr. Shealy noted,

Ms. Dozier returns with the electrodiagnostic studies confirming that she does have a moderately severe right with a mild left carpal tunnel syndrome. This is consistent with her clinical history and physical examination. The MRI is not available to me. However, based on these electrodiagnostic studies, it is felt that surgical decompression of the median nerve in the right and left carpal tunnel needs to be undertaken in order to alleviate this lady's symptoms.

Cl. A.P.A., #2, p. 83.

On January 11, 2011, Claimant underwent an "Exploration and decompression of the median nerve of left carpal tunnel" performed by Dr. Shealy. (Cl. A.P.A., #2, p. 79)

On January 24, 2011, Dr. Shealy noted, "Ms. Dozier is progressing well following carpal tunnel decompression of her right hand on January 11, 2011. Her wounds are healing well. Sutures are removed. Limited usage is recommended. Therapy also recommended due to limited range of motion." (Cl. A.P.A., #2, p. 73)

On February 15, 2011, Dr. Shealy noted, "Ms. Dozier is progressing well following left carpal tunnel decompression. She has noted improvement in her symptoms, regaining her motion. She is to continue working with therapy, remain on a limited-duty status, and follow up for a reevaluation in four weeks. (Cl. A.P.A., #2, p. 65)

On March 3, 2011, Dr. Shealy performed a right carpal tunnel "Exploration and decompression of median nerve in right carpal tunnel." (Cl. A.P.A., #2, p. 62)

On March 15, 2011, Dr. Shealy noted, "Ms. Dozier is progressing well following right carpal tunnel decompression. Wounds have healed, and sutures are removed." (Cl. A.P.A., #2, p. 57)

On April 12, 2011, Dr. Shealy noted, "Ms. Dozier continues to progress well following the carpal tunnel decompression in her right hand. Overall, her progress has been as anticipated. She is encouraged to resume her activities more on a limited basis." (Cl. A.P.A., #2, p. 52)

On May 23, 2011, Dr. Shealy stated:

Ms. Dozier has reached maximum medical improvement following surgical decompression of the median nerve in both the right and left carpal tunnel. She is discharged from care to be followed for reevaluation in the future as needed. On evaluation today following measurements of her two-point discrimination, I am noting that she continues to be symptomatic with pain in the median nerve. It is my opinion that she has a 5% permanent residual impairment to her dominant right hand and a 5% permanent residual impairment to her nondominant left hand secondary to the surgery and the carpal tunnel decompression. **At her request, she is provided with a permanent restriction of 5 pounds.** She is advised that she may return to work on a limited-duty status and is to return for reevaluation by me in the future as needed.

Cl. A.P.A., #2, p. 41, *emphasis added*.

DEPOSITION TESTIMONY OF HARRIET WILKINSON:

Claimant's attorney deposed Harriet Wilkinson on October 29, 2009, prior to the November 3, 2009, hearing. Ms. Wilkinson had provided a vocational expert's report on Defendant's behalf and said report was submitted into evidence by Defendants prior to the November 3, 2009, hearing. Ms. Wilkinson's report itself was not submitted into evidence by either party prior to the February 6, 2012, hearing before the undersigned.

Ms. Wilkinson testified that she found "six or seven" jobs, all contained in Sumter County, SC, that Claimant could perform at that point in time. (Wilkinson Depo. Tr. p. 4, ll. 8-12) Ms. Wilkinson was cross-examined by Claimant's counsel and gave her reason as to why she felt as though Claimant could perform the job duties of a Retail Sales Associate, stating, "I don't think that she has any experience in retail sales; however, she does have quite a lengthy work history, she presents herself well, her appearance is excellent. She has good communication skills. So I'm thinking that an employer would be willing to consider her for that job, but he may not. But I think she's got a good chance of doing that kind of work." (Wilkinson Depo. Tr. p. 12, ll. 21-25; p. 13, ll. 1-4)

DEPOSITION TESTIMONY OF GERALD J. SHEALY, M.D.:

Dr. Shealy's deposition was taken by defense counsel on August 26, 2011. (Def. Ex. A:) At this deposition, Dr. Shealy was questioned with respect to the work restrictions he rendered Claimant and his reasoning:

Q: Okay. And then you stated, "At her request, she provided with a permanent restriction of five pounds." And what did you mean by "at her request"?

A: **Because she requested me to put her on permanent limited duties-type restrictions. I typically don't –**

Q: Okay.

A: **- advise patients to do that.**

Q: **Did she – do you remember if she specifically asked you for five pounds?**

A: **She did.**

Q: Okay. And **typically you would not have done. What would you have typically given somebody who had bilateral –**

A: **I'd send them back to full duty.**

Q: **Full duty. Okay. Was there anything other than her asking you to do that that – with respect to this lady's case –**

A: **That's exactly what I dictated.**

Q: **Okay. Was there anything else that you can remember or from the chart that we've gone through that would have made you give her the five-pounds' restriction?**

A: **No. Not that I recall.**

Q: All right. And then you stated, "She is advised that she may return to work on a limited-duty status." And when you said "limited-duty status," what exactly did you mean?

A: Five-pound weight restriction.

Q: **Okay. Do you feel that she could work at a greater than five-pound weight restriction?**

A: My experience with these, and I've done many of them through the years, **has been that most of these people are able to go back to their normal activities at that point in time.** And I'm very reluctant to provide somebody with permanent restrictions, because I don't think they're usually indicated.

Q: **Did she tell you – do you remember if she told you why she wanted the restrictions?**

A: **She said that she felt she couldn't get back to using her hands more than five pounds.**

Def. A.P.A., Ex. A, p. 59 (depo. tr. p. 10, ll. 10-25; p. 11, ll. 1-25; p. 12, ll. 1-3), *emphasis added*.

In addition, Dr. Shealy testified with respect to Claimant's grip strength and claims of sensory loss:

Q: You said she had desensitization or was reporting desensitization in every fingertip, and that the median nerve only supplies sens –

A: She's got –

Q: Let me restate that.

A: She's got a greater than 15 millimeters' loss of sensibility in all of her fingers. **Median nerve only supplies thumb, index, middle and half the ring. So I don't unders – I can't put a whole lot of credibility in this, saying her – if you look at her grip strength, it doesn't – she's not – it doesn't constitute a normal bell curve. It's –**

Q: Let me ask you this: Is it fair to say that her subjective complaints are outweighing the objective findings?

A: I didn't say that. And I don't know if I can say that. **I would say that the objective findings I have certainly are not commensurate with any more – more significant impairment rating.**

Q: Okay. Thank you.

Def. A.P.A., Ex. A, p. 60 (depo tr. p. 15, ll. 10-25; p. 16, ll. 1-6), *emphasis added*.

DEPOSITION TESTIMONY OF DR. TIMOTHY ZGLESZEWSKI:

Dr. Zgleszewski's deposition was taken by Claimant's attorney on January 24, 2012, and the transcript submitted into evidence and reviewed by the undersigned. Dr. Zgleszewski explained that in diagnosing a patient with RSD/CRPS Type II, he uses the diagnostic criteria promulgated by the "International Association for the Study of Pain, (hereafter IASP)." (Zgleszewski Depo. p. 12)

Per Dr. Zgleszewski's testimony, this Diagnostic Criteria contains four criteria, criteria #1 being: "The presence of an initiating noxious event, or a cause of immobilization." (Zgleszewski Depo. p. 14, ll. 19-21) Dr. Zgleszewski testified that, in his opinion, criteria #1 of the IASP had been met due to the fact that, "within one or two months her initial treating doctors actually placed her in a cast, and while she was in the cast – and that would be the immobilization, and that was also, I think, treating a tendonitis with pain ..." (Zgleszewski Depo. p. 14, ll. 24-25; p. 15, ll. 1-4) Further, Dr. Zgleszewski testified, "So in my medical opinion, really, actually the cause of the CRPS or initiating factor was most likely the – or most probably the placement of her forearm and wrist into the cast, and that would fit Criteria 1 as immobilization ..." (Zgleszewski Depo. p. 15, ll. 11-15)

Dr. Zgleszewski explained that criteria #2 under the IASP Diagnostic Criteria is, "Continuing pain, allodynia, or hyperalgesia in which the pain is disproportionate to any known inciting event." (Zgleszewski Depo. p. 15, ll. 23-25; p. 16, l. 1)

Dr. Zgleszewski explained that criteria #3 under the IASP Diagnostic Criteria is, "Evidence at some time of edema, changes in skin blood flow, or abnormal sudomotor activity in the region of pain." (Zgleszewski Depo. p. 16, ll. 9-12) In explanation for how this criteria was met, Dr. Zgleszewski pointed to the March 14, 2008, medical note of Dr. Nichols and quoted Dr. Nichols as stating, "She has been having increasing pain and swelling in her left wrist and hand since application of the cast." (Zgleszewski Depo. p. 15, ll 6-8; p. 16, ll. 20-24)

Dr. Zgleszewski stated that criteria #4 for a diagnosis of CRPS under the IASP is, "This diagnosis is excluded by the existence of other conditions that would otherwise account for the degree of pain and dysfunction." (Zgleszewski Depo. p. 17, ll. 21 – 24) Dr. Zgleszewski again reiterated that it was his opinion that Claimant's left arm being placed in a cast was what initiated the alleged RSD/CRPS stating, "Then a cast was placed, and that would be the immobilization, and that sort of set forth the process of the CRPS." (Zgleszewski Depo. p. 18, ll. 17-19)

With respect to Claimant's treatment for her alleged RSD/CRPS, Dr. Zgleszewski commented on the stellate ganglion blocks he had performed stating, "I know per the records she had some good benefit with Dr. Patel with stellate ganglion blocks, but what can happen is some patients may over time become or have less of a favorable response. I know – **I think I did three stellate ganglion blocks, none of which had any long-term benefit, which is why I believe I stopped after undergoing – having her undergo three, so I think in her case if oral medications become ineffective, I don't believe that stellate ganglion blocks would be the next step.**" (Zgleszewski Depo. p. 26, ll. 10-16, *emphasis added*.)

Dr. Zgleszewski explained that his ratings that he indicated on the Form 14B he completed were 5% to each arm for the carpal tunnel syndrome release surgeries and an additional 12% to the central nervous system based on the CRPS Type II (Zgleszewski Depo. p. 28, ll. 15-25)

Dr. Zgleszewski was presented with the *A.M.A. Guides Fifth Edition* by Defense counsel, which he cited in rendering his impairment ratings. Specifically, Dr. Zgleszewski was presented with Section 16.5 (E) Complex Regional Pain Syndromes CRPS, Reflex Sympathetic Dystrophy, CRPS 1, and Causation, CRPS 2, on page 496 by Defense counsel. Dr. Zgleszewski **admitted that, on the day he rendered Claimant's impairment ratings, he did not measure her range of motion or her sensory deficits, as is required by the A.M.A. Guides 5th Edition.**

Specifically, Dr. Zgleszewski was questioned on whether or not he measured her range of motion or sensory deficits on the day on which he rendered the impairment ratings and admitted that he had not, stating:

Q: Let's see. It says, The combined impairment rating. Okay. I've got a copy of the *Fifth Edition*. I just wanted to clarify a couple things on those ratings, and I am going to refer you to I think it's Page 396. It was dark when I left Greenville. Bear with me. It may be 296. It may be 496. 496.

And this, for the record, is Pages 495 through 496 of the *A.M.A. Guides Fifth Edition*. Specifically it's Section 16.5(e) Complex Regional Pain Syndromes, CRPS, Reflex sympathetic dystrophy, CRPS I, and Causalgia, CRPS II, and what I would first like to point you to is on Page 496. It gives essentially the directions for giving ratings due to CRPS. No. 1 is, Rate the upper extremity impairment resulting from loss of motion.

And I just didn't see in the note where you recorded that. Did you record that somewhere in your chart?

A: I would have to take a look at this. I don't have - I know I don't have range of motion recorded in the chart. I don't have my tabs either.

Q: **Well, let me ask you. Did you measure her range of motion on that day?**

A: No.

Q: Okay. Then on No. 2, on Page 496, if I can, it also says that you get impairment for sensory deficits and pain, and I just didn't see where you had noted those either.

A: **Those are not noted.**

Q: Okay. **Did you take - did you measure those on that day?**

A: **I don't believe so. No.**

Zgleszewski Depo. p. 33, ll. 11-25; p. 34, ll. 1-20, *emphasis added*.

Dr. Zgleszewski was also presented with Table 16.3 of the *A.M.A. Guides Fifth Edition*.

Dr. Zgleszewski agreed that it would convert a 6% impairment to the whole person to a 10% upper extremity impairment:

Q: All right. No. 4 says, You are to convert the upper extremity impairment to the whole person impairment, and my question to you there would be – and to use Table 16.3, my question to you would be – if I can find Table 16.3. Here it is. It's on Page 439. **If you gave her 6 percent to the whole percent [sic], that would correlated to a 10 percent whole upper extremity impairment; is that correct?**

A: **According to that table, yes.**

Q: All right. Can your 6 percent whole person impairments to each arm for the CRPS be converted or be translated to a 10 percent to the upper extremity impairment?

A: It could be.

Q: Okay. **Do you agree with, if you use that table, that they convert to 10 percent to the upper extremity?**

A: **It would.**

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Q: All right. **And I thank you for that clarification, but would you agree, then, that the 6 percent to the whole person ratings that you rendered are converted to 10 percent to the upper extremities each for the CRPS?**

A: **Based on that table, yes.**

Zgleszewski Depo. p. 35, ll. 22-25; p. 36, ll. 1-15; p. 37, ll. 14-19, *emphasis added*.

Dr. Zgleszewski was also presented with his September 8, 2009, report from his independent medical examination which took place at Claimant's request nearly one year and four months after her accident, and admitted that, at the time he saw her on September 8, 2009, he did not believe she had CRPS:

Q. I'm asking you, if you read those reports, it's probable that you knew RSD was an issue.

A: It's possible. Again, I can't recall my thought process back 2 1/2 years ago and what I was thinking when I generated the report.

Q: Okay.

A: **Since I didn't list those as diagnoses in the report or I don't believe it's mentioned in there, I don't believe at the time that I felt she had CRPS, and, again, that was a one-time visit.**

Zgleszewski Depo. p. 46, ll. 5-17, *emphasis added*.

Dr. Zgleszewski was also asked to compare Claimant's objective physical condition on January 26, 2010, when he first listed RSD/CRPS as a diagnosis and compare that condition with Claimant's condition on September 8, 2009, when he first treated her and did not diagnose or mention RSD/CRPS, and admitted that her symptoms were unchanged from September 8, 2009, and indicated that this initial diagnosis of RSD/CRPS on January 26, 2010, was based upon Claimant's report to him that she had received a stellate ganglion block from another physician and that it gave her some relief:

Q: Looking at her – looking at this January 26, 2010, note, what has changed objectively with her condition from the September 8, 2009, note?

A: I guess anything objective that was changed was – **she was still reporting the same symptoms.** She apparently had a stellate ganglion block with reduction in shoulder pain.

Q: Okay. So that was an objective change in her condition?

A: Sure. I'm not sure who did it, but someone did a stellate ganglion block, and that would be for CRPS, and she had reduction in pain.

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Q: All right. Under your Diagnosis from this report, which is on Page 188 of the *AMA Guides* – of the APAs – and I can lean over and show you this. You're diagnosing her with RSD or it says, Reflex sympathetic dystrophy of upper limb. My question to you there would be – you don't – you don't really give an explanation for the diagnosis. I'm not going to have you go back through all the factors again because I think we've done that, but my question to you is, what made you – **if you didn't think she had it back in September, what was the difference?**

A: **Again, I would go back to the – her undergoing a stellate ganglion block, having a reduction in pain.** And, again, that's from January 26,

2010, which would be, gosh, I think two years now, two years ago, so, again, I can't recall specifically my though [sic] process . . .

Q: So your diagnosis on January 26, 2010, was based on the fact that she told you another doctor had given her a stellate ganglion block that gave her relief?

A: It would be based on the history, physical examination, and at that point I would have re-reviewed her medical records.

Zgleszewski Depo. p. 48, ll. 13 – 15; p. 49, l. 1, ll. 17-25; p. 50. ll. 1-9, ll. 18-24, *emphasis added*.

Dr. Zgleszewski was presented with Dr. Nichols' March 14, 2008, report, upon which he had previously based his diagnosis of RSD/CRPS and questioned with respect to what the "event or cause" of immobilization would have been for the right wrist when Dr. Nichols only notes that the left wrist had been cast at that point in time. Specifically, Dr. Zgleszewski was questioned as to how immobilization of the left wrist could cause RSD/CRPS in the right wrist and stated that it could have "traveled" from the left wrist to the right wrist, stating:

. . . And then it looks like he put her into a Velcro splint. All right. My question to you here would be, **Dr. Nichols only talks about the left wrist; is that correct?**

A: **Correct.**

Q: All right. So what do you – **what is the noxious event with respect to the right wrist?**

A: From – and I'll just refer back to some statements that were made by – where is it at. Dr. I think either Bidding and/or Mancuso. I'll have to find it –

Q: I've got their notes right here.

A: - because there's – it addresses sort of the bilateral issue, so I apologize for the long witness, but this will answer the question. In this letter, it states that, again, there was no precipitating event. We know that's not true.

Q: Okay. Just for the record –

A: it says –

Q: Just for the record, you're referring to the January 5, 2009, letter of Dr. Mancuso.

A: 26th.

Q: 26th. Thank you.

A: The second one where its, you know, going and giving examples as why it's not RSD, it says, Both limbs are affected. That's just simply not true. You can have bilateral symptoms. You can have a leg develop RSD or CRPS.

It can, then, actually travel up and affect the right arm, the left arm and/or the right leg, so you can have multiple limbs affected even though there's only sort of one event to – one part of the – to one part of the body, whether it's a foot, leg, hand or whatnot. Is it common? No. But can it happen? Yes.

So from the standpoint of – both limbs can be affected, even if one limb has an initiating event, and that's a fact.

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Q. Okay. Do you believe that the – and I'm just trying to put it together here, but do you believe that the RSD started on the left wrist and spread to the right wrist?

A: **At this point in time, that would be my opinion.** I mean, she clearly has bilateral carpal tunnel syndrome.

Zgleszewski Depo. p. 53, ll. 4-25; p. 54, ll. 1-20; p. 57, ll. 18-24, *emphasis added*.

Dr. Zgleszewski was presented with his October 3, 2011, note in which he stated that RSD/CRPS, "Develops in response to an event the body regards as traumatic, such as an accident or a medical procedure." Dr. Zgleszewski was then asked by Defense counsel to clarify what he felt as though the traumatic accident or procedure was that he was referring to in that medical note:

Q: ... And my question to you there is, what would be the event that was traumatic?

A: I'm not understanding the question.

Q: Well, you stated that CRPS – you explain what CRPS is, and then you state, It develops in response to an event the body regards as traumatic. We've talked earlier about the noxious event and the causes for immobilization, but here you're stating that it develops in response to a traumatic event, and my question would be, what do you believe the traumatic event is in this case?

A: Again, this is generalization of what the CRPS is. It's not a complete review of the diagnosis of CRPS and CRPS I and II. This is a letter in response to Attorney Samuels, you know, so this is not the – I don't know the right term for it, but this is not the authoritative writing on

CRPS and all that it does and what causes it and doesn't cause it. Again, for Ms. Dozier, it's the cast placement or the immobilization.

Zgleszewski Depo. p. 65, ll. 2-23.

With respect to the eleven criteria for RSD/CRPS under the *A.M.A. Guides Fifth Edition*, Dr. Zgleszewski testified that:

1. He "never personally witnessed" cyanotic skin (Zgleszewski Depo. p. 69, ll. 9-19);
2. He never noted that her skin was mottled (Zgleszewski Depo. p. 70, ll. 2-5);
3. He noticed that her skin temperature was "cool to touch, but not demonstrable enough for me to note in a medical record." (Zgleszewski Depo. p. 70, ll. 16-19);
4. He noticed sudomotor changes, but did not make note of it in his medical records because, "I could not tell since the rest of her skin was dry if the dry skin was related to CRPS." (Zgleszewski Depo. p. 71, ll. 2-12);
5. He never noted edema (Zgleszewski Depo. p. 71, ll. 24-25; p. 72, l. 1);
6. He never noted "Trophic Changes" (skin, nail, hair changes) (Zgleszewski Depo. p. 72, ll. 7-10);
7. He never noticed soft tissue atrophy (Zgleszewski Depo. p. 72, ll. 13-14);
8. He noted joint stiffness, but did not document it in his reports because, "It was minimal" (Zgleszewski Depo. p. 73, ll. 1-6);
9. He never noted nail changes (Zgleszewski Depo. p. 73, ll. 7-10); and,
10. He never noted hair growth changes, such as her hair falling out, or growing longer or finer. (Zgleszewski Depo. p. 73, ll. 14-16)

In summary, Dr. Zgleszewski admitted that he only observed mild symptoms of three of the eleven criteria listed in the *A.M.A. Guides Fifth Edition*, Table 16-16 for a diagnosis of RSD/CRPS. (Zgleszewski Depo. p. 74, ll. 18-21)

Dr. Zgleszewski further admitted that Claimant did not meet enough criteria for a diagnosis of RSD/CRPS under the *A.M.A. Guides Fifth Edition*:

Q: Okay. **And so you would agree that with respect to a diagnosis under the Fifth Edition A.M.A. Guides she would not qualify for – this says Objective Diagnosis Criteria for CRPS.**

A: **Under the A.M.A. Guides she would not. That is correct.**

Zgleszewski Depo. p. 75, ll. 6-11, *emphasis added*.

Dr. Zgleszewski explained that by combining the 10% additional impairment to each arm for his diagnosis of RSD/CRPS to the 5% impairment rendered for the carpal tunnel release surgeries, Claimant would then have, “**15% to each arm combined ...**” (Zgleszewski Depo. p. 76, ll. 12-18, *emphasis added*)

DEPOSITION TESTIMONY OF DR. GEORGE BITTING:

Dr. Bitting’s deposition was taken by Defense counsel on January 17, 2012. The undersigned has reviewed the transcript from this deposition, which was submitted into evidence by Defense counsel.

Dr. Bitting testified that Claimant originally was referred to treat with Dr. Mancuso, who was formerly in his practice, by Dr. Blake Moore. (Bitting Depo. p. 5, ll. 17-25; p. 6, ll. 1-6) Dr. Bitting testified that Claimant was sent to him and Dr. Mancuso in order to perform stellate ganglion blocks in order to determine if Claimant had RSD/CRPS. Dr. Bitting explained his opinion that RSD/CRPS is “typically not in both limbs, and in this case Ms. Dozier was complaining of it in both limbs.” (Bitting Depo. p. 8, ll. 16-19) Dr. Bitting was further questioned with respect to whether or not RSD/CRPS requires a precipitating event:

Q: All right. As far as the diagnosis of RSD in general, would a precipitating event, or lack thereof, be of any significance.

A: **Typically, you’re going to see some type of trauma: Whether it be surgery, whether it be some kind of an accident, crush injury,**

generally, you're going to see some type of trauma that would precipitate RSD.

Bitting Depo. p. 10, ll. 13-20, *emphasis added*.

Dr. Bitting further testified that RSD/CRPS was not typically caused by repetitive trauma (Bitting Depo. p. 10, ll. 21-24) Dr. Bitting was asked what the bone scan that was performed on Claimant indicated:

Q: You're looking at the bone scan report?

A: Yeah, and basically, I can read the impression, very slight increased blood flow activity on the left is discussed above, slight asymmetric in the hyperemic or inflammatory process, it is difficult to exclude for which compute correlation would be suggest. A component of arthritic changes in the carpal and/or radial carpal regions, left greater than right, difficult to entirely exclude and plane [sic] film correction may be useful. So what he's basically saying, up above, there are very minimal nonspecific - well, let me go back.

Q: Do we need to go off record?

A: As I said, it appears, according to this, there are some degenerative changes in there. It looks like he did a distal forearm in the mid carpal region, but there wasn't any, according to this, there was not signs, **so it was negative for the RSD that Mancuso was looking for.**

Bitting Depo. p. 12, ll. 23-25; p. 13, ll. 1-17, *emphasis added*.

Dr. Bitting further explained that the "degenerative changes" that were detected on the bone scan were most likely, "arthritic changes that people get, and I mean, a bone scan will just essentially light up if there is arthritis. In other words, you'll see it. So, I'm assuming degenerative changes would be - and it says, component of arthritic changes down in the impression, so that appears to be from arthritis." (Bitting Depo. p. 13, ll. 20-25, p. 14, ll. 1-2)

Dr. Bitting was asked what "very slight increase in blood flow" indicated and answered that it, "probably doesn't indicate anything." (Bitting Depo. p. 14, ll. 22-25)

Dr. Bitting was asked his opinion as to whether or not Claimant was suffering from RSD/CRPS during his treatment, and indicated that he did not:

A: I didn't believe she was suffering from RSD, because I agree with Dr. Mancuso, typically, you don't have it in both extremities and the triple phase bone scan, in my opinion, was relatively normal. I thought you know, later on after seeing her, you know, the pain, we did an EMG on May 22nd, and it did show carpal tunnel, and carpal tunnel syndrome can cause pain going up the arms. It can cause symptoms like what she's having.

Bitting Depo. p.20, ll. 23-25; p. 21, ll. 1-7, *emphasis added*.

Dr. Bitting also commented on the implications of the fact that no allodynia was found by either him or Dr. Mancuso:

... One of the things that we typically find is what we call allodynia: **Allodynia is where you just brush your hand over that area and it's extremely painful. And in this note on 7/29, from this special test you'll see no allodynia, and essentially, again that -**

Q: How do you spell allodynia?

A: A-L-L-O-D-Y-N-I-A, which again, is something you would typically find in RSD, along with the skin changes, and things that we discussed earlier.

Q: That's also indicative that she did not have RSD, isn't it?

A: In my opinion, yes, sir.

Bitting Depo. p. 25, ll. 19-25; p. 26, ll. 1-8, *emphasis added*.

Dr. Bitting reiterated that he thought as though the "bulk" of her problem was carpal tunnel syndrome, not RSD/CRPS:

Q: Sure. When you made the referral to a hand surgeon, were your intentions to transfer treatment to the hand surgeon?

A: You know, typically, if her problem was from carpal tunnel, and the hand surgeon did the surgery and release, then yes, I mean that would be something that, you know, he could take over if that's her problem. And that's what it appeared to be, the bulk of her problem, in my opinion, was carpal tunnel in looking through the chart.

Q: Okay. We've gone over RSD and the findings that were made by you and by Dr. Mancuso with respect to that in pretty good detail, and it's your opinion that she most likely did not have it at that point.

A: Yes, sir.

Bitting Depo. p. 29, ll. 22-25; p. 31, ll. 1-13, *emphasis added*.

Dr. Biting was further questioned on whether or not, if a patient did not have RSD/CRPS, or RSD/CRPS-type symptoms, as late in his or her treatment as August 26, 2009 (Claimant's last treatment date with Dr. Biting), would it be likely for him or her to later develop RSD/CRPS, and it likely be related to his or her injury of January 17, 2008, and indicated that it would not:

- Q: My question would be, **would it be likely for a patient approximately one year and eight months after the onset of the problems, to develop RSD?**
- A: **Typically, RSD comes from the trauma. I would say it wouldn't take that long a period of time for people to notice RSD. Typically, you're going to see it within a short period of time after an injury. I don't believe, no.**
- Q: Assuming that she did eventually, she was eventually diagnosed with RSD later, do you feel like that could be related to whatever work incident happened to her in January of '08?
- A: **Well, if we're assuming she has RSD, I'm still in my opinion she doesn't, could it be related, I mean anything could happen, but in my opinion she didn't have RSD, it would have shown up sooner than 20 months later if she did have RSD.**

Biting Depo. p. 31, ll. 8-25; p. 32, ll. 1-2, *emphasis added*.

Dr. Biting was also questioned on whether or not, if Claimant did receive a stellate ganglion block, and was it not effective, would it most-likely further indicate that Claimant did not have RSD/CRPS:

- Q: If she had gone for the blocks, and they were not effective, would that at all change your opinion as to the RSD?
- A: If she had the block and it was ineffective, then you would – again, there's no, I mean, triple phase bone scan and different things are diagnostic criteria. **But, yes, if she had a sympathetic block, there's no benefit. That would lead me even more to believe that it's not RSD.**
- Q: Okay. So –
- A: If she did have a benefit from the block, then it would be an indication it could be sympathetic mediated.

Biting Depo. p. 43, ll. 23-25, p. 44, ll. 1-11, *emphasis added*.

VOCATIONAL EVALUATIONS:

The undersigned reviewed the September 26, 2011, vocational evaluation of James R. Myers, MA, QRP, CCM, CRC. (Def. A.P.A., Ex. B) In his report, Mr. Myers found the following possible alternative employment opportunities for Claimant: (1.) Sorter (sedentary exertion level); (2.) Customer Service Representative (sedentary exertion level); (3.) Industrial Order Clerk (sedentary exertion level); (4.) Greeter (sedentary exertion level); (5.) Collection Clerk (sedentary exertion level); and (6.) EKG Tech (sedentary exertion level).

Mr. Myers also performed a Labor Market Survey based upon Claimant's 5-pound lifting restrictions. This revealed several positions that Claimant was qualified to perform, including a Collection Clerk for Snelling Staffing services of Lexington, SC. This job was described as, "Post charges and checks; Know how to speak and understand the billing questions while talking to a patient with a balance." The physical requirements for this job were described as "Sedentary." (Def. A.P.A., Ex. B, p. 71)

Another position found by Mr. Myers was at Palmetto Health as an EKG Technician. This required, "C.N.A: certification upon hire or within 18 months of employment, BLS (Basic Life Support) mandatory as well as CCT (Certified Cardiac Training) certification preferred; Special Training: Completion of a SC DHHS approved C.N.A: program." (Def. A.P.A., Ex. B, p. 71)

Another job identified by Mr. Myers was as a Collections Clerk at the Lexington Medical Center. The minimum qualifications for hire for this job were described as, "Responsible for all patient account functions to include billing, collections, follow up and posting of charges and money in a timely and accurate manne [sic], conducts monthly billing cycle for patient statements according to third party requirements, keeps manager apprised on all significant issues, works

regularly with information which is restricted to specific persons." The physical requirements for this job are listed as Sedentary. (Def. A.P.A., Ex. B, p. 72)

Another job found by Mr. Myers' Labor Market Survey was working as a greeter at Wal-Mart in Columbia, SC. The minimum job qualifications for hire were described as, "Meet and greet customers coming into the store. As an Associate with Wal-Mart, you will receive competitive wages and may be eligible for a variety of traditional and non-traditional benefits that enhance your career, compensation, home and life." The physical requirements for this job were listed as Sedentary. (Def. A.P.A., Ex. B, p. 72)

Another job found by Mr. Myers' Labor Market Survey was as an EKG Technician at Lexington Medical Center, in West Columbia, SC. The minimum qualifications for hire for this job were listed as, "Persons various clinical/technical duties related to performing EKGs, the application of, monitoring and Scanning Holters, and performing Stress Testing, Reports results of each procedure to appropriate staff." The physical requirements for this job were listed as Sedentary. (Def. A.P.A., Ex. B, p. 72)

Under the Summary portion of Mr. Myers' report, he stated:

Based on the results of the Labor Market Survey Collection Clerk, customer Services Rep, Industrial Clerk, Sorter, EKG Tech and Greeter, these jobs exist in a variety of counties within the 50 mile radius of the claimant's home. The majority of positions located were in and around the City of Columbia, SC. Based upon Ms. Dozier's previous vocational experiences; it appears that she would qualify for all of the positions that were surveyed.

As previously noted, 100% of the employers located during the Labor Market Survey were hiring. The average wage of these employers was based upon a sedentary physical demand level provided by the Department of Labor, which reflects wages above and below Ms. Dozier's reported pre-injury wage of 13.50 per hour. The average starting wage was 12.30 per hour based upon a 40 hour work week. The average median salary for a Phlebotomist was 14.40 per hour.

Ms. Dozier lives in a urban area of South Eastern SC, is within a 50 mile radius of the City of Columbia SC, current unemployment is 8.1% compared to a state average of 11.9%. This information was obtained from the South Carolina Statistical abstract and US Department of Labor and is based on 2011 data: The City of Columbia, SC has a supported labor base of 250,000.

Def. A.P.A., Ex. B, p. 74.

A Vocational Assessment was performed by Glen K. Adams on October 3, 2011, and submitted into evidence by Claimant. (Cl. A.P.A., # 8, pp. 214-229) Mr. Adams concluded:

Mrs. Dozier's residual access to the labor market is defined by any remaining employment classified as "unskilled" and "sedentary" or modified "light" with a 5-pound lifting restriction and no repetitive use of the upper extremities. Based on these parameters, a labor market survey was conducted. Approximately 500 jobs were reviewed in the South Carolina Employment Security commission database. No jobs were located in Mrs. Dozier's labor market for which she qualified. Based on this analysis, Mrs. Dozier's access to the competitive labor market has been eliminated. Any remaining employment in her local or national economy is so limited in quantity, quality and dependability that she is considered to be **totally and permanently vocationally disabled** as a result of her bilateral carpal tunnel syndrome and complex regional pain syndrome stemming from her work as a phlebotomist at the American Red Cross.

Cl. A.P.A., #8, p. 229.

Glen Adams also performed an October 3, 2011, "Vocational Assessment – Peer Review" of the Labor Market Survey performed by James R. Myers. When asked, "Can the job be verified through internet research?" Mr. Adams responded, "No. Unable to accurately identify this job using the standard job search resources," with respect to all jobs listed by Mr. Myers except for the job is a Collection Clerk for Lexington Medical Center (Job #5). In addition, Mr. Adams dismissed every job found in the Labor Market Survey by stating, "This job most probably requires the use of upper extremities repetitively," or "This job exceeds the limitations provided by her treating physicians."

A record such as was necessary for a decision was made of the proceeding and after careful consideration and study of all the evidence, the following findings of fact are accordingly made.

V. FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Cindy Dozier as Employee-Claimant and American Red Cross as Employer and Sedgwick CMS as Carrier, Defendants.
2. That Claimant was an employee of the above-named Employer on and prior to January 17, 2008, on which date she did sustain an injury by accident arising out of and in the course of her employment. Specifically, Claimant sustained injuries to her right and left arms in the form of CTS as a result of repetitive trauma (specifically repetitive keyboard trauma with respect to the right wrist, as was found by the prior Hearing Commissioner).
3. That the average weekly wage of Employee at the time of the above-described accident was \$632.95, making a compensation rate of \$421.99 applicable in this matter.
4. That Claimant reached maximum medical improvement on August 9, 2011, for the injuries resulting from the January 17, 2008, accident.
5. That Defendants were entitled to stop payment of temporary total compensation for the overpayment of temporary total compensation and are entitled to credit from the overpayment of temporary compensation since the date of this hearing – February 6, 2012, against the award for permanent partial disability ordered herein.

6. That Claimant was 41-years-old on the day of the hearing. She graduated High School and obtained training and licenses as a Certified Nurse's Assistant and as a Phlebotomist.

7. That Claimant's work history included working as a Certified Nurse's Assistant for 18 years and for Defendant as a Phlebotomist.

8. That Claimant previously sought benefits for injuries to her neck, back, both arms and psyche. In addition, Claimant sought treatment for RSD/CRPS as well as a transfer of medical treatment to Dr. Blake Moore. This finding of fact is based upon Claimant's August 6, 2009, and September 17, 2009, Forms 50, as well as the hearing transcript from the November 3, 2009, hearing. The Hearing Commissioner's Order found that Claimant had sustained an additional injury to her right arm which "flowed from repeated trauma while keyboarding."

9. That the previous Hearing Commissioner found that Claimant had sustained an injury to both of her arms only. Claimant subsequently appealed the issue of whether the prior Hearing Commissioner had erred by failing to find that Claimant had injured her neck, her back, and had erred by failing to transfer treatment to Dr. Moore. In relevant part, the Hearing Commissioner's findings as to the issue of injured body parts were affirmed on appeal. The Full Commission Order was not appealed by either party. This unappealed Full Commission Order was drafted by Claimant's attorney and specifically stated that she contended that she had been diagnosed with complex regional pain syndrome.

10. That the undersigned finds that Claimant cannot attempt to re-litigate the issue of whether or not she sustained related RSD/CRPS or the issue of whether she sustained related injuries to her neck/back and psyche under the doctrine of *res judicata*.

11. That, even if Claimant can re-litigate the issue of related RSD/CRPS and the doctrine of *res judicata* is not applicable, the undersigned finds that the greater weight of the

evidence establishes that Claimant did not sustain compensable injuries to her neck, back or psyche.

12. That Claimant testified that the stellate ganglion block she received from Dr. Zgleszewski did give her some relief for approximately one week. However, Dr. Zgleszewski's report of March 30, 2010, stated that Claimant received "absolutely no relief of pain and increased pain in the shoulders and hands symptoms" due to the ganglion block he had given her prior to that. Nevertheless, Dr. Zgleszewski proceeded to give Claimant another stellate ganglion block, which he stated on May 18, 2010, gave Claimant, "little to no relief of pain." The undersigned finds that none of the stellate ganglion blocks given to Claimant provided any permanent relief.

13. That Defendants are not estopped from denying Claimant's claim of related RSD/CRPS because they authorized three stellate ganglion blocks. The undersigned finds Claimant's argument in the Memorandum of Law handed up during the pre-hearing conference that, "Dr. Zgleszewski was acceptable because he was designated specifically to treat the CRPS" unpersuasive. There is no evidence in the record to indicate that he was "designated" to treat Claimant specifically for RSD/CRPS. Further, there is no evidence in the record that Defendants calculated, by misrepresentation or concealment, to convey the impression that Dr. Zgleszewski was designated to treat Claimant's alleged RSD/CRPS. As of the date of Claimant's appeal, Dr. Zgleszewski, along with the majority of the doctors who had treated Claimant, had only diagnosed Claimant with CTS, not RSD/CRPS.

14. That by November 23, 2012, the date of the Full Commission Order which clearly states that Claimant was appealing medical treatment and the issue of injured body parts, Claimant had already undergone her unsuccessful stellate ganglion blocks. Claimant's position was not changed due to Defendants authorizing the stellate ganglion blocks.

15. That Claimant testified that her neck hurt her the most of any body part, ranking the pain in her neck as a 9 on a 10-point scale. However, the undersigned finds that the neck is not a compensable body part, as it was not found to be compensable by the prior Hearing Commissioner, and this finding was not appealed by either party. Moreover, regardless of whether the doctrine of *res judicata* applies, the undersigned finds that Claimant did not prove a compensable injury to her neck.

16. That Claimant testified to suffering from brittle nails, blotchy skin, and swelling of the hands and further testified that some of these symptoms had started by her January 26, 2009, treatment with Dr. Mancuso. However, the preponderance of the medical evidence, including observations by Claimant's doctors, shows that Claimant did not suffer from these alleged symptoms of RSD/CRPS, including: (1) Dr. Blake Moore's August 30, 2008, September 20, 2008, and April 9, 2009, handwritten notes; (2) Dr. Mancuso's and Dr. Bitting's medical reports of January 26, 2009, February 10, 2009, March 17, 2009, May 15, 2009, May 22, 2009, July 29, 2009; (3) Claimant's own Patient History Form that she completed and signed on January 26, 2009; (4) Dr. Rhea's April 6, 2009, report; (5) Dr. Zgleszewski's September 8, 2009, independent medical report, and ensuing medical notes; and, (6) the deposition testimony of Dr. Zgleszewski, in which he testified to failing to observe any RSD/CRPS symptoms, other than skin that was cool to touch but not enough to note in medical record, dry skin that may or may not be related to RSD/CRPS, and dry skin that may or may not be related to RSD/CRPS.

17. That Dr. Mancuso, a doctor of Claimant's choosing, examined Claimant for RSD/CRPS as early as January 26, 2009, and stated that Claimant did not have RSD/CRPS.

18. That Dr. Bitting, another doctor of Claimant's choosing, treated Claimant from February of 2009 through July of 2009 and stated that he did not feel that Claimant suffered from RSD/CRPS, both in his medical notes and in his deposition testimony.

19. Claimant was last treated by Dr. Bitting on July 29, 2009, when he stated that she could return to gainful employment with no work restrictions.

20. That Claimant testified that she could not remember if she reported sudomotor changes to Dr. Mancuso on January 26, 2009. However, in reading the handwritten January 26, 2009, Patient History Form completed by Claimant on this date, in conjunction with Dr. Mancuso's note, the undersigned finds that Claimant clearly did not report any sudomotor changes to Dr. Mancuso on January 26, 2009.

21. That Claimant further testified that she reported symptoms of hair loss, nail changes, and temperature changes in her hands to both Dr. Zgleszewski and his nurses; however, the medical notes from Dr. Zgleszewski and his deposition testimony indicate that she clearly did not have these symptoms. The undersigned finds that Claimant did not report hair loss, temperature changes in her hands, or brittle nails to Dr. Zgleszewski.

22. That Claimant was prescribed splints for both her wrists and for her left thumb. Dr. Zgleszewski diagnosed Claimant with "carpometacarpal joint pain," rather than RSD/CRPS, and stated that she would benefit from a custom made joint splint that and that she should wear it "nightly." However, Claimant was not wearing a splint at the hearing.

23. That Claimant initially treated with Dr. Zgleszewski on September 8, 2009, for an independent medical evaluation requested by her attorney. On this date, Dr. Zgleszewski had reviewed all of the medical reports from Claimant's prior doctors, including Dr. Moore's reports, the triple phase bone scan Claimant had received, Dr. Mancuso's and Dr. Bitting's reports, and the

hand surgeon's Claimant had been sent to by Defendants. In his September 8, 2009, report, Dr. Zgleszewski states that he gave Claimant a "detailed physical examination;" however, Dr. Zgleszewski failed to even mention RSD/CRPS as a possible diagnosis or problem. In fact, Dr. Zgleszewski noted that Claimant's bilateral upper extremity sensory examination was normal to soft touch at pinprick. Dr. Zgleszewski's diagnosis on September 8, 2009, was bilateral carpal tunnel syndrome with respect to Claimant's upper extremity complaints. Dr. Zgleszewski, in his deposition testimony, admitted that he did not believe that Claimant was suffering from RSD/CRPS on September 8, 2009, nearly one year and nine months after her accident date.

24. That, rather than treating Claimant for carpal tunnel syndrome, which is what he had diagnosed her with on September 8, 2009, Dr. Zgleszewski initially gave Claimant a series of stellate ganglion blocks which were unsuccessful. Then, Claimant was given a series of three carpal tunnel injections and referred to Dr. Gerald Shealy, a hand surgeon. Dr. Shealy requested nerve conduction studies, which showed carpal tunnel syndrome, and performed a carpal tunnel release surgery on both Claimant's upper extremities. The undersigned finds Claimant sustained a compensable carpal tunnel syndrome in both upper extremities.

25. That Claimant was rendered 5-pound work restrictions by Dr. Shealy subsequent to her carpal tunnel syndrome release surgeries. Dr. Zgleszewski agreed with these 5-pound work restrictions in his deposition testimony. Dr. Shealy, in his deposition testimony, admitted that the only reason why he gave Claimant any work restrictions at all was because she specifically told him to do so at her appointment. The undersigned finds that, had Claimant not specifically told Dr. Shealy to give her 5-pound lifting restrictions, she would have been released by him without any work restrictions at all.

26. That Dr. Shealy further testified that, when he measured Claimant's grip strength, it showed an abnormal bell curve.

27. That Dr. Shealy further testified that Claimant's objective findings did not support an impairment greater than the 5% impairment that he rendered.

28. That Dr. Bitting, in his deposition testimony, stated that he did not believe Claimant had sustained RSD/CRPS, but even if he assumed that she had, she would have shown signs or symptoms of it prior to his last treatment date of August 26, 2009.

29. That Dr. Bitting further testified that the fact that Claimant received stellate ganglion blocks which gave her minimal relief was further evidence that she did not sustain RSD/CRPS.

30. That the *A.M.A. Guides 5th Edition* Table 16-16 lists eleven findings or "Objective Diagnostic Criteria for CRPS (RSD and causalgia)" and states that, "At least eight of these findings must present concurrently for a diagnosis of CRPS." Although a copy of Section 16.5e of the *A.M.A. Guides 5th Edition* was not allowed into evidence as an exhibit, Dr. Zgleszewski was cross examined on these criteria by Defense counsel in his deposition, and the undersigned placed great emphasis on Section 16.5e of the *A.M.A. Guides 5th Edition* the Diagnostic Criteria listed therein when analyzing the issue of whether Claimant sustained RSD/CRPS that was related to her January 17, 2008, injury by accident to her arms.

31. That, although Dr. Zgleszewski diagnosed Claimant with RSD/CRPS according to the IASP, Dr. Zgleszewski admitted that Claimant could not be diagnosed with RSD/CRPS using the diagnostic criteria set forth in the *A.M.A. Guides 5th Edition*, the very same treatise he used to render Claimant's impairment ratings.

32. That Dr. Moore, with whom Claimant unilaterally sought unauthorized treatment, diagnosed Claimant with RSD, but then referred Claimant to Dr. Mancuso at FirstChoice Healthcare for further evaluation of possible RSD/CRPS. Both Dr. Mancuso and her medical partner, Dr. Bitting, stated their opinions that Claimant did not sustain related RSD/CRPS. In finding that Claimant did not sustain related RSD/CRPS, the undersigned place great emphasis on the opinions of Dr. Mancuso and Dr. Bitting.

33. The undersigned finds that Claimant did not sustain RSD/CRPS to her upper extremities due to a January 17, 2008, accident for Defendant.

34. That Claimant was rendered 5% impairment to each upper extremity by Dr. Shealy, her surgeon. Claimant was eventually rendered 5% impairment to each upper extremity for her carpal tunnel syndrome by Dr. Zgleszewski, her pain management doctor. Dr. Zgleszewski added an additional 6% to the whole person for each upper extremity due to Dr. Zgleszewski's opinion that Claimant sustained RSD/CRPS. Dr. Zgleszewski's ratings to the whole person were then converted by him in his deposition testimony to equate to an additional 10% to each upper extremity to include his opinion that Claimant sustained additional impairment to RSD/CRPS. Dr. Zgleszewski admitted in his deposition testimony that his total impairment rating for Claimant's upper extremities, including the impairment for the RSD/CRPS, would equate to 15% to each upper extremity.

35. That the undersigned finds that Claimant is not permanently and totally disabled due to the fact that work is available that would allow her to work under the 5-pound weight restriction Dr. Shealy and Dr. Zgleszewski rendered her for her compensable carpal tunnel syndrome. In addition, Dr. Bitting opined that Claimant could return to work without any work restrictions. In arriving at this finding, the undersigned put great weight on the report of James

Myers. The undersigned also took into account the fact that Claimant admitted that she had sought no employment since being released by her doctors.

36. That Claimant sustained 20% permanent partial disability to each arm, pursuant to S.C. Code § 42-9-30(13), for her work related injury by accident on January 17, 2008.

37. That Claimant is further entitled to ongoing future pain management treatment, appropriate physician follow-up visits, and medication compliance testing, to be directed by Defendants pursuant to S.C. Code § 42-15-60.

VI. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did sustain an injury to her right and left arms by accident arising out of and in the course and scope of her employment on January 17, 2008.
3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability until August 9, 2011, the date on which Claimant reached maximum medical improvement.
4. That Claimant is further entitled to ongoing future pain management treatment, appropriate physician follow-up visits, and medication compliance testing, to be directed by Defendants pursuant to S.C. Code § 42-15-60..
5. Under § 42-9-30, Claimant has sustained 20% permanent partial disability to the right arm and 20% permanent partial disability to the left arm. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since February 6, 2012.

6. Defendants are not estopped from denying Claimant's claim of related RSD/CRPS because they authorized three stellate ganglion blocks. The elements of estoppel have been summarized as: (As to the party being estopped): (1) Conduct which is calculated to convey the impression that the facts are inconsistent with those which the party subsequently attempts to assert (including misrepresentation or concealment of material facts); (2) Intention or an expectation that such conduct may be acted upon by the other party; and (3) Actual or constructive knowledge of the true facts; (As to the party asserting estoppel): (1) Lack of knowledge or means to know the true facts; (2) Reliance on the conduct of the other party; (3) Change of position to the extent that one party would be prejudiced or injured. See *Provident Life & Accident Ins. Co. v. Driver*, 451 S.E.2d 924 (Ct. App. 1994).

7. "The doctrine of *res adjudicata* (or *res judicata*) in the strict sense of that time-honored Latin phrase had its origin in the principle that it is in the public interest that there should be an end of litigation and that no one should be twice sued for the same cause of action." *First Nat'l Bank v. United States Fid. & Guar. Co.*, 207 S.C. 15, 24, 35 S.E.2d 47, 56 (1945). Under this doctrine, a final judgment on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action. *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992); *Treadaway v. Smith*, 325 S.C. 367, 479 S.E.2d 849 (Ct.App.1996); *Foran v. USAA Cas. Ins. Co.*, 311 S.C. 189, 427 S.E.2d 918 (Ct.App.1993).

8. *Res judicata* bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these parties. *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999); *Rogers v. Kunja Knitting Mills, U.S.A.*, 336 S.C. 533, 520 S.E.2d 815 (Ct.App.1999).

9. *Res judicata* prevents a litigant "from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Ctr. of South Carolina, Inc. v. Pub. Serv. Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987); accord *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999).

10. "*Res judicata* is the branch of the law that defines the effect a valid judgment may have on subsequent litigation between the same parties and their privies. *Res judicata* ends litigation, promotes judicial economy and avoids the harassment of relitigation of the same issues." James F. Flanagan, *South Carolina Civil Procedure* 642 (2d ed.1996).

11. To establish *res judicata*, the defendant must prove three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Sealy v. Dodge*, 289 S.C. 543, 347 S.E.2d 504 (1986); *Rogers*, 336 S.C. at 537, 520 S.E.2d at 817; *Owenby v. Owens Corning Fiberglas*, 313 S.C. 181, 437 S.E.2d 130 (Cl.App.1993)

12. As a rule, "a final judgment on the merits in a prior action will conclude the parties . . . and a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action." *Nelson v. QHG of South Carolina, Inc.*, 580 S.E.2d 171 (S.C. Cl. of App. 2003)(internal citations omitted).

VII. ORDER/AWARD

IT IS ORDERED that as a result of Claimant's accidental injury occurring on January 17, 2008, she has sustained 20% permanent partial disability to the right and left arms, for which she is entitled to 88 weeks of compensation, at the compensation rate of \$421.99 per week. From this amount, the Defendants are entitled to a credit or offset for the overpayment of temporary total compensation paid from February 6, 2012.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION


Commissioner Gene McCaskill

CERTIFICATE OF SERVICE

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

May 24, 2012

By: Kellie Lindler, Administrative Assistant to
Commissioner McCaskill

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

WCC FILE NO. 0800660

Cindy Dozier,	)
Employee,	)
Claimant,	)
vs.	)
American Red Cross,	)
Employer,	)
and	)
Sedgwick CMS,	)
Carrier,	)
Defendants.	)

**APPELLATE PANEL
DECISION AND ORDER**

Appellate Panel Review held on Columbia, South Carolina
on September 18, 2012, per notices timely and properly
served on all parties of interest.

Appellate Panel Decision and Order filed

11-15, 2012

APPEARANCES:

Claimant represented by Stephen Samuels, Esquire attorney of
Columbia, South Carolina.

Defendant represented by Wesley J. Shull, Esquire attorney of
Greenville, South Carolina.

STATEMENT OF THE CASE

Claimant sustained an admitted injury by accident to the left arm on January 17, 2008. The claim was originally scheduled for a hearing pursuant to Claimant's Form 50 for December 4, 2008, before Commissioner Avery B. Wilkerson. The issue to be determined was whether or not Claimant was entitled to temporary total disability benefits. Prior to this hearing, the parties entered into a Consent Order whereby they agreed that, "Claimant sustained a January 17, 2008, compensable injury to her left wrist as a result of her employment with American Red Cross." It was further agreed, "that Dr. Ugino shall be the authorized treating physician and shall address whether Claimant's alleged right wrist problems were caused by her work for Defendants" and "that the parties agree that Dr. Ugino will also address Claimant's work status."

Subsequent to entering into this Consent Order, Claimant hired new counsel who filed an August 6, 2009, Form 50 alleging an injury to, "arms, back/neck," and alleging that Claimant also sustained "psychological overlay." Claimant further sought medical examination and treatment for, "neck, back, arms, psyche." On August 14, 2009, Defendants timely filed a Form 51 admitting an injury to her "left wrist only."

Claimant's counsel filed a second Form 50 on August 24, 2009, alleging an injury to her "arms, back/neck," and claiming that Claimant sustained, "psychological overlay." Defendants timely filed a September 17, 2009, Form 51 admitting an injury to Claimant's "left wrist only."

Pursuant to the Forms 50, a hearing was ultimately set before Commissioner David W. Huffstetler for November 3, 2009. At this hearing, Claimant's position was read into the record as follows:

The Claimant takes the position she suffered injuries to both arms, also to her neck and the back. She seeks payment of all causally related medical treatment received to date. She seeks an award of compensation for

temporary total disability from September 8, 2008, forward. And seeks additional treatment for her arms, **in particular for reflex sympathetic dystrophy** and asks that Dr. Moore be assigned as her treating physician. The defense admits an injury to the left arm only. They deny all other body parts and I assume that you also deny the request for Dr. Moore to be the treating physician.

Mr. Shull:

Yes, Sir. And we also take the position the claimant is at MMI.

November 3, 2009, Hr. Tr. p. 7, ll. 23-25, p.8, ll. 1-14, *emphasis added*.

Claimant's counsel did not object to the position, quoted above by the Hearing Commissioner at the November 3, 2009, hearing.

Pursuant to this hearing, the Hearing Commissioner issued a December 17, 2009, Decision & Order. This Decision & Order found as fact that, "The claimant suffered injuries to both arms by accident arising out of and in the course of her employment. **The injury to her right arm flows from repeated trauma while keyboarding.** The opinion on causation given by Dr. Boyd is not refuted in the medical evidence."¹

The December 17, 2009, Order specifically ordered, "The defense shall provide the claimant with medical treatment for both of her arms through a physician of their choosing."

On December 30, 2009, Claimant appealed this Order via a Form 30, making the following exceptions:

1. Whether the Single Commissioner erred as a matter of fact and law in failing to order past causally related medical treatment to be paid by the carrier pursuant to § 42-15-60?

¹ A "Dr. Boyd" was never a treating physician in this claim; however, on page 81 of Claimant's A.P.A., Submissions submitted prior to this hearing, there was a causation statement completed by Dr. George Bitting stating, "In my opinion to a reasonable degree of medical certainty, the problems which I have diagnosed and for which I have been treating Ms. Dozier were most probably caused by the work injury described by Ms. Dozier either directly, by aggravation of a pre-existing condition(s), repetitive trauma, or a combination of all three." This opinion was specifically pointed out to the Hearing Commissioner by Claimant's counsel as a medical report on which he was relying to prove that her right arm problems were caused by repetitive trauma. (Hr. Tr. p. 15, ll. 8-21)

2. Whether the Single Commissioner erred as a matter of fact and law in allowing Defendants to designate a treating physician when good cause existed to designate Dr. Moore or one of the other treating physicians, such good cause being shown by Defendant's willful failure to provide medical treatment through the agreed upon authorized treating physician and the fact that Defendants obtained *five* IMEs?
3. Whether the Single Commissioner erred as a matter of fact and law in failing to assess the mandatory 25% penalty for improper termination of temporary compensation?

On January 4, 2010, Claimant filed an Amended Form 30 adding the following exceptions:

4. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant injured her neck/back when such finding was supported by the opinions of the treating physicians?
5. Whether the Single Commissioner erred as a matter of fact and law in failing to exclude the report of Dr. Bethea?

Appellate arguments were heard on April 20, 2010, by the Full Commission.

Pursuant to this appeal, the South Carolina Workers' Compensation Commission Full Commission issued an Order which stated in the "Statement of the Case" portion of the Order, "Claimant contends she has been diagnosed with carpal tunnel syndrome and Complex Regional Pain Syndrome (CRPS/RSD), both conditions being work-related. She seeks treatment as directed by Dr. Blake Moore, contending that although the parties agree that Dr. McIntosh is the authorized treating physician, she was sent to Dr. McIntosh for a defense medical evaluation rather than for treatment." This Order was drafted by Claimant's counsel, and included all five issues for appeal as were originally appealed by her, including the issue of whether or not the Hearing Commissioner erred by failing to find that Claimant injured her neck/back and the issue of whether or not the Hearing Commissioner erred by failing to authorize Dr. Moore as the authorized treating physician (at that point in time, Dr. Moore had opined that Claimant suffered from RSD/CRPS).

The Full Commission Order dated November 23, 2010, further affirmed the Hearing Commissioner, but added a finding stating, "Defendants shall pay for causally related medical care and treatment before the date of the Consent Order (December 24, 2008) and then after the date of the BTE test (June 29, 2009), which shall include all treatment outside those dates submitted into the A.P.A., Submissions as well as causally related treatment after the last date in the A.P.A., Submissions. The claimant is not entitled to unauthorized medicals between those two dates."

Neither party appealed this Order.

Claimant filed a Form 50 on October 17, 2011. On this Form 50, Claimant alleged an additional alleged injured body part, making her allegations, "both arms, central nervous system." At this hearing, Claimant requested permanent total disability and requested a lump sum award. Defendants timely filed a November 15, 2011, Form 51 which admitted injuries "only to the bilateral wrists. All other alleged injuries are denied."

A hearing was set before Commissioner Gene McCaskill for February 6, 2012, pursuant to Claimant's Form 50. At the hearing, Claimant argued that she was entitled to a finding of permanent and total disability under S.C. Code § 42-9-10, based on the medical restrictions placed on her by her authorized treating physicians. Specifically, she contended that the restrictions placed on her by Dr. Shealy and Dr. Zgleszewski of 5 pounds indicated that she could not return to the workforce. In addition, Claimant argued that she was unable to return to work due to Dr. Zgleszewski's assertion that she would not be able to use either upper extremity on a repetitive basis "secondary to her CRPS and chronic pain from her failed CTS surgery." Claimant also pointed to the vocational reports of Glen K. Adams, Robert Brabham, and Harriet as further evidence of total disability.

On the record, Claimant objected to Defendant's Exhibit C, *A.M.A. Guides 5th Edition* re: Complex Regional Pain Syndromes, (pp. 495-497) on the basis that it was hearsay. Pursuant to S.C. R.E. 803 (18), the Hearing Commissioner found that *The A.M.A. Guides 5th Edition* is an exception to the Hearsay Rule as a Learned Treatise and refused to allow this exhibit into evidence. The Hearing Commissioner also took judicial notice that it is a reliable authority on the subject of medicine.

In addition, Claimant sought lifetime medical treatment pursuant to S.C. Code § 42-9-10 and S.C. Code § 42-15-60 to be provided through Dr. Zgleszewski. Claimant further asserted that it was improper for Defendants to deny Claimant's alleged CRPS, arguing that this was supposedly the first time the issue had been raised since the prior hearing and contending that the ability to deny Claimant's alleged CRPS was waived, and that Defendants were estopped from denying the alleged CRPS.

At the February 6, 2012, hearing, Defendants argued that Claimant was entitled to a permanent partial disability award to the wrists only and denied all other allegations. Defendants further argued that it was read into the record at the November 3, 2009, hearing that Claimant sought a finding of compensable CRPS/RSD and treatment for same, and that the Order that was eventually issued by the Hearing Commissioner did not make a finding to this effect; rather, the December 17, 2009, Order gave Defendants the right to choose the treating physician. Thus, Defendants argued that, since Claimant had already sought a finding for compensable CRPS/RSD and treatment for same, she could not attempt to re-litigate the issue at a subsequent hearing, and the Doctrine of *res judicata* barred Claimant from re-litigating this issue. Assuming, however, that Claimant could raise the issue of RSD/CRPS as a compensable condition, Defendants contended that the overwhelming preponderance of the credible medical evidence did not support a medical

diagnosis of RSD/CRPS. Further, Defendants pointed to Dr. Zgleszewski's testimony in which he admitted he did not physically observe the majority of the symptoms associated with RSD/CRPS during his treatment of Claimant, and also Dr. Zgleszewski's deposition admission that Claimant did not meet the requirements for diagnosis of RSD/CRPS under the *A.M.A. Guides Fifth Edition*, which is what he used to render her impairment ratings.

Defendants further argued that they were not estopped from denying that Claimant sustained compensable CRPS/RSD because they authorized a series of three stellate ganglion blocks. In the alternative, Defendants argue that if the RSD/CRPS was to be found compensable, Dr. Zgleszewski, in his deposition testimony, had translated his ratings to include the RSD/CRPS; therefore, a permanent partial disability rating as to Claimant's arms could still be rendered even if the RSD/CRPS was found to be compensable.

Defense counsel further pointed to the vocational evaluation performed by James Myers, which found several jobs Claimant could perform within her 5 pound lifting restriction. Defendants sought an award of permanent partial disability to each arm commensurate with the 5% impairment rendered by Dr. Gerald Shealy, who performed Claimant's bilateral carpal tunnel release surgeries. Defendants asserted a maximum medical improvement date of August 9, 2011.

Pursuant to this hearing, the Hearing Commissioner issued a May 24, 2012, Order finding, in part: (1) Claimant did not suffer from RSD/CRPS related to her January 17, 2008, wrists injuries (Finding of Fact #33); (2) Claimant reached MMI on August 9, 2011 (Finding of Fact #4); Claimant sustained 20% permanent partial disability to each arm; and (3) Defendants were entitled to a credit for temporary disability paid past February 6, 2012, the date of the hearing.

On May 31, 2012, Claimant filed a Form 30 Request for Commissioner Review of this Order. All of Claimant's exceptions, either in law or fact, to the Hearing Commissioner's Decision

and Order have been reviewed and considered by this Appellate Panel; however, the exceptions presented by Claimant can be summarized as follows:

1. Did the Hearing Commissioner err by finding that Claimant was not permanently and totally disabled?
2. Did the Hearing Commissioner err by not to allocate his disability award pursuant to *James*?
3. Did the Hearing Commissioner err by granting a credit to Defendants for payment of temporary disability paid past the February 6, 2012, hearing date against his award of permanent partial disability?
4. Did the Hearing Commissioner err by finding that Claimant did not sustain related RSD/CRPS?
5. Did the Hearing Commissioner err by awarding 20% permanent partial disability to each of Claimant's arms?
6. Did the Hearing Commissioner err by finding that the Doctrine of *Res Judicata* applied to bar Claimant from attempting to re-litigate the issue of whether she sustained compensable and related RSD/CRPS?
7. Did the Hearing Commissioner err by finding that, had she not directed him to do so, Dr. Shealy would not have rendered Claimant any permanent work restrictions?
8. Did the Hearing Commissioner err by taking into account the fact that Claimant refused to search for apply for any jobs after being released from her doctors in deriving his disability award?

On June 4, 2012, Defendants filed a Form 30 Request for Commission Review requesting the following issue be heard by the Appellate Panel: Whether the Hearing Commissioner erred by

failing to find and order that Defendants were entitled to a credit against permanency for temporary total disability payments paid past the date of maximum medical improvement.

Oral arguments were held before the Full Commission of the South Carolina Workers' Compensation Commission on September 18, 2012. At the argument, Claimant argued that the Hearing Commissioner erred by failing to find that she was permanently and totally disabled. Specifically, she argued that Defendants had provided treatment for RSD/CRPS for two-and-a-half years and that this condition was compensable, even assuming the RSD/CRPS was not compensable; however, Claimant argued that the Hearing Commissioner should have found her to be permanently and totally disabled just based upon her admitted bilateral carpal tunnel syndrome and ensuing work restrictions. Claimant further argued error in the Hearing Commissioner's reliance on Defendants' vocational expert, whose report she argued was not credible. Claimant argued that the original Hearing Commissioner's Order found the RSD/CRPS to be compensable and that Defendants chose Dr. Zgleszewski to treat her for this problem, and were, therefore, estopped from denying this diagnosis. Claimant further argued that she withdrew her appeal of the issue of RSD/CRPS with respect to the original Hearing Commissioner's Order because of her reliance on Defendants' authorization of Dr. Zgleszewski. Claimant further alleged RSD/CRPS was never denied by Defendants until they submitted their pre-hearing brief 10 days prior to the February 6, 2012, hearing.

At the Full Commission argument, Defendants argued that there existed an overwhelming and preponderant amount of medical evidence to support the Hearing Commissioner's finding that Claimant did not sustain a compensable RSD/CRPS injury. Specifically, Defendants pointed to the opinions of Dr. Bitting, Dr. Mancuso, the deposition testimony of Dr. Zgleszewski, and Claimant's hand-written January 26, 2009, Patient History Form on which Claimant failed to indicate any

symptoms of RSD/CRPS. Defendants argued against the notion that they were estopped from denying RSD/CRPS by simply authorizing a series of three stellate ganglion blocks and argued that Claimant had failed to meet the elements of estoppel because no false representation had occurred. Defendants further pointed to Dr. Zgleszewski's September 8, 2009, report in which he failed to diagnose RSD/CRPS and testified in his deposition that he did not think she sustained RSD/CRPS at that point-in-time. Defendants pointed to the fact that Dr. Zgleszewski is a pain management doctor whose practice is not restricted to only treating RSD/CRPS patients thereby making Defendants' decision to use him immaterial. With respect to the issue Defendants appealed, Defendants rested on their Brief.

All evidence has been taken, and all evidence has been reviewed *de novo* by this Appellate Panel. After such consideration, and after receiving briefs from the parties and hearing oral argument as to each party's position, we conclude that the Hearing Commissioner correctly weighed the evidence and correctly determined all of the issues of law. Therefore, and as reiterated below as Findings, Conclusions and Order of this Appellate Panel, we fully affirm, by unanimous vote, the Hearing Commissioner's Decision and Order in its entirety.

According, the Findings, Conclusions, and Order below shall become, and hereby are, the law of the case.

FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Cindy Dozier as Employee-Claimant and American Red Cross as Employer and Sedgwick CMS as Carrier, Defendants.

2. Claimant was an employee of the above-named Employer on and prior to January 17, 2008, on which date she did sustain an injury by accident arising out of and in the course of her employment. Specifically, Claimant sustained injuries to her right and left arms in the form of CTS as a result of repetitive trauma (specifically repetitive keyboard trauma with respect to the right wrist, as was found by the prior Hearing Commissioner).

3. The average weekly wage of Employee at the time of the above-described accident was \$632.95, making a compensation rate of \$421.99 applicable in this matter.

4. Claimant reached maximum medical improvement on August 9, 2011, for the injuries resulting from the January 17, 2008, accident.

5. Defendants were entitled to stop payment of temporary total compensation for the overpayment of temporary total compensation and are entitled to credit from the overpayment of temporary compensation since August 10, 2011, against the award for permanent partial disability ordered herein.

6. Claimant was 41-years-old on the day of the hearing. She graduated High School and obtained training and licenses as a Certified Nurse's Assistant and as a Phlebotomist.

7. Claimant's work history included working as a Certified Nurse's Assistant for 18 years and for Defendant as a Phlebotomist.

8. Claimant previously sought benefits for injuries to her neck, back, both arms and psyche. In addition, Claimant sought treatment for RSD/CRPS as well as a transfer of medical treatment to Dr. Blake Moore. This Finding of Fact is based upon Claimant's August 6, 2009, and September 17, 2009, Forms 50, as well as the hearing transcript from the November 3, 2009, hearing. The first Hearing Commissioner's Order found that Claimant had sustained an additional injury to her right arm which "flowed from repeated trauma while keyboarding."

9. The first Hearing Commissioner found that Claimant had sustained an injury to both of her arms only. Claimant subsequently appealed the issue of whether the first Hearing Commissioner had erred by failing to find that Claimant had injured her neck, her back, and had erred by failing to transfer treatment to Dr. Moore. In relevant part, the first Hearing Commissioner's findings as to the issue of injured body parts were affirmed on appeal. The Full Commission Order affirming the first Hearing Commissioner's Order was not appealed by either party. This unappealed Full Commission Order was drafted by Claimant's attorney and specifically stated that she contended that she had been diagnosed with complex regional pain syndrome.

10. This Appellate Panel finds that Claimant cannot attempt to re-litigate the issue of whether or not she sustained related RSD/CRPS or the issue of whether she sustained related injuries to her neck/back and psyche under the Doctrine of *Res Judicata*.

11. Even if Claimant can re-litigate the issue of related RSD/CRPS and the Doctrine of *Res Judicata* is not applicable, this Panel finds that the greater weight of the evidence establishes that Claimant did not sustain compensable injuries to her neck, back or psyche.

12. That Claimant testified that the stellate ganglion block she received from Dr. Zgleszewski did give her some relief for approximately one week. However, Dr. Zgleszewski's report of March 30, 2010, stated that Claimant received "absolutely no relief of pain and increased pain in the shoulders and hands symptoms" due to the ganglion block he had given her prior to that. Nevertheless, Dr. Zgleszewski proceeded to give Claimant another stellate ganglion block, which he stated on May 18, 2010, gave Claimant, "little to no relief of pain." This Panel finds that none of the stellate ganglion blocks given to Claimant provided any permanent relief.

13. Defendants are not estopped from denying Claimant's claim of related RSD/CRPS because they authorized three stellate ganglion blocks. This Panel finds Claimant's argument in the Memorandum of Law handed up during the pre-hearing conference and reiterated that the oral argument that, "Dr. Zgleszewski was acceptable because he was designated specifically to treat the CRPS" unpersuasive. There is no evidence in the record to indicate that he was "designated" to treat Claimant specifically for RSD/CRPS. Further, there is no evidence in the record that Defendants calculated, by misrepresentation or concealment, to convey the impression that Dr. Zgleszewski was designated to treat Claimant's alleged RSD/CRPS. As of the date of Claimant's appeal of the first Hearing Commissioner's Order, Dr. Zgleszewski, along with the majority of the doctors who had treated Claimant, had only diagnosed Claimant with CTS, not RSD/CRPS.

14. By November 23, 2012, the date of the Full Commission Order which clearly stated that Claimant was appealing medical treatment and the issue of injured body parts, Claimant had already undergone her unsuccessful stellate ganglion blocks. Claimant's position was not changed due to Defendants authorizing the stellate ganglion blocks.

15. Claimant testified that her neck hurt her the most of any body part, ranking the pain in her neck as a 9 on a 10-point scale. However, this Panel finds that the neck is not a compensable body part, as it was not found to be compensable by the first Hearing Commissioner, and this finding was not appealed by either party. Moreover, regardless of whether the Doctrine of *Res Judicata* applies, this Panel finds that Claimant did not prove a compensable injury to her neck.

16. Claimant testified to suffering from brittle nails, blotchy skin, and swelling of the hands and further testified that some of these symptoms had started by her January 26, 2009, treatment with Dr. Mancuso. However, the preponderance of the medical evidence, including

observations by Claimant's doctors, showed that Claimant did not suffer from these alleged symptoms of RSD/CRPS, including: (1) Dr. Blake Moore's August 30, 2008, September 20, 2008, and April 9, 2009, handwritten notes; (2) Dr. Mancuso's and Dr. Bitting's medical reports of January 26, 2009, February 10, 2009, March 17, 2009, May 15, 2009, May 22, 2009, July 29, 2009; (3) Claimant's own Patient History Form that she completed and signed on January 26, 2009; (4) Dr. Rhea's April 6, 2009, report; (5) Dr. Zgleszewski's September 8, 2009, independent medical report, and ensuing medical notes; and, (6) the deposition testimony of Dr. Zgleszewski, in which he testified to failing to observe any RSD/CRPS symptoms, other than skin that was cool to touch but not enough to note in medical record, dry skin that may or may not be related to RSD/CRPS, and dry skin that may or may not be related to RSD/CRPS.

17. Dr. Mancuso, a doctor of Claimant's choosing, examined Claimant for RSD/CRPS as early as January 26, 2009, and stated that Claimant did not have RSD/CRPS.

18. Dr. Bitting, another doctor of Claimant's choosing, treated Claimant from February of 2009 through July of 2009 and stated that he did not feel that Claimant suffered from RSD/CRPS, both in his medical notes and in his deposition testimony.

19. Claimant was last treated by Dr. Bitting on July 29, 2009, when he stated that she could return to gainful employment with no work restrictions.

20. Claimant testified that she could not remember if she reported sudomotor changes to Dr. Mancuso on January 26, 2009. However, in reading the handwritten January 26, 2009, Patient History Form completed by Claimant on this date, in conjunction with Dr. Mancuso's note, this Panel finds that Claimant clearly did not report any sudomotor changes to Dr. Mancuso on January 26, 2009.

21. Claimant further testified that she reported symptoms of hair loss, nail changes, and temperature changes in her hands to both Dr. Zgleszewski and his nurses; however, the medical notes from Dr. Zgleszewski and his deposition testimony indicate that she clearly did not have these symptoms. This Panel finds that Claimant did not report hair loss, temperature changes in her hands, or brittle nails to Dr. Zgleszewski.

22. Claimant was prescribed splints for both her wrists and for her left thumb. Dr. Zgleszewski diagnosed Claimant with "carpometacarpal joint pain," rather than RSD/CRPS, and stated that she would benefit from a custom made joint splint that and that she should wear it "nightly." However, Claimant was not wearing a splint at the hearing.

23. Claimant initially treated with Dr. Zgleszewski on September 8, 2009, for an independent medical evaluation requested by her attorney. On this date, Dr. Zgleszewski had reviewed all of the medical reports from Claimant's prior doctors, including Dr. Moore's reports, the triple phase bone scan Claimant had received, Dr. Mancuso's and Dr. Bitting's reports, and the hand surgeon's Claimant had been sent to by Defendants. In his September 8, 2009, report, Dr. Zgleszewski states that he gave Claimant a "detailed physical examination;" however, Dr. Zgleszewski failed to even mention RSD/CRPS as a possible diagnosis or problem. In fact, Dr. Zgleszewski noted that Claimant's bilateral upper extremity sensory examination was normal to soft touch at pinprick. Dr. Zgleszewski's diagnosis on September 8, 2009, was bilateral carpal tunnel syndrome with respect to Claimant's upper extremity complaints. Dr. Zgleszewski, in his deposition testimony, admitted that he did not believe that Claimant was suffering from RSD/CRPS on September 8, 2009, nearly one year and nine months after her accident date.

24. Rather than treating Claimant for carpal tunnel syndrome, which is what he had diagnosed her with on September 8, 2009, Dr. Zgleszewski initially gave Claimant a series of

stellate ganglion blocks which were unsuccessful. Then, Claimant was given a series of three carpal tunnel injections and referred to Dr. Gerald Shealy, a hand surgeon. Dr. Shealy requested nerve conduction studies which showed carpal tunnel syndrome and performed a carpal tunnel release surgery on both Claimant's upper extremities. This Panel finds Claimant sustained a compensable carpal tunnel syndrome in both upper extremities.

25. Claimant was rendered 5-pound work restrictions by Dr. Shealy subsequent to her carpal tunnel syndrome release surgeries. Dr. Zgleszewski agreed with these 5-pound work restrictions in his deposition testimony. Dr. Shealy, in his deposition testimony, admitted that the only reason why he gave Claimant any work restrictions at all was because she specifically told him to do so at her appointment. This Panel finds that, had Claimant not specifically told Dr. Shealy to give her 5-pound lifting restrictions, she would have been released by him without any work restrictions at all.

26. Dr. Shealy further testified that, when he measured Claimant's grip strength, it showed an abnormal bell curve.

27. Dr. Shealy further testified that Claimant's objective findings did not support an impairment greater than the 5% impairment that he rendered.

28. Dr. Biting, in his deposition testimony, stated that he did not believe Claimant had sustained RSD/CRPS, but even if he assumed that she had, she would have shown signs or symptoms of it prior to his last treatment date of August 26, 2009.

29. Dr. Biting further testified that the fact that Claimant received stellate ganglion blocks which gave her minimal relief was further evidence that she did not sustain RSD/CRPS.

30. The *A.M.A. Guides 5th Edition* Table 16-16 lists eleven findings or "Objective Diagnostic Criteria for CRPS (RSD and causalgia)" and states that, "At least eight of these findings

must present concurrently for a diagnosis of CRPS." Although a copy of Section 16.5e of the *A.M.A. Guides 5th Edition* was not allowed into evidence as an exhibit, Dr. Zgleszewski was cross-examined on these criteria by Defense counsel in his deposition, and this Panel placed great emphasis on Section 16.5e of the *A.M.A. Guides 5th Edition* the Diagnostic Criteria listed therein when analyzing the issue of whether Claimant sustained RSD/CRPS that was related to her January 17, 2008, injury by accident to her arms.

31. Although Dr. Zgleszewski diagnosed Claimant with RSD/CRPS according to the IASP, Dr. Zgleszewski admitted that Claimant could not be diagnosed with RSD/CRPS using the diagnostic criteria set forth in the *A.M.A. Guides 5th Edition*, the very same treatise he used to render Claimant's impairment ratings.

32. Dr. Moore, with whom Claimant unilaterally sought unauthorized treatment, diagnosed Claimant with RSD, but then referred Claimant to Dr. Mancuso at FirstChoice Healthcare for further evaluation of possible RSD/CRPS. Both Dr. Mancuso and her medical partner, Dr. Bitting, stated their opinions that Claimant did not sustain related RSD/CRPS. In finding that Claimant did not sustain related RSD/CRPS, the undersigned place great emphasis on the opinions of Dr. Mancuso and Dr. Bitting.

33. Claimant did not sustain RSD/CRPS to her upper extremities due to a January 17, 2008, accident for Defendant.

34. Claimant was rendered 5% impairment to each upper extremity by Dr. Shealy, her surgeon. Claimant was eventually rendered 5% impairment to each upper extremity for her carpal tunnel syndrome by Dr. Zgleszewski, her pain management doctor. Dr. Zgleszewski added an additional 6% to the whole person for each upper extremity due to Dr. Zgleszewski's opinion that Claimant sustained RSD/CRPS. Dr. Zgleszewski's ratings to the whole person were then converted

by him in his deposition testimony to equate to an additional 10% to each upper extremity to include his opinion that Claimant sustained additional impairment to RSD/CRPS. Dr. Zgleszewski admitted in his deposition testimony that his total impairment rating for Claimant's upper extremities, including the impairment for the RSD/CRPS, would equate to 15% to each upper extremity.

35. This Panel finds that Claimant is not permanently and totally disabled due to the fact that work is available that would allow her to work under the 5-pound weight restriction Dr. Shealy and Dr. Zgleszewski rendered her for her compensable carpal tunnel syndrome. In addition, Dr. Biting opined that Claimant could return to work without any work restrictions. In arriving at this finding, this Panel put great weight on the report of James Myers. This Panel also took into account the fact that Claimant admitted that she had sought no employment since being released by her doctors.

36. Claimant sustained 20% permanent partial disability to each arm, pursuant to S.C. Code § 42-9-30(13), for her work related injury by accident on January 17, 2008.

37. Claimant is further entitled to ongoing future pain management treatment, appropriate physician follow-up visits, and medication compliance testing, to be directed by Defendants pursuant to S.C. Code § 42-15-60.

I. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Appellate Panel that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

2. Under § 42-1-160, Claimant did sustain an injury to her right and left arms by accident arising out of and in the course and scope of her employment on January 17, 2008.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability until February 6, 2012, the date on which Claimant reached maximum medical improvement.

4. Claimant is further entitled to ongoing future pain management treatment, appropriate physician follow-up visits, and medication compliance testing, to be directed by Defendants pursuant to S.C. Code § 42-15-60.

5. Under § 42-9-30, Claimant has sustained 20% permanent partial disability to the right arm and 20% permanent partial disability to the left arm. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since February 6, 2012.

6. Defendants are not estopped from denying Claimant's claim of related RSD/CRPS because they authorized three stellate ganglion blocks. The elements of estoppel have been summarized as: (As to the party being estopped): (1) Conduct which is calculated to convey the impression that the facts are inconsistent with those which the party subsequently attempts to assert (including misrepresentation or concealment of material facts); (2) Intention or an expectation that such conduct may be acted upon by the other party; and (3) Actual or constructive knowledge of the true facts; (As to the party asserting estoppel): (1) Lack of knowledge or means to know the true facts; (2) Reliance on the conduct of the other party; (3) Change of position to the extent that one party would be prejudiced or injured. *See Provident Life & Accident Ins. Co. v. Driver*, 451 S.E.2d 924 (Cl. App. 1994).

7. "The doctrine of *res adjudicata* (or *res judicata*) in the strict sense of that time-honored Latin phrase had its origin in the principle that it is in the public interest that there

should be an end of litigation and that no one should be twice sued for the same cause of action." *First Nat'l Bank v. United States Fid. & Guar. Co.*, 207 S.C. 15, 24, 35 S.E.2d 47, 56 (1945). Under this doctrine, a final judgment on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action. *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992); *Treadaway v. Smith*, 325 S.C. 367, 479 S.E.2d 849 (Ct.App.1996); *Foran v. USAA Cas. Ins. Co.*, 311 S.C. 189, 427 S.E.2d 918 (Ct.App.1993).

8. *Res judicata* bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these parties. *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999); *Rogers v. Kunja Knitting Mills, U.S.A.*, 336 S.C. 533, 520 S.E.2d 815 (Ct.App.1999).

9. *Res judicata* prevents a litigant "from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Ctr. of South Carolina, Inc. v. Pub. Serv. Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987); accord *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999).

10. "*Res judicata* is the branch of the law that defines the effect a valid judgment may have on subsequent litigation between the same parties and their privies. *Res judicata* ends litigation, promotes judicial economy and avoids the harassment of relitigation of the same issues." James F. Flanagan, *South Carolina Civil Procedure* 642 (2d ed.1996).

11. To establish *res judicata*, the defendant must prove three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit.

Sealy v. Dodge, 289 S.C. 543, 347 S.E.2d 504 (1986); *Rogers*, 336 S.C. at 537, 520 S.E.2d at 817; *Owenby v. Owens Corning Fiberglas*, 313 S.C. 181, 437 S.E.2d 130 (Ct.App.1993).

12. As a rule, "a final judgment on the merits in a prior action will conclude the parties . . . and a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action." *Nelson v. QHG of South Carolina, Inc.*, 580 S.E.2d 171 (S.C. Ct. of App. 2003)(internal citations omitted).

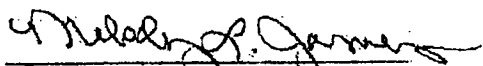
ORDER/AWARD

IT IS ORDERED that as a result of Claimant's accidental injury occurring on January 17, 2008, she has sustained 20% permanent partial disability to the right and left arms, for which she is entitled to 88 weeks of compensation, at the compensation rate of \$421.99 per week. From this amount, Defendants are entitled to a credit or offset for the overpayment of temporary total compensation paid from February 6, 2012.

No hearing costs are assessed in this instance.

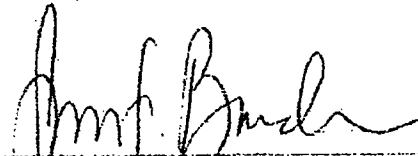
IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION
APPELLATE PANEL



Melody L. James, Commissioner

FULL AFFIRMATION



Susan B. Barden, Commissioner

CONCUR:



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

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

By Valerie Deller on November 15, 2012

South Carolina Workers' Compensation
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov

Commission



WCC File #: 0800660
ier File #: 1167461
Carrier Code #: 00093
Employer FEIN #: 530196605

Claimant's Name: Cindyella Dozier SSN: [REDACTED] Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull St.
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: (803) 316 - 6533 Work Phone: () - Insurance Carrier: Old Republic/Cambridge
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: January 17, 2008

☒ Injury ☐ Illness ☒ Repetitive Trauma

1a. The claimant sustained an injury to both arms on January 17, 2008 in Richland county, state of South Carolina.

1b. Body part(s) affected are: both arms

Briefly describe how the accident occurred. From repetitive heavy lifting and use. Claimant has been diagnosed with bilateral carpal tunnel syndrome.

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 January 24, 2008 in the following manner: Audrey Long, 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: both arms.

☐ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:

September 8, 2008-present; temporary partial disability may also be due.

☐ 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

☐ Total

☐ (3) Wage Loss

☐ Partial

Disability:

☐ Partial

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

Not applicable.

10a. At the time of the injury, the Claimant was paid weekly wages of \$633.00, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident: Claimant returned to work on light duty on 2/4/08, even as she continued treatment for her injury until April 28, 2008. She continued working on light duty and advised Employer of the persisting problems with her arms. On 9/8/08 she was no longer able to work, and she asked for medical treatment which was denied. To the best of her knowledge, Claimant has never been authorized to return to work without restriction since being injured.

11a. Further grounds or unusual aspects of claim: The Carrier is now denying this claim and has stopped all benefits, arguing that the claim is now closed. The Claimant has been taken out of work and is receiving Short Term Disability

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

WCC Form # 50
Revised 9/07

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

(STD) for the same workers' compensation injury for which she previously received temporary total disability. (The STD has not been paid in lieu of workers' compensation.) Claimant was forced to find medical treatment with her private insurance when treatment was denied. The doctor she consulted ordered tests which have confirmed bilateral carpal tunnel syndrome, and he has referred her to a specialist. Claimant requests that she be allowed to continue treatment with these doctors and that her treatment not be changed.

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: Carolina Occupational Healthcare, LLC, 1715 Blanding St., Columbia, SC 29201; Camden Bone and Joint, LLC, 1112 Mill St., Camden, SC 29020; Kershaw County Medical Center, 1215 Roberts St., Camden, SC 29021; Midlands Orthopaedics, PA, 1910 Blanding St., Sumter, SC 29201; Coastal Orthopaedic Associates, 2376 Cypress Circle, #300, Conway, SC 29526; *Dr. Blake H. Moore, 920 St. Andrews Rd., Columbia, SC 29212; * Dr. Stroebel, Sumter Orthopaedics & Associates, 110 N. Sumter St., Sumter, SC 29150. (*Indicates physicians consulted after medical care denied by Carrier.)

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

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

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

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

14. Estimated time needed for hearing: Claimant's case should require no more than one-half hour.

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

Preparer's Signature

Attorney for the Claimant
Title

imcelveen@brvanlaw.com
Email

10-10-06
Date

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

WCC Form # 50
Revised 9/07

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

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



WCC File #: **0800660**
Carrier File #: **1167461**
Carrier Code #: **0093**
Employer FEIN #: **530196605**

Claimant's Name: Cindyella Dozier SSN: [REDACTED] Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull St.
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: (803) 316-6533 Work Phone: () Insurance Carrier: Old Republic/Cambridge
Preparer's Name: Joseph T. McElveen, Jr. Law Firm: The Bryan Law Firm Preparer's Phone #: (803) 775-1263

Date of injury: 1/17/2008 (m/d/yyyy)
(m/d/yyyy)

Date of Notice to Employer of Injury: 1/24/2008

I. **Payment of Temporary Compensation** Check one: ☐ Initial period ☐ Additional period ☐ Corrected compensation rate
(choose A, B, or C)

- ☐ A. Temporary Total at the compensation rate of \$ _____ per week. For this period of disability, disability began on _____ (m/d/yyyy) and the date of first payment was _____ (m/d/yyyy).
- ☐ B. Temporary Partial at the compensation rate of \$ _____ per week. Note: When the Temporary Partial compensation rate will vary, report the first payment here. Supplement this report throughout the period of Temporary Partial compensation by filing a **Form 15S** with the **Form 18**, which shall be filed six months 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 first payment was _____ (m/d/yyyy).

Calculation of Temporary Partial Rate:

Average weekly wage before injury	\$ _____
- Current weekly wage	\$ _____
= Difference in wages before injury and now	\$ 0.00
x .6667	\$ 0.00
Temporary Partial Compensation Rate	\$ 0.00

- ☐ C. Salary in lieu of Temporary ☐ Total ☐ Partial (choose one) compensation in the amount of \$ _____ per week. For this period of disability, disability 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 OF 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 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 _____

Date _____ (m/d/yyyy)

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

The employer's representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that the temporary compensation should not have been stopped, you may request a hearing by signing below and returning this form to SCWCC Judicial Department at the address at the top of this 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 15(II) ☐ Has ☒ Has not been received.

Signature of Claimant or Legal Representative _____

October 10 2008
Date _____ (m/d/yyyy)

Employer's representative must complete and file **Form 15** with Claims Department within ten days after compensation begins or is terminated. Employer's 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.

WCC Form # 15
Rev. 10/04

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TEMPORARY COMPENSATION REPORT

South Carolina Workers' Compensation Commission

1612 Marion Street • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723

www.wcc.sc.gov

WCC File #: 0800660Carrier File #: 1167461

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: Cindy DozierSSN: [REDACTED]Employer's Name: American Red CrossAddress: [REDACTED]Address: 2751 Bull StreetCity: [REDACTED]State: SCZip: [REDACTED]City: ColumbiaState: SCZip: 29201Home Phone: (803) 316-6533Work Phone: ()Insurance Carrier: Old Republic Insurance Co.Preparer's Name: Stephen B. SamuelsLaw Firm: Samuels Law Firm, LLCPreparer's Phone #: (803) 779-4000

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: 1/17/08☒ Injury ☐ Illness ☒ Repetitive Trauma1a. The claimant sustained an injury to arms, back/neck (Part(s) of Body Injured) on 1/17/08 (Month/Day/Year) in Richland county, state of SC.1b. Body part(s) affected are: psychological overlayBriefly describe how the accident occurred. Lifting 80 pound blood kit.

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

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

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

5. Notice of the accidental injury was given to the Employer on 1/18/08 (Month/Day/Year) in the following manner:Reported injury to Audrey Long Wright.☒ 6. Due to injury, the claimant is in need of (check one):☒ (a) medical examination and treatment for: neck, back, arms, psyche☐ (b) additional medical examination and treatment for: _____☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: September 8, 2008 and continuing☒ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):☒ (1) General Disability:☒ Total☐ (2) Specific Disability:☐ Total☐ (3) Wage Loss☐ Partial☐ Partial☐ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____10a. At the time of the injury, the Claimant was paid weekly wages of \$663.00, and demands accounting of days worked and wages earned as provided by law.10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
None.

11a. Further grounds or unusual aspects of claim:

1. Improper suspension of TTD. 2. If at MMI and permanency is addressed, Claimant requests lump sum award and lifetime proration.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:
See Attachment.11c. To the best of your knowledge, did you have any prior permanent disability? _____
If yes, describe: _____

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

☐ 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: 60 minutes

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

Preparer's Signature

Attorney at Law

Title

Stephen@SamuelsLawFirm.net

Email

Date

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

WCC Form # 50

Revised 9/07

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

50

ATTACHMENT

Claimant: Cindy Dozie
WCC File No.: 0800660

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:
See Attachment

Dr. Blake Moore
Kingstree Surgical Associates
135 North Academy Street
Kingstree, South Carolina 29556

Dr. Lisa Mancuso
First Choice Healthcare
1920 2nd Loop Road #C
Florence, South Carolina 29501

Dr. Rhea
Florence Neurosurgery and Spine
1204 East Cheves Street
Florence, South Carolina 29506

Dr. Michael S. Green
Midlands Orthopaedics
1910 Blanding Street
Columbia, South Carolina 29201

USC Sports Medicine
Two Medical Park, Lower Level, Suite L-10
Columbia, South Carolina 29203

Tuomey Healthcare System
129 North Washington Street
Sumter, South Carolina 29150

Dr. James Wright
Carolina Occupational Healthcare
1715 Blanding Street
Columbia, South Carolina 29201

Dr. James Nichols
Camden Bone & Joint, LLC
1112 Mill Street
Camden, South Carolina 29020

Dr. Kurt T. Stroebel
Sumter Orthopaedic Associates
100 North Sumter Street #200
Sumter, South Carolina 29150

Coastal Orthopaedic Associates
2376 Cypress Circle #300
Conway, South Carolina 29526

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

File # 0800660
Carrier File # 1167461
Carrier Code #
Employer FEIN 53-0196605

Cindy Dozier

Claimant's Name

SSN

Address

City

State

Zip

803.316.6533

Home Phone

Work Phone

American Red Cross

Employer's Name

2751 Bull Street

Columbia, SC 29230

Address

City

State

Zip

Cambridge Integrated Services, Inc.

Insurance Carrier

Wesley J. Shull

880 S. Pleasantburg Dr., Suite 3-G, Greenville, SC 29607

(864) 527.0077

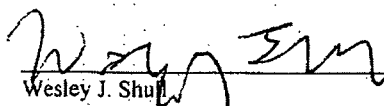
Preparer's Name

Address

Phone #

1. It is **admitted** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Admit injury to left wrist only. See Consent Order entered into by parties on January 7, 2009. Specifically deny any psychological injury.
2. It is **admitted** 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** that the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **admitted** 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** that notice of injury was given the employer. The reasons for denial are: See No. 1 for scope of admission.
6. It is **denied** that the employee needs or is entitled to additional medical care as a result of injury. The reasons for denial are: Claimant placed at maximum medical improvement by Dr. McIntosh on August 10, 2009, and indicated that she will not need any future medical treatment.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: Claimant agreed in Consent Order to allow Dr. McIntosh to address work restrictions. Claimant never written out of work by an authorized physician.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: Claimant cannot prove entitlement to same by credible, objective medical evidence.
9. It is **denied** that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$ See Form 20 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Affirm Reserve right to amend.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to Ms. Virginia Crocker, S.C. Workers' Compensation Commission, P.O. Box 1715, Columbia, SC 29202-1715; and Stephen B. Samuels, PO Box 50349, Columbia, SC 29250 on the 14th day of August, 2009 by certified mail, postage prepaid. I verify the contents of this form are accurate and true to the best of my knowledge.



Attorney

Wesley J. Shull
880 S. Pleasantburg Dr., Suite 3-G
Greenville, SC 29607

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.
WCC Form #51

Employer's Answer to Request for Hearing.

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



WCC File #: 0800660
Carrier File #: 1167461
Carrier Code #:
Employer FEIN #: 53-0196605

Cindy Dozier
Claimant's Name SSN
Address City State Zip
() ()
Home Phone Work Phone

American Red Cross
Employer's Name
2751 Bull Street, Columbia, SC 29230
Address City State Zip
Cambridge Integrated Services, Inc.
Insurance Carrier

Wesley J. Shull
Preparer's Name Phone # 864.527.8765

The date of injury reported on the Form 12A is: 01/17/08

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

- ☒ I. Stop payment of compensation. Compensation payments are current as of 8/14/09 and shall continue until
date
otherwise ordered or until a Form 17 is signed by the claimant. A Form 17 was offered and refused on 8/14/09
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: To be determined by
Hearing Commissioner.

- ☒ 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
date
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 Ms. Virginia Crocker
S.C. Workers' Compensation Commission, P. O. Box 1715, Columbia, SC 29202-1715 and Stephen B. Samuels, PO Box
50349, Columbia, SC 29250.

On the 14th day of August, 2009 by X first class postage, _____ certified mail, _____ personal service.

Preparer's Signature

Attorney
Title

August 14, 2009
Date

Gilbert & Shull, L.L.C., 880 S. Pleasantburg Dr., Suite 3-G, Greenville, SC 29607
Address

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.67-211, 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 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



WCC File #: 0800660
Carrier File #: 1167461
Carrier Code #:
Employer FEIN #: 53-0196605

Cindy Dozier
Claimant's Name
SSN
Address City State Zip
() ()
Home Phone Work Phone

American Red Cross
Employer's Name
2751 Bull Street, Columbia, SC 29230
Address City State Zip
Cambridge Integrated Services, Inc.
Insurance Carrier

Wesley J. Shull
Preparer's Name
864.527.8765
Phone #

The date of injury reported on the Form 12A is: 01/17/08

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

☐ I. Stop payment of compensation. Compensation payments are current as of _____ and shall continue until _____ date
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: To be determined by Hearing Commissioner.

☒ 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 Ms. Virginia Crocker
S.C. Workers' Compensation Commission, P. O. Box 1715, Columbia, SC 29202-1715 and Stephen B. Samuels, PO Box
50349, Columbia, SC 29250

On the 19th day of August, 2009 by X first class postage, _____ certified mail, _____ personal service.

Preparer's Signature

Attorney
Title

August 19, 2009
Date

Gilbert & Shull, L.L.C., 880 S. Pleasantburg Dr., Suite 3-G, Greenville, SC 29607
Address

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.67-211, 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.



WCC File #: 0800660
Prior File #: 1167461
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Cindy Dozier SSN: [REDACTED] Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: (803) 316-6533 Work Phone: () Insurance Carrier: Old Republic Insurance Co.
Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779-4000

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:

☒ Injury ☐ Illness ☒ Repetitive Trauma

Date of Injury or Illness: 1/17/08

1a. The claimant sustained an injury to arms, back/neck (Part(s) of Body Injured) ON 1/17/08 (Month/Day/Year) in Richland county, state of SC.
1b. Body part(s) affected are: psychological overlay

Briefly describe how the accident occurred. Lifting 80 pound blood kit.

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

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

5. Notice of the accidental injury was given to the Employer on 1/18/08 (Month/Day/Year) in the following manner:
Reported injury to Audrey Long Wright.

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

☒ (a) medical examination and treatment for: neck, back, arms, psyche

☐ (b) additional medical examination and treatment for: _____

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
September 8, 2008 and continuing

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

☒ (1) General Disability:

☒ Total

☐ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

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

10a. At the time of the injury, the Claimant was paid weekly wages of \$663.00, and demands accounting of days worked and wages earned as provided by law.

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

11a. Further grounds or unusual aspects of claim:

1. Improper suspension of TTD. 2. If at MMI and permanency is addressed, Claimant requests lump sum award and lifetime proration.

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:
See Attachment.

11c. To the best of your knowledge, did you have any prior permanent disability? _____
If yes, describe: _____

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

☐ 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: 60 minutes

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

Preparer's Signature

Attorney at Law
Title

Stephen@SamuelsLawFirm.net
Email

Date

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

WCC Form # 50
Revised 9/07

50

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

ATTACHMENT

Claimant: Cindy Dozier
WCC File No.: 0800660

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:
See Attachment

Dr. Blake Moore
Kingstree Surgical Associates
135 North Academy Street
Kingstree, South Carolina 29556

Dr. Lisa Mancuso
First Choice Healthcare
1920 2nd Loop Road #C
Florence, South Carolina 29501

Dr. Rhea
Florence Neurosurgery and Spine
1204 East Cheves Street
Florence, South Carolina 29506

Dr. Michael S. Green
Midlands Orthopaedics
1910 Blanding Street
Columbia, South Carolina 29201

USC Sports Medicine
Two Medical Park, Lower Level, Suite L-10
Columbia, South Carolina 29203

Tuomey Healthcare System
129 North Washington Street
Sumter, South Carolina 29150

Dr. James Wright
Carolina Occupational Healthcare
1715 Blanding Street
Columbia, South Carolina 29201

Dr. James Nichols
Camden Bone & Joint, LLC
1112 Mill Street
Camden, South Carolina 29020

Dr. Kurt T. Ströebel
Sumter Orthopaedic Associates
100 North Sumter Street #200
Sumter, South Carolina 29150

Coastal Orthopaedic Associates
2376 Cypress Circle #300
Conway, South Carolina 29526

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

File # 0800660
Carrier File # 1167461
Carrier Code #
Employer FEIN 53-0196605

Cindy Dozier
Claimant's Name

Address
803.316.6533

Home Phone

Work Phone

SSN

City State Zip

American Red Cross

Employer's Name

2751 Bull Street

Address

Columbia, SC 29230

City State Zip

Cambridge Integrated Services, Inc.

Insurance Carrier

Wesley J. Shull

Preparer's Name

880 S. Pleasantburg Dr., Suite 3-G, Greenville, SC 29607

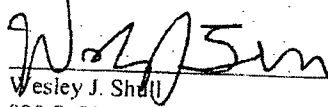
Address

(864) 527.0077

Phone #

1. It is **admitted** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Admit injury to left wrist only. See Consent Order entered into by parties on January 7, 2009. Specifically deny any psychological injury.
2. It is **admitted** 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** that the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **admitted** 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** that notice of injury was given the employer. The reasons for denial are: See No. 1 for scope of admission.
6. It is **denied** that the employee needs or is entitled to additional medical care as a result of injury. The reasons for denial are: Claimant placed at maximum medical improvement by Dr. McIntosh on August 10, 2009, and indicated that she will not need any future medical treatment.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: Claimant agreed in Consent Order to allow Dr. McIntosh to address work restrictions. Claimant never written out of work by an authorized physician.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: Claimant cannot prove entitlement to same by credible, objective medical evidence.
9. It is **denied** that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$ See Form 20 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Affirm Reserve right to amend.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to Ms. Virginia Crocker, S.C. Workers' Compensation Commission, P.O. Box 1715, Columbia, SC 29202-1715; and Stephen B. Samuels, PO Box 50349, Columbia, SC 29250 on the 17th day of September, 2009 by certified mail, postage prepaid. I verify the contents of this form are accurate and true to the best of my knowledge.


Wesley J. Shull, Attorney
880 S. Pleasantburg Dr., Suite 3-G
Greenville, SC 29607

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.
Amended WCC Form #51

Employer's Answer to Request for Hearing.

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

SC File # 0800660
Carrier File # 1167461
Carrier Code #
Employer FEIN 53-0196605

Cindy Dozier

Claimant's Name

SSN

Address

803.316.6533

Home Phone

City

State

Zip

Work Phone

American Red Cross

Employer's Name

2751 Bull Street

Columbia, SC 29230

Address

City

State

Zip

Cambridge Integrated Services, Inc.

Insurance Carrier

Wesley J. Shull

880 S. Pleasantburg Dr., Suite 3-G, Greenville, SC 29607

(864) 527.8765

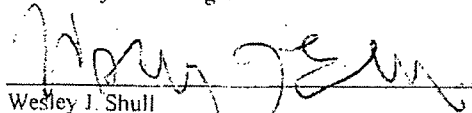
Preparer's Name

Address

Phone #

1. It is **admitted** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Admit injury to left wrist only. See Consent Order entered into by parties on January 7, 2009. Specifically deny any psychological injury.
2. It is **admitted** 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** that the relationship of employer and employee existed at the time in question. The reasons for denial are:
4. It is **admitted** 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** that notice of injury was given the employer. The reasons for denial are: See No. 1 for scope of admission.
6. It is **denied** that the employee needs or is entitled to additional medical care as a result of injury. The reasons for denial are: Claimant placed at maximum medical improvement by Dr. McIntosh on August 10, 2009, and indicated that she will not need any future medical treatment.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: Claimant agreed in Consent Order to allow Dr. McIntosh to address work restrictions. Claimant never written out of work by an authorized physician.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: Claimant cannot prove entitlement to same by credible, objective medical evidence.
9. It is **denied** that the employee has a serious disfigurement.
10. It is **contended** that an average weekly wage of \$ See Form 20 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Affirm Reserve right to amend.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to Ms. Virginia Crocker, S.C. Workers' Compensation Commission, P.O. Box 1715, Columbia, SC 29202-1715; and Stephen B. Samuels, PO Box 50349, Columbia, SC 29250 on the 19th day of October, 2009 by certified mail, postage prepaid. I verify the contents of this form are accurate and true to the best of my knowledge.

 Attorney

Wesley J. Shull
880 S. Pleasantburg Dr., Suite 3-G
Greenville, SC 29607

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.
Second Amended WCC Form #51

Employer's Answer to Request for Hearing.



Cindy Dozier Claimant's Name		SSN		American Red Cross Employer's Name	
Address		City	State	Zip	2751 Bull Street, Columbia, SC 29230
803.316.6533					Address City State Zip
Home Phone		Work Phone		Cambridge Integrated Services, Inc. Insurance Carrier	
		Westley J. Shull Preparer's Name		(864) 527-8765 Phone #	

Provide the information requested in the space provided. Use an additional sheet, if necessary. Type or print all information.

☒ Injury by Accident ☐ Occupational Disease ☐ Both Injury by Accident and Disease ☐ Other

1. Date of accident: 01/17/08 2. AWW: \$ 549.08 Comp. Rate: \$366.07
3. Type of injury and body part(s): Admitted left wrist only. Claimant alleges injuries to her right wrist and neck as well.
4. Facts in controversy: How much permanent partial disability to the left wrist Claimant has sustained; whether Claimant sustained an injury to the right wrist and/or neck.
5. Legal issues involved: \$42-15-60; \$42-9-30 (13); \$42-1-172; O'Banner v. Westinghouse; Pearson v. JPS Converter.
6. Unusual problems: None anticipated; Defendants request that any and all other workers' compensation files related to this claimant be incorporated into the record of this case.
7. Witnesses (designate if expert)* Depending on claimant's testimony and evidence presented, defendant(s) reserve(s) the right to call an insurance company representative/third party administrator, and any of claimant's supervisors/co-employees to testify with regard to work history and/or job performance. Defendant(s) also reserve right to call any persons whom claimant may allege to have knowledge of pertinent facts. Defendant(s) also reserve(s) the right to call an authenticating witness with regard to videotape surveillance and/or observations made.
8. Exhibits: Any files from prior insurance claims filed by claimant. Depending on claimant's testimony and evidence presented, defendant(s) reserve(s) the right to introduce company personnel and/or medical records to document claimant's work history and treatment received. Defendant(s) also reserve(s) the right to introduce surveillance report and/or videotape/photo surveillance evidence and transcript of claimant's deposition. Defendant(s) also reserve the right to introduce any of the claimant's tax returns and any other insurance claim records; Defendant(s) also reserve the right to introduce SLED criminal report(s) relative to the claimant. Defendant(s) reserve the right to introduce a copy of any recorded statement given by the claimant. Also, see A.P.A. submissions: Defendant(s) may also submit Employment Security Commission records.
9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance) See A.P.A. Submissions and Notice of Written Medical Reports.
10. Name, address, and specialty; if any, of the treating physician: Dr. James C. McIntosh, Jr., Lexington Orthopaedics 146 N. Hospital Drive, Suite 140 West Columbia, SC 29169.
11. Impairment rating(s); body part(s); physician and date of opinion: 3% to both arms; Dr. James McIntosh; 8/10/09.

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

SIGNATURE: W. J. Shull

DATE OF HEARING: 11/3/2009

TIME OF HEARING: 11:30 am

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form #58

Rev. Date 3/96

58

PRE-HEARING BRIEF

I certify that I have served this Form No. 58 and the Notice of Witnesses and Written Medical Reports pursuant to R.67-212 by delivering a copy to: The Honorable David W. Huffstetter, South Carolina Workers' Compensation Commission, P.O. Box 1715, Columbia, SC 29202-1715; and Stephen B. Samuels, PO Box 50349, Columbia, SC 29250 on the 26th day of October, 2009, by first class mail.

Stacey Wascom
Certifier - Stacey Wascom

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION**

W.C.C. File No. 0800660

Cindy Dozier, Employee,
Claimant,
vs.
American Red Cross, Employer, and
Cambridge Integrated Services, Inc., Carrier,
Defendants.

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

TO: South Carolina Workers' Compensation Commission
and Stephen B. Samuels, Attorney for Claimant

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants. to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORTS</u>	<u>PAGE NOS.</u>
15. Camden Bone & Joint	2/25/08	151 - 152
16. Midlands Orthopaedics	4/28/08	153 - 158
17. First Choice Healthcare	4/16/09 - 5/22/09	159 - 160
18. Lexington Orthopaedics	4/09 - 8/10/09	161 - 163
19. Ameritox	4/16/09	164
20. Coastal Orthopaedic Associates	7/9/08	165 - 167
21. Dr. James Bethea	10/23/09	172 - 175
<u>NAME OF EXHIBIT</u>	<u>DATE OF REPORTS</u>	<u>PAGE NOS.</u>
B. Consent Order	12/24/08	176 - 177
C. Correspondence with Joseph McElveen, Jr., Esq.	2/3/09 - 4/23/09	178 - 179

D. Harriett Wilkinson, M.Ed., CRC
Vocational Assessment

10/26/09

To be submitted
upon receipt

E. Deposition transcript of
Harriett Wilkinson, M.Ed., CRC

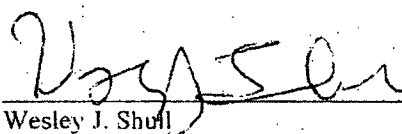
10/29/09

To be submitted
upon receipt

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

You are further notified that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: Depending on claimant's testimony and evidence presented, defendant(s) reserve(s) the right to call any of claimant's supervisors/co-employees to testify with regard to work history and/or job performance. Defendant(s) also reserve the right to call any persons whom claimant may alleged to have knowledge of pertinent facts, Defendant(s) also reserve(s) the right to call an authenticating witness with regard to videotape surveillance and/or observations made.



Wesley J. Shull
GILBERT & SHULL, L.L.C.
880 S. Pleasantburg Drive, Suite 3-G
Greenville, SC 29607
Attorney for Defendants

Greenville, South Carolina

October 26, 2009



Claimant's Name: Cindy Dozier SSN: [REDACTED] Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: (803) 316 - 6533 Work Phone: () Insurance Carrier: Old Republic Insurance Co.
Preparer's Name: Stephen Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779 - 4000

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ claimant ☐ employer (check one) Date of injury: 1/17/2008 (m/d/yyyy)

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

See Attachment.

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

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Wesley J. Shull, Esquire

Name

Gilbert and Shull, 880 S. Pleasantburg Drive, Suite 3-G, Greenville, South Carolina 29607.

Address

on the 30 day of December, 2009 by ☒ first class mail ☐ personal service ☐ certified mail.

[Signature]
Preparer's Signature

Attorney at Law
Title

12/30/09
Date

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

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

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Cindy Dozier, Employee,
Claimant,

vs.

American Red Cross, Employer, and
Cambridge Integrated Services, Inc., Carrier,

Defendants.

BRIEF OF RESPONDENTS

W.C.C. File No. 0800660

I. STATEMENT OF THE CASE

Claimant sustained a compensable January 17, 2008. injury as a result of her work for Defendant. The claim was initially admitted as to Claimant's left wrist only. In February 2008, Claimant returned to work for Defendant, and temporary total disability benefits were stopped via a Form 15 on March 20, 2008.

A hearing was set in this matter for December 4, 2008, in order to determine issues as set forth on the Forms 50/51 and 15 filed and to determine if Claimant's temporary total disability compensation was legally terminated.

Prior to the hearing, the parties entered into a Consent Order, dated January 7, 2009, which admitted a left wrist injury, named Dr. Ugingo as the treating physician, and stated that he would address the issues of whether Claimant sustained an injury to the right wrist and work status. (See Defendant's Exhibit B).

Claimant and her attorney who had entered into the Consent Order on her behalf terminated their attorney-client relationship sometime subsequent to the approval of the Consent Order.

{L9153161.1}

Claimant then hired her current counsel, who filed August 5, 2009, and August 25, 2009, Forms 50, requesting a hearing and alleging injuries to Claimant's "Neck, back, arms, psyche." Defendants filed an August 19, 2009, Form 21 requesting to pay permanent disability.

A hearing was held per Claimant's Forms 50 on November 3, 2009. Pursuant to this hearing, the Hearing Commissioner executed a December 17, 2009, order, which found that: (1) Claimant had not reached maximum medical improvement; (2) Claimant had sustained injuries to both arms; and (3) Claimant was entitled to temporary disability starting August 10, 2009, and continuing. This Order also ordered Defendants to provide further medical treatment "through a physician of their choosing."

Claimant filed a Form 30 on December 30, 2009, stating the following grounds for appeal:

1. Whether the Single Commissioner erred as a matter of fact and law in failing to order past casually related medical treatment to be paid by the Carrier pursuant to §42-15-60?
2. Whether the Single Commissioner erred as a matter of fact and law in allowing Defendants to designate a treating physician when good cause existed to designate Dr. Moore or one of the other treating physicians, such good cause being shown by Defendants willful failure to provide treatment through the agreed upon authorized treating physician and the fact that Defendant obtained *five* IME's?
3. Whether the Single Commissioner erred as a matter of law in failing to assess the mandatory 25% penalty for improper termination of temporary compensation?

On January 4, 2010, Claimant filed an amended Form 30 adding the grounds of:

4. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant injured her neck/back when such finding was supported by the opinions of the treating physicians?

{L0153161.1}

5. Whether the Single Commissioner erred as a matter of fact and law in failing to exclude the report of Dr. Bethea?

Defendants respectfully request that the Full Commission affirm the Hearing Commissioner with respect to the above issues.

II. ISSUE

Whether the Hearing Commissioner erred in failing to order Defendants to pay for the unauthorized treatment that Claimant unilaterally sought and received when:

- (1) an approved Consent Order was in existence at the time of the treatment in question naming another authorized treating physician;
- (2) Defendants were attempting in good faith to provide the treatment as outlined in the Consent Order;
- (3) Claimant's former attorney was in agreement with Defendant's attempts to provide treatment, made no objection, and correspondence between the parties was submitted into evidence indicating this;
- (4) Defendants were not given notice that Claimant was treating with these other providers until after Claimant had treated and incurred significant medical costs; and
- (5) a large portion of the treatment Claimant received by these unauthorized providers was for body parts not admitted by the Consent Order.

III. APPLICABLE LAW

Where an appellant fails to provide arguments or supporting authority for his assertion, he is deemed to have abandoned the issue. Mere allegations of error are not sufficient to demonstrate an abuse of discretion. *First Savings Bank v. McLean*, 314 S.C. 361, 44 S.E.2d 513 (1994).

Where a judgment or order is entered by consent, it is binding and conclusive and cannot be attacked by the parties either by direct appeal or in a collateral proceeding. *Johnson v. Johnson*,
{L0153161.1}

310 S.C. 44, 425 S.E.2d 46 (1992).

A decree or order made by consent of the counsel for the parties cannot be set aside either by rehearing or appeal, or by a bill of review, unless by clerical misprision anything has been inserted in the order. A decree by consent is binding, unless procured by fraud. No appeal or rehearing lies from a decree made by consent. An answer by consent can not be modified or varied in an essential part without the assent of both parties to such order. *Jones & Parker vs. Webb*, 8 S.C. 202 (1876).

IV. ARGUMENT

Claimant, in her Appellant's brief, did not address grounds for appeal #s2-5 that were attached to her Form 30. Defendants presume Claimant has abandoned these issues for appeal, per *McLean*, above, and will not be responding to them in this brief.

1. Consent Order:

A Consent Order, dated December 24, 2008, was entered into by the parties. In this Consent Order, the parties agreed that:

1. That the parties agree that Claimant sustained a January 17, 2008, compensable injury to her left wrist as a result of her employment with American Red Cross.
2. That the parties agree that Dr. Ugino shall be the authorized treating physician and shall address whether Claimant's alleged right wrist problems were caused by her work for Defendants.
3. That the parties agree that Dr. Ugino will also address Claimant's work status.
4. That the parties agree that, if Dr. Ugino writes Claimant out of work completely, she will be entitled to temporary total disability, to be paid prospectively from the date of Dr. Ugino's report.

{L0153361.1}

5. That Defendants reserved the right to offer light duty work.
6. That the parties agree to hold the issue of alleged arreared temporary total disability in abeyance.

Defendants' Exhibit B, pgs. 176-177.

On February 3, 2009, Defense counsel sent Claimant's former counsel a letter memorializing a telephone conference the prior day agreeing to transfer the treatment to Dr. McFadden from Dr. Ugino, because Dr. Ugino, after reviewing her medical records, refused to treat Claimant. (Defendants' Exhibit B, pg. 178).

An appointment was set with Dr. McFadden for March 2, 2009. Claimant appeared, but did not bring her MRI films, as Dr. McFadden's office had supposedly requested. Dr. McFadden refused to treat claimant again. Again, Claimant's former counsel and Defense counsel agreed to transfer Claimant's treatment to Dr. McIntosh. This agreement is evidenced by a letter from Claimant's former counsel to Defense counsel dated April 23, 2009. (Defendant's Exhibit B, pg. 179).

A letter signed by Dr. McIntosh and dated April 2009, indicated that he had been contacted to perform treatment on Claimant as of that point-in-time and he "could not make any comment on assumption of care until I have had the opportunity to see the patient and examiner her." (A.P.A. Submission #18, pg. 161). Claimant was ultimately seen by Dr. McIntosh on May 19, 2009. (A.P.A. Submission #10, pgs. 114-115).

It is obvious, upon a review of the Consent Order, that Claimant's former counsel and Defendant's counsel were working together to provide the treatment as outlined in the Consent

{L0153161.3}

Order. Claimant's counsel could have filed a Form 40 Motion or a Rule To Show Cause if he felt the Consent Order was not being obeyed. Nothing was filed by Claimant's counsel until the August 5, 2009, Form 50. By that time, Claimant had already treated with Dr. McIntosh.

It is clear that the situation did not arise to the level of an "emergency" as is required by S.C. Code §42-15-60.

2. Claimant's unilateral treatment seeking:

Obviously, despite there being a Consent Order naming an authorized physician, and despite correspondence between the attorneys regarding her treatment on this claim, Claimant sought treatment on her own. The records indicate that Claimant treated with Dr. Blake Moore, in Kingstree, SC, through July 30, 2009. (A.P.A. Submission #7).

In fact, the record shows that Claimant treated unauthorized with Dr. Moore on March 5, 2009, less than one month after the letter between the attorneys agreeing to transfer treatment to Dr. McFadden. (A.P.A. Submission #77).

Claimant was referred by Dr. Moore to Dr. Lisa Mancuso from April 2, 2009, through September 16, 2009. (A.P.A. Submission #8). Claimant treated with Dr. Mancuso on May 27, 2009. (*Id.* at pg. 83-97). This was only eight days after her treatment with Dr. McIntosh, who had recommended a BTE test. There is no indication in Dr. Mancuso's May 27, 2009, report that Claimant indicated to her that she had just treated with an upper extremity specialist.

Claimant also treated unauthorized with Dr. Andrew H. Rhea April 6, 2009. (A.P.A. Submission #9, pgs. 107-113).

Defense counsel was unaware of this unilateral and unauthorized treatment until her
{1.0153161.1}

deposition was taken on September 15, 2009. It is clear that Claimant chose to ignore the Consent Order and ignore the treatment provided by Defendants, rather choosing to treatment with whichever physician she chose in the State. It would be wholly unfair to require Defendants to pay for treatment that occurred without their knowledge and without their permission.

3. Claimant's overall treatment provided by Defendants:

Claimant's assertion, in her brief, that the only treatment provided by Defendants has been "five separate IMEs" is just untrue. The following is a list of the treatment Claimant has undergone:

1. Five sessions of physical therapy in February of 2008;
2. A second opinion with Dr. Michael S. Greene (it should be noted that this second opinion was recommended by Dr. Nichols on March 19, 2008). (A.P.A. #3, pgs. 25-26).
3. Treatment with Dr. James Walsh from October 29, 2008, through November 26, 2008. This treatment included an injection which Claimant reported gave her no relief. (A.P.A. Submission #4, pg.35).
4. An examination by Dr. James McIntosh and a subsequent BTE testing.

Defendants have complied with and provided all of the treatment requested by the authorized treating physicians.

V. CONCLUSION

Clearly, it was within the Hearing Commissioner's authority to decline to order Defendants to pay for unauthorized treatment that Claimant unilaterally sought and of which Defendants had no knowledge from the time the Consent Order was entered into On December 24, 2008, through her deposition on September 15, 2009. Again, during this time, Claimant could have filed a Form 40 or

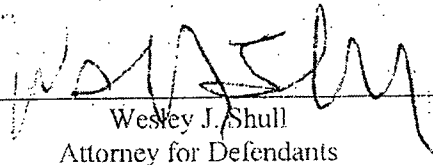
{L0153163.1}

Rule To Show Cause had she felt the treatment as agreed to under the Consent Order was not being provided.

For the reasons outlined above, the Hearing Commissioner's order, with respect to the Defendant's responsibility for Claimant's unauthorized medical treatment, should be affirmed.

Respectfully Submitted,

Gilbert & Shull, LLC



Wesley J. Shull
Attorney for Defendants

March 22, 2010

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675



WCC File #: 0000000
Carrier File #: 1167461
Carrier Code #:
Employer FEIN #:

Claimant's Name: Cindy Dozier SSN: Employer's Name: American Red Cross
Address: Address: 2751 Bull Street
City: State: Zip: City: Columbia State: SC Zip: 29201
Home Phone: (803) 316-6533 Work Phone: () Insurance Carrier: Old Republic Insurance Co.
Preparer's Name: Stephen Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779-4000

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ claimant ☐ employer (check one) Date of injury: 1/17/2008 (m/d/yyyy)

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

See Attachment.

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

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Wesley J. Shull, Esquire

Name

Gilbert and Shull, 880 S. Pleasantburg Drive, Suite 3-G, Greenville, South Carolina 29607.

Address

on the 30 day of December, 2009 by ☒ first class mail ☐ personal service ☐ certified mail.

[Signature]
Preparer's Signature

Attorney at Law
Title

12/30/09
Date

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

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

WCC Form # 30
Rev. 3/97

30

REQUEST FOR COMMISSION REVIEW

ATTACHMENT TO FORM 30 (AMENDED)

Cindy Dozier v. American Red Cross and Old Republic Insurance Company
WCC FILE: 0800660

Grounds of Appeal:

1. Whether the Single Commissioner erred as a matter of fact and law in failing to order past causally related medical treatment to be paid by the Carrier pursuant to § 42-15-60?
2. Whether the Single Commissioner erred as a matter of fact and law in allowing Defendants to designate a treating physician when good cause existed to designate Dr. Moore or one of the other treating physicians, such good cause being shown by Defendants wilful failure to provide treatment through the agreed upon authorized treating physician and the fact Defendants obtained *five* IME's?
3. Whether the Single Commissioner erred as a matter of law in failing to assess the mandatory 25% penalty for improper termination of temporary compensation?
4. Whether the Single Commissioner erred as a matter of fact and law in failing to find Claimant injured her neck/back when such finding was supported by the opinions of the treating physicians?
5. Whether the Single Commissioner erred as a matter of fact and law in failing to exclude the report of Dr. Bethea?

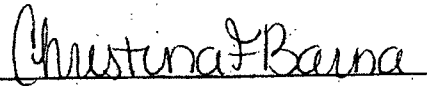
SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
P.O. BOX 50349
COLUMBIA, SC 29250
(803) 779-4000 ♦ FAX (803) 779-4004

CERTIFICATE OF SERVICE

This is to certify that I, Christina F. Barna, legal assistant to attorney Stephen B. Samuels, have served a copy of the following described document by mailing a copy of same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

Document served: **FORM 30 (REQUEST FOR COMMISSION REVIEW)**

Person served: Wesley J. Shull, Esquire
Gilbert & Shull
880 South Pleasantburg Drive, Suite 3-G
Post Office Box 5366
Greenville, South Carolina 29607


Christina F. Barna
Legal Assistant

Dated: 1/4/10

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675



WCC File #: 0800660
Carrier File #: 1167461
Carrier Code #:
Employer FEIN #:

Claimant's Name: Cindy Dozier SSN: [REDACTED] Employer's Name: American National Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: _____ Work Phone: _____ Insurance Carrier: Sedgwick CMS
Preparer's Name: Wesley J. Shull Law Firm: Willson Jones Carter & Baxley, P.A. Preparer's Phone #: (864) 272-2660

The date of injury reported on Form 12A is: 1/17/2008 (m/d/yyyy)

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

☒ **Stop payment of compensation.** Claimant has reached maximum medical improvement and Claimant continues to receive temporary compensation payments. The employer's representative requests a hearing pursuant to § 42-9-260(D) to stop payment of temporary compensation. A hearing requested pursuant to this section must be held within sixty days of the date of the request.

Claimant reached maximum medical improvement on 05/23/2011 (m/d/yyyy) (copy of medical report must be attached).
Compensation payments are current as of 9/2/2011 (m/d/yyyy) and shall continue until otherwise ordered or until Form 17 is signed by the claimant.
A Form 17 was offered and refused on 9/2/2011 (m/d/yyyy).

II. ☐ **Address suspension, termination, or reduction of temporary disability payments for any cause.**

☐ a. At any time pursuant to § 42-9-260(E).

☐ b. After the one-hundred-fifty day period has expired pursuant to § 42-9-260(F), R.67-505 and R.67-506.

The basis for the termination/ suspension is _____

III. ☒ **Determine if compensation is due** pursuant to § 42-9-10, § 42-9-20 or § 42-9-30 and, if so, in what amount, based on the following grounds:
To be determined by Hearing Commissioner.

Claimant reached maximum medical improvement on _____ (m/d/yyyy) (copy of medical report must be attached).

IV. ☒ **Request Credit for Overpayment of temporary compensation pursuant to § 42-9-210.**

V. ☐ **Determine amount of compensation for claims involving a fatality.** (Dependency investigation must be attached).

☐ a. Payment of unpaid balance of compensation when employee dies pursuant to § 42-9-280.

☐ b. Amount of compensation for death of employee due to accident pursuant to § 42-9-290.

A hearing requested pursuant to this section will be set on an expedited basis.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Stephen B. Samuels, Esquire,
1527 Blanding Street, P.O. Box 50349, Columbia, SC 29250; and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715.

6th day of September, 2011 by X first class postage, _____ certified mail, _____ personal service.

Wesley J. Shull
Preparer's Signature
Wesley J. Shull
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

Attorney for Defendants
Title

September 6, 2011
Date

- A \$ 25.00 filing fee and updated Form 18 must be included with an employer's request for a hearing.
- An employer requesting a hearing must include certification that the request has been served on all parties in compliance with R.67-211.

Questions about the use of this form should be directed to the Judicial Department at 803-737-5675, or visit us online at www.wcc.sc.gov.

WCC Form # 21
Revised 04/18/2011

21

Employer's Request for Hearing



PRE-HEARING BRIEF
WCC File No: 0800660

Claimant's Name: Cindy Dozier Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29230
Home Phone: [REDACTED] Work Phone: [REDACTED] Carrier: Sedgwick CMS
Preparer's Name: Wesley J. Shull, Attorney for Defendants Preparer's Phone #: (864) 272-2660

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$366.07 2. AWW: \$549.08 Date of Injury: January 17, 2008
3. Type of injury and body part(s): Bilateral wrists (CTS).
4. Facts in controversy: Claimant sustained injury to her bilateral wrists on January 17, 2008. This claim was originally admitted by Defendants as a left wrist injury, only. A December 28, 2008, Consent Order was entered reflecting this. On November 3, 2009, a Hearing was held. At this hearing, Defendants argued that Claimant was at MMI, and sought to pay permanent total disability to the left wrist. At this hearing, Claimant denied that she was at MMI, and sought a finding of compensability to her neck, back, both arms and also sought further treatment for these body parts. The Hearing Commissioner issued a December 17, 2009, order finding that Claimant had not reached MMI, had sustained injury to both arms, and was entitled to further medical treatment. Defendants initiated treatment with Dr. Zglesweski, Claimant's IME doctor. Dr. Zgleswski referred Claimant to Dr. Shealy for bilateral Carpal Tunnel release surgeries, which he performed on 1/11/2011, (left) and 3/3/2011, (right). Dr. Shealy placed Claimant at MMI on May 23, 2011, rendering 5% impairment to each upper extremity, and stated "At her request, she is provided with permanent restriction of 5 pounds." Dr. Shealy was deposed on August 26, 2011, and testified that the only reason he rendered 5-pound lifting restriction was because Claimant specifically asked for them and he otherwise would have released her to full duty. Dr. Zglesweski completed a Form 14B on August 31, 2011, and rendered 5% impairment to both arms, stated that she would need ongoing pain management, and that she could not return to work at her current employment.
5. Legal issues involved: See No. 4. Also: 1) Pursuant to §42-9-260, defendants are entitled to stop payment of temporary total disability as of May 26, 2011, the date of MMI; 2) defendants are entitled to a credit for overpayment of temporary total disability after the date of MMI (42-9-201); (3) How much permanent partial disability to both arms Claimant is entitled.
6. Unusual aspects: None anticipated.
7. Witnesses (designate if expert):* Employer Representative
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant; report of vocational evaluator James Myers.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Gerald J. Shealy, MUSC Orthopadics.
11. Impairment rating(s); body part(s); physician and date of opinion: 5% to each arm, Dr. Gerald Shealy, May 23, 2011.
12. I am amending my Form 50/51 in the following manner: N/A.

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

Signature: Wesley J. Shull
Wesley J. Shull, Willson Jones Carter & Baxley, P.A.

Email: wjshull@wjlaw.net

Date of hearing: October 13, 2011
On behalf of ☐ Claimant ☒ Employer

Time needed for hearing: 45 minutes

I certify that I have served this document pursuant to R.67-212 by delivering a copy to STEPHEN B. SAMUELS, Esquire,
Name
1527 Blanding Street, P.O. Box 50349, Columbia, SC 29250; and The Honorable T. Scott Beck, SC WCC, P.O. Box 1715,
Columbia, SC 29202-1715
Address

on the 28th day of September, 2011 by ☐ first class mail; ☐ personal service; ☐ certified mail.

Trudy R. Sharpless
Certifier

September 28, 2011
Date

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

WCC Form # 58
Rev. 9/07

58

PRE-HEARING BRIEF

South Carolina Workers' Compensation Commission

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

WCC File # 0800660

Carrier File # 1167461

Carrier Code #

Employer FEIN

Cindy Dozier		American Red Cross	
Claimant's Name	SSN	Employer's Name	
Address		2751 Bull Street, Columbia, SC 29230	
City	State	City	State
Zip		Zip	
Home Phone		Sedgwick CMS	
Wesley J. Shull		Insurance Carrier	
Preparer's Name	872 S. Pleasantburg Drive, Greenville, SC 29607	(864) 272-2660	
Address		Phone #	

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
STEPHEN B. SAMUELS, ESQUIRE, ATTORNEY FOR CLAIMANT

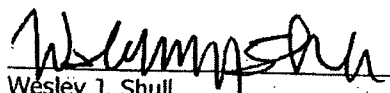
YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
1. MUSC - Gerald J. Shealy, M.D.	12/02/10 - 08/25/11	1 - 12
2. Transcript Testimony of Gerald J. Shealy, M.D.	08/26/11	13 - 20
3. Physicians Imaging Center	12/03/10	21 - 22
4. FirstChoice Healthcare, P.C.	05/22/09	23 - 27
5. Carolina Hand Therapy, Inc.	01/24/11 - 05/23/11	28 - 33
6. Palmetto Spine & Sports Medicine, P.A. - Timothy M. Zgleszewski, M.D.	09/08/09 - 08/31/11	34 - 88
Exhibits		
A. James Myers Vocational Evaluation	09/26/11	A1 - A14

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.


Wesley J. Shull
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

September 28, 2011

October 13, 2011
(hearing date)

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



WCC File #: 0800660
or File #: 1167461
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Cindy Dozier SSN: [REDACTED] Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: (803) 316-6533 Work Phone: () - Insurance Carrier: Old Republic Insurance Co.
Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779-4000

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: 1/17/08

☒ Injury ☐ Illness ☒ Repetitive Trauma

1a. The claimant sustained an injury to both arms, central nervous system (Part(s) of Body Injured) On 1/17/08 (Month/Day/Year) in Richland county, state of SC.
1b. Body part(s) affected are: right arm, left arm, central nervous system.

Briefly describe how the accident occurred. Lifting 80 pound blood kit

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

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

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

5. Notice of the accidental injury was given to the Employer on 1/18/08 (Month/Day/Year) in the following manner:

Reported injury to Audrey Long Wright.

☒ 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: ongoing pain management and medication

☐ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
TTD benefits are current

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

☒ (1) General Disability:

☒ Total

☐ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

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

10a. At the time of the injury, the Claimant was paid weekly wages of \$632.95, and demands accounting of days worked and wages earned as provided by law.

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

11a. Further grounds or unusual aspects of claim:

Claimant requests lump sum award and lifetime proration per James.

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:
See Attachment to Form 50 Hearing Request.

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

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

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

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

14. Estimated time needed for hearing: 60 minutes

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

Preparer's Signature

Stephen B. Samuels
Attorney at Law
Title

Stephen@SamuelsLawFirm.net
Email

October 17, 2011
Date

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

WCC Form # 50
Revised 9/07

50

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

SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
P.O. BOX 50349
COLUMBIA, SC 29250
(803) 779-4000 ♦ FAX (803) 779-4004

ATTACHMENT TO FORM 50 REQUEST FOR HEARING

Cindy Dozier v. American Red Cross

W.C.C. File Number: 0800660

11b.

Carolina Occupational Healthcare
1715 Blanding Street
Columbia, South Carolina 29201

Camden Bone & Joint, LLC
1112 Mill Street
Camden, South Carolina 29020

Midlands Orthopaedics, PA
1910 Blanding Street
Columbia, South Carolina 29201

Sumter Orthopaedic Associates
100 North Sumter Street #200
Sumter, South Carolina 29150

Kingstree Surgical Associates
135 North Academy Street
Kingstree, South Carolina 29556

First Choice Healthcare, PC
1920 2nd Loop Road #C
Florence, South Carolina 29501

Florence Neurosurgery and Spine
1204 East Cheves Street
Florence, South Carolina 29506

University Specialty Clinics - Ortho Surgery
Two Medical Park, Suite 404
Columbia, South Carolina 29203

Hand Surgery Associates
1498 Freedom Boulevard
Florence, South Carolina 29505

Lexington Orthopaedics
146 North Hospital Drive, Ste. 140
West Columbia, South Carolina 29169

Carolina Physical Therapy and Sports Med.
115 Atrium Way, Suite 232
Columbia, South Carolina 29223

Palmetto Spine & Sports Medicine
3 Southern Court, Ste. B
West Columbia, South Carolina 29169

Lowcountry Orthopaedic Associates
2880 Tricom Street
North Charleston, South Carolina 29406

MUSC - Orthopaedics
900 Bowman Road, Suite 300
Mt. Pleasant, South Carolina 29464

Sumter Physical Therapy Clinic
1185 Wilson Hall Road
Sumter, South Carolina 29150

South Carolina Workers' Compensation Commission

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

WCC File # 0800660

Carrier File # 1167461

Carrier Code #

Employer FEIN

Cindy Dozier

Claimant's Name

SSN

American Red Cross

Employer's Name

2751 Bull Street, Columbia, SC 29230

Address

City

State

Zip

Address

City

State

Zip

Home Phone

Work Phone

Wesley J. Shull

Sedgwick CMS

Insurance Carrier

(864) 272-2660

Preparer's Name

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 only injury to the bilateral wrists. All other alleged injuries are denied.
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 \$ 632.95 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 Stephen B. Samuels, Esquire,

Name

1527 Blanding Street, P.O. Box 50349, Columbia, SC 29250 and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202

Address

on the 15th day of November, 2011 by ☒ first class mail; ☐ personal service; ☐ certified mail.

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


Preparer's Signature, Attorney for Defendants
Kira Hill, CertifierNovember 15, 2011
Date

Wesley J. Shull
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

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.



Claimant's Name: Cindy Dozier Employer's Name: American National Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29201
Home Phone: [REDACTED] Work Phone: () Carrier: Cambridge Integrated Services
Preparer's Name: Stephen B. Samuels Preparer's Phone #: (803) 779-4000

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

☒ Injury ☐ Illness ☒ Repetitive Trauma

1. Compensation Rate: \$421.99 2. AWW: \$632.95 Date of Injury: January 17, 2008
3. Type of injury and body part(s): Left arm; right arm; central nervous system (CRPS/RSD)
4. Facts in controversy: See Attachment to Pre-Hearing Brief (WCC Form #58)
5. Legal issues involved: § 42-9-10 (Permanent and Total Disability); § 42-15-60 (medical treatment); § 42-9-301 (lump sum award); James v. Anne's Inc., 390 S.C. 188, 701 S.E.2d 730 (2010) (lifetime proration of lump sum award).
6. Unusual aspects:
7. Witnesses (designate if expert):* Cindy Dozier
8. Exhibits: Job description; Letter of termination; work restrictions.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
Please see attached Notice of Witnesses and Written Reports of Physicians to be Introduced on Behalf of Claimant.
10. Name, address, and specialty, if any, of the treating physician: Timothy Zgleszewski, MD; Palmetto Spine & Sports Medicine, 3 Southern Court, W. Columbia, SC 29169 (Pain Management & Physiatry); Gerald J. Shealy, MD; MUSC Orthopaedics, Charleston, SC (orthopaedic hand surgery).
11. Impairment rating(s); body part(s); physician and date of opinion: See Attachment to Pre-Hearing Brief (WCC Form #58).
12. I am amending my Form 50/51 in the following manner:

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

Signature: [Signature]

Email: stephen@samuelslawfirm.net

Date of hearing: February 6, 2012

Time needed for hearing: 60 minutes

On behalf of ☒ Claimant ☐ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

ATTACHMENT TO PRE-HEARING BRIEF (WCC FORM #58)

Claimant: Cindy Dozier
WCC File No.: 0800660

Procedural History and Summary of Evidence.

This hearing is set on a Form 50. Defendants had previously filed a Form 21, but this was withdrawn. The issues to be decided are the extent of disability (paid in a lump sum with James allocation) and future medical treatment.

Claimant, Cindy Dozier, suffers from bilateral Carpal Tunnel Syndrome and Complex Regional Pain Syndrome from a January 17, 2008 work related accident. Her authorized treating physician, Dr. Zgleszewski, has written her out of work permanently due to the CRPS. She receives ongoing treatment from Dr. Zgleszewski.

Factual Background and Summary of the Evidence.

Cindy Dozier, is 41 years old. She has been married to Lionel Dozier for 9 years. She has four children dependant on her for support. She is a high school graduate with training in phlebotomy and as a CNA. She worked as a CNA for 18 years before becoming a phlebotomist. Dozier went to work as a phlebotomist for the Red Cross on January 17, 2006.

Dozier injured both arms in a lifting accident on January 17, 2008. She developed bilateral carpal tunnel syndrome (CTS) and complex regional pain syndrome (CRPS/RSD).

Dozier was out of work due to her injuries from March 29, 2008 through May 9, 2008, during which time she was paid temporary total disability compensation. She went back to work on light duty on May 10, 2008. Dozier continued working on light duty until September 8, 2008 when the Red Cross sent her home.

Subsequently, the Red Cross wrote a letter terminating Dozier because she had been out on Workers' Compensation Leave of Absence indefinitely since September 8, 2008. You have remained on a Workers' Compensation Leave of Absence for an indefinite period since you were unable to return to work following the expiration of your FMLA leave. This indefinite leave was above and beyond any benefit that you were entitled under any applicable law or Red Cross policy. [APA p. 147].

Over the next year various issues arose over Dozier's medical treatment.

Defendants sent Dozier for five (5) IME's¹, but no treatment had been provided. Dozier treated extensively at her own expense.

A hearing was held before Commissioner Huffstetler on November 9, 2009. Commissioner Huffstetler found Dozier was not at MMI; that she suffered compensable injuries to both arms; and that she was entitled to ongoing TTD and medical treatment.

Defendants selected Dr. Timothy Zgleszewski as the authorized treating physician to treat her CRPS/RSD. Treatment began on January 26, 2010. Dozier received physical therapy and stellate ganglion blocks with little relief.

Dr. Zgleszewski also gave her three injections for the CTS. As the injections were not successful, he referred Dozier to Dr. Gerald Shealy for CTS surgery.

Dr. Shealy treated her from December 2, 2010 through May 23, 2011. He performed surgical decompression of the median nerve in both the right and left carpal tunnel. He released her at MMI (for the CTS only) on May 23, 2011. He assigned 5% impairment ratings to both hands along with "a permanent restriction of 5 pounds." No further treatment for the CTS was recommended.

Dr. Zgleszewski placed Dozier at MMI on August 9, 2011. On a Form 14B, he assigned 5% impairment ratings to the left and right upper extremities along with a 12% impairment to the central nervous system for the CRPS/RSD. He recommended additional pain management including the option of a trial spinal cord stimulator. Dr. Zgleszewski checked, "The claimant is **unable to return to work** at his or her current employment."

On October 3, 2011, Dr. Zgleszewski explained further that Dozier was limited to no more than occasional use of her hands. He concurred with Dr. Shealy's 5-pound lifting restriction.

¹Defendants scheduled the following five IME's, all of which Claimant attended:

1. Michael S. Green, MD – April 28, 2008
2. Stewart Haskin, MD – July 9, 2008
3. Earl B. McFadden, MD – January 20, 2009
4. James C. McIntosh, MD – May 18, 2009
5. James F. Bethea, MD – October 23, 2009

4. Facts in controversy:

A. MMI.

The authorized treating physician, Dr. Zgleszewski, opined Dozier reached MMI on August 9, 2011.

B. Extent of Disability.

The evidence shows Dozier is permanently and totally disabled as a result of her 2008 injury. By previous Order, she injured both arms. Dr. Zgleszewski opined her CRPS/RSD is an injury to the central nervous system for which he assigned a 12% impairment rating. As such, Singleton and Wigfall do not apply to limit her recovery.

Dozier is totally disabled under § 42-9-10.

Dr. Zgleszewski has opined Dozier cannot return to work as a phlebotomist. Both he and Dr. Shealy assigned a permanent 5-pound lifting restriction. Dr. Zgleszewski further stated "she is unable to use either upper extremity on a repetitive basis secondary to her CRPS and chronic pain from her failed CTS release surgery." He added "in my medical opinion from a medical standpoint, Ms. Dozier cannot perform even at a sedentary position if the job requires anything greater than less than occasional use of her arms given the diagnoses she has of CRPS and CTS."

The medical evidence shows Dozier is unable to perform services other than those that are "so limited in quality, dependability, or quantity that a reasonable stable market for them does not exist." See, e.g. Wynn v. Peoples Natural Gas Co., 238 S.C. 1, 118 S.E.2d 812 (1961).

Our supreme court laid down the essential premise nearly fifty years ago: "Total disability" in compensation law is not to be interpreted literally as utter and abject helplessness. Evidence that claimant has been able to earn occasional wages or perform certain kinds of gainful work does not necessarily rule out a finding of total disability nor require that it be reduced to partial. * * * "An employee who is so injured that he can perform no services other than those which are so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist, may well be classified as totally disabled." Colvin v. E.I. DuPont De Nemours Co., 227 S.C. 465, 88 S.E.2d 581 (1955).

The medical evidence is confirmed by the expert vocational evidence. Dozier has been evaluated by 4 vocational consultants – two before the hearing in 2009 and two just

before this hearing.

Vocational Expert Glen Adams opined Dozier is totally vocationally disabled based on her work restrictions and lack of transferable skills. He conducted a labor market survey which revealed there were no jobs within a 50-mile radius which Dozier could perform. He concluded:

The results revealed no meaningful transferable occupations for which she qualifies. Mrs. Dozier's residual access to the labor market is defined by any remaining employment classified as "unskilled" and "sedentary" or modified "light" with a 5-pound lifting restriction and no repetitive use of the upper extremities. Based on these parameters, a labor market survey was conducted. Approximately 500 jobs were reviewed in the South Carolina Employment Security Commission database. No jobs were located in Mrs. Dozier's labor market for which she qualifies. Based on this analysis, Mrs. Dozier's access to the competitive labor market has been eliminated. Any remaining employment in her local or national economy is so limited in quantity, quality and dependability that she is considered to be **totally and permanently vocationally disabled** as a result of her bilateral carpal tunnel syndrome and complex regional pain syndrome stemming from her work as a phlebotomist at the American Red Cross. (Emphasis in original).

Adams' report is consistent with a vocational report done in October 2009 by Dr. Robert Brabham. Dr. Brabham opined: "Her limitations on nearly any use of her hands are such that even any sedentary work which might otherwise have been suggested is precluded."

Defendants obtained vocational reports from Harriet Wilkinson in 2009 and James Myers in 2011. Wilkinson's report was not submitted by Defendants for the previously scheduled hearing, although it mirrors that of Myers in many respects.

Wilkinson came up with a list of 7 jobs she thought Dozier was capable of performing at that time. This was based on Dozier's restrictions at the time – 11 pound lifting restrictions – which were higher than the 5-pound restrictions she is currently under. Of the 7 jobs (actually 6; one of the jobs was listed twice), Wilkinson admitted that Dozier did not have the skills or experience to be hired in any of those jobs. She also testified, "I've seen more people not return to work who have RSD than I have people return to work, but I have seen people with RSD that have returned to work." [APA page, lines 3-6].

Defendants submitted a vocational evaluation by James Myers. Myers' opinions should be given no weight for several reasons. First off, Myers is an employee of CorVel Corporation. CorVel provides vocational evaluation *exclusively* to employers and insurance

companies under the rubric of "cost-saving measures." As such, Myers is patently biased. See Yoho v. Thompson, 345 S.C. 361, 548 S.E.2d 584 (2001)(evidence that expert consulted extensively for insurance companies is "qualitatively different from showing [expert] works for 'the defense' generally, and is much more indicative of possible bias in favor of the defendant.").

Secondly, Myers completely omits the diagnosis of CRPS/RSD from his report – including omitting Dr. Zgleszewski's restrictions. His evaluation assumes that Dozier's injury is limited to CTS. The CRPS/RSD is a far more disabling condition than CTS. As Myers' opinion is based on a critical misstatement of fact, it is essentially useless. See Young v. Tide Craft, 270 S.C. 453, 468, 242 S.E.2d 671, 678 (1978) ("It is, of course, elementary that the factual or underlying basis for the expert's opinion be set out, otherwise the opinion lacks probative value.").

Thirdly, Glenn Adams conducted a peer review to double check the list of jobs supplied by Myers. None were within Dozier's restrictions according to the DOT job descriptions.

The evidence overwhelming supports a finding of permanent and total disability.

C. Additional Medical Treatment.

Dozier requires ongoing treatment with Dr. Zgleszewski, specifically including pain management and medication. She will require additional surgery in the future to implant a spinal cord stimulator if her medication regime does not provide adequate pain control.

D. Entitlement to lump sum disability award and lifetime proration per *James*.

Dozier has applied for Social Security Disability. She would suffer a greater offset of her Social Security Disability benefits if she receives her award weekly for 500 weeks than if she receives a single lump sum payment allocated over her life expectancy. As such it is in the best interests of the Claimant to receive a lump sum because it would minimize the Social Security offset; and there is no evidence in the record that payment in a lump sum would create a hardship on the Employer/Carrier. Pursuant to James v. Anne's Inc., 390 S.C. 188, 701 S.E.2d 730 (2010), the Commission has the authority to prorate a lump sum award over a claimant's life expectancy using the life expectancy table provided by South Carolina law at Section 19-1-150.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Cindy Ella Dozier,)
WCC FILE NO. 0800660

Claimant,

-vs-

American Red Cross,

Employer,

and

Old Republic Insurance Company,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN REPORTS OF PHYSICIANS
TO BE INTRODUCED ON BEHALF OF
THE CLAIMANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND WESLEY M.
SHULL, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

YOU ARE NOTIFIED that the Claimant, pursuant to the provisions of the South Carolina
Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws, submits the
following medical records and other documents as evidence:

APA	MEDICAL PROVIDER	DATES	PAGES
1.	Kingstree Surgical Associates	8/15/08-7/30/09	1 - 40
2.	Gerald J. Shealy, M.D. Medical University of South Carolina	12/02/10 - 05/23/11	41 - 99
3.	Florence Neurosurgery and Spine	4/6/09	100 - 106
4.	Lisa Mancuso, M.D., George Bitting, M.D. First Choice Healthcare	04/06/09 - 09/16/09	107 - 108

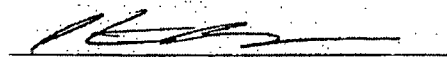
5.	Physicians Imaging Center	12/03/10	109 - 110
6.	Timothy Zgleszewski, M.D. Palmetto Spine & Sports Medicine	09/08/09 - 10/03/11	111 - 205
7.	Robert E. Brabham, Ph.D. Psychological and Training Services, P.A.	10/28/09	206 - 213
8.	Glen K. Adams, MRC, CRC, CEES Adams & Wilkinson - Vocational Assessment	10/03/11	214 - 229
9.	Glen K. Adams, MRC, CRC, CEES Adams & Wilkinson - Peer Review	10/03/11	230 - 239

	EXHIBITS	DATES	PAGES
A.	Deposition of Harriet Wilkinson	10/29/09	240 - 271
B.	Wal-Mart People Greeter Job Description	not dated	272 - 273
C.	Printout from CorVel Website	not dated	274 - 279

NOTICE IS GIVEN of the right to cross-examination, and, should you desire to exercise said right, you are to immediately schedule the deposition of any of the physicians or other persons, whose reports are submitted for the purposes of cross-examination.

NOTICE IS ALSO GIVEN that the following witnesses may be called on behalf of the Claimant: Cindy Ella Dozier.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250
(803) 779-4000

Columbia, South Carolina
January 20, 2012



Claimant's Name: Cindy Dozier Employer's Name: American Red Cross
Address: [REDACTED] Address: 2751 Bull Street
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Columbia State: SC Zip: 29230
Home Phone: [REDACTED] Work Phone: [REDACTED] Carrier: Sedgwick CMS
Preparer's Name: Wesley J. Shull, Attorney for Defendants Preparer's Phone #: (864) 272-2660

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

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$366.07 2. AWW: \$549.08 Date of Injury: January 17, 2008
3. Type of injury and body part(s): Bilateral wrists (CTS).
4. Facts in controversy: Claimant sustained injury to her bilateral wrists on January 17, 2008.

Procedural Background: Claimant is 42-years-old and was employed by Defendants as a phlebotomist. This claim was originally admitted by Defendants as a left wrist injury, only. A December 28, 2008, Consent Order was entered reflecting this. On November 3, 2009, a Hearing was held. At this hearing, Defendants argued that Claimant was at MMI, and sought to pay permanent partial disability to the left wrist. At this hearing, Claimant denied that she was at MMI, and sought a finding of compensability to her neck, back, both arms CRPS/RSD, sought to have Dr. Blake Moore name as the treating physician, and also sought further treatment for these body parts. Pursuant to this hearing, Commissioner David Huffstetler issued a December 17, 2009, order finding that Claimant had not reached MMI, had sustained injury to both arms, and was entitled to further medical treatment.

Medical Treatment: Prior to the December 17, 2009, Order, Claimant sought unauthorized treatment with Dr. Blake Moore on her own, despite the fact that treatment had been offered by Defendants. Dr. Moore referred her to First Choice Healthcare (Dr. Mancuso and Dr. Bitting) for evaluation for CRPS/RSD. Dr. Mancuso treated Claimant on January 26, 2009, and concluded that Claimant did not have CRPS/RSD. Claimant continued treatment through First Choice Healthcare with Dr. George Bitting. Dr. Bitting's deposition was taken on January 17, 2012. Dr. Bitting testified that Claimant did not have CRPS and that, if she was later diagnosed with CRPS/RSD after his treatment of her ended in August of 2009, it would not be related to her January 17, 2008, injury while working for Defendants.

Prior to the November 3, 2009, hearing, Claimant was sent to Dr. Zglewewski for an independent medical evaluation. Dr. Zglewewski saw Claimant on September 8, 2009, at Claimant's attorney's behest. On this date, Dr. Zglewewski diagnosed Claimant with cervical myofascial pain and carpal tunnel syndrome (CRPS/RSD was not mentioned in this report). Based on this report, Defendants agreed to initiate treatment with Dr. Zgleswewski, since they were ordered to provide additional treatment by Commissioner Huffstetler. Dr. Zglewewski performed a series of three stellate ganglion blocks for Claimant's alleged CRPS/RSD. These blocks did not provide Claimant any long-standing relief, and Dr. Zglewewski decided against performing another series for this reason.

Dr. Zglewewski referred Claimant to Dr. Shealy for bilateral Carpal Tunnel release surgeries, which he performed on 1/11/2011, (left) and 3/3/2011, (right). Dr. Shealy placed Claimant at MMI on May 23, 2011, rendering 5% impairment to each upper extremity, and stated "At her request, she is provided with permanent restriction of 5 pounds." Dr. Shealy was deposed on August 26, 2011, and testified that the only reason he rendered 5-pound lifting restrictions was because Claimant specifically asked for them and he otherwise would have released her to full duty.

Dr. Zgleswewski completed a Form 14B on August 31, 2011, and rendered 5% impairment to both arms, 12% to her "central nervous system," and stated that she would need ongoing pain management; and that she could not return to work at her current employment. On October 3, 2011, Dr. Zglewewski responded to an email sent to him by Claimant's attorney and indicated that he was adding additional work restrictions for her alleged CRPS/RSD of no repetitive use of the hands and stated that she had 6% to the whole person for each hand, or 12% to the total whole person, for her CRPS/RSD. Dr. Zglewewski's deposition was taken by Claimant's counsel on January 17, 2012. In his deposition, Dr. Zglewewski admitted that Claimant did not qualify for a diagnosis for CRPS/RSD under the requirements of the AMA Guidelines 5th Edition, that he thought Dr. Shealy's work restrictions for her CTS release surgeries were reasonable, that Claimant's ratings that he rendered her in his October 3, 2011, response to Claimant's counsel's email could be converted to 15% to each upper extremity under the AMA Guides 5th Edition, that the only objective signs of CRPS/RSD that Claimant exhibited the entire length of his treatment was edema (swelling), dry skin, and that he interpreted the bone scan as being positive (the AMA Guides 5th Edition requires 8 positive signs out of 11, rather than just 3).

Issues: The following are the issues to be determined:

- 1) Does Claimant suffer from CRPS/RSD?
- 2) How much permanent partial disability to both arms has Claimant sustained?
- 3) Future medical treatment?

5. Legal issues involved: See No. 4. Also: 1) Pursuant to §42-9-260, defendants are entitled to stop payment of temporary total

disability as of May 26, 2011, the date of MMI; 2) defendants are entitled to a credit for overpayment of temporary total disability after the date of MMI (42-9-201); (3) How much permanent partial disability to both arms Claimant is entitled. (4) Does res judicata Apply to Claimant's claim for injuries to her neck and for compensable CRPS/RSD injury, since a finding of compensability for these alleged injuries was sought by her on the record at the November 3, 2009, hearing, and Commissioner Huffstetler's December 17, 2009, order finds only an injury to both arms.

6. Unusual aspects: None anticipated.
7. Witnesses (designate if expert):* Employer Representative
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant; report of vocational evaluator James Myers; Deposition transcripts of Dr. Bitting's and Dr. Zgleweszki's depositions.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Dr. Gerald J. Shealy, MUSC Orthopadics.
11. Impairment rating(s); body part(s); physician and date of opinion: 5% to each arm, Dr. Gerald Shealy, May 23, 2011; 15% to each arm (10% additional due to Claimant's alleged CRPS/RSD), Dr. Timothy Zgleweszki, January 17, 2012, deposition.
12. I am amending my Form 50/51 in the following manner: N/A.

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

Signature: Wesley J. Shull
Wesley J. Shull, Willson Jones Carter & Baxley, P.A.

Email: wjshull@wjlaw.net

Date of hearing: February 6, 2012

Time needed for hearing: 45 minutes

On behalf of ☐ Claimant ☒ Employer

I certify that I have served this document pursuant to R.67-212 by delivering a copy to STEPHEN B. SAMUELS, Esquire,

Name

1527 Blanding Street, P.O. Box 50349, Columbia, SC 29250; and The Honorable Gene McCaskill, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715

Address:

on the 27th day of January, 2012 by ☐ first class mail; ☐ personal service; ☐ certified mail.

Certifier

January 27, 2012

Date

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58

Rev. 9/07

58

PRE-HEARING BRIEF

South Carolina Workers' Compensation Commission

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

WCC File # 0800660

Carrier File # 1167461

Carrier Code #

Employer FEIN

Cindy Dozier		American Red Cross.	
Claimant's Name	SSN	Employer's Name	
2751 Bull Street, Columbia, SC 29230		Address	City State Zip
Sedgwick CMS		Insurance Carrier	
Home Phone	Work Phone	(864) 272-2660	
Wesley J. Shull	872 S. Pleasantburg Drive, Greenville, SC 29607	Preparer's Name	Address Phone #

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
STEPHEN B. SAMUELS, ESQUIRE, ATTORNEY FOR CLAIMANT

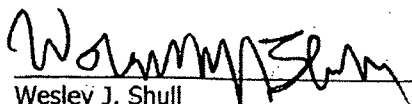
YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
1. Robert Alexander, MD	12/8/2010	1-2
2. Carolina Hand Therapy, Inc.	01/24/11 - 05/23/11	3-8
3. FirstChoice Healthcare, P.C.	01/26/09-12/02/10	9-53
4. Michael Mease, MD and Timothy Pannell, MD	02/3/09-02/04/09	54-55
Exhibits		
A. Transcript Testimony of Gerald J. Shealy, M.D.	08/26/11	56-60
B. James Myers Vocational Evaluation	09/26/11	61-74
C. AMA Guides 5 th Edition re Complex Regional Pain Syndromes, p. 495-497		75-77
To be submitted: deposition transcript of Dr. George Bitting (1/17/12) and deposition transcript of Dr. Timothy Zgleszewski (1/24/12)		

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

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

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.


Wesley J. Shull
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

January 27, 2012

February 6, 2012
(hearing date)

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 0800660

Cindy Dozier,)
)
Claimant,)
)
v.)
)
American Red Cross,)
)
Employer,)
)
and)
)
Cambridge Integrated Services,)
Inc.,)
)
Carrier/Defendants.)
-----)

DEPOSITION OF
HARRIET WILKINSON, M.Ed., CRC

Thursday, October 29, 2009
9:25 a.m. - 10:06 a.m.

The deposition of HARRIET WILKINSON, M.Ed., CRC, taken on behalf of the Defendants at the Samuels Law Firm, LLC, 1527 Blanding Street, Columbia, South Carolina, on the 29th day of October, 2009 before Andrea R. Taylor, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Oh, from the bottom. Oh, she may not return to
2 work -- oh, okay, I see that. Well --

3 Q: So would you agree that if Dr. Zgleszewski is
4 correct and his recommendations are correct
5 that she should not return in his medical
6 opinion until the additional diagnostic testing
7 and treatment is rendered that, at the present
8 time, she should not return to work?

9 A: That would be the doctor's decision. I mean,
10 if he says she can't work, I mean, if you want
11 to use that opinion. You have several opinions
12 in this case.

13 Q: And that's one opinion that you did not have --

14 A: I didn't have it.

15 Q: -- as a basis in your report?

16 A: Right, and I would have probably mentioned
17 that.

18 Q: Now, would you agree that she is unable to
19 return to work at the Red Cross?

20 A: Yes.

21 Q: And she would be disqualified from returning to
22 work as a phlebotomist, which is the work she
23 did at the Red Cross?

24 A: Probably.

25 Q: And her prior work experience is as a

1 phlebotomist and as a certified nursing
2 assistant, correct?

3 A: That is correct.

4 Q: And she would be precluded from returning to
5 work as a certified nursing assistant, correct?

6 A: That is correct.

7 Q: So whatever kind of work she's able to go to
8 would have to be a new career; isn't that true?

9 A: That's true.

10 Q: Do you know what her earnings were at the Red
11 Cross?

12 A: \$13.33 an hour or something. Thirteen
13 something an hour.

14 Q: And do you know how many hours she worked?

15 A: No. I think she worked full time plus
16 overtime.

17 Q: Do you know how much overtime she worked?

18 A: No.

19 Q: Would that be something that you should know as
20 part of rendering a vocational opinion?

21 A: Not necessarily.

22 Q: And past earnings don't matter? Or if they
23 don't matter, I guess they don't matter because
24 she's not able to go to that kind of work
25 anyway?

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 0800660

EMPLOYEE/CLAIMANT: CINDY DOZIER

EMPLOYER AMERICAN NATIONAL RED CROSS

INSURER: OLD REPUBLIC INSURANCE COMPANY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF THE WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 3RD
DAY OF NOVEMBER, 2009, COMMENCING AT THE HOUR OF 10:43
AM IN COLUMBIA, SOUTH CAROLINA, ATTENDED BY COUNSEL AS
FOLLOWS:

KATHRYN BOSTROM,
VERBATIM COURT REPORTER

COPY

BOSTROM REPORTING

109 KYLE AVENUE
INMAN, S.C. 29349
803-446-7040

APPEARANCES

FOR THE CLAIMANT:

STEPHEN SAMUELS, ESQUIRE
SAMUELS LAW FIRM, LLC
POST OFFICE BOX 50349
COLUMBIA, SC 29250

**FOR THE EMPLOYER/
CARRIER:**

WESLEY J. SHULL, ESQUIRE
GILBERT AND SHULL, LLC
880 SOUTH PLEASANTBURG DRIVE
GREENVILLE, SC 29607

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EXHIBITS

THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.

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 COLUMBIA,
4 SOUTH CAROLINA.

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

6 **COMMISSIONER HUFFSTETLER:**

7 THIS IS WORKERS' COMPENSATION FILE NUMBER
8 0800660. THE CASE OF THE CLAIMANT CINDY DOZIER
9 VERSUS THE EMPLOYER AMERICAN NATIONAL RED
10 CROSS. THE CARRIER IS OLD REPUBLIC INSURANCE
11 COMPANY. THE CLAIMANT IS PRESENT. SHE IS
12 REPRESENTED BY ATTORNEY STEPHEN P. SAMUELS.
13 THE EMPLOYER/CARRIER IS REPRESENTED BY ATTORNEY
14 WESLEY J. SHULL. THE CASE IS SET TO CONSIDER
15 ISSUES OUTLINED IN FORMS 50 AND 51. THE
16 AVERAGE WEEKLY WAGE IS \$632.95 WITH A
17 COMPENSATION RATE OF \$421.99. THE DATE OF
18 ACCIDENT IS JANUARY 17, 2008.. ANY OBJECTION TO
19 THOSE ITEMS, JURISDICTION, VENUE OR ANY OF THE
20 APA SUBMISSIONS?

21 **MR. SAMUELS:**

22 YOUR HONOR, I HAVE AN OBJECTION TO TWO OF THE
23 APA SUBMISSIONS WHICH ARE DEFENDANT'S PAGE 161
24 AND 163. AND THE BASIS FOR THE OBJECTION IS
25 SECTION 42-15-95. AND IN THAT, PAGE 163 IS THE

1 14B THAT WAS SENT TO DR. MCINTOSH WITHOUT BE
2 COPIED TO ME OR MY OFFICE. WE DID NOT LEARN OF
3 THIS UNTIL IT APPEARED AS AN ATTACHMENT TO THE
4 FORM 21 FILED BY THE DEFENDANTS. SO WE WOULD
5 ASK THAT THAT BE REMOVED FROM THE APAs RENDERED
6 NOT ADMISSIBLE. AND THE SAME WITH PAGE 161,
7 WHICH IS A LETTER FROM DR. MCINTOSH.

8 **COMMISSIONER HUFFSTETLER:**

9 SAME OBJECTION.

10 **MR. SAMUELS:**

11 SAME OBJECTION.

12 **COMMISSIONER HUFFSTETLER:**

13 OKAY. DO YO HAVE A RESPONSE?

14 **MR. SHULL:**

15 THE 14B WAS ATTACHED TO MY FORM 21 THAT I FILED
16 ON AUGUST 14TH. SO THE CLAIMANT'S COUNSEL HAS
17 HAD CLOSE TO THREE MONTHS IF HE WANTED TO SEND
18 HIS OWN QUESTIONNAIRE.

19 **COMMISSIONER HUFFSTETLER:**

20 HIS OBJECTION IS WHETHER YOU NOTIFIED HIM
21 BEFORE YOU CONTACTED THE DOCTOR.

22 **MR. SHULL:**

23 HONESTLY, SIR, I CAN'T DENY THAT I DID.

24 **COMMISSIONER HUFFSTETLER:**

25 OKAY. I'M GOING TO SUSTAIN THAT OBJECTION AND

1 RETURN BOTH OF THESE TO DEFENSE COUNSEL.

2 **MR. SHULL:**

3 THE LETTER ON PAGE 161, IT'S FROM THE DOCTOR.
4 AND I SENT THAT TO CLAIMANT'S COUNSEL AS SOON
5 AS I RECEIVED IT.

6 **COMMISSIONER HUFFSTETLER:**

7 DID YOU CONTACT CLAIMANT'S COUNSEL BEFORE YOU
8 CONTACTED THE DOCTOR?

9 **MR. SHULL:**

10 I DIDN'T CONTACT THE DOCTOR. WHEN THE
11 APPOINTMENT WAS SET UP, I MADE SURE THAT IT WAS
12 FOR TREATMENT EVALUATION. MY ASSISTANT SET UP
13 THE EVALUATION.

14 **COMMISSIONER HUFFSTETLER:**

15 DID YOU OFFICE CONTACT THE DOCTOR? DID YOU
16 NOTIFY MR. SAMUELS BEFORE YOUR OFFICE CONTACTED
17 THE DOCTOR?

18 **MR. SHULL**

19 I NOTIFIED MR. MCELVEEN, WHO WAS HER PRIOR
20 ATTORNEY THAT WE WERE CONTACTING THE DOCTOR IN
21 ORDER TO SET UP TREATMENT, YES, SIR.

22 **MR. SAMUELS**

23 YOUR HONOR, I WILL WITHDRAW THE OBJECTION ON
24 THAT. I WAS NOT THE ATTORNEY OF RECORD AT THAT
25 TIME, SO I CAN'T SPEAK TO WHAT HAPPENED AT THAT

1 TIME.

2 **COMMISSIONER HUFFSTETLER:**

3 I'LL LEAVE PAGE 161 IN AND I'LL EXCLUDE PAGE
4 163. WITHOUT OBJECTION THE COMMISSION FILE
5 BECOMES PART OF THE RECORD, WITH THE EXCEPTION
6 OF SELF SERVING DECLARATIONS AND UNSTIPULATED
7 MEDICAL REPORTS. THERE'S A CONSENT ORDER IN
8 THE FILE BEFORE I GET TO THE POSITIONS OF THE
9 PARTIES. THE CONSENT ORDER IN THE FILE WHERE
10 THE PARTIES AGREED TO DESIGNATE DR. EUGENIO AS
11 THE TREATING PHYSICIAN AND ALSO TO ASK HIS
12 OPINION AND HIS DETERMINATION OF WHETHER THE
13 RIGHT ARM PROBLEMS ARE CAUSALLY RELATED TO THIS
14 INJURY. THE PARTIES STIPULATE THAT THEY WERE
15 UNABLE TO SUCCESSFULLY HAVE DR. EUGENIO SEE THE
16 CLAIMANT, AS APPARENTLY ONE OF HIS PARTNERS HAD
17 ALREADY PREFORMED AN IME. THE PARTIES AGREED
18 THAT THE TREATING PHYSICIAN WOULD BECOME DR.
19 MCINTOSH, THAT HE WOULD TAKE DR. EUGENIO'S
20 PLACE IN THAT AGREEMENT TO BE TREATING
21 PHYSICIAN AND TO GIVE THE OPINION ON THE RIGHT
22 ARM. HOWEVER, DR. MCINTOSH DID NOT GIVE AN
23 OPINION ON THE RIGHT ARM. THE CLAIMANT TAKES
24 THE POSITION SHE SUFFERED INJURIES TO BOTH
25 ARMS, ALSO TO HER NECK AND HE BACK. SHE SEEKS

1 PAYMENT OF ALL CAUSALLY RELATED MEDICAL
2 TREATMENT RECEIVED TO DATE. SHE SEEKS AN AWARD
3 OF COMPENSATION FOR TEMPORARY TOTAL DISABILITY
4 FROM SEPTEMBER 8, 2008 FORWARD. AND SEEKS
5 ADDITIONAL TREATMENT FOR HER ARMS, IN
6 PARTICULAR FOR REFLEX SYMPATHETIC DYSTROPHY AND
7 ASKS THAT DR. MOORE BE ASSIGNED AS HER TREATING
8 PHYSICIAN. THE DEFENSE ADMITS AN INJURY TO THE
9 LEFT ARM ONLY. THEY DENY ALL OTHER BODY PARTS
10 AND I ASSUME THAT YOU ALSO DENY THE REQUEST FOR
11 DR. MOORE TO BE THE TREATING PHYSICIAN.

12 **MR. SHULL:**

13 YES, SIR. AND WE ALSO TAKE THE POSITION THE
14 CLAIMANT IS AT MMI.

15 **COMMISSIONER HUFFSTETLER:**

16 ON WHAT DATE?

17 **MR. SHULL:**

18 IT WAS THE DATE OF THE 14B, WHICH WAS AUGUST
19 14, 2009.

20 **COMMISSIONER HUFFSTETLER:**

21 AND THE FORM 21 WAS NOT PROPERLY FILED, IS THAT
22 CORRECT? YOU RETURNED?

23 **MR. SHULL:**

24 AND WE DID REFILE IT AND IT JUST HASN'T BEEN
25 SET YET ON THAT 21.

1 COMMISSIONER HUFFSTETLER:

2 I SEE IT.

3 * * * * * * * * * * * * * *

4 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
5 WHOLE TRUTH AND NOTHING BUT THE TRUTH CONCERNING THE
6 MATTER HEREIN:

7 * * * * * * * * * * * * * *

8 CINDY ELLEN DOZIER,

9 BEING FIRST DULY SWORN OR AFFIRMED, TESTIFIED ON HIS
10 OATH AS FOLLOWS:

11 MR. SAMUELS:

12 YOU HONOR, I DO NEED TO INFORM YOU OF ONE OTHER
13 THING. THAT IS THE DEFENDANTS HAVE PAID
14 TEMPORARY TOTAL FROM SEPTEMBER 8, 2008 THROUGH
15 AUGUST 10, 2009. IS THAT CORRECT, WES?

16 MR. SHULL:

17 YES.

18 COMMISSIONER HUFFSTETLER:

19 OKAY. HOW WAS IT STOPPED?

20 MR. SAMUELS:

21 THEY PAID IT IN LUMP SUM AND BECAUSE OF THEIR
22 CONTENTION THAT SHE'S AT MMI, THEY HAVE NOT
23 PAID IT PAST THAT DATE.

24 MR. SHULL:

25 THAT WAS A MATTER OF CONTENTION UNTIL LAST WEEK

1 AND WE WERE GOING TO HAVE TO TRY THAT ISSUE.
2 AND WE'RE STIPULATING THAT SHE'S ENTITLED TO
3 THAT FOR THOSE DATES.

4 **COMMISSIONER HUFFSTETLER:**

5 IS THERE A CONSENT ORDER? DO YOU AGREE TO
6 THOSE DATES?

7 **MR. SHULL**

8 YES, SIR.

9 **MR. SAMUELS**

10 THERE IS NO CONSENT ORDER, BUT ON THE RECORD,
11 THE DEFENSE HAS AGREED TO THOSE DATES.

12 **COMMISSIONER HUFFSTETLER:**

13 SO, WERE TEMPORARY TOTAL DISABILITY BENEFITS
14 PAID?

15 **MR. SAMUELS**

16 THROUGH AUGUST 10, 2009, YES, SIR.

17 **COMMISSIONER HUFFSTETLER:**

18 SO THEN HOW WERE THEY STOPPED? HOW WERE THEY
19 LEGALLY STOPPED IF THEY WERE PAID? OR HAVE YOU
20 AGREED THAT THAT'S THE PERIOD OF TIME?

21 **MR. SAMUELS:**

22 WE DO NOT AGREE THAT THAT'S THE PERIOD OF TIME.
23 DO YOU THINK THEY SHOULD HAVE BEEN PAID AND SHE
24 SHOULD BE CONTINUED ON A RUNNING AWARD.

25 **COMMISSIONER HUFFSTETLER:**

1 OKAY, SO WERE THE BENEFITS DISCONTINUED IN
2 ACCORDANCE WITH THE ACT AND THE REGULATIONS?

3 MR. SHULL:

4 WELL, SIR, THE CONSENT ORDER THAT WE SIGNED IN
5 DECEMBER SAID THAT ISSUE WAS TO BE HELD IN
6 ADVANCE. AND WE WERE TO TRY THAT ISSUE TODAY,
7 SO RATHER THAN TRY THAT ISSUE --

8 COMMISSIONER HUFFSTETLER:

9 BUT YOU PAID THE BENEFITS?

10 MR. SHULL:

11 AS OF -- DID YOU GET THE CHECK YESTERDAY?

12 MR. SAMUELS:

13 WE GOT THE CHECK END OF LAST WEEK.

14 MR. SHULL:

15 CAN WE AGREE TO SUBMIT A CONSENT ORDER ON THAT
16 ISSUE?

17 MR. SAMUELS:

18 IF I MAY, YOUR HONOR. THE DEFENDANTS CONTESTED
19 MS. DOZIER'S RIGHT TO TEMPORARY TOTAL DURING
20 THIS PERIOD. THEY NOW AGREE THAT SHE'S
21 ENTITLED TO THAT. THE BASIS FOR NOT CONTINUING
22 THE PAYMENT IS THAT THEY CONTEND SHE IS AT MMI,
23 A POINT WE DISAGREE WITH.

24 COMMISSIONER HUFFSTETLER:

25 AND THAT WOULD BE THE SUBJECT OF A HEARING. MY

1 QUESTION IS IF TEMPORARY TOTAL DISABILITY
2 BENEFITS HAVE BEEN INITIATED, HOW WERE THEY
3 STOPPED? HAS THERE BEEN A HEARING TO DETERMINE
4 MAXIMUM MEDICAL IMPROVEMENT? HAS THERE BEEN A
5 SUSPENSION OF BENEFITS FOR REFUSAL OF MEDICAL
6 TREATMENT? HAS THERE BEEN A SUSPENSION OF
7 BENEFITS FOR REFUSAL TO RETURN TO WORK? UNDER
8 WHAT PREMISE WERE THE BENEFITS STOPPED IF THEY
9 WERE PAID? I TAKE THE SILENCE AS NOBODY KNOWS.
10 DO YOU HAVE QUESTIONS OF YOUR CLIENT?

11 **DIRECT EXAMINATION**

12 **BY MR. SAMUELS:**

13 Q CINDY, HOW OLD ARE YOU?

14 A 39.

15 Q AND YOU'RE MARRIED TO LIONEL DOZIER. YOU HAVE BEEN
16 MARRIED TO HIM FOR NINE YEARS?

17 A YES, SIR.

18 Q YOU HAVE 2 CHILDREN AND 2 STEPSONS THE DEPENDANT ON
19 YOU FOR SUPPORT, IS THAT RIGHT?

20 A YES, SIR.

21 Q DID YOU GRADUATE FROM HIGH SCHOOL?

22 A YES, SIR.

23 Q YOU ALSO HAVE TRAINING IN PHLEBOTOMY AND AS A CNA?

24 A YES, SIR.

25 Q YOUR WORK HISTORY, YOU WORKED AS A CNA IN NURSING

1 HOMES FOR ABOUT 18 YEARS?

2 A YES, SIR.

3 Q YOU STARTED JANUARY 17, 2006 AS A PHLEBOTOMIST AND
4 WENT TO WORK FOR THE RED CROSS, IS THAT RIGHT?

5 A YES, SIR.

6 Q WHAT ARE THE DUTIES OF YOUR JOB AS A PHLEBOTOMIST?

7 A IT IS REQUIRED OVER A LONG PERIOD OF HOURS, HEAVY
8 REPETITIVE LIFTING, ACTUAL PHLEBOTOMY WORK AND
9 WORKING ON A COMPUTER FOR LONG HOURS.

10 Q WERE THESE MOBILE BLOOD DRIVES THAT YOU HAD TO SET
11 UP?

12 A YES, SIR.

13 **MR. SHULL:**

14 YOUR HONOR , IF I MAY, THERE IS A JOB
15 DESCRIPTION AT PAGE 149 AND 150.

16 **COMMISSIONER HUFFSTETLER:**

17 YES, SIR, I DON'T BELIEVE THEY DENY THAT THE
18 LEFT ARM WAS INJURED BY THE WORK. THEIR DENIAL
19 IS CAUSAL RELATIONSHIP TO THE NECK AND THE
20 RIGHT ARM. AS I NOTED EARLIER, I HAVE AN
21 OPINION FROM ONE DOCTOR SAYING THE NECK IS
22 RELATED, ANOTHER DOCTOR SAYING IT IS NOT.
23 APPARENTLY DR. MCINTOSH, WHO YOU AGREED TO BE
24 THE TREATING PHYSICIAN DID NOT SPEAK TO THAT
25 ISSUE. I HAVE A DOCTOR WHO IS SAYING THE RIGHT

1 ARM IS RELATED AND NO DOCTOR REFUTING THAT.
2 IS THAT CORRECT?

3 **MR. SAMUELS:**

4 I BELIEVE THAT'S CORRECT, SIR.

5 Q CINDY, DID YOU HAVE AN ACCIDENT ON JANUARY 17, 2008
6 WHEN YOU WERE LIFTING AND LOADING EQUIPMENT?

7 A YES, SIR.

8 Q YOU REPORTED THAT TO YOUR SUPERVISOR AUDREY LONG
9 WRIGHT?

10 A YES, SIR.

11 Q HAD YOU PREVIOUSLY REPORTED TO HER ABOUT PROBLEMS
12 WITH YOUR RIGHT WRIST?

13 A YES, SIR.

14 **COMMISSIONER HUFFSTETLER:**

15 CAN I ASK YOU A QUESTION? AND I WAN TO BE.
16 CLEAR. IS YOUR CONTENTION THAT THE RIGHT ARM
17 PROBLEM COMES FROM THE LEFT ARM, FOR EXAMPLE,
18 OVERUSE OR ARE YOU CLAIMING A SEPARATE INJURY
19 TO THE RIGHT ARM?

20 **MR. SAMUELS:**

21 IT IS A SEPARATE INJURY TO THE RIGHT ARM. IT'S
22 NOT FROM OVERUSE.

23 **COMMISSIONER HUFFSTETLER:**

24 SO YOU'RE DESCRIBING A LEFT ARM INJURY THAT IS
25 A SPECIFIC ACCIDENT?

1 **MR. SAMUELS:**

2 YES, SIR.

3 **COMMISSIONER HUFFSTETLER:**

4 ARE YOU MAKING CLAIM OF A REPETITIVE INJURY TO
5 THE RIGHT ARM?

6 **MR. SAMUELS:**

7 IN THE ALTERNATIVE, WE ARE, YOUR HONOR.

8 **COMMISSIONER HUFFSTETLER:**

9 THIS COMES AFTER THE CHANGES IN THE LAW IN
10 2007. WHAT MEDICAL REPORT DO YOU RELY ON THAT
11 YOUR RIGHT ARM PROBLEMS WERE CAUSED BY
12 REPETITIVE TRAUMA?

13 **MR. SAMUELS:**

14 ONLY THE REPORTS WE'VE INDICATED EARLIER, YOUR
15 HONOR.

16 **COMMISSIONER HUFFSTETLER:**

17 DO YOU HAVE ANOTHER QUESTION? DO YOU HAVE
18 ANOTHER QUESTION, SIR?

19 **MR. SAMUELS:**

20 AND SPECIFICALLY, YOU HONOR, PAGE 81 OF THE APA
21 SUBMISSIONS.

22 **COMMISSIONER HUFFSTETLER:**

23 WHEN WAS THE DEFENSE PUT ON NOTICE OF A
24 REPETITIVE TRAUMA CLAIM?

25 **MR. SHULL:**

1 THEY WERE ALLEGING AN INJURY TO BOTH WRISTS IN
2 DECEMBER WHEN WE HAD THE ORIGINAL HEARING AND
3 THAT WAS PART OF THE REASON WHY WE ENTERED A
4 CONSENT ORDER ADMITTING A LEFT WRIST INJURY.
5 IT WAS THEIR CONTENTION THAT SHE HAS INJURED
6 BOTH WRISTS, I BELIEVE.

7 **COMMISSIONER HUFFSTETLER:**

8 AT WHAT POINT WAS THE DEFENSE PUT ON NOTICE OF
9 A REPETITIVE TRAUMA INJURY? I'LL WITHDRAW THAT
10 QUESTION. MR. SHULL DOESN'T SEEM TO BE ARGUING
11 THAT AS A DEFENSE. GO AHEAD, SIR, DO YOU HAVE
12 ANOTHER QUESTION?

13 **MR. SHULL:**

14 IT WOULD HAVE BEEN AUGUST WHEN HE FILED HIS 50.

15 **COMMISSIONER HUFFSTETLER:**

16 OF WHICH YEAR?

17 **MR. SHULL:**

18 AUGUST 6, 2009.

19 **MR. SAMUELS:**

20 WELL, THE ORIGINAL 50 FILED BY MR. MCELVEEN ON
21 OCTOBER 10, 2008 ALLEGED REPETITIVE TRAUMA AS
22 WELL.

23 **MR. SHULL:**

24 THAT WOULD HAVE BEEN THE FIRST, WHICH WOULD
25 HAVE BEEN AFTER THE 90 DAY NOTICE PERIOD.

1 **COMMISSIONER HUFFSTETLER:**

2 SO, THE NOTICE FOR REPETITIVE TRAUMA IS FROM
3 THE TIME IT'S FOUND TO BE COMPENSABLE, ISN'T
4 IT?

5 **MR. SHULL:**

6 I THINK IT'S FROM THE TIME THE CLAIMANT SHOULD
7 HAVE KNOWN IT WAS COMPENSABLE.

8 **COMMISSIONER HUFFSTETLER:**

9 DOES THE ACT SAY COMPENSABLE?

10 **MR. SHULL:**

11 I BELIEVE IT'S FROM THE TIME THE CLAIMANT
12 SHOULD HAVE KNOWN IT WAS COMPENSABLE.

13 **COMMISSIONER HUFFSTETLER:**

14 WHAT DOES THE ACT SAY?

15 **MR. SAMUELS:**

16 YOUR HONOR, IF I MAY, THE 51 ADMITS NOTICE.

17 **MR. SHULL:**

18 THAT'S TO HER RIGHT ARM INJURY, I THINK.

19 **COMMISSIONER HUFFSTETLER:**

20 I'M LOOKING AT SECTION 42-15-20, PARAGRAPH C,
21 IN THE CASE OF REPETITIVE TRAUMA, NOTICE MUST
22 BE GIVEN BY THE EMPLOYEE WITHIN 90 DAYS OF THE
23 DATE THE EMPLOYEE DISCOVERED THAT HIS CONDITION
24 IS COMPENSABLE. HOW DOES SOMEONE KNOW IF A
25 CASE IS COMPENSABLE, UNLESS IT'S EITHER

1 ADMITTED OR THERE'S A RULING BY THE COMMISSION.
2 IT DOESN'T SAY WORK RELATED.

3 MR. SHULL:

4 I WOULD SUBMIT TO YOU THAT SHE WAS TOLD BY THE
5 DOCTOR THAT IT WAS CAUSED BY THE WORK.

6 COMMISSIONER HUFFSTETLER:

7 DO YOU HAVE ANOTHER QUESTION?

8 MR. SAMUELS:

9 YES, SIR.

10 COMMISSIONER HUFFSTETLER:

11 LET'S GO OFF THE RECORD A MINUTE.

12 (OFF THE RECORD)

13 COMMISSIONER HUFFSTETLER:

14 OKAY. WE'RE BACK ON THE RECORD. MR. SAMUELS,
15 DO YOU HAVE ANOTHER QUESTION FOR YOUR CLIENT?

16 MR. SAMUELS:

17 YES, YOUR HONOR, THANK YOU.

18 EXAMINATION CONTINUED BY MR. SAMUELS:

19 Q CINDY, ON JANUARY 17, 2008, DID YOU HAVE TO DO
20 ANYTHING OVER AND OVER AGAIN ON THAT DAY?

21 A YES, SIR.

22 Q WHAT DID YOU HAVE TO DO OVER AND OVER AGAIN?

23 A LIFTING THE EQUIPMENTS, PHLEBOTOMY WORK, TYPING ON
24 THE COMPUTERS. LOADING AND UNLOADING.

25 Q DID YOU DO THAT EVERYDAY ON YOUR JOB?

1 A YES, SIR.

2 Q DID YOU FEEL ANY PARTICULAR PAIN ON JANUARY 17,

3 2008?

4 A YES, SIR, THE THUMB SWOLE UP MY LEFT HAND AND IT WAS

5 HURTING AND PAIN WAS RUNNING UP THE ARM.

6 Q IS THAT WHAT YOU REPORTED TO YOUR SUPERVISOR?

7 A YES, SIR.

8 Q YOU ALSO TOLD HER ABOUT YOUR RIGHT ARM?

9 A YES, SIR.

10 Q YOU WERE SENT TO THE DOCTOR FOR YOUR LEFT ARM, IS

11 THAT RIGHT?

12 A YES, SIR.

13 Q NOT FOR YOUR RIGHT?

14 A YES, SIR.

15 Q YOU WERE SENT TO CAROLINA OCCUPATIONAL HEALTH CARE

16 ON JANUARY 25, 2008. WAS YOUR RIGHT ARM BOTHERING

17 YOU THEN?

18 A YES, SIR. I TOLD DR. WRIGHT ABOUT IT, BUT HE SAID

19 HE WAS ONLY ALLOWED TO LOOK AT THE LEFT ONE.

20 Q WERE YOU ALSO SENT TO THEN DR. NICHOLS AT CAMDEN

21 BONE & JOINT?

22 A YES, SIR.

23 Q DID YOU TELL DR. NICHOLS ABOUT YOUR RIGHT ARM?

24 A YES, SIR.

25 Q DID YOU ALSO LIST IT ON THE INTAKE FORM?

1 A YES, SIR.

2 MR. SAMUELS:

3 YOUR HONOR, THAT'S AT DEFENSE APA PAGE 151.

4 Q AFTER DR. NICHOLS, THEY SENT YOU TO DR. GREENE AT

5 MIDLANDS ORTHOPEDIC FOR AN IME, IS THAT RIGHT?

6 A YES, SIR.

7 Q DID YOU TELL DR. GREENE ABOUT THE RIGHT?

8 A YES, SIR.

9 Q DID DR. GREENE RECOMMEND ANY TREATMENT FOR YOU?

10 A YES, SIR.

11 Q DID YOU EVER RECEIVE THAT TREATMENT?

12 A NO, SIR.

13 Q YOU WERE OUT OF WORK AND PAID TEMPORARY TOTAL FROM

14 MARCH 29, 2008 TO MAY 9, 2008, IS THAT CORRECT?

15 A YES, SIR.

16 Q YOU WENT BACK TO WORK ON LIGHT DUTY ON MAY 10, 2009,

17 IS THAT RIGHT?

18 A YES, SIR.

19 Q ON JULY 9, 2008, YOU WERE SENT FOR A SECOND IME WITH

20 DR. HASKINS, IS THAT CORRECT?

21 A YES, SIR.

22 Q WHO SENT YOU TO THAT IME?

23 A THE JOB DID..

24 Q HOW MUCH TIME DID DR. HASKINS SPEND WITH YOU?

25 A MAYBE TWO MINUTES.

1 Q DID HE EVER EXAMINE YOU?
2 A NO, SIR.
3 Q DID HE EVER TOUCH YOU?
4 A NO, SIR.
5 Q WERE YOUR ARMS GETTING ANY BETTER AT THAT TIME?
6 A NO, SIR.
7 Q WERE THEY THE SAME OR GETTING WORSE?
8 A THEY WERE GETTING WORSE AND I TOLD HIM THAT.
9 Q WHO DID YOU TELL?
10 A VICKI PROSSER AND AUDREY WRIGHT-LONG.
11 Q WHO IS VICKI PROSSER?
12 A SHE IS THE MANAGER AT THE AMERICAN RED CROSS.
13 Q DID THEY SEND YOU TO ANY DOCTOR AFTER SEEING DR.
14 HASKINS FOR ANY TREATMENT?
15 A NO, SIR, AUDREY MENTIONED THAT I HAD TO GO BACK ON
16 FULL DUTY.
17 Q DID YOU GET ANYTHING THEN ABOUT GETTING MEDICAL
18 TREATMENT?
19 A YES, SIR, THAT IS WHEN I SAW DR. MOORE.
20 Q HAVE YOU PAID FOR DR. MOORE ON YOUR OWN?
21 A YES, SIR.
22 Q DID YOU TAKE LIGHT DUTY SLIPS FROM DR. MOORE TO
23 WORK?
24 A YES, SIR.
25 Q DID DR. MOORE FILL OUT A FORM FOR WORK?

1 A YES, SIR.

2 **MR. SAMUELS:**

3 AND YOUR HONOR, THAT IS AS PAGE 55.

4 Q NOW, ON SEPTEMBER 8 WAS THERE A MEETING AT THE RED
5 CROSS?

6 A YES, SIR, WE HAD AN ANNUAL MEETING THAT WE NORMALLY
7 HAVE ON MONDAYS. THE FIRST MONDAY OF EVERY MONTH.

8 Q DID YOU HAVE A MEETING WITH MS. STREETER-THOMAS,
9 VICKI PROSSER, AUDREY WRIGHT-LONG? SOMEBODY NAMED
10 KIMBERLY?

11 A YES, SIR.

12 Q DID THEY TALK TO YOU ABOUT YOUR WORK STATUS?

13 A YES, SIR, MS. STREETER-THOMAS SAID I DID NOT HAVE A
14 WORKERS' COMPENSATION CASE, THAT IT WAS CLOSED, AND
15 BY ALL MEANS TAKE THE TIME OFF THAT I NEED TO TAKE
16 CARE OF MY ARMS AND HANDS.

17 **MR. SHULL:**

18 YOUR HONOR, WE STIPULATED TO THOSE TTD DATES.

19 Q DID YOU SUBSEQUENTLY GET A LETTER FROM THE RED CROSS
20 ADVISING YOU THAT YOU HAD BEEN TERMINATED?

21 A YES, SIR.

22 Q THAT WAS BECAUSE YOU GONE ON TOO LONG BEING OUT OF
23 WORK?

24 A YES, SIR.

25 **MR. SAMUELS:**

1 YOUR HONOR, THAT IS AT PAGE 47.

2 Q DID YOU CONTINUE TREATING WITH DR. MOORE?

3 A YES, SIR.

4 Q DR. MOORE REFERRED YOU TO FIRST CHOICE?

5 A YES, SIR.

6 Q YOU SAW DR. MANCUSO AND DR. BITTING?

7 A YES, SIR.

8 Q AND YOU WERE SENT FOR A CERVICAL MRI, IS THAT RIGHT?

9 A YES, SIR.

10 Q AND TWO SHOTS IN YOUR NECK?

11 A YES, SIR.

12 Q DID THE SHOTS HELP?

13 A NO, SIR.

14 Q DID THEY MAKE YOUR NECK HURT?

15 A YES, SIR.

16 Q DID YOUR NECK HURT BEFORE THEN?

17 A NO, SIR.

18 Q WHAT KIND OF PROBLEMS WERE YOU HAVING WITH YOUR NECK

19 BEFORE THEN?

20 A IT WAS LIKE I HAD JUST A STIFF NECK.

21 Q ARE YOU CURRENTLY AWAITING FOR ANY MEDICAL TREATMENT

22 TO BE DONE?

23 A YES, SIR. CURRENTLY AWAITING FOR A BLOCK DR. MOORE

24 ORDERED TO GET DONE FOR CPRS.

25 Q DID WORKERS' COMP SEND YOU TO DR. MCINTOSH?

1 A YES, SIR.

2 Q WAS THAT FOR TREATMENT OR IME?

3 A AN IME.

4 Q YOU SAW DR. MCINTOSH ON MAY 18, 2009, CORRECT?

5 A YES.

6 Q HE SENT YOU FOR A TEST, DID YOU HAVE THAT TEST DONE,

7 THE BTE TEST?

8 A YES, SIR.

9 Q WAS THAT THE SAME TEST THAT DR. GREENE HAD

10 PREVIOUSLY REQUESTED FOR YOU?

11 A YES, SIR.

12 **MR. SAMUELS:**

13 YOUR HONOR, THE BTE TEST IS AT APA PAGE 132.

14 Q DID YOU EVER GET THE TREATMENT THAT WAS RECOMMENDED

15 FOLLOWING THE BTS TEST?

16 A NO, SIR.

17 Q WERE YOU EVER SENT BACK TO DR. MCINTOSH FOR FURTHER

18 TREATMENT OR EVALUATION?

19 A NO, SIR.

20 Q THE ONLY TIME YOU'VE SEEN DR. MCINTOSH IS MAY 18,

21 2009 IS THAT RIGHT?

22 A YES, SIR.

23 Q I'M GOING TO ASK YOU ABOUT YOUR CURRENT CONDITION.

24 ARE YOU IN ANY PAIN?

25 A YES, SIR.

1 Q WERE DOES IT HURT?

2 A MY NECK, BOTH SHOULDERS, BOTH HANDS, ARMS AND
3 WRISTS.

4 Q WILL YOU DESCRIBE THE PAIN IN YOUR HAND AND ARMS?

5 A THEY GO NUMB, SHARPE, SOMETIMES ACHING PAIN AND IT
6 RUNS UP BOTH ARMS.

7 Q HOW BAD IS THE PAIN ON A SCALE FROM 1 TO 10?

8 A AN EIGHT.

9 Q IS THAT TYPICAL?

10 A JUST ABOUT EVERYDAY, YES, SIR.

11 Q DOES IT EVER GET BETTER THAN THAT?

12 A NO, SIR.

13 Q DO YOU HAVE ANY ISSUES WITH CONTROL OF YOUR HANDS,
14 FOR EXAMPLE DROPPING THINGS?

15 A YES, SIR I DROP THINGS ALL THE TIME AND THEY ARE
16 NUMB AND THEY SWELL UP.

17 **COMMISSIONER HUFFSTETLER:**

18 CAN I INTERRUPT YOU FOR JUST A SECOND. MA'AM,
19 TAKE YOUR GLOVE OFF FOR A MINUTE. LET ME SEE
20 YOUR HAND. THANK YOU. GO AHEAD, SIR.

21 Q CINDY, YOU ARE WEARING GLOVES TODAY. DO YOU WEAR
22 GLOVES EVERYDAY?

23 A YES, SIR, MY HANDS STAY COLD A LOT.

24 Q DOES IT DEPEND WHETHER THE WEATHER IS WARM OR COLD?

25 A IF THE WEATHER IS REAL COLD, THEN THEY BOTHER ME

1 MORE.

2 Q ON A WARM DAY, DO YOU WEAR GLOVES?

3 A NO, BUT THEY BE COLD A LOT.

4 Q ARE YOU ABLE TO DO THINGS AROUND THE HOUSE?

5 A NO, SIR.

6 Q CAN YOU DO ANY COOKING OR CLEANING?

7 A NO, SIR, MY HUSBAND AND MY OLDEST DAUGHTER DOES IT.

8 Q DID YOU USED TO DO THOSE THINGS BEFORE YOU HAD THIS

9 PROBLEM?

10 A YES, SIR.

11 Q WHAT IS YOUR CURRENT WORK STATUS?

12 A I DO NOT WORK.. THEY TERMINATED ME.

13 Q ARE YOU PHYSICALLY ABLE TO WORK?

14 A NO, SIR.

15 Q COULD YOU WORK AS A PHLEBOTOMIST OR CNA IN YOUR

16 PRESENT CONDITION?

17 A NO, SIR.

18 Q ARE ANY DOCTORS KEEPING YOU OUT OF WORK?

19 A YES, SIR, DR. MOORE AND DR. BITTING.

20 Q ARE THOSE YOUR TREATING PHYSICIANS?

21 A YES, SIR,

22 Q THOSE ARE THE ONES YOU PAID FOR YOURSELF?

23 A YES, SIR.

24 Q DO YOU WANT TO GO BACK TO WORK, CINDY?

25 A YES, SIR IF I CAN GET WELL, I WOULD LOVE TO GO BACK

1 TO WORK.

2 Q DO YOU WANT TREATMENT?

3 A YES, SIR.

4 Q WHO DO YOU WANT YOUR DOCTORS TO BE?

5 A DR. MOORE.

6 Q WHY DR. MOORE?

7 A HE IS A GOOD DOCTOR AND HE TOOK THE TIME TO REALLY
8 FIGURE OUT WHAT WAS REALLY GOING ON WHEN NOONE ELSE
9 WOULD.

10 **MR. SAMUELS:**

11 OKAY. I HAVE NO FURTHER QUESTIONS, PLEASE
12 ANSWER THE QUESTIONS MR. SHULL HAS FOR YOU.

13 **CROSS EXAMINATION**

14 **BY MR. SHULL:**

15 Q YES, SIR. MS. DOZIER, DO YOU REMEMBER WE HAD A
16 HEARING SCHEDULED BACK IN DECEMBER, 2008 AND YOU HAD
17 MR. MCELVEEN AS YOUR LAWYER?

18 A YES.

19 Q DO YOU REMEMBER THAT THERE WAS AN AGREEMENT THAT WE
20 WOULD PROVIDE MEDICAL TREATMENT FOR YOUR LEFT WRIST,
21 AND THAT AGREEMENT WAS ENTERED INTO BACK IN JANUARY,
22 JANUARY 7?

23 A I CAN'T SAY THAT IT WAS JUST THE LEFT BECAUSE I ALSO
24 TOLD MR. MCELVEEN ABOUT THE RIGHT WRIST.

25 Q NONETHELESS, ON JANUARY 10, AND 16, YOU TOOK VISITS

1 TO SEE DR. BLAKE MOORE THAT WERE UNAUTHORIZED VISITS
2 EVEN THOUGH THERE WAS AN AGREEMENT IN PLACE AT THAT
3 POINT AND TIME. IS THAT CORRECT?

4 A YES, I VISITED DR. MOORE.

5 Q AND THEN ON JANUARY 26, YOU TOOK AN UNAUTHORIZED
6 VISIT TO DR. LISA MANCUSO EVEN THOUGH THERE WAS AN
7 AGREEMENT?

8 A YES.

9 Q THEN YOUR ATTORNEY AND I, SINCE DR. EUGENIO WOULDN'T
10 SEE YOU, WE AGREED FOR YOU TO SEE DR. MCFADDEN AND
11 THERE WAS AN APPOINTMENT SCHEDULED ON MARCH 2 WITH
12 DR. MCFADDEN, IS THAT CORRECT? APA PAGE 178.

13 **COMMISSIONER HUFFSTETLER:**

14 MCINTOSH. I THINK IT'S MCINTOSH. MCINTOSH.
15 IS IT MCFADDEN OR MCINTOSH?

16 **MR. SHULL:**

17 SHE SHOWED UP TO DR. MCFADDEN'S OFFICE WITHOUT
18 HER FILMS AND HE REFUSED TO SEE HER AND THAT'S
19 WHY WE HAD TO GO TO DR. MCINTOSH.

20 **COMMISSIONER HUFFSTETLER:**

21 OKAY.

22 Q YOU REMEMBER SHOWING UP AT DR. MCFADDEN'S OFFICE
23 WITHOUT YOUR FILMS AFTER YOU HAD BEEN ASKED TO BRING
24 THEM?

25 A I REMEMBER GOING THERE BUT THEY NEVER SAID ANYTHING

1 ABOUT THE FILM.

2 Q A COUPLE OF DAYS AFTER THAT ON MARCH 5, YOU TOOK
3 ANOTHER UNAUTHORIZED VISIT WITH DR. BLAKE MOORE. IT
4 WAS LATER DECIDED ON APRIL 23, BETWEEN YOUR ATTORNEY
5 AND I THAT WE WOULD THEN USE DR. MCINTOSH --

6 A YES.

7 Q AND YOU WERE SEEN BY DR. MCINTOSH ON MAY 18, 2009?

8 A FOR A I ME, YES.

9 Q HE RECOMMENDED A BTE TEST BE PERFORMED, CORRECT?

10 A YES.

11 Q WE PROVIDED THE BTE TEST TO YOU. THAT WAS TAKEN
12 PLACING ON JUNE 29, 2009?

13 A YES.

14 Q GOING BACK, YOU FIRST TREATED FOR YOUR INJURY AT
15 CAROLINA OCCUPATIONAL HEALTH CARE, I THINK YOUR
16 ATTORNEY ESTABLISHED THAT. AND ON PAGE ONE OF THE
17 APA SUBMISSIONS, YOU ARE GIVEN A QUESTIONNAIRE TO
18 COMPLETE.

19 **MR. SHULL:**

20 MAY I PRESENT THIS TO HER AND ASK QUESTIONS?

21 **COMMISSIONER HUFFSTETLER:**

22 SURE.

23 Q YOU WERE ASKED WHERE ON YOUR BODY ARE YOU HURT AND
24 YOU INDICATED LEFT ARM GOING UP TO THE ELBOW? THAT
25 WAS RIGHT AFTER YOUR INITIAL INJURY, IS THAT

1 CORRECT?

2 A YES.

3 Q IN THAT SAME DAY, ON APA PAGE 2, YOU WERE DIAGNOSED

4 WITH A LEFT WRIST SPRAIN, TENDINITIS, IS THAT

5 CORRECT?

6 A YES, HE SAID IT WAS TENDINITIS.

7 Q YOU UNDERWENT FIVE SESSIONS OF PHYSICAL THERAPY? DO

8 YOU REMEMBER THE PHYSICAL THERAPY?

9 A YES, BUT IT DID NOT HELP.

10 Q THAT'S RIGHT. ON PAGE APA PAGE 9, YOU TREATED THERE

11 AND THEY NOTED THAT YOUR APA DID NOT HELP, THAT YOU

12 WERE THE SAME -- THAT YOUR PHYSICAL THERAPY DID NOT

13 HELP YOU WERE THE SAME AS BEFORE THE PHYSICAL

14 THERAPY, CORRECT?

15 A THAT IS CORRECT.

16 Q NOW IS THAT WHEN THEY REFERRED YOU TO AN ORTHOPEDIST

17 IS THAT CORRECT?

18 A THAT IS CORRECT.

19 Q THAT IS WHEN YOU TREATED WITH DR. NICHOLS AT CAMDEN

20 BONE & JOINT?

21 A RIGHT.

22 Q ON THE FIRST DAY THAT HE TREATED YOU, WHICH WAS ON

23 FEBRUARY 25, 2008, HE NOTED THAT YOU HAD LOCALIZED

24 PAIN ON YOUR RIGHT WRIST AND IT SOMETIMES RADIATES

25 INTO THE FOREARM AND TO THE UPPER ARM AND THAT YOU

1 HAD SIMILAR SYMPTOMS ON THE RIGHT SIDE, BUT THOSE
2 HAD RESOLVED AND NOT THE PAIN WAS COMBINED TO THE
3 LEFT SIDE, DID YOU TELL DR. NICHOLS THAT YOU WERE
4 NOT HAVING PAIN ON THE RIGHT SIDE?

5 A NO, SIR, I TOLD HIM THAT THE RIGHT ONE WAS ALSO
6 BOTHERING ME, BUT HE SAID HE WAS ONLY AUTHORIZED TO
7 TREAT THE LEFT.

8 Q SO YOU THINK THAT DR. NICHOLS PUT THAT IN HIS NOTES,
9 THAT HE WAS JUST WRONG, THAT YOU DID TELL HIM THAT
10 ABOUT RIGHT SIDE PAIN --

11 A YES, I DID.

12 Q AND THE NOTE SAYS YOU SPECIFICALLY TOLD HIM YOU DID
13 NOT HAVE RIGHT SIDE PAIN?

14 A I TOLD HIM THAT THE RIGHT SIDE WAS BOTHERING ME AND
15 HE SAID HE WAS ONLY AUTHORIZED TO TREAT THE LEFT.

16 Q YOU HAD AN MRI ON YOUR LEFT WRIST ON MARCH 4, 2008.
17 THAT IS APA SUBMISSION PAGE 14, AND IT SAID THAT YOU
18 HAD FINDINGS CONSISTENT WITH EXTENSOR TENDINITIS AND
19 THEN YOU WENT BACK TO SEE DR. NICHOLS AFTER THAT
20 MRI. AND YOU TREATED WITH HIM A FEW TIMES? AND I
21 BELIEVE ON MARCH 19, HE RECOMMENDED THE INSURANCE
22 CARRIER TO GET YOU A SECOND OPINION, AND THEN ON
23 THAT SAME DAY, HE SAID THAT YOU SYMPTOMS SEEMED TO
24 BE SIGNIFICANTLY OUT OF PROPORTION FROM YOUR
25 PHYSICAL FINDINGS.

1 **COMMISSIONER HUFFSTETLER:**

2 IS THERE A QUESTION?

3 **MR. SHULL:**

4 YES, SIR.

5 Q YOU HAD AN EMG STUDY PREFORMED ON AUGUST 25, 2008.

6 DO YOU REMEMBER THE EMG WHEN THEY STUCK YOU WITH
7 NEEDLES?

8 A YES.

9 Q AND WERE YOU EVER ASKED OR WERE YOU EVER TOLD WHAT
10 THE RESULTS THE EMG STUDY WERE?

11 A YES, THEY SAID I HAD CARPAL TUNNEL IN BOTH HANDS.

12 Q WERE YOU EVER TOLD ON APA PAGE 29, THAT YOU HAD MILD
13 CARPAL TUNNEL ON THE RIGHT AND VERY MILD CARPAL
14 TUNNEL ON THE LEFT?

15 A YES.

16 Q WITH NO CERVICAL RADICULOPATHY?

17 A I DON'T KNOW WHAT THE REPORT SAID, IT JUST SAID
18 THAT I DID HAVE CARPAL TUNNEL AND THAT IS ALL HE
19 TOLD ME, MILD IN BOTH HANDS.

20 Q OKAY, AND YOU RECEIVED AN INJECTION TO YOUR LEFT
21 WRIST, I BELIEVE ON OCTOBER 29, 2008?

22 A AND IT MADE IT WORSE, YES.

23 Q AND THE EJECTION DID NOT HELP YOU AND IT MADE IT
24 WORSE?

25 A MADE IT WORSE.

- 1 Q YOU TREATED MANCUSO ON YOUR OWN AFTER THE CONSENT
2 ORDER WAS ENTERED INTO ALL THE WAY UP TO THIS PAST
3 JUNE, IS THAT CORRECT?
- 4 A I HAVE SEEN HER TWICE, BUT SHE IS NO LONGER THERE.
5 SOMETIME IN JANUARY OR SOMETHING SHE IS NOT THERE
6 ANYMORE.
- 7 Q YOU TREATED WITH DR. MOORE, ON YOUR OWN EVEN THOUGH
8 THERE WAS A CONSENT ORDER SAYING THAT WE WERE TO
9 CONTROL TREATMENT. SINCE JANUARY, YOU HAVE BEEN
10 TREATED WITH DR. BLAKE MOORE?
- 11 A YES.
- 12 Q DID DR. MOORE KNOW ABOUT YOUR TREATMENT WITH DR.
13 MCINTOSH? DID HE KNOW THAT YOU HAD BEEN TREATING
14 WITH DR. MCINTOSH AND UNDERGONE THE BTE TEST?
- 15 A DR. MCINTOSH ONLY SAW ME ONE TIME. I WASN'T GETTING
16 ANY TREATMENT FROM HIM. THAT IS WHY I WENT OUT ON
17 MY OWN.
- 18 Q ALSO YOU WERE TREATED WITH DR. RAY WHO YOU WERE
19 REFERRED TO HER BY DR. MANCUSO IS THAT CORRECT?
- 20 A NO, I GOT DR. BITTING. DR. MANCUSO IS NOT THERE
21 ANYMORE.
- 22 Q AND HASN'T DR. MANCUSO STATED THAT SHE DOES NOT
23 BELIEVE THAT YOU HAVE COMPLEX REGIONAL PAIN
24 SYNDROME?
- 25 A THAT IS WHAT SHE SAID, BUT DR. RAY BELIEVE THAT I

1 DO, THE NEUROSURGEON.

2 Q HAS DR. RAY STATED THAT HE BELIEVES THAT THE RSD
3 THAT HE DIAGNOSED YOU WITH WAS RELATED TO ANY WORK
4 YOU DID FOR THE RED CROSS?

5 A I'M NOT SURE.

6 Q YOU TOLD DR. RAY, I BELIEVE, ON PAGE 110, THAT YOU
7 DID NOT HAVE ANY NECK PAIN UNTIL YOU HAD YOUR
8 CERVICAL INJECTIONS?

9 A NO, SIR, I TOLD HIM THAT IT MADE IT WORSE WHEN I HAD
10 THE CERVICAL INJECTIONS. I HAD, I THOUGHT IT WAS
11 JUST A STIFF NECK.

12 Q ON APRIL 6, OF '09, HE SAID "SHE ALSO HAD SOME NECK
13 PAIN, BUT SHE STATES THAT THIS CAME ON AFTER HER
14 CERVICAL INJECTIONS?" YOU TAKE ISSUE WITH THAT.
15 YOU DON'T THINK YOU TOLD HIM THAT?

16 A I TOLD THEM I ALWAYS HAD THE NECK PAIN BUT ONCE I
17 HAD THE CERVICAL INJECTIONS IT MADE MY NECK HURT
18 WORSE THAT IS WHAT I TOLD THEM.

19 Q SO AT THIS POINT, JUST AS A RECAP, WHEN FIRST
20 TREATED WITH CAMDEN BONE & JOINT, YOU WERE ALSO
21 ASKED TO COMPLETE A QUESTIONNAIRE THERE IS THAT
22 CORRECT?

23 A I AM NOT SURE.

24 **MR. SHULL:**

25 CAN I PRESENT THIS TO HER VERY BRIEFLY, SIR?

1 **COMMISSIONER HUFFSTETLER:**

2 SURE.

3 Q THIS IS APA PAGE 151. MS. DOZIER, IS THIS YOUR
4 HANDWRITING OR IS THIS SOMEBODY ELSE'S HANDWRITING?

5 A I WROTE THAT TOP PART BUT NOT THE BOTTOM PART.

6 Q ALL RIGHT, AT THE TOP WHERE IT SAYS TO DESCRIBE THE
7 INJURY, YOU TOLD THEM LEFT WRIST AND HAND WITH PAIN
8 GOING UP INTO THE ARM. YOU TOLD THEM IT WAS LEFT
9 ARM. YOU DID NOT MENTION RIGHT ARM AT THAT POINT.
10 IS THAT CORRECT?

11 A YES, THAT'S CORRECT.

12 Q I BELIEVE YOU RECENTLY HAD A DRUG TEST GIVEN TO YOU
13 AT FIRST SOURCE IN JUNE?

14 A YES.

15 Q AND YOU TESTED POSITIVE FOR MORPHINE AND POSITIVE
16 FOR OXYCODONE IN DEFSPIE THAT THOSE WERE NOT ON
17 YOUR MEDICATION LISTS?

18 A PERCOCET, I TOOK A PERCOCET THAT I HAD PRIOR TO A
19 HYSTERECTOMY FOR PAIN.

20 Q SO YOU WERE TAKING MEDICATION THAT YOUR DOCTORS FOR
21 THIS INJURY WERE NOT PRESCRIBING FOR YOU?

22 A NO THEY DID NOT PRESCRIBE THE PERCOCET, THAT WAS
23 PRIOR TO THAT FOR SOMETHING I HAD SURGERY FOR
24 SOMETHING ELSE THAT I TOOK, BUT IT WAS MY MEDICINE.

25 Q OKAY, AND YOU MORE RECENTLY HAD ANOTHER EMG DONE AT

1 FIRST SOURCE, ON MAY 22, 2009, AND THAT SHOWED, MILD
2 MEDIAN NEUROPATHY AND MILD CARPAL TUNNEL SYNDROME ON
3 BOTH EXTREMITIES?

4 A CORRECT.

5 Q AND IT SAID NO EVIDENCE OF CERVICAL MOTOR
6 RADICULOPATHY, JUST LIKE THE OTHER EMG? SO JUST AS
7 A RECAP, YOU HAD INJECTIONS IN YOUR NECK WHICH DID
8 NOT HELP YOU?

9 A YES.

10 Q YOU'VE WORN SPLINTS AND THAT DID NOT HELP YOU?

11 A THAT IS RIGHT.

12 Q YOU HAD PHYSICAL THERAPY AND THAT DID NOT HELP YOU?

13 A RIGHT.

14 Q YOU HAVE HAD TWO EMGs?

15 A YES.

16 Q NONE OF THESE DOCTORS SAID YOU'RE SURGICAL, HAVE
17 THEY?

18 A NO.

19 Q AND IN FACT DR. RAY SAID HE DID NOT FEEL LIKE YOUR
20 WRIST PROBLEMS WERE CAUSED BY YOUR NECK?

21 A I DO NOT KNOW, I AM NOT SURE.

22 **MR. SHULL:**

23 YOUR HONOR, I WOULD JUST LIKE TO REFER YOU TO
24 PAGE 111 OF THE APA SUBMISSIONS.

25 Q YOU WERE SENT TO DR. I THINK YOU PRONOUNCE IT

1 ZGLESZEWSKI BY YOUR ATTORNEY FOR AN IME, IS THAT
2 CORRECT?

3 A YES.

4 Q DR. ZGLESZEWSKI DID NOT KNOW THAT YOU HAD TREATED
5 WITH DR. MCINTOSH, THE HAND SPECIALIST DID HE? HE
6 DOESN'T MENTION THAT IN HIS REPORT.

7 A I DON'T KNOW IF HE KNEW OR NOT.

8 Q I JUST WANT TO MAKE, THE FOLLOWING PROVIDERS,
9 MANCUSO, MOORE, AND RAY YOU HAVE TREATED
10 UNAUTHORIZED AFTER YOUR ATTORNEY HAD ENTERED INTO
11 THAT CONSENT ORDER?

12 A YES, I WENT THERE ON MY OWN.

13 Q AND THAT MEDICATION HAS BEEN PAID FOR BY MEDICAID OR
14 BY YOUR GROUP HEALTH CARRIER?

15 A CORRECT.

16 Q YOU HAVE HAD TO MAKE CO-PAYMENTS, I ASSUME?

17 A YES.

18 **MR. SHULL:**

19 THANK YOU, YOUR HONOR.

20 **COMMISSIONER HUFFSTETLER:** _

21 IS THERE ANYTHING ELSE?

22 **MR. SAMUELS:**

23 YES, YOUR HONOR.

24 **REDIRECT EXAMINATION**

25 **BY MR. SAMUELS:**

1 Q CINDY, WHEN DR. MANCUSO WROTE THE LETTER ABOUT
2 PROBABLY NOT HAVING RSD, THAT WAS BEFORE YOU HAD THE
3 TRIPLE PHASE BONE SCAN, WASN'T IT?

4 A YES, SIR.

5 Q AND DR. BITTING HAS TAKEN OVER YOUR CARE SINCE DR.
6 MANCUSO LEFT, IS THAT CORRECT?

7 A YES.

8 **MR. SAMUELS:**

9 YOUR HONOR, IN REFERENCE TO THAT, I WOULD REFER
10 YOU TO APA 106 AND APA PAGE 81.

11 Q CINDY, LET ME SHOW YOU PAGE 151 AGAIN WHICH IS THE
12 FORM THAT YOU FILLED OUT WITH YOU WENT TO SEE CAMDEN
13 BONE & JOINT. LET ME ASK YOU TO READ SO WE CAN --
14 IT IS A LITTLE HARD FOR US TO READ. READ RIGHT HERE,
15 DESCRIBE THE ACT ON HOW IT OCCURRED, WHERE IT
16 OCCURRED AND WHAT KIND OF WORK YOU WERE DOING AT THE
17 TIME?

18 A FROM LIFTING AND PULLING, I WORKED ON MOBILES
19 COLLECTING BLOOD. ON JANUARY 17, 2008 MY ARMS
20 STARTED HURTING, MY RIGHT HAND WAS HURT AT FIRST AND
21 IT GOT SOME BETTER, BUT THEN MY LEFT ONE IS HURTING
22 REAL BAD NOW.

23 Q SO THE RIGHT ONE GOT SOME BETTER. NOT COMPLETELY
24 BETTER, BUT SOME BETTER?

25 A YES, SIR.

1 Q NOW, WHY DID YOU TAKE A PERCOCET?
2 A FOR PAIN, BECAUSE I WAS HURTING.
3 Q DID YOUR DOCTOR TALK TO YOU ABOUT THE PERCOCET?
4 A YES.
5 Q AND THAT'S BEEN EXPLAINED TO YOU THAT YOU SHOULD NOT
6 BE TAKING MEDICINE THAT WAS NOT DESCRIBED FOR THAT
7 INJURY, RIGHT?
8 A YES, SIR AND THEY GAVE ME A PRESCRIPTION FOR THAT.
9 Q SO THEY'VE SINCE ACTUALLY PRESCRIBED PERCOCET TO
10 YOU?
11 A YES, SIR.
12 Q NOW, MR. SHULL HAD ASKED YOU ABOUT GETTING TREATMENT
13 ON YOUR OWN, IN SPITE OF THERE BEING A CONSENT
14 ORDER. EVEN THOUGH THERE IS A CONSENT ORDER, HAS
15 WORKERS' COMP PROVIDED YOU ANY TREATMENT SINCE YOU
16 GOT THE CONSENT ORDER?
17 A NO, SIR.
18 Q IF YOU HAD NOT GOTTEN THAT TREATMENT ON YOUR OWN,
19 WOULD YOU HAVE GOTTEN ANY TREATMENT?
20 A NO, SIR.
21 Q IS THAT WHY YOU GOT TREATMENT?
22 A THAT IS WHY I WENT ON MY OWN.
23 Q AND YOU PAID FOR THAT YOURSELF?
24 A YES, SIR.
25 Q AND YOU HAVE NOT YET HAD A STELLATE GANGLION BLOCK,

1 IS THAT CORRECT?

2 A NO, SIR.

3 **COMMISSIONER HUFFSTETLER:**

4 YOU ASKED IS THAT CORRECT AND SHE SAID NO. IT
5 DOESN'T MAKE A GOOD RECORD.

6 Q HAVE YOU HAD A STELLATE GANGLION BLOCK?

7 A NO, SIR.

8 Q ARE YOU WAITING FOR THAT TO BE DONE?

9 A YES, SIR.

10 Q YOU WANT TO HAVE THAT DONE?

11 A YES, SIR.

12 Q ARE YOU HOPEFUL THAT WILL HELP YOU?

13 A YES, SIR.

14 **MR. SAMUELS:**

15 THANK YOU, YOUR HONOR. I HAVE NO FURTHER
16 QUESTIONS.

17 **COMMISSIONER HUFFSTETLER:**

18 ANYTHING ELSE? IF NOT, THEN THAT CONCLUDES THE
19 HEARING.

20 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING
21 WAS CONCLUDED AT THE HOUR OF 11:26 AM.)
22
23
24
25

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 0800660

EMPLOYEE/CLAIMANT: CINDY DOZIER

EMPLOYER AMERICAN NATIONAL RED CROSS

INSURER: OLD REPUBLIC INSURANCE COMPANY

I, KATHRYN B BOSTROM, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 40 PAGES REPRESENT A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF CINDY DOZIER, TAKEN ON THE 3RD DAY OF NOVEMBER, 2009

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 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 22ND DAY OF NOVEMBER, 2009.

Kathryn B Bostrom

KATHRYN B BOSTROM
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 8-5-2012

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

**Transcript of the Testimony of
GERALD J. SHEALY, M.D.**

Date: August 26, 2011

**CREEL COURT REPORTING, INC.
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1230 Richland Street
Columbia, SC 29201
Phone: (803) 252-3445 / (800) 822-0896
Fax: (803) 799-5668
Email: contact@creelreporting.com
Internet: www.creelreporting.com

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1 STATE OF SOUTH CAROLINA 2 BEFORE THE 3 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION 4 WCC No. 0800660 5 Cindy Dozier,) 6 Claimant,) 7 v.) 8 American Red Cross,) 9 Employer,) 10 and) 11 Sedgwick CMS,) 12 Carrier/Defendants.) 13 DEPOSITION OF 14 GERALD J. SHEALY, M.D. 15 ***** 16 Friday, August 26, 2011 17 7:57 a.m. - 8:09 a.m. 18 The deposition of GERALD J. SHEALY, M.D., was 19 taken on behalf of the Employer/Carrier at Charleston 20 Hand Group, 1483 Tobias Gadson Boulevard, Suite 202, 21 North Charleston, South Carolina, on the 26th day of 22 August 2011 before Diane M. Hendricks, Court Reporter 23 and Notary Public in and for the State of South 24 Carolina, pursuant to Notice of Deposition and/or 25 agreement of counsel.	1 GERALD J. SHEALY, M.D., having been duly affirmed, 2 deposed and testified as follows: 3 DR. SHEALY - EXAMINATION BY MR. SHULL: 4 Q: Doctor, I'm Wes Shull. I represent the 5 American Red Cross and their TPA, Sedgwick, in 6 Ms. Dozier's workers' compensation claim. And 7 I'm going to ask you a few questions today 8 about her treatment, about her condition. I'm 9 going to go through your chart very briefly, 10 and I do that, that way we're on the same page 11 before I start asking the questions. I say at 12 the beginning of every medical deposition, I'm 13 not in here at all to question the level of 14 care you've given her. I'm here to ask you 15 questions about workers' comp so I can try to 16 resolve the case. The first treatment date -- 17 and you're an upper extremity specialist, 18 orthopaedic surgeon who specializes in the 19 upper extremity, is that right? 20 A: Yes, sir. 21 Q: All right. 22 MR. SHULL: Steve, you care to -- 23 MR. SAMUELS: We'll stipulate -- 24 MR. SHULL: -- stipulate to his expertise? 25 MR. SAMUELS: -- to Dr. Shealy's qualifications.
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1 APPEARANCES: 2 3 Stephen B. Samuels, Esquire 4 Samuels Law Firm, LLC 5 1527 Blanding Street 6 Columbia, South Carolina 29201 7 Attorney for the Claimant 8 Wesley J. Shull, Esquire 9 Willson Jones Carter and Baxley, PA 10 872 South Pleasantburg Drive 11 Greenville, South Carolina 29607 12 Attorney for the Employer/Carrier 13 INDEX 14 15 DR. SHEALY: PAGE 16 MR. SHULL: EXAMINATION..... 3 17 MR. SAMUELS: EXAMINATION..... 12 18 MR. SHULL: RE-EXAMINATION..... 15 19 Certificate 17 20 EXHIBITS 21 (No exhibits were appended to this deposition.) 22 STIPULATIONS 23 24 It is stipulated and agreed that this 25 deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure. It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.	1 MR. SHULL: All right. Good. 2 Q: The first treatment date I have is 3 December 2nd, 2010, Doctor. Do you have that 4 in your chart? 5 A: I do. That's the first time I saw Ms. Dozier. 6 Q: All right. How did she present to you on that 7 date? 8 A: She came to see me with numbness and tingling 9 in both hands. And she related her history 10 that she started to have problems in 2008. She 11 stated while lifting and loading, terminated 12 from briefly her employment and had undergone 13 injections for the carpal tunnel, due to 14 significant resolution. Her physical 15 examination was consistent with carpal tunnel 16 syndrome. And on the electrodiagnostic as well 17 as an MRI to see if there was other underlying 18 problem, of which I was not aware. 19 Q: All right. At that point you diagnosed her 20 with carpal tunnel? 21 A: I did. 22 Q: All right. And just real quick. The part 23 about she was terminated from her employment 24 due to her persistent symptoms, that was by her 25 report to you?

1 (Pages 1 to 4)

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1 A: That's her report. 2 Q: All right, sir. 3 A: Exactly. 4 Q: The next note I have that was sent to me when 5 I subpoenaed your chart, are the MRI reports 6 that were taken on December 3rd. And if you 7 could, briefly just tell me what those 8 revealed. 9 A: It was normal. 10 Q: The MRIs were normal. Okay. 11 A: The MRI of the right wrist. I don't see the 12 left wrist. But anyhow, the one I've got on 13 the right wrist -- 14 Q: I've got both of them if you need them. 15 A: You've got them of both? 16 Q: Yeah. 17 A: Carpal -- okay. This is consistent with carpal 18 tunnel syndrome. But it doesn't show anything 19 else, other than just a - what we call a 20 tenosynovitis, the usual type of inflammation 21 that you'll see with carpal tunnel. 22 Q: Okay. So the radiograph, the MRI reports were 23 consistent with carpal tunnel? 24 A: Uh-huh. 25 Q: All right. Then she had an EMG. I think it's	1 Q: On March the 3rd. 2 A: March the 3rd. That's correct. 3 Q: All right, sir. And if you could, briefly look 4 over those surgical reports. Anything out of 5 the ordinary that occurred during the 6 surgeries? 7 A: Nothing at all. 8 Q: Did it reveal anything you weren't expecting at 9 the reveal when she got in there? 10 A: Not a thing. 11 Q: And did she, in fact, have entrapment of the 12 nerve or can you tell? 13 A: She did. 14 Q: Okay. She came back to see you on May 23rd, 15 2011, or least that's the next report that I 16 have. There may be one in between there. 17 A: There's one, 3/15. 18 Q: Do you mind if I look at that report? 19 A: Uh-huh. 20 Q: All right. She came back to see you on March 21 15th, and you stated, "Ms. Dozier is 22 progressing." Okay. She came back to see you 23 on March 15th, and you stated that, "Ms. Dozier 24 is progressing well. Right carpal tunnel 25 decompression. Wounds have healed, and sutures
Page 6	Page 8
1 an EMG that was done on December the 8th. And 2 I've got that report as well if you need to see 3 it. 4 A: I've got it right here. I just need to dig it 5 out. 6 Q: (Provides Dr. Shealy with a document.) 7 A: Thank you very much. 8 Q: Sure. And if you could, just go over that and 9 tell us what -- 10 A: She had -- the nerve conduction studies 11 indicates she had a moderately severe right and 12 left carpal tunnel syndrome. Well, she had a 13 moderately severe right and a mild left carpal 14 syndrome. 15 Q: All right, sir. So everything so far has been 16 positive for carpal tunnel. So you decided to 17 do a carpal tunnel release; is that correct, 18 sir? 19 A: That's correct. 20 Q: All right. And that would have -- that took 21 place on -- I've got that you did a right 22 carpal tunnel release on January the 11th. 23 A: That's correct. 24 Q: And -- 25 A: The right carpal tunnel --	1 are removed. Limited usage is recommended. 2 Follow-up for re-evaluation in three to four 3 weeks." At that point in time did she appear 4 to be progressing as one normally would after 5 that procedure? 6 A: She did. 7 Q: All right. She came back to see you on April 8 the 12th, 2011. And you stated, "Ms. Dozier 9 continues to progress well following the carpal 10 tunnel decompression in her right hand. Her 11 overall -- her progress has been as 12 anticipated. She is encouraged to resume her 13 activities more on a limited basis. Follow-up 14 for re-evaluation in four to six weeks in 15 consideration of final impairment rating." And 16 again, the same question. Is she progressing 17 as you would expect her to? 18 A: She was. 19 Q: All right, sir. Thank you. Do you mind if I 20 keep these? 21 A: Not at all. 22 Q: All right. The next date I think would have 23 been in May; is that correct? 24 A: The last time I saw her was on the 23rd of May. 25 And it was my opinion that she had reached

2 (Pages 5 to 8)

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1 maximum medical improvement. I gave her an 2 impairment rating five percent to the right 3 hand, and five percent to the left hand based 4 on her residual symptomology. She still 5 complains about pain and numbness in her hands. 6 Q: All right, sir. 7 A: And I discharged her from care. 8 Q: Let me ask you. What is -- you stated, "On 9 evaluation today following measurements of her 10 two-point discrimination." What does that 11 mean? I just don't -- 12 A: It's measurement of sensibility in your 13 fingers. Feeling, basically. Sensations. 14 Q: And she was still symptomatic after you 15 measured her? 16 A: She had some loss of two points discrimination, 17 primarily in her right hand, because the right 18 was worse than the left. She had a little bit 19 in both hands. 20 Q: All right. You then stated, "She is discharged 21 from care to be followed for re-evaluation in 22 the future as needed." And then at the very 23 end you stated, "And is to return for 24 re-evaluation by me in the future as needed." 25 So I guess my question, though, would be do you	1 Q: Full duty. Okay. Was there anything other 2 than her asking you to do that that -- with 3 respect to this lady's case -- 4 A: That's exactly what I dictated. 5 Q: Okay. Was there anything else that you can 6 remember or from the chart that we've gone 7 through that would have made you give her the 8 five-pounds' restriction? 9 A: No. Not that I recall. 10 Q: All right. And then you stated, "She is 11 advised that she may return to work on a 12 limited-duty status." And when you said 13 "limited-duty status," what exactly did you 14 mean? 15 A: Five-pound weight restriction. 16 Q: Okay. Do you feel that she could work at a 17 greater than five-pound weight restriction? 18 A: My experience with these, and I've done many of 19 them through the years, has been that most of 20 these people are able to go back to their 21 normal activities at that point in time. And 22 I'm very reluctant to provide somebody with 23 permanent restrictions, because I don't think 24 they're usually indicated. 25 Q: Did she tell you -- do you remember if she told
Page 10	Page 12
1 know if she's made any attempt or has there 2 been any attempt by anybody for her to come and 3 see you again? 4 A: I haven't seen her. 5 Q: All right. And the five percent was based on 6 the fact that she was still having some pain. 7 If she had had no pain, would that have been 8 less? 9 A: It would have been less. 10 Q: Okay. And then you stated, "At her request, 11 she is provided with a permanent restriction of 12 five pounds." And what did you mean by "at her 13 request"? 14 A: Because she requested me to put her on 15 permanent limited duties-type restrictions. I 16 typically don't -- 17 Q: Okay. 18 A: -- advise patients to do that. 19 Q: Did she -- do you remember if she specifically 20 asked you for five pounds? 21 A: She did. 22 Q: Okay. And typically you would not have done. 23 What would you have typically given somebody 24 who had bilateral -- 25 A: I'd send them back to full duty.	1 you why she wanted the restrictions? 2 A: She said that she felt she couldn't get back to 3 using her hands more than five pounds. 4 Q: All right. Thank you. 5 MR. SHULL: That's all I've got right now. 6 DR. SHEALY - EXAMINATION BY MR. SAMUELS: 7 Q: Dr. Shealy, I'm Stephen Samuels. I represent 8 your patient, Cindy Dozier. Regarding the 9 five-pound restriction, that is something that 10 you did indicate in your chart; is that 11 correct? 12 A: I did. 13 Q: And you certainly could have refused to do so? 14 A: I could have. 15 Q: Just a couple of quick questions about the 16 impairment rating. I think you indicated the 17 right wrist was worse than the left? 18 A: It was worse. 19 Q: Did you -- did she still have some sensory loss 20 on both arms, or just on the right? 21 WITNESS: Let me see those. 22 MR. SHULL: Here you go. 23 A: She had more sensory loss on the -- she had it 24 on both. 25 Q: Was it any worse on the right?

3 (Pages 9 to 12)

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1 A: I don't know, really. They indicated greater
2 than 15 millimeters.
3 Q: It looks like she also had an abnormal range of
4 motion on the right wrist of seven percent,
5 while the left wrist had a zero percent; is
6 that correct?
7 A: Her impairment, I don't believe was reliable.
8 Because there's no reason that she should have
9 lost the motion in her wrist. She's got a
10 decreased sensibility in every finger. The
11 median nerve doesn't supply every finger.
12 She's got it in the small and ring finger also.
13 So I can't put a whole lot of -- I don't put a
14 whole lot of credibility in her rating. This
15 is based on -- my impairment is based on what
16 it says in the AMA Guidelines for carpal tunnel
17 median nerve problems.
18 Q: Did you order a follow-up EMG to confirm if
19 there's still some --
20 A: I could. I'd be happy to do it. I don't
21 usually do it.
22 Q: Okay. I agree it's not usually done. But that
23 is indicated in the AMA Guide --
24 A: No, it's not.
25 Q: -- when there is additional sensory loss.

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1 A: Show me.
2 Q: It's in the Fifth Edition. It's been deleted
3 from the Sixth.
4 A: Show me. Show me where it is. I've read that
5 thing very carefully. And I've not seen it.
6 I will routinely order -- re-order a nerve
7 conduction. I don't have any problem with
8 doing that. But in someone like this lady, who
9 I think has done exactly like I thought she
10 would do, I don't think it's necessary.
11 Q: All right. I didn't bring the AMA Guide with
12 me, I actually left it in the car. But --
13 A: I've got it on my desk. Tell me what the point
14 of it is.
15 Q: Well, that was really the only point, simply to
16 ask you if you -- if you didn't -- if you had
17 ordered a follow-up EMG just to confirm if
18 there was any --
19 A: No. I have not.
20 Q: -- confirmation of --
21 A: Can I ask you why I should do that?
22 Q: Sure. The only reason I would even suggest it
23 is because my reading of the AMA Guide states
24 that it's indicated.
25 A: For what?

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1 Q: For confirmation for an impairment rating to
2 make it more accurate. There's no -- candidly,
3 there's no medical necessity for it. It's
4 purely for purposes of an impairment rating in
5 the AMA Guide. So that was the only purpose of
6 my question.
7 A: Okay.
8 Q: And I don't have anymore questions. Thank you.
9 DR. SHEALY - RE-EXAMINATION BY MR. SHULL:
10 Q: You said she had desensitization or was
11 reporting desensitization in every fingertip,
12 and that the median nerve only supplies sens --
13 A: She's got --
14 Q: Let me restate that.
15 A: She's got a greater than 15 millimeters' loss
16 of sensibility in all of her fingers. Median
17 nerve only supplies thumb, index, middle and
18 half the ring. So I don't unders -- I can't
19 put a whole lot of credibility in this, saying
20 her -- if you look at her grip strength, it
21 doesn't -- she's not -- it doesn't constitute
22 a normal bell curve. It's --
23 Q: Let me ask you this: Is it fair to say that
24 her subjective complaints are outweighing the
25 objective findings?

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1 A: I didn't say that. And I don't know if I can
2 say that. I would say that the objective
3 findings I have certainly are not commensurate
4 with any more -- more significant impairment
5 rating.
6 Q: Okay. Thank you.
7 (There being no further questions, the deposition
8 concluded at 8:09 a.m.)

4 (Pages 13 to 16)

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 0800660

Cindy Dozier,)
Employee,)
v.)
American Red Cross,)
Employer,)
and)
Cambridge Integrated Services,)
Carrier/Defendants.)
-----)

(COPY)

DEPOSITION OF
GEORGE BITTING, M.D.

Tuesday, January 17, 2012
4:11 p.m. - 5:07 p.m.

The deposition of George Bitting, M.D., taken on behalf of the Defendants at the First Choice Healthcare, P.C., 1920 Second Loop Road, Florence, South Carolina, on the 17h day of January, 2012 before Margaret S. Smith, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition.

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1 syndrome, or RSD, that's why she didn't do the
2 block.

3 Q: All right. Just so we're sure on this. She
4 doubted it was RSD because of psuedomotor
5 changes, and dump that down for me. What are
6 psuedomotor changes?

7 A: It's changes. As I mentioned, it can be things
8 in the sweat glands, the skin, it can be the
9 nail changes. Typically, as I said a minute
10 ago, one of the things -- that triple phase
11 bone scan, it's one of the things it can pick
12 up, the changes in the bone. You'll see
13 changes in the bone, osteopenic changes. None
14 of those things, as I said, I can just tell you
15 what Dr. Mancuso said back then.

16 Q: Right. And then you said it's typically not in
17 both limbs, and in this case, Ms. Dozier was
18 complaining of it in both limbs.

19 A: Yes.

20 Q: That was another reason why she doubted it was
21 RSD, is that correct?

22 A: Yes, sir.

23 Q: All right. And then, down at the bottom of
24 this paragraph here it says, denies temp.
25 changes or psuedomotor changes, so I assume

1 your opinion, what would be the significance of
2 that?

3 A: Yeah, it was an insidious onset, evidently.
4 I'm assuming from what she wrote, and again, I
5 can only go by what she's putting in there.
6 You know, sometimes carpal tunnel can occur
7 from -- which is one of the problems that she
8 had that was actually diagnosed that can come
9 from repetitive stresses. There might not be
10 an injury, a specific type of injury, but
11 people can get that, but as far as what she
12 meant by that, I don't know.

13 Q: All right. As far as the diagnosis of RSD in
14 general, would a precipitating event, or lack
15 thereof, be of any significance.

16 A: Typically, you're going to see some type of
17 trauma. Whether it be surgery, whether it be
18 some kind of an accident, crush injury,
19 generally, you're going to see some type of
20 trauma that would precipitate RSD.

21 Q: Okay. In your experience, have you seen many
22 cases of RSD that were caused by repetitive
23 trauma?

24 A: Not typically, just from repetitive trauma, no.

25 Q: Okay. Anything else about this January 26,

- 1 A: Well, a bone scan has three phases in its
2 uptake of dye, and one of the phases would pick
3 up some changes in RSD. Again, it's something
4 that I generally let the radiologist read. So
5 as far as me giving you the specifics of how a
6 triple phase bone scan works, I really can't
7 tell you the specifics, but it has to do with
8 uptake of dye. I believe it's in the second
9 phase, which will pick up the RSD.
- 10 Q: Okay. And nonspecific means what?
- 11 A: There wasn't any type of specific changes in
12 the bone other than, I'm assuming, some
13 degenerative changes, which could be arthritic
14 changes, from the bone scan.
- 15 Q: Do you have a copy of the bone scan in your
16 chart?
- 17 A: I don't see it. I see a Dexa scan, but that
18 generally is not the same thing, but let me
19 take a look and see if it is.
- 20 Q: Take your time.
- 21 A: Yeah, so basically it looks like, I have this
22 shear impression --
- 23 Q: You're looking at the bone scan report?
- 24 A: Yeah, and basically, I can read the impression,
25 very slight increased blood flow activity on

1 the left is discussed above, slight asymmetric
 2 in the hyperemic or inflammatory process, it
 3 is difficult to exclude for which compute
 4 correlation would be suggested. A component of
 5 arthritic changes in the carpal and/or radial
 6 carpal regions, left greater than right,
 7 difficult to entirely exclude and plane film
 8 correlation may be useful. So what he's
 9 basically saying, up above, there are very
 10 minimal nonspecific -- well, let me go back.

11 Q: Do we need to go off record?

12 A: As I said, it appears, according to this, there
 13 are some degenerative changes in there. It
 14 looks like he did a distal forearm in the mid
 15 carpal region, but there wasn't any, according
 16 to this, there was no signs, so it was negative
 17 for the RSD that Mancuso was looking for.

18 Q: What could those degenerative changes be if
 19 they weren't RSD?

20 A: Degenerative changes can be arthritic changes
 21 that people get, and I mean, a bone scan will
 22 just essentially light up if there is
 23 arthritis. In other words, you'll see it. So,
 24 I'm assuming degenerative changes would be --
 25 and it says, component of arthritic changes

1 down in the impression, so that appears to be
2 from arthritis.

3 Q: All right. And it says very slight increased
4 blood flow activity on the left, I assume that
5 means the left hand or the left arm?

6 A: Left arm, yes.

7 Q: All right. Do you remember from the prior
8 note, if Dr. Mancuso noted if there was -- one
9 was worse than the other, one hand or one arm
10 was worse than the other arm?

11 A: I would have to go back and look. It's stated
12 that she did have -- I mean, it doesn't really
13 -- I don't believe it states she did have a
14 left carpal tunnel steroid injection, and
15 evidently it made her pain worse. Overall, I
16 mean, it's both hands are affected, specific on
17 reviewing this. It's not really all that
18 specific on whether the left was worse than the
19 right, or which, that I can see.

20 Q: It doesn't say either way is that --

21 A: It doesn't really say either way, no, sir.

22 Q: All right. What does very slight increase in
23 blood flow indicate?

24 A: That all by itself, probably doesn't indicate
25 anything.

1 (Inaudible). There were some abnormalities.
 2 We then sent it to Ameritox, which they do GCMS
 3 confirmation to see if something is normal or
 4 abnormal, or to see if that was a false
 5 positive on the Ameritox Drug Screen, and
 6 again, let me try to shrink this down so I can
 7 see it on my computer, everything was
 8 consistent, it looks like it's just the
 9 Tramadol. There wasn't any Tramadol in the
 10 patient's urine, and we gave her some Lyrica,
 11 which did not appear to be in the urine. There
 12 wasn't anything in there that wasn't
 13 prescribed. There were Hydrocodone was in her
 14 urine, looks like, was prescribed. So what
 15 happened was her urine drug screen wasn't an
 16 issue at that point.

17 Q: Okay. No evidence that she was taking
 18 something that she shouldn't have?

19 A: Yes, sir.

20 Q: All right. At this point, were you in
 21 agreement that it was unlikely that she was
 22 suffering from RSD?

23 A: I didn't believe she was suffering from RSD,
 24 because I agree with Dr. Mancuso, typically,
 25 you don't have it in both extremities and the

1 triple phase bone scan, in my opinion, was
2 relatively normal. I thought, you know, later
3 on after seeing her, you know, the pain, we did
4 an EMG on May 22nd, and it did show carpal
5 tunnel, and carpal tunnel syndrome can cause
6 pain going up the arms. It can cause symptoms
7 like what she's having.

8 Q: Okay. And, in fact, I think at the end of that
9 May 16th note, you made a consultation request
10 for a hand surgeon, is that correct?

11 A: We did.

12 Q: All right.

13 A: And actually, it looks like she went to the
14 hand surgeon, but I don't think I ever got the
15 note back from the hand surgeon.

16 Q: Okay. Do you know which hand surgeon she saw?

17 A: It was Dr. Moore.

18 Q: Okay. And just to get through this chart, May
19 15th she came back. Looks like she was there
20 for medication refill?

21 A: Yes.

22 Q: Any change as far as diagnosis or symptomology
23 or any of that?

24 A: On that day, again, my -- I had a physician
25 assistant who saw her on that day. Her name is

1 Q: The next treatment date after the May 22nd EMG
2 was May 27th?

3 A: Yeah.

4 Q: And you just read me the end of that?

5 A: Yes, sir, see the hand surgeon.

6 Q: When did she see you after that May 27th visit?

7 A: Well, what we did was it was on 7/29 is when
8 she saw me, and at that point, for the neck
9 pain, one of the things that can help is
10 chiropractic care. In my opinion, you know,
11 with mild carpal tunnel, I thought -- typically
12 people can find some type or do something, some
13 type of game form, is what I put in the bottom
14 of the note. Of course, this was again, we're
15 looking at 2 1/2 years ago, so I don't know
16 what's happened since then. But at that point,
17 based on the studies and so forth, the other
18 thing, for example, with RSD that we keep
19 talking about. One of the things that we
20 typically find is what we call allodynia.
21 Allodynia is where if you just brush your hand
22 over that area and it's extremely painful. And
23 in this note on 7/29, from this special test
24 you'll see no allodynia, and essentially, again
25 that --

1 Q: How do you spell allodynia?

2 A: It's A-L-L-O-D-Y-N-I-A, which again, is
3 something that you would typically find in RSD,
4 along with the skin changes, and things that we
5 discussed earlier.

6 Q: That's also indicative that she did not have
7 RSD, isn't it?

8 A: In my opinion, yes, sir.

9 Q: All right. And at that point, you felt like
10 she could go back to some type of work?

11 A: Yes, sir.

12 Q: All right. No work restrictions?

13 A: No work restrictions.

14 Q: All right. August 26th, and that's the last
15 note I have.

16 A: That's the last one I have.

17 Q: All right. Is August 26th the last time Ms.
18 Dozier saw you?

19 A: That's the last time that I have that we've
20 seen her, yes.

21 Q: All right. Under plan you noted that she had
22 had an MRI of the cervical spine, she had had
23 a three phase bone scan, and under referrals,
24 consultation requested, you asked for a
25 functional capacity exam.

1 A: Right. I think what happened was we saw her,
2 I don't know if there are, yeah -- yeah, we
3 asked for the functional capacity evaluation.
4 Q: Okay.
5 A: I was trying to think. I have something in
6 here in a scan in my computer, and it's really
7 hard to read, and it looks like we sent her
8 there, and then it appears it was at Carolina
9 Physical Therapy, and what I can read from it,
10 which I can show you, both of you -- here's the
11 scan, so you can both -- unfortunately we --
12 that's one of the down sides of a computer, but
13 in the bottom it appears there's -- and the
14 reason I sent her for the functional capacity
15 evaluation was to see what her ability would
16 be, you know, whether she could do light work,
17 sedentary work. If there's any restrictions.
18 To see what, you know, what her ability would
19 be to return. As best I can read this, I don't
20 know if it was done. It looks like they were
21 recommending some physical therapy for carpal
22 tunnel, is what it almost appears in their
23 note, so I don't -- this doesn't look to me as
24 if there was a functional capacity evaluation
25 done as recommended.

1 Q: Okay. And that looks like just a physical
2 therapy initial evaluation?

3 A: Kind of like a consultation evaluation, yes.

4 Q: All right. So as far as you know the FC was
5 not performed?

6 A: That's correct.

7 Q: All right. And here we are at the end of
8 things. She ultimately treated with a hand
9 surgeon and received a bilateral carpal tunnel
10 release.

11 A: Okay.

12 Q: My question to you would be would you defer to
13 him with respect to A) the need for the
14 release, surgeries?

15 A: Obviously.

16 Q: Would you defer to him with respect to any
17 impairment from the release surgeries?

18 A: Yes, I would.

19 Q: All right. And would you defer to him with
20 respect to work restrictions and future medical
21 treatment with respect to the release surgery?

22 A: Yes, I would.

23 Q: All right. We've been through your chart, with
24 respect to your treatment of her, or I guess I
25 should say yours alone -- but with respect to

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1 the treatment that we've gone over that she
2 received from First Choice Healthcare, did you
3 feel -- and you haven't seen her since August
4 of '09 -- did you feel as though she had any
5 permanent impairment?

6 A: You know, the carpal tunnel, I don't know the
7 outcome of the carpal tunnel. At that time,
8 carpal tunnel itself does have an impairment,
9 or there can be an impairment rating for carpal
10 tunnel bilaterally, if she had surgery,
11 typically, mild carpal tunnel responds very
12 well to surgery, and so at that time it would
13 have been difficult to say whether she had it
14 or not. That was one of the reasons we made a
15 referral to the hand surgeon, obviously, so it
16 would be a difficult thing, I would say there
17 was a chance, yes, when I saw her the last time
18 she did have something that would be a rateable
19 impairment. I didn't do an impairment rating
20 on her at that time. It wasn't something that
21 was asked for me to do.

22 Q: Sure. When you made the referral to a hand
23 surgeon, were your intentions to transfer
24 treatment to the hand surgeon?

25 A: You know, typically, if her problem was from

1 at that time as a work related injury, we were
2 billing her medicaid at that time. And as far
3 as in the record itself, the patient, as I
4 said, didn't really mention any direct
5 etiology. Maybe later on she thought of
6 something, but it's not in her record, so I'm
7 not aware of it.

8 Q: My question would be, would it be likely for a
9 patient approximately one year and eight months
10 after the onset of the problems, to develop
11 RSD?

12 A: Typically, RSD comes from the trauma. I would
13 say it wouldn't take that long a period of time
14 for people to notice RSD. Typically, you're
15 going to see it within a short period of time
16 after an injury. I don't believe, no.

17 Q: Assuming that she did eventually, she was
18 eventually diagnosed with RSD later, do you
19 feel like that could be related to whatever
20 work incident happened to her in January of
21 '08?

22 A: Well, if we're assuming she has RSD, I'm still
23 in my opinion she doesn't, could it be related,
24 I mean anything could happen, but in my opinion
25 she didn't have RSD, it would have shown up

1 sooner than 20 months later if she did have
2 RSD.

3 Q: Okay. I think that's all I've got, Steve.

4 **DR. BITTING - EXAMINATION BY MR. SAMUELS:**

5 Q: Dr. Bitting, I'm Steve Samuels, I represent the
6 patient, your former patient, Cindy Dozier.
7 Let me first ask you, do you have any personal
8 recollection of Ms. Dozier?

9 A: It's been a long time, I don't personally, I
10 see a lot of patients, no.

11 Q: Okay. And between you and Dr. Mancuso, she
12 treated with your practice from January 26,
13 2009, through 8/26/2009, is that correct?

14 A: That's correct.

15 Q: So a period of about eight months?

16 A: Yes.

17 Q: And when she was originally referred to your
18 practice, she came in with an incoming
19 diagnosis of RSD from Dr. Moore, isn't that
20 true?

21 A: Dr. Moore wanted a block to see if it would
22 benefit. Dr. Mancuso, after evaluating the
23 patient, decided -- determined that she did not
24 have RSD. I don't know what Dr. Moore, you
25 know, how he came up with that diagnosis. In

1 understand as far as the carpal tunnel and so
2 forth, you in that respect deferred to the hand
3 surgeon that saw her after you, is that
4 correct?

5 A: Yes, sir, I would.

6 Q: And regarding any other treatment that would
7 have occurred after you last saw Ms. Dozier on
8 August 26, 2009, would you have referred to her
9 current treating physician?

10 A: Who was -- I don't even know who her current
11 physician is.

12 Q: Her current treating physician is Dr. Timothy
13 Zgleszewski.

14 A: If that's who she's seeing, yes, sir, I would.
15 I mean I haven't seen her, I can't really tell
16 you, I haven't seen her in over two years.

17 Q: You can't speak to her current physical
18 condition, diagnosis --

19 A: I can't --

20 Q: -- work restrictions or impairment can you?

21 A: No, because it's been two and a half years, and
22 she evidently had carpal tunnel release since
23 the last time I've seen her, so I really -- I
24 can't say anything about that.

25 Q: The time you last saw her, am I correct, that

1 Q: Okay. And to be clear, it was your opinion to
2 a reasonable degree of medical certainty, that
3 the problems which you had diagnosed and treated
4 Ms. Dozier for, were most probably caused by the
5 work injury described by her?

6 A: Within a reasonable medical probability, yes,
7 sir.

8 Q: And that would include the diagnoses we've
9 already discussed, and the need for the
10 medication, and the chiropractic treatment?

11 A: Yes, sir.

12 Q: Thank you, Dr. Bitting, I have no further
13 questions.

14 **DR. BITTING - RE-EXAMINATION BY MR. SHULL:**

15 Q: Is a Stellate Ganglion Block and a sympathetic
16 cervical what is the difference in them?

17 A: They are very similar.

18 Q: Are they the same thing essentially?

19 A: Yes, sir.

20 Q: We spoke earlier about how you can use epidural
21 steroid injections as a diagnostic tool.

22 A: Yes, sir.

23 Q: If she had gone for the blocks, and they were
24 not effective, would that at all change your
25 opinion as to the RSD?

1 A: If she had the block and it was ineffective,
2 then you would -- again, there's no, I mean,
3 triple phase bone scan and different things are
4 diagnostic criteria. But, yes, if she had a
5 sympathetic block, there's no benefit. That
6 would lead me even more to believe that it's not
7 RSD.

8 Q: Okay. So --

9 A: If she did have a benefit from the block, then
10 it would be an indication it could be
11 sympathetic mediated.

12 Q: Okay. Thank you.

13 A: Does that make sense?

14 Q: Yeah.

15 A: Thank you.

16 (There being no further questions, the deposition
17 concluded at 5:07 p.m.)
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State of South Carolina
Before the
South Carolina Workers' Compensation Commission
WCC File No.: 0800660

Cindy E. Dozier,)
Employee,) Deposition of
Claimant,) DR. TIMOTHY ZGLESZEWSKI
vs.) January 24, 2012
American National Red)
Cross,)
Employer,)
and)
Old Republic Insurance)
Company,)
Carrier,)
Defendants.)

COPY

Deposition on oral examination of
DR. TIMOTHY ZGLESZEWSKI, reported by Deidre M.
Bonnette, Court Reporter and Notary Public in and
for the State of South Carolina; said deposition
taken pursuant to notice of deposition and in
accordance with the South Carolina Rules of Civil
Procedure, at Palmetto Spine and Sports Medicine,
3 Southern Court, West Columbia, South Carolina,
commencing on Tuesday, January 24, 2012, at the
hour of 8:03 a.m.

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APPEARANCES:

Representing the Employee/Claimant:

STEPHEN B. SAMUELS, ESQUIRE
Samuels Law Firm
1527 Blanding Street
Post Office Box 50349 (29250)
Columbia, South Carolina 29201

Representing the Employer/Carrier:

WESLEY J. SHULL, ESQUIRE
Willson, Jones, Carter & Baxley, PA
872 South Pleasantburg Drive
Greenville, South Carolina 29607

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PLAINTIFF'S

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1

IASP Diagnostic Criteria for
Complex Regional Pain Syndrome

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ABC REPORTING SERVICE (803) 532-5255

1 This deposition is taken in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 It is agreed and stipulated by the
5 deponent and respective counsel that the reading
6 and signing of the deposition by the deponent is
7 expressly waived.

8 WHEREUPON:

9 DR. TIMOTHY ZGLESZEWSKI, being duly
10 sworn and cautioned to speak the truth, the whole
11 truth and nothing but the truth, testified as
12 follows:

13 EXAMINATION

14 BY MR. SAMUELS:

15 Q. Good morning, Dr. Zgleszewski. I'm
16 Stephen Samuels, and I represent your patient,
17 Cindy Dozier, and we are here to take your
18 deposition. Let me begin by asking you some
19 questions about your qualifications. Would you
20 give us a brief rundown of your education,
21 training skills and experience.

22 A. I completed college at Temple
23 University, receiving a BS in biochemistry, and
24 then went on to Temple University School of
25 Medicine where I received my medical degree. I

1 was then accepted into a five-year general
2 surgery residency program at Episcopal Hospital
3 in Philadelphia. I completed one year of that
4 training, then decided to switch out of general
5 surgery and go into physical medicine and
6 rehabilitation.

7 I completed a residency in that
8 training and then went to a full one-year
9 fellowship for musculoskeletal spine and pain. I
10 completed that fellowship and then went into
11 private practice in Scranton, Pennsylvania, where
12 I practiced essentially orthopaedic medicine, no
13 surgeries, so basically general musculoskeletal
14 medicine and spine, as well as pain, including
15 treating patients' just general musculoskeletal
16 disorders, what most people would think of as
17 shoulders, knees, hip, ankle problems, including
18 spine problems, including doing electrodiagnostic
19 examinations, as well as treating patients with
20 complex regional pain syndrome, and then moved
21 down to South Carolina in 2002 and resumed
22 private practice in the State of South Carolina
23 and have been so since then.

24 Q. What is the name of your practice?

25 A. Palmetto Spine and Sports Medicine.

1 Q. And I understand you have offices
2 in the Charleston area and in Columbia?

3 A. Yes.

4 Q. Are you board-certified?

5 A. Yes.

6 Q. What board are you certified with?

7 A. I'm board-certified in physical
8 medicine and rehabilitation as well as
9 subspecialty board-certified in pain medicine.
10 And I just completed re-certification for another
11 ten years several months ago.

12 Q. Is there such a thing as
13 board-eligible?

14 A. There is not. All the various
15 different boards, including the Board of Physical
16 Medicine and Rehabilitation, specifically state
17 at this time that it's inappropriate to comment
18 in a CV or sort of advertise yourself as
19 board-eligible as there is no such thing as
20 board-eligible. You are either board-certified
21 or you are not.

22 Q. And what are the requirements to be
23 board-certified in your speciality?

24 A. You have to complete a
25 ACGME-approved residency program for physical

1 medicine and rehabilitation. I need to also have
2 done 200 EMGs, EMG nerve conduction tests, prior
3 to completing residency, all observed by an
4 attending physician. That would then allow me to
5 sit for the written part of the
6 board-certification process.

7 I would then need to pass that and
8 then sit and basically take oral exams
9 essentially addressing patient treatment and
10 diagnoses one-on-one with an examiner, and then
11 upon completing both written as well as oral
12 examinations successfully, one would then be
13 board-certified. To remain board-certified, it
14 varies from specialty to specialty, but I need to
15 complete on average 50 CMEs a year during the
16 ten-year process.

17 Also, now as part of maintaining
18 board certification, there's sort of an active
19 sort of clinical -- I'm not sure what the -- how
20 to pose it, but it's basically to make sure that
21 you're staying, you know, clinically active and
22 sort of staying up-to-date with the most recent
23 and current knowledge.

24 Q. Does your training experience and
25 board certification in the areas of physical

1 medicine and rehabilitation along with pain
2 management put you in a position to better
3 diagnosis and treat complex regional pain
4 syndrome?

5 A. Oh, it helps being board-certified,
6 yes. I mean, I have a basic sort of baseline
7 knowledge that's -- that I've demonstrated by
8 being board-certified.

9 Q. Is treatment of complex regional
10 pain syndrome a substantial part of your
11 practice?

12 A. I would not say it's a substantial
13 part of my practice. I'm not sure what
14 "substantial" would mean, but I do have patients
15 that are in my practice that I'm actively
16 treating who have complex regional pain
17 syndrome.

18 Q. Well, let me ask this a different
19 way. Would you agree that complex regional pain
20 syndrome is a relatively rare condition?

21 A. It would be relative to what -- I
22 mean, you know, complex regional pain syndrome,
23 whether it's Type I or Type II, is a real
24 diagnosis, and there are unfortunately lots of
25 people that have it, so I would not term it as a

1 rare disease depending on what one would term as
2 rare.

3 Q. Let me ask the question a different
4 way, then, perhaps. Is complex regional pain
5 syndrome generally treated by people, by
6 physicians, of your specialty?

7 A. Yes.

8 MR. SAMUELS: At this time we'd like
9 to offer Dr. Timothy Zgleszewski as an expert
10 in --

11 MR. SHULL: Stipulate.

12 MR. SAMUELS: -- physical medicine
13 and rehabilitation and pain management.

14 BY MR. SAMUELS:

15 Q. Dr. Zgleszewski, is Cindy Dozier
16 your patient?

17 A. I believe so, yes.

18 Q. Do you know how long you've been
19 treating her?

20 A. I think it's been a couple years
21 just off the top of my head. Our electronic
22 medical records go back to January of 2010. I'm
23 not sure if my staff gave -- if there's a hard
24 copy chart that they didn't yank out.

25 MR. SHULL: Do you want to refer to

1 your APAs, Stephen?

2 BY MR. SAMUELS:

3 Q. Doctor, from the records we have,
4 it appears that you first evaluated her on
5 September 8, 2009, and that was for an
6 evaluation, and since then you began treating her
7 it appears around early 2010. Does that conform
8 with your memory? It looks like you -- I should
9 say January 26, 2010.

10 A. That -- it would be the first note
11 that I have as far as seeing her as a patient, I
12 believe.

13 Q. And do you remember and know Cindy
14 Dozier personally?

15 A. Yes.

16 Q. If she walked in the room, you
17 would know who she was?

18 A. Yes.

19 Q. Are you her authorized treating
20 physician under the workers' comp?

21 A. Unless something has changed over
22 the past week or so, yes, I do believe so.

23 Q. What are her diagnoses?

24 A. I have this as her diagnoses, as
25 complex regional pain syndrome, and it would be

1 Type II, and most people refer to it as reflex
2 sympathetic dystrophy, carpal tunnel syndrome,
3 along with cervical myalgia or myofascial pain.

4 Q. And has the workers' comp carrier
5 been paying you to treat those conditions?

6 A. Yes.

7 Q. Has there ever been any dispute
8 over reimbursement for any treatment that you've
9 provided to Ms. Dozier?

10 A. No. And I have copies of the
11 reimbursement that we received for her
12 treatment.

13 Q. You had mentioned that you're
14 treating her for complex regional pain syndrome.
15 To make it easy on the court reporter, we'll just
16 call it CRPS. I understand there are two types
17 of CRPS, and that would be Type I, which used to
18 be called RSD, and Type II, which used to be
19 called causalgia. Is that correct?

20 A. Correct. Yes.

21 Q. Can you explain the difference
22 between the two?

23 A. CRPS I, which is now -- which is
24 the correct terminology at this time, would be
25 equivalent to the old sort of RSD. It would be

1 sort of a sympathetic-, mediated-type pain
2 without any specific nerve involvement as opposed
3 to CRPS II, where there is a specific nerve that
4 has been injured and then one develops
5 sympathetic-, mediated-type pain, in a nutshell.

6 Q. And which of these two types does
7 Ms. Dozier have?

8 A. She has CRPS Type II.

9 Q. So strictly speaking, she doesn't
10 have RSD, to use the old terminology. She has
11 causalgia; is that correct?

12 A. If you're using old terminology, it
13 would be causalgia.

14 Q. And what is the basis for your
15 diagnosis of CRPS Type II?

16 A. Well, it's based on the -- her
17 history, the physical exam, as well as the past
18 medical records that I have, and most of which
19 are actually from the Independent Medical
20 Examination, and what I utilize is one that's
21 sort of a way to diagnose it based on the
22 International Association for the Study of Pain.
23 There is another -- and I know the AMA Guides
24 Fifth Edition has their own criteria for what RSD
25 is or what CRPS is.

1 However, that diagnosis sort of
2 requirement, if you talk to the active physicians
3 who treat CRPS, would disagree with those
4 requirements for that diagnosis, and as far as I
5 am aware, the diagnosis within the AMA Guides
6 Fifth Edition has never been validated within
7 studies. Also, in my medical opinion, knowing
8 that the AMA Guides Sixth Edition -- there have
9 been issues with that.

10 There -- the AMA Guides, depending
11 on who you speak to, there may be sort of
12 secondary gain from the editors, given the fact
13 that one of them has a major practice on the
14 defense side, but the IASP Diagnostic Criteria,
15 there is no ulterior motive in my medical
16 opinion, and it's one that's commonly utilized.
17 I brought a copy of this, if it's okay with you,
18 so that --

19 MR. SHULL: Thank you.

20 A. -- when I sort of go over how I
21 sort of derive the diagnosis of CRPS that all
22 parties would know that I'm not just commenting
23 on this off the top of my head, so I'm just going
24 to go through 1 through 4, if that is okay.

25 MR. SAMUELS: That'll be fine, and

1 we'll make this an exhibit to your deposition.

2 MR. SHULL: There's no objection.

3 (PLF. EXH. 1, IASP Diagnostic
4 Criteria for Complex Regional Pain Syndrome, was
5 marked for identification.)

6 BY MR. SAMUELS:

7 Q. I should ask you, what does IASP
8 stand for?

9 A. International Association for the
10 Study of Pain.

11 Q. And is their definition contained
12 in this document, which is Exhibit 1, considered
13 authoritative in the field of physical medicine
14 and rehabilitation and pain management?

15 A. It's one of the diagnostic criteria
16 that's utilized.

17 Q. And is it the one that you rely on?

18 A. It's the one that I use. So if you
19 go just 1 through 4, the first one is, "The
20 presence of an initiating noxious event, or a
21 cause of immobilization." In Ms. Dozier's
22 specific case, I believe it was a repetitive-type
23 trauma that initiated a carpal tunnel syndrome.

24 I believe within one or two months
25 her initial treating doctors actually placed her

1 in a cast, and while she was in the cast -- and
2 that would be the immobilization, and that was
3 also, I think, treating a tendonitis with pain
4 going from the wrist up to the elbow, but while
5 in the cast, on March 14th of 2008, Dr. Nichols
6 documented, quote, She's been having increasing
7 pain and swelling in her left wrist and hand
8 since application of the cast." End quote.

9 Then go on to say she's been having
10 difficulty at work due to the symptoms, so in my
11 medical opinion, really, actually the cause of
12 the CRPS or initiating factor was most likely the
13 -- or most probably the placement of her forearm
14 and wrist into the cast, and that would fit
15 Criteria 1 as immobilization, and what -- if you
16 look at the bottom, there is a little starry or
17 actually a little cross where it says No. 1
18 actually is not required for diagnosis because 5
19 to 10 percent of patients will actually not have
20 an initiating noxious event or a immobilization,
21 but in my medical opinion, Ms. Dozier clearly has
22 that.

23 Moving on to No. 2, it states,
24 quote, "Continuing pain, allodynia, or
25 hyperalgesia in which the pain is

1 disproportionate to any known inciting event."
2 That, I think, is -- criteria is easily met. She
3 reports continued pain throughout, had problems
4 actually wearing splints and various physicians
5 have stated that her pain is sort of
6 disproportionate to sort of what they would
7 expect her to have, so that would be she's met,
8 in my medical opinion, Criteria 1 and Criteria 2.

9 Moving to Criteria 3, "Evidence at
10 some time of edema, changes in skin blood flow,
11 or abnormal sudomotor activity in the region of
12 pain." And it can be a sign or symptom, meaning
13 that it can be something that the patient
14 reports, which is a sign or -- I'm sorry. A sign
15 is what's documented on sort of the physical
16 exam. Or a symptom. That's something the
17 patient reports, so it doesn't have to be both.
18 It could be either one, and it only has to be
19 sort of one of those.

20 And clearly in the last medical
21 record from Dr. Nichols, he clearly documented
22 swelling, and that would be considered edema, so
23 that sort of criteria is met, but there's also
24 other documentation in the records of swelling.
25 From a Carolina Physical Therapy note dated

1 February 7th of 2008, sort of about the beginning
2 of two-thirds of the way down the page, quote,
3 Swelling in fingers, no stiffness, feels weak.

4 Then in a note from Dr. Moore --
5 it's like a handwritten -type sort of note from
6 April 9th of 2009, and that would be over a year
7 after the Carolina Physical Therapy note
8 documented swelling in the fingers. It's noted
9 in there as, quote -- there's a positive sign
10 with a circle around it. Positive edema,
11 positive stiffness. And I'm not sure. There's
12 another positive sign under there. I've not yet
13 been able to figure out what that is.

14 But clearly it's been documented
15 that she's had edema by three health care
16 practitioners, as well as self-reports or
17 symptoms reported by Ms. Dozier that she's had
18 intermittent swelling in the hands, so in my
19 medical opinion, she would meet criteria -- she
20 would meet the criteria under No. 3.

21 And then going to No. 4, "This
22 diagnosis is excluded by the existence of other
23 conditions that would otherwise account for the
24 degree of pain and dysfunction." Again, there is
25 multiple notes throughout that or stated by

1 physicians where the pain is sort of much more
2 than they would expect. She was treated for
3 carpal tunnel syndrome as well as had carpal
4 tunnel release with continued pain.

5 If she had just had the tendonitis
6 or the tenosynovitis in the forearm tendons, one
7 would expect that to resolve over time, which it
8 has not, and one would not expect the amount of
9 pain that she's had with that, so in my medical
10 opinion, she would fit -- she would meet No. 4,
11 and then, therefore, she -- in my medical
12 opinion, she clearly has CRPS Type II because
13 it's related to the median nerve.

14 And, again, in my medical opinion,
15 what most likely occurred is she had the median
16 neuropathy, which has been documented by EMG.
17 Then a cast was placed, and that would be the
18 immobilization, and that sort of set forth the
19 process of the CRPS.

20 Q. Is the median nerve also the nerve
21 that is related to the carpal tunnel syndrome?

22 A. Yes.

23 Q. Is it fair to say essentially she
24 had the underlying carpal tunnel syndrome as part
25 of her work-related injury, and then from

1 complications along with the treatment and the
2 casting from the carpal tunnel syndrome that she
3 then developed CRPS Type II?

4 A. In my medical opinion, after
5 reviewing the medical records and all, yes.

6 Q. And do you have an opinion as to
7 whether the CRPS Type II is related to her
8 work-related injury?

9 A. Yes.

10 Q. And what is that opinion?

11 A. That it is.

12 Q. Let me ask you a couple of other
13 questions about Exhibit 1. Did she -- well, let
14 me -- would -- if she is complaining of extreme
15 pain to light touch in an area of her hand,
16 particularly her thumb and around her thumb,
17 would that be considered to be allodynia?

18 A. Yes.

19 Q. And what is allodynia?

20 A. It's basically increased -- it's
21 basically a normal touch, increased pain, you
22 know, that it just is -- instead of being normal,
23 someone feels it as pain.

24 Q. And would evidence of increased
25 blood flow be a sign of CRPS Type II?

1 A. Yes.

2 Q. And have you had a chance to review
3 the triple-phase bone scan that was done in
4 February of 2009?

5 A. Yes. The report.

6 Q. Let me show you that report.

7 MR. SHULL: That's the same one that
8 I have, isn't it? It's the same one?

9 MR. SAMUELS: Yes.

10 MR. SHULL: Okay.

11 MR. SAMUELS: Yeah.

12 BY MR. SAMUELS:

13 Q. And, Dr. Zgleszewski, would you
14 agree that the radiologist documented a very
15 slight increased blood flow activity?

16 A. Yes.

17 Q. Does that further confirm your
18 diagnosis of CRPS II?

19 A. Again, from the standpoint of the
20 diagnosis of CRPS, whether Type I or Type II, one
21 does not need a positive bone scan for the
22 diagnosis. One does not require a positive
23 response to stellate ganglion blocks, but with
24 the presence of that sort of being positive, in
25 my medical opinion, and in reviewing the records

1 it's the opinion of a couple other doctors, that
2 helps confirm the diagnosis of CRPS or is
3 consistent with CRPS.

4 Q. So if I follow you, it's not
5 necessary to the diagnosis that the triple-phase
6 bone scan show the increased flow, but the fact
7 that it does further confirms that your diagnosis
8 of CRPS II is correct; is that fair to say?

9 A. In my medical opinion, yes.

10 Q. And you mentioned some other
11 doctors. Have any of the other doctors who've
12 treated or evaluated Ms. Dozier also diagnosed
13 her with either RSD or CRPS?

14 A. Yes. There's a medical record or
15 actually I guess it's a letter from Dr. Moore to
16 Mr. McElveen from February 22nd of 2009. Second
17 paragraph, quote, A nuclear medicine bone scan
18 was obtained revealing bilateral wrist uptake.
19 This is consistent with the diagnostic impression
20 of a complex regional pain syndrome as previously
21 suspected. End quote.

22 And I do believe the neurosurgeon, I
23 think Dr. Rhea -- I believe it's R-H-E-A. Let me
24 see if I can -- actually that's it. I can't find
25 the Dr. Rhea note, but we have Dr. Moore's as an

1 example.

2 MR. SHULL: Do you want me to find
3 Dr. Rhea's note?

4 BY MR. SAMUELS:

5 Q. Dr. Zgleszewski, the letter you
6 just read from Dr. Moore, what date was that
7 letter?

8 A. That's dated February 22, 2009.
9 And, again, it's addressed to a Mr. McElveen.

10 Q. Let me show you another letter.
11 This is at APA Page 1 from Dr. Moore, which is
12 actually addressed to me. Does that have the
13 same opinions or is it the same or similar
14 letter?

15 A. It is. I'll just read it. Again,
16 this is Dr. Moore's statement. Quote, A nuclear
17 medicine bone scan was obtained revealing
18 bilateral wrist uptake. Period. This is
19 consistent with the diagnostic impression of a
20 complex regional pain syndrome as previously
21 suspected. End quote.

22 It then goes on to say, quote,
23 Dr. Rhea has seen her and concurred that her pain
24 is inconsistent, again, that was inconsistent,
25 with a simple median neuropathy or simple

1 cervical disk disease. Her findings suggest a
2 CRPS entity. End quote.

3 He then went on later in that
4 paragraph to recommend that Ms. Dozier get
5 referred on to Dr. Ogburu or someone to do what
6 they termed as diagnostic and therapeutic
7 ganglion blocks, but basically to do what's
8 called stellate ganglion blocks for the CRPS.

9 Q. Okay. Thank you. And I'm going to
10 show you the chart we have from Dr. Rhea at
11 Florence Neurosurgery and Spine. Are these the
12 documents that you were referring to but couldn't
13 find?

14 A. Yes. And actually I just went
15 over -- it is on her prescription pad. She has a
16 diagnosis, RSD, and it's where she's recommending
17 cervical sympathetic blocks or stellate ganglion
18 blocks.

19 Q. Dr. Zgleszewski, how painful is
20 CRPS Type II?

21 A. Well, it can vary from mild to
22 severe and anywhere in between.

23 Q. When patients describe pain and the
24 pain of CRPS II on a scale of one to ten, what do
25 the pain complaints typically range from?

1 A. I would have to say, you know,
2 there is no typical. You have untreated CRPS.
3 The pain can be a nine. Ten is patients kill
4 themselves, so none of my patients ever make a
5 ten, but, you know, it could be severe.

6 If it's being treated properly --
7 and properly treated could just be oral
8 medications. It could be a combination of oral
9 medications with sympathetic blocks. It may even
10 require a spinal cord stimulator.

11 Then there is actually more advanced
12 to some experimental treatments, such as ketamine
13 infusions, lidocaine infusions, directly into the
14 veins, but, again, it depends on where the
15 patient is in their -- in their treatment and
16 sort of where they are as far as the CRPS and if
17 it's flaring up at that point.

18 Q. You had also diagnosed Ms. Dozier
19 with cervical myalgia. Is that also related to
20 her work injury?

21 A. Yes.

22 Q. And can you explain how that would
23 be?

24 A. The cervical myalgia, myofascial
25 pain, from the fact that she has the pain in the

1 arm, she would sort of hold the arm in a guarded
2 position. When she does that, she would sort of
3 elevate her shoulder, and she's basically using
4 her upper trapezius, levator scapulae and some
5 other muscles to sort of keep that arm raised.

6 Unfortunately, those muscles aren't
7 designed to sort of do that on sort of a
8 long-term- or continuous basis, and the way I try
9 to describe it to my patients when that occurs
10 is, it's almost like getting charley horses
11 because the muscle is fatiguing, and with
12 myofascial pain, you can have symptoms travel
13 down or refer down into the arm as well.

14 Q. In terms of a treatment plan, what
15 medical treatment will she require that will tend
16 to lessen her period of disability?

17 A. In my medical opinion,
18 unfortunately continued medication management.
19 The good thing for Ms. Dozier is she's apparently
20 only requiring Flexeril, Lyrica and Naprosyn.
21 She is certainly not requiring narcotic pain
22 medications.

23 If it comes to a point where the
24 symptoms become uncontrolled with that medication
25 regimen, one option would be to use combination

1 medications such as non-steroidals, the
2 nerve-type medications, which Lyrica or Neurontin
3 are examples of, and then theoretically you could
4 add narcotic medication. The other option would
5 be stellate ganglion blocks.

6 I know per the records she had some
7 good benefit with Dr. Patel with stellate
8 ganglion blocks, but what can happen is some
9 patients may over time become or have less of a
10 favorable response. I know -- I think I did
11 three stellate ganglion blocks, none of which had
12 any long-term benefit, which is why I believe I
13 stopped after undergoing -- having her undergo
14 three, so I think in her case if oral medications
15 become ineffective, I don't believe that stellate
16 ganglion blocks would be the next step.

17 The next step would be, in my
18 medical opinion, to consider a spinal cord
19 stimulator, and then beyond that, I would just
20 state as -- chronic pain management for RSD, and,
21 you know, I don't believe Ms. Dozier would
22 require lidocaine infusions or ketamine
23 infusions. However, that may change, and that
24 medical opinion may change in the future based on
25 her presentation, and then the use of physical

1 therapy, a home exercise program.

2 Q. You say she did have some
3 short-term relief to the stellate ganglion blocks
4 you performed?

5 A. She had very short-term benefit.
6 She actually had long-term benefit, it appears,
7 with Dr. Patel, and I don't recall actually
8 seeing Dr. Patel's notes. I just know that there
9 was -- it was reported by her that she
10 actually -- when she first started coming to me,
11 I believe she stated that her stellate ganglion
12 block or her block was wearing off from
13 Dr. Patel.

14 Yeah. It states her -- this is from
15 a -- I apologize. From a note from March 2,
16 2010. Quote. She states her stellate -- her
17 stellate block done by Dr. Patel in January of
18 2010 is wearing off.

19 Q. I'm looking at a Form 14-B that you
20 prepared for the workers' compensation
21 commission. This is on Page 113 of the APA
22 Submissions, and is it your opinion that
23 Ms. Dozier reached maximum medical improvement on
24 August 9, 2011?

25 A. Can I see that, please?

1 Q. Yes, sir.

2 A. Yes.

3 Q. And you also assigned an impairment
4 rating. Can you explain the basis of the
5 impairment rating?

6 A. Well, it was based on her reported
7 symptomatology, medical records, physical exam
8 and that she had her right and left upper
9 extremities affected as well as the central
10 nervous system.

11 Q. The impairment ratings for the
12 right and left upper extremity, was that for the
13 carpal tunnel, for the CRPS Type II or a
14 combination of both?

15 A. From my standpoint, it's probably a
16 combination. I can't recall, but the range
17 typically for carpal tunnel is about 3 to 5
18 percent, but there's ratings for the right upper
19 and left upper extremities, so I believe the 5
20 percent would be secondary to the carpal tunnel,
21 and the fact she was still having symptoms into
22 the thumb, but then, in my medical opinion, a 12
23 percent rating to the central nervous system
24 based on the complex regional pain syndrome Type
25 II.

1 Q. All right. Was it -- did you have
2 an opinion as to whether or not Ms. Dozier could
3 return to work as a phlebotomist?

4 A. Yes.

5 Q. And what was your opinion?

6 A. That she could not.

7 Q. In terms of work restrictions --
8 and I will refer you to another document, which
9 is a letter from October 3, 2011, which is at
10 Page 111 through 112 of the APA Submissions. You
11 had addressed your opinion as to her work
12 restrictions. First off, are these restrictions
13 permanent?

14 A. Yes.

15 Q. And what was your opinion as far as
16 what work restrictions she would be under?

17 A. It would be no lifting greater than
18 5 pounds and that she could not even perform a
19 sedentary position if the job required anything
20 greater than less than occasional use of her arms
21 given the diagnosis of the CRPS and the carpal
22 tunnel syndrome, and also, in my medical opinion,
23 I stated that she cannot use either upper
24 extremity on a repetitive basis.

25 Q. So essentially she is limited to no

1 more than occasional lifting up to 5 pounds?

2 A. In my medical opinion, yes.

3 Q. Doctor, are the opinions you've
4 given in your deposition and in your reports
5 stated to a reasonable degree of medical
6 certainty?

7 A. Yes.

8 MR. SAMUELS: I have no further
9 questions. Please answer any questions Mr. Shull
10 has for you.

11 MR. SHULL: Thank you.

12 EXAMINATION

13 BY MR. SHULL:

14 Q. Doctor, I'm Wes Shull. I represent
15 the Red Cross in Ms. Dozier's workers'
16 compensation claim. I wanted to ask you a couple
17 follow-up questions, and if I could have you look
18 back on your August 9th note, it's where you gave
19 her the impairment rating, and this is, for the
20 record, APA 116 through 118. Here you go. I'll
21 just give it to you. If it's okay, I'll just
22 give you --

23 A. Oh, no. It's fine. I'm missing
24 my -- are you talking -- what year? I apologize.

25 Q. This is this -- that's fine. It's

1 were using the Fifth Edition as well; is that
2 correct?

3 A. I believe so.

4 Q. All right. And you added those
5 together to get 12 percent. Is that how you did
6 that?

7 A. I believe I combined them.

8 Q. To the whole -- did you use the
9 Combined Values Chart?

10 A. I believe so, if I put "combined."

11 Q. Let's see. It says, The combined
12 impairment rating. Okay. I've got a copy of the
13 Fifth Edition. I just wanted to clarify a couple
14 things on those ratings, and I am going to refer
15 you to I think it's Page 396. It was dark when I
16 left Greenville. Bear with me. It may be 296.
17 It may be 496. 496.

18 And this, for the record, is Pages
19 495 through 496 of the AMA Guides Fifth Edition.
20 Specifically it's Section 16.5(e) Complex
21 Regional Pain Syndromes, CRPS, Reflex sympathetic
22 dystrophy, CRPS I, and Causalgia, CRPS II, and
23 what I would first like to point you to is on
24 Page 496. It gives essentially the directions
25 for giving ratings due to CRPS. No. 1 is, Rate

1 the upper extremity impairment resulting from
2 loss of motion.

3 And I just didn't see in the note
4 where you recorded that. Did you record that
5 somewhere in your chart?

6 A. I would have to take a look at
7 this. I don't have -- I know I don't have range
8 of motion recorded in the chart. I don't have my
9 tabs either.

10 Q. Well, let me ask you. Did you
11 measure her range of motion on that day?

12 A. No.

13 Q. Okay. Then on No. 2, on Page 496,
14 if I can, it also says that you get impairment
15 for sensory deficits and pain, and I just didn't
16 see where you had noted those either.

17 A. Those are not noted.

18 Q. Okay. Did you take -- did you
19 measure those on that day?

20 A. I don't believe so, no.

21 Q. All right. Then No. 3 says, You
22 combine those two ratings, and it says, You use
23 the Combined Values Chart, which we just talked
24 about, and that gives you an upper extremity
25 impairment, and then No. 4 is you convert the

1 upper extremity impairment to a whole person
2 impairment. Looking at the note from August 9th,
3 you gave her -- you just automatically gave her 6
4 percent whole person impairment.

5 MR. SAMUELS: Object to the form of
6 the question.

7 MR. SHULL: What's the objection?

8 MR. SAMUELS: The use of the term
9 "automatically" --

10 MR. SHULL: Okay.

11 MR. SAMUELS: -- when
12 Dr. Zgleszewski has testified about the process
13 he went through.

14 BY MR. SHULL:

15 Q. You gave her 6 percent whole person
16 impairment; is that correct?

17 A. For?

18 Q. For the CRPS for the left arm and
19 then another 6 percent for the CRPS to the right
20 arm.

21 A. Yes.

22 Q. All right. No. 4 says, You are to
23 convert the upper extremity impairment to the
24 whole person impairment, and my question to you
25 there would be -- and to use Table 16.3, my

1 question to you there would be -- if I can find
2 Table 16.3. Here it is. It's on Page 439. If
3 you gave her 6 percent to the whole percent, that
4 would correlate to a 10 percent whole upper
5 extremity impairment; is that correct?

6 A. According to that table, yes.

7 Q. All right. Can your 6 percent
8 whole person impairments to each arm for the CRPS
9 be converted or be translated to a 10 percent to
10 the upper extremity impairment?

11 A. It could be.

12 Q. Okay. Do you agree with, if you
13 use that table, that they convert to 10 percent
14 to the upper extremity?

15 A. It would.

16 Q. Okay. Is it fair to say, then,
17 that according to the AMA Guides that you quoted
18 and according to these tables that I've shown
19 you, that you essentially gave her 10 percent to
20 the upper extremities for the CRPS, 10 percent
21 each?

22 A. Well, if we go back to that
23 table --

24 Q. This table?

25 A. No. Or actually not table. The

1 criteria actually under CRPS I.

2 Q. Okay.

3 A. It would actually be -- it's very
4 similar to CRPS II.

5 Q. Okay. You're right. Well, let me
6 back up, then. Under the section of CRPS II,
7 Causalgia, which is 496 and 497, that asks you,
8 essentially after you've gone through the four
9 steps to convert from upper extremity to whole
10 person using Table 16.3 -- so it's the same
11 table, the same method of conversion; would you
12 agree?

13 A. Correct.

14 Q. All right. And I thank you for
15 that clarification, but would you agree, then,
16 that the 6 percent to the whole person ratings
17 that you rendered are converted to 10 percent to
18 the upper extremities each for the CRPS?

19 A. Based on that table, yes.

20 Q. Okay. You stated that you do not
21 use the AMA Guides Fifth Edition for diagnosis of
22 CRPS or RSD; is that correct?

23 A. Correct.

24 Q. All right. But you do use them or
25 you do at least cite them when you give

1 misunderstanding the question.

2 Q. I'm asking you --

3 A. You said most probable, I do
4 believe.

5 Q. I'm asking you, if you read those
6 reports, it's probable that you knew RSD was an
7 issue.

8 A. It's possible. Again, I can't
9 recall my thought process back 2 1/2 years ago
10 and what I was thinking when I generated the
11 report.

12 Q. Okay.

13 A. Since I didn't list those as
14 diagnoses in the report or I don't believe it's
15 mentioned in there, I don't believe at the time
16 that I felt she had CRPS, and, again, that was a
17 one-time visit. I've now treated Ms. Dozier
18 since 2010, instead of just reading the records,
19 but personally treated her, and now at this point
20 in time, and it's back in the medical records
21 that I believe that she developed CRPS after
22 developing carpal tunnel syndrome from having the
23 cast placed on her wrist within one or two months
24 after being -- the injury and developed swelling
25 in the fingers, so at this point in time I can

1 state that she has CRPS.

2 Q. Okay. I think you just testified
3 that when you generated this report, you didn't
4 think she had CRPS.

5 A. I would have to say I did not
6 either believe she had it or not because it's not
7 commented on in the report.

8 Q. Okay.

9 A. I neither did a positive or a
10 negative on CRPS in the report.

11 Q. Okay. And you would agree that
12 there's -- it doesn't state either way whether or
13 not she has any of the objective complaints that
14 you went over with Steve according to IAS --
15 IAS -- the IASP Diagnostic Criteria.

16 A. Correct. Those are not reviewed in
17 the report.

18 Q. Right. And when I say the report,
19 I'm, of course, talking about the September 8,
20 2009, report.

21 A. Yes.

22 Q. You would agree?

23 A. Yes, I would agree.

24 Q. All right. The next note I have,
25 Doctor, is -- the next note I have is a January

1 26, 2010, note. Is that the next time you saw
2 her?

3 A. I believe so.

4 Q. Okay. You didn't see her any
5 visits in between September 8, 2009, and December
6 26, 2010?

7 A. I believe that is correct.

8 Q. All right. Looking at the January
9 26 note, what has changed objectively from this
10 visit date when compared to the September 8,
11 2009, visit date?

12 A. Repeat that question one more time.

13 Q. Looking at her -- looking at this
14 January 26, 2010, note, what has changed
15 objectively with her condition from the September
16 8, 2009, note?

17 A. I guess anything objective that was
18 changed was -- she was still reporting the same
19 symptoms. She apparently had a stellate ganglion
20 block with reduction in shoulder pain.

21 Q. Okay. So that was an objective
22 change in her condition?

23 A. Sure. I'm not sure who did it, but
24 someone did a stellate ganglion block, and that
25 would be for CRPS, and she had reduction in

1 pain. It was only in the left shoulder region,
2 but she had reduction in pain.

3 Q. Okay. You don't know who performed
4 that block. I assume that that was based on
5 Ms. Dozier's -- what she told you on that visit.

6 A. Yes. I believe -- well, either
7 that visit or the following visit, but I know
8 there was a mention of a Dr. Patel.

9 Q. Which Dr. Patel is it?

10 A. I don't know.

11 Q. The one in Charleston or the one --

12 A. I don't know. I know there's one,
13 I think, in Florence, I think, maybe or sort of
14 up in this area, and then there was one down in
15 Charleston. I don't believe it was the one in
16 Charleston, but I do not know.

17 Q. All right. Under your Diagnosis
18 from this report, which is on Page 188 of the AMA
19 Guides -- of the APAs -- and I can lean over and
20 show you this. You're diagnosing her with RSD or
21 it says, Reflex sympathetic dystrophy of upper
22 limb. My question to you there would be -- you
23 don't -- you don't really give an explanation for
24 the diagnosis. I'm not going to have you go back
25 through all the factors again because I think

1 we've done that, but my question to you is, what
2 made you -- if you didn't think she had it back
3 in September, what was the difference?

4 A. Again, I would go back to the --
5 her undergoing a stellate ganglion block, having
6 a reduction in pain. And, again, that's from
7 January 26, 2010, which would be, gosh, I think
8 two years now, two years ago, so, again, I can't
9 recall specifically my thought process --

10 Q. Okay.

11 A. -- but it's clearly documented that
12 the change as far as -- that I saw was that she
13 had undergone one stellate ganglion block with
14 reduction in shoulder pain, and the only reason
15 someone would get a reduction in pain with a
16 stellate ganglion block would be because they had
17 CRPS. That's what it's done for.

18 Q. So your diagnosis on January 26,
19 2010, was based on the fact that she told you
20 another doctor had given her a stellate ganglion
21 block that gave her relief?

22 A. It would be based on the history,
23 physical examination, and at that point I would
24 have re-reviewed her medical records.

25 Q. Okay. The Physical Examination,

1 to impairment ratings but not to diagnosing CRPS,
2 but I did want to ask you a few questions off of
3 Page 496. Okay. Table 16-16 on Page 496 goes
4 through the objective diagnostic criteria. You
5 want me to hold this over where everybody can see
6 it?

7 A. Thanks.

8 Q. Okay. And it looks like the -- I
9 think there are 11 diagnostic criteria, and it's
10 divided into some subcategories, but there's
11 vasomotor changes, which includes skin color, and
12 then it says mottled or cyanotic. I don't know
13 what cyanotic means. What does that mean?

14 A. Bluish.

15 Q. Okay.

16 A. There's not a lot of oxygen there.

17 Q. Does Ms. Dozier exhibit those?

18 A. Well, first, since you brought up
19 Table 16-16, I just want to comment on where it's
20 from. It's neither from a neurology pain
21 textbook. It's actually modified from a section
22 called, I guess, complex regional pain syndrome
23 in Brigham with the -- it's, I guess, the guides
24 case book, and, again, my objection and the
25 objection of many treating physicians is

1 Dr. Brigham is biased toward defense side.

2 And there is no basis for Table
3 16-16 nor does it follow by the majority. In my
4 opinion and in talking to treating physicians and
5 experts, it's not utilized as a diagnostic
6 criteria except for the AMA Guides, but -- and to
7 answer your question -- I think you were saying,
8 does she have vasomotor changes?

9 Q. Well, I think I was asking, with
10 respect to Requirement --

11 A. Uh-huh.

12 Q. -- or Clinical Sign No. 1, you said
13 cyanotic means bluish?

14 A. Bluish. It means --

15 Q. Did she ever exhibit that?

16 A. It means decreased oxygen.

17 Q. Did she exhibit that?

18 A. I have never personally witnessed
19 that.

20 Q. All right.

21 A. You would have to ask her if her
22 hand ever turned blue or changed colors.

23 Q. All right. Mottled, what does that
24 mean to you?

25 A. It's so swollen that it sort of has

1 little indentations.

2 Q. Okay. Does her hand exhibit
3 mottled skin color?

4 A. Well, it's not mottled color. It's
5 just the skin itself would be mottled, but, no.

6 Q. All right. Skin Temperature,
7 that's says cool.

8 A. Correct.

9 Q. All right. Does she exhibit cool
10 skin temperature?

11 A. Well, the problem with skin
12 temperature is it could be both cool or warm or
13 an increase in temperature, so, again, another
14 error in my medical opinion and other treating
15 physicians' opinions, but in my personal
16 experience, I believe there was several occasions
17 where it was slightly cool to touch, but not
18 demonstrable enough for me to note in a medical
19 record.

20 Q. All right. So that's no as far as
21 that clinical sign goes?

22 A. No with a asterisks next to it.

23 Q. All right. Edema, yes.

24 A. Yes.

25 Q. The next category is, Sudomotor

1 Changes, and that is, Skin dry or overly moist.
2 Now, did you ever notice dry skin or overly moist
3 skin on Ms. Dozier?

4 A. Yes.

5 Q. Okay. And did you make note of
6 that in your medical records?

7 A. No.

8 Q. Okay. Why would you not have made
9 note of it in your medical records?

10 A. Because I could not tell since the
11 rest of her skin was dry if the dry skin was
12 related to CRPS.

13 Q. Okay. So it could be she has dry
14 skin.

15 A. But it does say dry skin.

16 Q. Okay. And you noted that -- you
17 noted that she did have edema. I think primarily
18 today you pointed to other doctors' medical
19 records for edema. Did you ever note edema in
20 your medical records?

21 A. Nothing as significant as been
22 reported by the other treating health care
23 providers.

24 Q. Okay. So, no, you did not ever
25 note edema in your medical records?

1 A. Correct.

2 Q. All right. Trophic Changes. What
3 does that mean, "trophic"?

4 A. It just means basically you're
5 looking at, again, the skin, nail, hair changes,
6 either increased, decreased, brittle nails.

7 Q. Okay. No. 1 under Trophic Changes,
8 Skin texture, smooth, non-elastic. Did you ever
9 notice that?

10 A. No.

11 Q. All right. No. 2 under Trophic
12 Changes is, Soft tissue atrophy especially in
13 fingertips. Did you ever notice soft tissue
14 atrophy?

15 A. No.

16 Q. The next one is, Joint stiffness
17 and decreased passive motion. Now, did you
18 notice that?

19 A. She's had some, and other health
20 care providers have documented some stiffness,
21 and I can go back and get it for you, if you want
22 to know who did.

23 Q. No. That's fine.

24 A. Okay.

25 Q. You noticed it, though, is what

1 you're testifying?

2 A. Minimal. But, again, that's why it
3 wasn't documented.

4 Q. You noticed it, but you didn't
5 document it.

6 A. It was minimal.

7 Q. Okay. Nail changes, this says --
8 the next one is, Nail Changes, blemished, curved,
9 talon-like. Have you noticed that?

10 A. No.

11 Q. That's kind of ominous, and that
12 was a no?

13 A. That was a no.

14 Q. All right. Hair Growth Changes is
15 the next one. Fall out, longer, finer.

16 A. No.

17 Q. All right. Moving on to
18 Radiographic Changes or Radiographic Signs.
19 There are only two of these. The first one is,
20 Radiographs, Trophic bone changes, osteoporosis.
21 Have you noticed that?

22 A. No.

23 Q. All right. And then, Bone Scan,
24 Findings consistent with CRPS. Have you noticed
25 that?

1 Edition that this requires that you meet eight of
2 the eleven?

3 A. Well, the table, that as far as I'm
4 aware is not validated as far as criteria in the
5 scientific literature. That would be correct.

6 Q. Okay. And so you would agree that
7 with respect to a diagnosis under the Fifth
8 Edition AMA Guides she would not qualify for --
9 this says Objective Diagnosis Criteria for CRPS.

10 A. Under the AMA Guides she would
11 not. That is correct.

12 Q. All right. I asked you at the very
13 beginning of this about your impairment ratings,
14 and I believe you said that the 6 percent to the
15 whole percent to each arm for the CRPS could be
16 converted to 10 percent?

17 A. It can be.

18 Q. Okay. And if you were to add the
19 10 percent to the 5 percent, I'm talking about on
20 each side, what does that give you?

21 A. It wouldn't be adding. You would
22 combine --

23 Q. Combine.

24 A. -- but --

25 Q. And just for the record --

1 A. -- it would be 19.
2 Q. -- you're looking at the Combined
3 Values Chart.
4 A. It would be 19. Combined Values
5 Chart, Page 604.
6 Q. Okay. You're combining --
7 A. So 10 and 10 is 19.
8 Q. Well, it was 10 and 5.
9 A. Oh, I'm sorry.
10 Q. It's fine.
11 A. 10 and 5 would be 15.
12 Q. Okay. So if you combine the rating
13 to each limb for the CRPS and if you combine the
14 rating to each limb for the carpal tunnel
15 syndrome, she has 15 percent to -- I say each
16 limb -- each arm. She has 15 percent to each arm
17 combined; is that correct?
18 A. That would be correct.
19 Q. All right. And getting back to
20 your note -- getting back to the note where you
21 gave her ratings, which I think was October the
22 3rd, October the 3rd -- excuse me. Where you --
23 where you gave your opinions as to her ability to
24 return to her work as a phlebotomist. Steve
25 asked you about this, and you said that she could

1 Q. Okay. On your note you stated
2 Dr. Shealy lists this 5-pound weight restriction
3 as well, so is it your understanding that
4 Dr. Shealy gave her a 5-pound lifting restriction
5 for the carpal tunnel syndrome surgeries that he
6 performed?

7 A. Based on that note, I would have to
8 say yes.

9 Q. Would you defer to Dr. Shealy with
10 respect to work restrictions for the carpal
11 tunnel syndrome alone?

12 A. No.

13 Q. You wouldn't?

14 A. No. I'm currently treating her for
15 carpal tunnel.

16 Q. Okay. Would you think that these
17 5-pound lifting restrictions for the carpal
18 tunnel syndrome are reasonable?

19 A. In this instance, I believe it is.

20 Q. Okay. You spoke about your dislike
21 of the AMA Fifth Guides -- Guidelines to
22 Impairment Fifth Edition. You spoke about your
23 dislike of the criteria it uses, and one of the
24 reasons why you said you dislike it was, it was
25 created by a Dr. Brigham?

1 MR. SAMUELS: I'm going to object.

2 His testimony was about the Sixth Edition --

3 MR. SHULL: Okay.

4 MR. SAMUELS: -- where Dr. Brigham
5 was the author.

6 BY MR. SHULL:

7 Q. Okay. What about the Fifth
8 Edition?

9 A. What's the question?

10 Q. I believe when Steve first started
11 questioning you, there was a mention of secondary
12 gain with respect to the Fifth Edition.

13 A. No.

14 MR. SAMUELS: It was the Sixth
15 Edition.

16 THE WITNESS: It was to the Sixth
17 Edition.

18 MR. SHULL: Okay.

19 THE WITNESS: He has a private
20 company that works solely on defense work, does
21 webinars specific for adjustors, case managers
22 and defense, and my opinion is not alone. As I'm
23 sure you're well aware, there are more than one
24 states that have banned the use of the Sixth
25 Edition for such a reason.

1 BY MR. SHULL:

2 Q. All right. What about your
3 practice, Doctor? Who do you primarily work for
4 from a legal perspective?

5 A. I see -- I get patients from
6 primary care physicians, from some specialists,
7 from case managers, from adjustors, and I do do
8 work from the standpoint of independent medical
9 examinations for both plaintiff and defense. In
10 fact, I'm acting as an expert witness right now
11 for defense on a personal injury case, so I do
12 independent medical examinations sort of for both
13 plaintiff and defense. I'm probably at this
14 point probably somewhere between 60-ish to maybe
15 65-ish or 70 percent plaintiff to defense work as
16 far as volume goes.

17 Q. That's for IMEs?

18 A. That's for IMEs, correct.

19 Q. All right. What percentage of your
20 overall practice comes from primary care
21 physicians? That was the first one you listed.

22 A. The vast majority. I wouldn't be
23 able to tell you, but that's where the vast
24 majority of the new patients would come from.

25 Q. Okay. "Vast majority" being over

1 half your practice comes from --

2 A. Yes, sir.

3 Q. Okay. What percentage would you
4 say is IMEs just in general for either side?

5 A. I see maybe 200 to 250 patients a
6 week, and I might do anywhere from 5 to 10 IMEs,
7 so not to be --

8 Q. What did you say, 200 to 250?

9 A. 200 to 250, depending on the week
10 and all, you know, so --

11 Q. Okay.

12 A. -- I'm not sure what numbers that
13 would be.

14 Q. That would be less than 10 percent.

15 A. Yeah.

16 Q. Would you agree with that?

17 A. I think it would be probably less
18 than 5 percent.

19 Q. Less than 5 percent. Okay.

20 A. And I do believe, if I recall --
21 your firm is Baxley --

22 Q. Yeah. Willson, Jones.

23 A. And you all have and still do, you
24 all send patients to me for IMEs as well.

25 Q. Okay. And I think you've done IMEs

1 for me in the past.

2 MR. SHULL: You're probably going to
3 ask him that, aren't you?

4 BY MR. SHULL:

5 Q. Is that right? I mean, I think
6 it's been some years.

7 A. I can't recall, but I know the
8 practice itself.

9 Q. All right.

10 A. And more recently than a couple
11 years ago.

12 Q. Right. Right. The firm, but
13 not -- yeah.

14 A. (Witness nodding head.)

15 MR. SHULL: All right. I think I'm
16 almost done. I think that's it.

17 REEXAMINATION

18 BY MR. SAMUELS:

19 Q. Dr. Zgleszewski, in terms of what
20 is authoritative in your field in setting forth
21 the criteria for diagnosing CRPS, would you agree
22 that the IASP Diagnostic Criteria is
23 authoritative?

24 A. Yes.

25 Q. And the reference at Page 496 of

1 the Fifth Edition of the AMA Guide, Table 16-16,
2 would you agree that the diagnostic criteria for
3 CRPS listed there are not authoritative?

4 A. Yes.

5 Q. Would you agree they're also not
6 reliable?

7 A. Yes.

8 Q. Would you agree it would be
9 inappropriate for a board-certified pain
10 management physician qualified as you are in the
11 diagnosis and treatment of CRPS to rely on Table
12 16-16?

13 A. Yes.

14 Q. And we had heard you mention
15 Dr. Brigham. Are you familiar with Dr. Brigham's
16 practice?

17 A. Vaguely, yes.

18 Q. Are you aware that Dr. Brigham's
19 practice is essentially to run an impairment
20 rating mill --

21 MR. SHULL: I'm going to object to
22 that.

23 Q. -- for insurance companies?

24 A. Yes.

25 Q. And in your research into the Sixth

1 Edition and Dr. Brigham, is that where you
2 learned about Dr. Brigham's type of practice?

3 A. Yes.

4 Q. Are you aware that Dr. Brigham's
5 opinion is that treating physicians should not
6 provide impairment ratings and work restrictions?

7 A. Yes.

8 Q. Were you aware that Dr. Brigham's
9 opinion is that a substantial majority of
10 impairment ratings and work restrictions provided
11 by treating physicians are too high on the
12 impairment rating and too restrictive on the
13 restrictions?

14 A. Regarding that that's his opinion,
15 yes.

16 Q. And have you done work and made
17 presentations regarding the Sixth Edition of the
18 AMA Guides?

19 A. Yes.

20 Q. And I think you've already stated
21 this, but is it your opinion that the Sixth
22 Edition of the AMA Guide is not reliable because
23 it essentially encapsulates Dr. Brigham's
24 opinions and his personal desire for increased
25 profitability in his practice?

1 A. In my opinion -- and I'll just give
2 one example. One would be his -- or the section
3 on spine and the changing of fusion ratings going
4 from essentially what, the AMA Guides Fifth, we
5 consider a Category IV to a Category III with his
6 statements that, Well, the surgery advancements
7 have been made over the past -- I don't know if
8 it was 10, 20 years, whatnot, and, Better
9 outcomes should be reflected in the impairment
10 ratings.

11 And that's unfortunately not in
12 touch with reality, knowing that there have been
13 multiple studies, some -- one of which I know was
14 more of a defense publication where it's
15 documented that you don't fuse in the lumbar
16 spine for a workers' compensation case, an
17 injured worker, because they just don't get
18 better. Other publications have documented that
19 over the past 20 years, the success rate for a
20 lumbar fusion has not changed, and, therefore,
21 his categorization that surgical outcomes have
22 improved is just blatantly false.

23 Q. Going back to the IASP Diagnostic
24 Criteria, Mr. Shull asked you several questions
25 about Point 1, which is, "The presence of an

1 initiating noxious event, or a cause of
2 immobilization." Would you agree that you can
3 have either taken place, either immobilization or
4 an initiating noxious event?

5 A. That's what it states, so, yes.

6 Q. So --

7 A. Or you don't have to have either.
8 Again, if you look at the little -- it's not an
9 asterisks. It would be a little cross. It
10 goes -- there's a little cross there, elevated
11 cross, after immobilization that states not
12 required for diagnosis, 5 to 10 percent of
13 patients will not have this.

14 Q. But in Ms. Dozier's case she did
15 have the immobilization; isn't that true?

16 A. In my medical opinion, yes.

17 Q. And a cast on an extremity would be
18 immobilization, correct?

19 A. Correct.

20 Q. As to the initiating noxious event,
21 is it actually typical with CRPS that that can be
22 a relatively minor trauma like a bruise or a
23 sprain or a small fracture?

24 A. Yes.

25 Q. And since the workers' compensation

1 commission has already found as fact that her
2 carpal tunnel syndrome is a combination of an
3 acute lifting injury with an overlay of
4 repetitive trauma, would you agree that she also
5 had the same initiating noxious event that caused
6 her carpal tunnel syndrome?

7 A. Can you repeat the question?

8 Q. The workers' compensation
9 commission has already found as a fact that
10 Ms. Dozier had a lifting accident with an overlay
11 of repetitive lifting.

12 A. Okay.

13 Q. Okay? Which would mean that her
14 carpal tunnel syndrome was caused by a trauma --

15 MR. SHULL: Object.

16 Q. -- would you agree with that?

17 A. Yes.

18 MR. SHULL: Object.

19 BY MR. SAMUELS:

20 Q. All right. Would that same trauma
21 be considered an initiating noxious event?

22 A. It could be, yes.

23 Q. So in that respect, did Ms. Dozier
24 actually meet both of those criteria, both the
25 initiating noxious event and the immobilization?

1 A. She can. But she actually doesn't
2 need to meet either.

3 Q. And on the second criteria, would
4 you agree she has continuing pain, allodynia and
5 hyperalgesia in which the pain is
6 disproportionate to any known inciting event?

7 A. Yes. And, again, that's other
8 physicians' opinions as well.

9 Q. And she also has evidence of some
10 type of edema as you've already testified as well
11 as changes in skin blood flow as shown on the
12 triple-phase bone scan. Therefore, she meets the
13 criteria of No. 3.

14 A. Yes.

15 Q. Okay. Next, to Criteria No. 4, you
16 were able to exclude other conditions that
17 account for her degree of pain and dysfunction;
18 is that correct?

19 A. Correct.

20 Q. And so she definitively meets all
21 four of the IASP Diagnostic Criteria for Complex
22 Regional Pain Syndrome.

23 A. In my opinion, yes.

24 Q. And for that reason, it is your
25 opinion that she has CRPS Type II in both of her

1 arms; is that correct?

2 A. Yes.

3 Q. Regarding the IME report of
4 September 2009 that you performed on Ms. Dozier,
5 isn't it true that in that report you gave no
6 opinion on CRPS one way or the other?

7 A. Correct, yes.

8 Q. Now, from January through August of
9 2009, is it your understanding that Ms. Dozier
10 was treated by Dr. Mancuso and Dr. Bidding?

11 A. I believe so, yes.

12 Q. I'm going to show you, again,
13 Dr. Rhea's report of April 6, 2009, specifically
14 his recommendations. And what exactly were
15 Dr. Rhea's recommendations?

16 A. Quote, Would not recommend cervical
17 disk surgery for her. I would instead recommend
18 continued treatment with injections and would
19 recommend a trial of cervical sympathetic block
20 to see if this alleviates some of her symptoms.
21 End quote.

22 Q. And is it your understanding that
23 that report was then sent to Dr. Bidding along
24 with a prescription for the cervical sympathetic
25 block with the expectation that Dr. Bidding would

1 provide that treatment?

2 MR. SHULL: Object.

3 THE WITNESS: Yes.

4 BY MR. SAMUELS:

5 Q. And you are aware that Dr. Bidding,
6 in fact, declined to provide the stellate
7 ganglion block.

8 A. Yes.

9 Q. So as of the time of your IME on
10 September 8, 2009, Ms. Dozier had not had a
11 stellate ganglion block; is that correct?

12 A. If all those medical records are
13 correct, yes.

14 Q. In fact, she only had the stellate
15 ganglion block, between your IME and the time you
16 saw her, that was provided by Dr. Patel, correct?

17 A. I believe so, yes.

18 Q. Okay. So neither you nor
19 Dr. Mancuso nor Dr. Bidding had the benefit of
20 knowing whether the stellate ganglion block would
21 have been effective in relieving some of her
22 symptoms; isn't that true?

23 A. That would be true.

24 Q. But, in fact, it was effective at
25 least for the sort term in alleviating some of

1 those symptoms; is that correct?

2 A. According to Ms. Dozier, correct.

3 Q. And you had the same result, I
4 think, when you performed stellate ganglion
5 blocks on her as well, correct?

6 A. I think she had very short-term
7 benefit, nothing long-term. And, again, that's
8 why she received no more than, I think, three
9 stellate ganglion blocks. They just weren't
10 providing any type of long-term benefit.

11 Q. And that is not -- that can be a
12 normal course, and somebody will develop a
13 resistance, and they become less effective,
14 correct?

15 A. Yes. And, again, from the
16 standpoint of diagnosing CRPS, either I or II,
17 you don't need to have -- you can have a positive
18 or negative block. The criteria for diagnosing
19 CRPS is not reliant on a stellate ganglion block.

20 Q. Nonetheless, the fact that she did
21 have some relief is further confirmation of your
22 diagnosis of CRPS Type II; isn't that true?

23 A. Yes.

24 Q. And that was something that neither
25 you nor Dr. Bidding had as of September 2009,

1 correct?

2 A. Correct.

3 Q. Now, I would note in your report of
4 September 8, 2009, and you may have missed it at
5 the time, but isn't it true that the carpal
6 tunnel injection that Ms. Dozier had had to her
7 left wrist was unusually painful?

8 A. In going through the records in
9 preparation for the deposition I do recall a
10 statement in there that it was, you know,
11 painful. And typically, at least when I do a
12 carpal tunnel injection, it's maybe a tiny little
13 pinch, and generally almost 100 percent of
14 patients report absolutely no pain, maybe a tiny
15 little pressure.

16 Q. And I realize this is with the
17 benefit of hindsight, but with the benefit of
18 hindsight and your being able to follow her now
19 for two to three years, would you agree that that
20 was actually a sign of her having CRPS Type II in
21 her left wrist at the site of the injection?

22 A. It could be interpreted that way,
23 yes.

24 Q. All right. Mr. Shull asked you a
25 number of questions about who you do work for,

1 but is it fair to say that you perform IMEs for
2 both plaintiff and defense, both in litigation
3 and workers' compensation cases?

4 A. Yes.

5 Q. Including for Mr. Shull's firm?

6 A. Yes.

7 Q. And including for Mr. Shull
8 himself?

9 A. Apparently in the past, yes.

10 Q. Is your opinion influenced in any
11 way by whichever side is asking you to evaluate
12 or treat a patient?

13 A. No.

14 Q. And I'll just show you Page 197 of
15 the APA Submissions, which is a patient
16 information sheet. Is this a form that your
17 office fills out?

18 A. It looks like it, yes.

19 Q. All right. It appears that the
20 date of referral here for Ms. Dozier was January
21 13, 2010.

22 A. Yes.

23 Q. And would this have been filled out
24 by a member of your staff?

25 A. Yes.

1 Q. Okay. And who did the member of
2 your staff speak to?

3 A. I guess it -- oh, okay. It would
4 be -- spoke to Angela at Gilbert and Shull.

5 Q. So, to make it clear, then, as the
6 authorized treating physician, you were chosen by
7 Mr. Shull's law firm and his clients?

8 A. It would appear that way, yes.

9 Q. And you have been paid by the
10 insurance carrier to treat Ms. Dozier for complex
11 regional pain syndrome and carpal tunnel syndrome
12 ever since January of 2010, correct?

13 A. That is correct. And received
14 written authorization as well as verbal
15 authorizations for stellate ganglion blocks and
16 treatment not only for carpal tunnel, but also
17 for complex regional pain syndrome, and we -- and
18 I have been the treating physician with that
19 diagnosis since day one, and, you know, just
20 personally as Ms. Dozier's treating physician,
21 I'm just -- I'm just confused as far as the
22 argument of whether or not she has CRPS, as there
23 actually was no problem getting authorization for
24 any treatment related to the CRPS since I started
25 treating her.

1 Q. Has anybody up until this
2 deposition ever questioned the diagnosis of CRPS
3 Type II for Ms. Dozier?

4 A. As far as that's in my medical
5 records, I don't believe so. Again, I have -- I
6 brought in the actual approved written
7 authorizations for the different stellate
8 ganglion blocks that were performed including a
9 stellate ganglion done on the right side, and
10 that was from an order from January 26 of 2010
11 that was apparently signed off on by a Charmaine
12 Holts.

13 Q. Let me ask you about the
14 distinction between impairment and disability and
15 the importance of impairment ratings. What is
16 the difference between impairment and disability?

17 A. Well, the best way and the way I
18 describe it to patients, attorneys, anybody that
19 would want to know, is to grab two individuals
20 both with the same injury and amputation to the
21 little finger. One is a construction worker; one
22 is a professional pianist. Both would have the
23 same impairment rating based on amputation level
24 of the fifth finger.

25 And let's say it's a whole

1 amputation, so that would be the impairment
2 rating. It's how the -- it's the injury or
3 the -- you know, affecting the -- it's the injury
4 that's affecting the body part, whereas -- and
5 that's going to be the same no matter who gets
6 the injury, what their occupation is.

7 The disability rating, which in
8 South Carolina I do not provide, but the
9 disability rating is sort of how that impairment
10 affects the individual, so if you have a
11 construction worker who has their fifth finger
12 amputated, even though they have a -- let's call
13 it a 5 percent impairment to the whole person. I
14 know it's not that, but we'll just say that.

15 Their actually disability rating is
16 actually more closely zero because they will most
17 likely be able to return to full active duty as a
18 construction worker, as opposed to a concert
19 pianist where everything's written for ten
20 fingers. That concert pianist would be 100
21 percent disabled from their own occupation.

22 So their disability rating would be,
23 you know, much, much, much larger than for the
24 other individual, so it depends on -- the
25 disability rating, you have to take all the

1 factors in, not just the impairment itself.

2 Q. Would you agree that the most
3 important criteria for Ms. Dozier's occupational
4 disability would be the work available to her
5 within the work restrictions that she has?

6 A. Can you repeat the question? I
7 blanked out on the beginning part. I apologize.

8 Q. Would you agree that for the
9 purposes of determining Ms. Dozier's occupational
10 disability that the important criteria would be
11 the work restrictions that she is under because
12 of her injury?

13 A. I would agree with that. I think
14 that that's probably a much more accurate
15 reflection of disability than, say, someone's
16 impairment rating. Again, that's just my medical
17 opinion, though.

18 Q. And in terms of work restrictions,
19 she is restricted to only occasional lifting up
20 to 5 pounds, correct?

21 A. In my medical opinion, yes.

22 Q. Do you have any qualifications to
23 give an opinion as to disability?

24 A. I would not decline. The only
25 thing I would state is that I think in this case,

1 as many cases and many cases not, you know,
2 impairment ratings in my medical opinion and
3 according to the AMA Guides -- I don't think
4 it -- whatever edition you're referring to --
5 clearly states that impairment ratings are not to
6 be used as disability ratings.

7 And since in the State of South
8 Carolina, I think it's for workers' compensation,
9 the commissioners provide the disability ratings,
10 I would defer the disability rating toward the
11 commissioner as they may have some information
12 regarding vocational, I don't know, rehab or some
13 other stuff that I may not have to be able to
14 properly determine a disability rating, but,
15 again, it's my medical opinion that you don't --
16 you do not require or one does not need to have a
17 large impairment rating to have a rather large
18 disability rating.

19 Q. Taking us outside the question of
20 disability ratings and looking in terms of
21 Ms. Dozier's actual ability to work, actual
22 ability to earn a living --

23 MR. SHULL: I'm going to object. I
24 think you're asking for a question outside of his
25 area of expertise. We've stipulated that he's an

1 expert in I believe it was physical medicine and
2 rehabilitation, not vocational -- vocational
3 whatever.

4 BY MR. SAMUELS:

5 Q. Dr. Zgleszewski, have you ever been
6 qualified as an expert -- as a vocational expert?

7 A. I have not. I have provided
8 opinions regarding ability to work from a sort of
9 medical standpoint --

10 Q. Okay. And from a medical
11 standpoint --

12 A. -- as opposed to a vocational
13 standpoint.

14 Q. From a medical standpoint, you
15 would agree that Ms. Dozier is not able to return
16 to work as phlebotomist --

17 A. That is my medical opinion, yes.

18 Q. -- or any other work that requires
19 more than occasional lifting over 5 pounds.

20 A. Yes.

21 Q. Would you agree that any vocational
22 expert should use those restrictions as the basis
23 for determining what Ms. Dozier's qualifications
24 are?

25 A. Yes.

1 Q. Just to summarize, is it fair to
2 say that Ms. Dozier has the work-related
3 diagnoses of CRPS Type II and carpal tunnel
4 syndrome and cervical myalgia?

5 A. Yes.

6 Q. Have you been providing treatment
7 for those conditions?

8 A. Yes.

9 Q. And would treatment even past her
10 maximum medical improvement tend to lessen her
11 period of disability?

12 A. Yes.

13 Q. Has the treatment you've provided
14 been reasonable and necessary?

15 A. In my opinion, yes.

16 Q. And you've been paid for all of
17 that treatment without question by the workers'
18 comp carrier who designated you as the authorized
19 treating physician?

20 A. As far as I'm aware, yes.

21 Q. She'll need continued treatment of
22 medication management, specifically the Flexeril,
23 Lyrica, Naprosyn that she's currently getting.
24 Although, I presume that could change either as
25 her condition changes or as medical science

1 advances with new medications. Is that fair to
2 say?

3 A. Yes.

4 Q. And she should continue
5 specifically under the care and treatment of a
6 pain specialist such as yourself?

7 A. Yes.

8 Q. And if these current treatments are
9 no longer effective, she would then need to have
10 a spinal column stimulator implanted?

11 A. No. She would have the option of
12 undergoing a trial spinal cord stimulator to see
13 if she would be a candidate to have it
14 implanted. However, there are -- there are
15 increased risks associated with both. One of
16 those risks include being paralyzed.

17 So if she were to refuse to go ahead
18 with a trial spinal cord stimulator or have a
19 positive trial and then refuse to go ahead with
20 operative intervention to implant the stimulator,
21 that would be a reasonable decision, but if she
22 gets to the point where she is requiring
23 escalating medications, that would be an option,
24 the spinal cord stimulator trial, to see if we
25 could limit the medications that could affect her

1 liver and kidneys down the road.

2 Q. You would agree it should at least
3 be offered to her, and then her decision as to
4 whether to proceed with it should be based on her
5 evaluation of the risks versus the efficacy of
6 the implantation, correct?

7 A. That's a fair statement, yes.

8 Q. And in terms of work restrictions,
9 she is unable to return to her previous
10 employment, and she would have these restrictions
11 of no more than occasional lifting up to 5
12 pounds; is that correct?

13 A. Yes.

14 MR. SAMUELS: Thank you, Doctor. I
15 have no further questions.

16 REEXAMINATION

17 BY MR. SHULL:

18 Q. You were asked questions by Steve
19 here about disability versus impairment. You've
20 given her impairment ratings medically, correct?

21 A. Correct.

22 Q. You agree that the determination of
23 disability in a workers' comp setting is a legal
24 question?

25 A. My opinion on that, you know, in

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 0800660

Cindy Dozier,)
)
 Claimant,)
)
 vs.)
)
 American National Red Cross,)
 Employer,)
)
 and)
)
 Old Republic Insurance)
 Company, Carrier,)
)
 Defendants.)

TRANSCRIPT OF PROCEEDINGS
February 6, 2012

This hearing was held before Commissioner Gene McCaskill, reported by Kimberly T. Power, Court Reporter and Notary Public in and for the State of South Carolina; said proceedings were held at the South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Hearing Room B, Columbia, South Carolina, on Monday, February 6, 2012, commencing at the hour of 11:00 a.m.

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

APPEARANCES

ATTORNEY FOR THE CLAIMANT

SAMUELS LAW FIRM
BY: STEPHEN B. SAMUELS, ESQUIRE
1527 Blanding Street
Columbia, South Carolina 29201

ATTORNEYS FOR THE DEFENDANTS

WILLSON, JONES, CARTER & BAXLEY, P.A.
BY: WESLEY J. SHULL, ESQUIRE
872 Pleasantburg Drive
Greenville, South Carolina 29607

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

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Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 THE COURT: Today's date is February 6, 2012.
2 This is the case of Cindy Dozier versus American National
3 Red Cross, is the employer. The carrier is Old Republic
4 Insurance Company. The Workers' Compensation File Number
5 is 0800660. The claimant is represented by Wesley J.
6 Shull --

7 MR. SHULL: I'm the defendant's counsel.

8 THE COURT: All right. We got that backwards.
9 Let's try that again. All right. The claimant is
10 represented by Stephen B. Samuels, and the defendant --
11 defense is represented by Wesley J. Shull. So I don't
12 have to dig through all this, help me with the average
13 weekly wage and the comp rate.

14 MR. SAMUELS: It's stipulated and actually by
15 previous order, Your Honor, average weekly wage is 632.95
16 and the resulting compensation rate is 421.99.

17 MR. SHULL: That's correct.

18 THE COURT: All right. Very good. Everyone
19 is in agreement on that. The date of the injury is
20 January 17, 2008. All right. Are there any objections
21 to jurisdiction, venue, or any APA submissions?

22 MR. SAMUELS: Your Honor, I have an objection
23 to Defendant's Exhibits C, which is the three pages from
24 the AMA Guides Fifth Edition, Pages 75 to 77. The
25 grounds for that objection is that they are hearsay and

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 that it is not a reliable or authoritative treatise.
2 Based on the testimony of Dr. Zgleszewski, the authorized
3 treating physician, in his deposition he states that the
4 Fifth Edition Guide regarding the diagnosis of CRPS is
5 not reliable. Therefore, we would ask that it not be
6 made a part of the record because he did not rely on them
7 for his opinions.

8 MR. SHULL: Dr. Z references the Fifth Edition
9 AMA Guides on October 3, 2011 when he gives his
10 impairment ratings. It's obviously authoritative enough
11 for him to cite it as far as impairment goes. The
12 Commission, I think, references it on the Form 16A. The
13 AMA Guides are clearly authoritative. It is says on the
14 front of the -- on the front of the book, American
15 Medical Association. It's put out by the AMA. I don't
16 know how much more authoritative you need. So that would
17 be my response to that.

18 MR. SAMUELS: If I may, Your Honor,
19 Dr. Zgleszewski did specify that they are fine to use as
20 far as impairment ratings are concerned. But in terms of
21 a basis for making a medical diagnosis, it is improper
22 for a medical professional to use them. And, therefore,
23 he did not use them. If they were being offered for an
24 impairment rating, I wouldn't have the objection.
25 Because Mr. Shull is attempting to use it as some sort of

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 diagnostic tool for diagnosing CRPS, that would be the
2 basis of my objection.

3 THE COURT: Anything further?

4 MR. SHULL: I would also add that Dr. Z
5 referenced -- Dr. Z was questioned pretty extensively
6 regarding this portion of the AMA Guides in his
7 deposition and he answered questions directly off of it.
8 He had no problems discussing it at that point.

9 THE COURT: Okay. I'm going to rule on this
10 in my order. I'll need to study on this a little bit
11 more. Any other objections?

12 MR. SAMUELS: No, Your Honor.

13 MR. SHULL: No, sir.

14 THE COURT: Very good. Hearing no further
15 objections, the Commission file becomes a part of the
16 record with the exception of self-serving declarations
17 and unstipulated medical reports. All right.
18 Mr. Samuels.

19 MR. SAMUELS: Thank you, Your Honor. May it
20 please the Commission. Your Honor, we are here on our
21 Form 50. We are seeking a finding of permanent and total
22 disability under Section 42-9-10 based on the medical
23 restrictions placed on Ms. Dozier by both of her
24 authorized treating physicians. Dr. Shealy gave her a
25 five pound lifting restriction. Dr. Zgleszewski endorsed

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 the five pound lifting restriction. He also went on to
2 state, quote, She is unable to use either upper extremity
3 on a repetitive basis secondary to her CRPS and chronic
4 pain from her failed CTS related surgery. He added,
5 quote, In my medical opinion from a medical standpoint,
6 Ms. Dozier could not perform even at a sedentary position
7 if the job requires anything greater than less than
8 occasional use of her arms given the diagnosis she has of
9 CRPS and CTS, end quote.

10 So the vocational reports confirm that there
11 is no stable market for Ms. Dozier. Both Glen Adams and
12 Robert Brabham explicitly opine that she is permanently
13 and totally disabled. Ms. Harriet Wilkerson who had been
14 retained by the defendants in 2009 in her deposition
15 admits that in Ms. Dozier's condition at that time, there
16 would be no work for her available. The only contrary
17 opinion is from the current defense expert, James Myers.
18 We would contend, Your Honor, that Mr. Myers' report is
19 invalid and unreliable specifically because he completely
20 overlooks Dr. Z's treatment and Dr. Z's restrictions. I
21 said Dr. Z. I meant, Dr. Zgleszewski. We may slip to
22 Dr. Z because his name is so hard to pronounce, but no
23 disrespect meant to the doctor.

24 And because he basically ignores even Dr.
25 Shealy's restrictions. Mr. Myers came up with a list of

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kimberlytpower@aol.com

1 ten jobs that theoretically Ms. Dozier could do, but the
2 evidence will show, including a peer review of that
3 report, by Glen Adams that all of those jobs are outside
4 her restrictions, whichever set of restrictions you
5 consider, either Dr. Zgleszewski's or Dr. Shealy's.
6 Clearly she cannot do any of those jobs.

7 So, therefore, we would ask that you find
8 she's permanently and totally disabled. We would ask for
9 lifetime medical treatment pursuant to 42-9-10 and
10 42-15-60 to be provided through Dr. Zgleszewski. We
11 would ask that the award be paid in a lump sum. We would
12 ask for James allocation of the award in the order, and
13 we would ask that the order be discounted at a two
14 percent rate rather than five percent. And we have
15 submitted a memorandum of law in support of the argument
16 as well as an attachment showing that the current ten
17 year treasury note as of this morning pays 1.91 percent.

18 We believe also that it is improper at this
19 stage in the litigation for the defense to attempt to
20 deny the CRPS. We would note that the first time this
21 issue has been raised since Commissioner Huffstetler's
22 hearing in November 2009 was in the pre-hearing brief for
23 this hearing. It was not raised in a 21 filed by
24 defendants in September. It was not raised in the
25 pre-hearing brief filed for that case. That case was set

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 for October 13, but the Form 21 was withdrawn. And it
2 was not raised in the 51 filed in this case. So we would
3 contend that the ability to deny that has been waived by
4 the failure to raise the issue and by the agreed upon
5 provision of medical treatment for over two years for
6 complex regional pain syndrome through a doctor of the
7 defendant's choosing.

8 We would also contend that there is an
9 estoppel issue. And specifically the estoppel issue,
10 Your Honor, are that essentially the defense is saying
11 that doctor -- excuse me, Commissioner Huffstetler's
12 order did not specifically award CRPS. Commissioner
13 Huffstetler's order did not distinguish between CTS, CRPS
14 or anything else. It simply ordered treatment to be
15 provided for Ms. Dozier's arms through a physician of the
16 defendant's choosing.

17 We appealed that issue and specifically not
18 designating Dr. Moore, the authorized treating physician.
19 When the defendants designated Dr. Zgleszewski and
20 authorized him to treat the CRPS, noting that
21 Dr. Zgleszewski is a pain management specialist who is
22 exactly the type of doctor that would treat CRPS and not
23 an orthopedic surgeon who would normally treat carpal
24 tunnel syndrome, based on that and the authorization of
25 Dr. Zgleszewski to treat the CRPS, we withdrew the issue

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 on appeal of the authorized treating physician. So we --
2 if they are now going to contend the CRPS is not related,
3 we -- they should be estopped from doing so because we
4 detrimentally relied on their authorization of Dr. Z to
5 treat the CRPS.

6 I believe that covers our positions, Your
7 Honor. We simply -- for further guidance, we would rely
8 on the attachment to the Form 58 which is somewhat
9 detailed as well as the memorandum of law we handed up
10 this morning in response to the new issues raised on
11 defendant's Form 58.

12 THE COURT: Mr. Shull.

13 MR. SHULL: It's been repeatedly said that we
14 never raised an objection to the CRPS and the RSD. I'm
15 reading straight off the hearing transcript from the last
16 hearing on November 3, 2009. "Commissioner Huffstetler:
17 So you're describing a left arm injury." Bear with me.
18 I apologize.

19 MR. SAMUELS: While he's looking for that,
20 Your Honor, I agree that in November 2009 it was an
21 issue, that we contended she had RSD and CRPS. They
22 denied it. Our contention is the waiver, is once
23 Commissioner Huffstetler ruled and issued an order, that
24 they then began providing compensation. So any waiver
25 occurred after Commissioner Huffstetler's order when both

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 parties interpreted that order as providing that
2 treatment should have been provided for the CRPS and, of
3 course, that's exactly what they did. So we're not going
4 back to before that -- before Commissioner Huffstetler's
5 hearing.

6 MR. SHULL: Okay. Well, if he agrees that we
7 -- it's our contention that it was placed on the record
8 at the prior hearing that she was seeking a finding for
9 compensability as to the CRPS and the RSD. Commissioner
10 Huffstetler read that into the record, and I can find it
11 and read it into the record here if y'all need me to.
12 She was also asking for a finding that Dr. Blake Moore be
13 named the authorized treating physician, and the order
14 that was eventually issued did neither one of those
15 things.

16 So it's our contention that she could have
17 appealed that order. It did not make a finding as to
18 CRPS. It did not make a finding as to the authorized
19 treating physician other than to state that we could pick
20 who it was to be. That's our first basis for denial to
21 the CRPS and the RSD.

22 The second thing I would like to mention with
23 respect to that issue is the treatment that we
24 authorized, according to Dr. Z's testimony, was a series
25 of three blocks. We paid for three blocks. The other

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 treatment she received was from a Dr. Patel in Charleston
2 which was unauthorized. She did receive some treatment
3 from him and from Dr. Moore which was also unauthorized.
4 That was appealed and litigated. It would be my
5 contention that my client should not be punished for
6 authorizing medical treatment, which I think is what is
7 being sought here.

8 With respect to if you do find the RSD
9 compensable, Dr. Z's deposition testimony, he agreed that
10 you could convert the 12 percent -- he gave six percent
11 to the whole person for each arm for the RSD
12 specifically. He gave five percent to each arm for the
13 carpal tunnel syndrome. He agreed that if you converted
14 the whole person ratings of six percent to arm ratings,
15 and all of this is in the deposition and it notes the
16 table and everything on the AMA Guides under which you do
17 it, that if you convert that to arm ratings and combine
18 them, what you are left with is 15 percent impairment to
19 each arm for both the RSD and the carpal tunnel syndrome.

20 So, number one, we're denying the RSD. Not
21 that we're denying that it's related if it's in
22 existence. We're saying it's questionable as to whether
23 or not it is in existence because you have one doctor
24 saying she has it and another doctor saying she didn't
25 have it. If she does have it and you do find it related,

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 in the alternative we argue that it's bumped up her
2 impairment ratings ten percent on each arm and that you
3 can still give a permanent partial disability award to
4 each arm and find the RSD compensable.

5 with respect to Glen Adams and Harriet
6 Wilkerson, I would probably respectfully disagree with my
7 distinguished colleague with respect to Harriet's
8 deposition testimony. I think when you read it, you will
9 not necessarily find that she admits that there was no
10 work for Ms. Dozier at that time. I do think it is
11 interesting and significant that Glen Adams is Harriet
12 Wilkerson's business partner, and so he's essentially
13 saying that the opinion given by his own business partner
14 two years earlier is no good.

15 The vocational evaluation we received from
16 Mr. Myers was done on a five pound lifting restriction.
17 He found jobs and -- he did a market survey and he found
18 jobs that were -- that came underneath those
19 restrictions. That was his opinion and he was never
20 deposed as to that. So essentially what we have here is
21 we have conflicting vocational evaluations, we have
22 conflicting medical testimony as to -- as to the RSD.
23 And I do believe that when you have those circumstances,
24 it is up to the Commissioner to make a finding. I don't
25 think I'm asking you to be the doctor. I'm asking you to

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 interpret the evidence.

2 With respect to the five pound lifting
3 restrictions, Dr. Shealy was deposed and Dr. Shealy
4 unequivocally stated that she came in and asked for five
5 pound lifting restrictions and that there was no other
6 reason, nothing in her chart, nothing that he remembered
7 that would have given her those work restrictions other
8 than the fact that she came in and asked him to. He said
9 but for her asking to, he would have given her no work
10 restrictions.

11 Dr. Z in his deposition stated that he felt as
12 though those work restrictions were reasonable, and I
13 didn't even bother to ask him about -- about the fact
14 that she came in and asked for them. When Dr. Z saw her
15 on September the 8th, 2009, he had reviewed the medical
16 records from Dr. Bitting and Dr. Mancuso and Dr. Blake
17 Moore all of whom the claimant had previously treated
18 with, unauthorized, and those doctors had given opinions
19 as to whether or not she had or didn't have RSD.

20 On September the 8th, 2009, Dr. Z doesn't make
21 any findings as to RSD at all. He doesn't say whether
22 she has it or doesn't have it. He doesn't say anything
23 about objective symptoms or characteristics. He
24 diagnosis her with cervical radiculopathy and myofacial
25 pain and says she'll need trigger point injections. When

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 I deposed Dr. Z, he initially stated, quote, I don't
2 believe at the time -- at the time, and that was at the
3 time of September 8, 2009, that I felt she had CRPS and,
4 again, that was a one-time visit, end quote. He later --
5 he later in the deposition did state that he didn't feel
6 that he could give an opinion at the deposition as to
7 what his -- what his mind -- what he was thinking on
8 September the 8th, 2008.

9 He did go on to state that he felt that the
10 basis for the diagnosis was not under the AMA Guides
11 Fifth Edition because he admitted that under the AMA
12 Guides Fifth Edition, she did not meet the diagnostic
13 criteria, but that he was diagnosing her with it based on
14 the fact that she had swelling and that her left wrist
15 was placed into a cast for some time and was immobile.

16 As to the right, I asked him what the
17 precipitating event or the traumatic event was to the
18 right, and he stated that it was his opinion that she got
19 it in the left first and it somehow traveled from the
20 left to the right. And if you read his deposition, he'll
21 say that it can travel from the wrist to the leg, from
22 the leg to the wrist, and so forth. So I would ask that
23 you review that medical testimony and that you compare it
24 to the more objective and the more specific testimony
25 that Dr. Bitting gave in his -- in his deposition.

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 Dr. Z admitted that she never -- that he never
2 noticed and she never appeared to have any of the
3 characteristics listed on the AMA Guides Fifth Edition,
4 she never had mottled skin, he never noticed that she had
5 mottled skin, that she was cool to the touch, but it was
6 minimal. That she did have dry skin, but he did not feel
7 like it was enough to note it in his medical records. He
8 never noted soft tissue atrophy. He never noted smooth
9 skin texture. He never noted nail changes and never
10 noted hair changes. Those are the objective symptoms
11 that somebody has when they have a case of RSD or CRPS.
12 So it would be my contention that if she has it, it has
13 to be a very mild form of it.

14 In addition to stating that she did not have
15 RSD or CRPS while he was treating her, in his deposition
16 Dr. Bitting further stated that her main problem was
17 probably carpal tunnel syndrome. The reasons for his not
18 diagnosing her with RSD or CRPS was because he didn't
19 feel that RSD is typically present in both limbs. One of
20 the medical notes -- the initial medical notes stated
21 that she denied any temperature changes or sudomotor
22 changes, there was no traumatic or precipitating event
23 because this was described as a repetitive trauma thing,
24 and that he read the bone scan to be not definitive
25 either way and that he stated there was no allodynia or

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kimberlytpower@aol.com

1 hypersensitivity as to the hand.

2 In addition to the argument that she doesn't
3 have RSD or RSD is minimal -- RSD is minimal is the fact
4 that the three stellate ganglion blocks she did receive
5 she testified did her no good and Dr. Z testified gave
6 her limited help.

7 We ask for an award of permanent partial
8 disability to each limb commiserate with the five percent
9 impairment given by Dr. Shealy and Dr. Z as to the carpal
10 tunnel syndrome. I believe the parties agree to an MMI
11 date of August 9, 2011. We don't have any objection to
12 an award on the lump sum. I would ask that the
13 Commission follow the regulations that have been
14 promulgated and give it to the correct percentages stated
15 in the regulations. That's our position. Thank you,
16 sir.

17 THE COURT: Anything further?

18 MR. SAMUELS: I'm sorry, Your Honor, but I do
19 have to respond.

20 THE COURT: That's quite all right. That's
21 what we're here for.

22 MR. SAMUELS: I should say Mr. Shull did not
23 in this argument raise the issue of credit for an
24 overpayment in the event that Your Honor does make an
25 award for permanent partial disability, and I don't think

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 it really applies one way or the other because the award
2 clearly should be for permanent and total disability. Or
3 if Your Honor were to decide that this is not a permanent
4 and total disability case, I would ask that no credit be
5 given because the hearing is on a Form 50, not on a Form
6 21.

7 I don't want to overly belabor the point of
8 the CRPS diagnosis. I know Your Honor will read
9 Dr. Zgleszewski's deposition, but Dr. Zgleszewski
10 specifically explains that he made his diagnosis on the
11 IASP definitions which he describes are authoritative.
12 They are on table one or Exhibit 1 of his deposition. He
13 goes into a long explanation at Pages 13 on through about
14 18 giving a full explanation that even lawyers can
15 understand of why Ms. Dozier has complex regional pain
16 syndrome type II, how it is actually different from RSD
17 in that it affects the media nerve which is the same
18 nerve that is affected in carpal tunnel syndrome, and how
19 in his opinion to a reasonable degree of medical
20 certainty she developed the complex regional pain
21 syndrome.

22 Also Mr. Shull has asked that the defense not
23 be punished for providing medical treatment. I think
24 that's an unfair characterization. We don't want anybody
25 punished in a workers' compensation case. That's not

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

1 what the system is about. The system is about taking
2 care of injured workers. And if they have injuries that
3 arise from their work, they're entitled to medical
4 treatment and appropriate disability compensation. So
5 punish -- punishment for somebody to have to -- for an
6 employer to have to provide medical treatment to their
7 injured workers? They provided that medical treatment.
8 Everybody's understanding for the last two years has been
9 that Ms. Dozier's CRPS and need for treatment has been a
10 part of this case. Nobody has ever contested it until
11 ten days ago, and it's a classic example of waiver and
12 estoppel, Your Honor.

13 Other than that, I think we're ready to take
14 testimony.

15 MR. SHULL: And I don't take any position,
16 really, with respect to credit. We're here on the 50.
17 So...

18 THE COURT: Anything else?

19 MR. SHULL: No, sir.

20 THE COURT: All right. Ms. Dozier, I'm going
21 to swear you in, and then please state your full name for
22 the record and if you could speak as loudly and clearly
23 as you can so this young lady can make an accurate
24 record.

25 (CINDY ELLA DOZIER, being duly sworn to tell

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kimberlytpower@aol.com

1 the whole truth and nothing but the truth, testified as
2 follows:)

3 THE COURT: You can put your hand down.
4 Please state your full name for the record.

5 THE WITNESS: Cindy Ella Dozier.

6 MR. SAMUELS: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. SAMUELS:

9 Q. Cindy, how old are you?

10 A. Forty-one.

11 Q. You've been married to Lionel Dozier for 12
12 years?

13 A. Yes, sir.

14 Q. You have two children, but two stepsons all of
15 whom depend on you for support?

16 A. Yes, sir.

17 Q. How far did you go in school?

18 A. Twelfth grade. I graduated.

19 Q. Do you have any other training or licenses?

20 A. CNA and phlebotomy.

21 Q. And CNA, is that a certified --

22 A. Certified nursing --

23 Q. -- nursing assistant?

24 A. Yes, sir.

25 Q. I'm going to ask you about your work history.

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kimberlytpower@aol.com

1 How long did you work as a CNA?

2 A. Eighteen years.

3 Q. And after that, did you then get your
4 phlebotomy license and become a phlebotomist?

5 A. Yes, sir.

6 Q. You went to work for the American Red Cross in
7 January 2006?

8 A. Yes, sir.

9 Q. What were the physical duties of that job?

10 A. We had to load and unload, know how to use a
11 computer to do the health history questions, and
12 phlebotomy work.

13 Q. And phlebotomy is actually drawing blood?

14 A. Drawing the blood. Yes, sir.

15 Q. When you were setting up the work, did that
16 require lifting of the cots and the coolers and so on?

17 A. Yes, sir.

18 Q. You ultimately had a work-related injury to
19 both of your arms; is that correct?

20 A. Yes, sir.

21 Q. We're not going to go into that because that's
22 already been decided by the Commission. You were out of
23 work and paid temporary total disability compensation
24 from March 29, 2008 through May 9, 2008; is that correct?

25 A. Yes, sir.

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kimberlytpower@aol.com

1 Q. And then after that you went back to work on
2 light duty?

3 A. Yes, sir.

4 Q. Were your arms getting any better?

5 A. No, sir.

6 Q. Were they getting worse?

7 A. Yes, sir.

8 Q. Did you do something about getting some
9 medical treatment?

10 A. Yes, sir.

11 Q. I think you started seeing Dr. Moore. We've
12 already had a discussion that you saw Dr. Moore and then
13 you were referred to Dr. Mancuso who referred you to Dr.
14 Rhea or Rhea?

15 A. Yes, sir.

16 Q. R-H-E-A. It looks like September 8, 2008, the
17 Red Cross called you into a meeting and they were not
18 able to accommodate --

19 MR. SHULL: I'm going to object to leading.

20 THE COURT: Rephrase.

21 BY MR. SAMUELS:

22 Q. When is the last day you actually worked for
23 the Red Cross?

24 A. September 8, 2008. They had a meeting with
25 me. We had a regular, normal work meeting. But then

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kimberlytpower@aol.com

1 after that, they wanted to talk with me and then, you
2 know, they told me --

3 MR. SHULL: Object to what they told her.

4 THE COURT: You can't tell me what somebody
5 else told you because they're not here for Mr. Shull to
6 cross-examine.

7 MR. SAMUELS: If I may, Your Honor, the people
8 she's referring to are the employers. They're an adverse
9 party opponent, and so it would not be hearsay.

10 MR. SHULL: I mean, who is she talking about?
11 Are they co-employees?

12 THE WITNESS: I'm referring to Roshetta -
13 Thomas. She was head of human resources. Vickie
14 Processor, she was my supervisor. Audrey Long, she was
15 the team supervisor that I was on. After the regular
16 work meeting, they had a meeting with me and they told me
17 that they understood that I got hurt on the job and I no
18 longer had a workman's comp case, but, you know, they was
19 going to send me home. That's what they told me.

20 MR. SAMUELS: Your Honor, you had a ruling.
21 I'm not sure if that -- any of that changed your ruling.

22 THE COURT: No. We can -- since they were her
23 employers, I think we can allow it.

24 BY MR. SAMUELS:

25 Q. Did you ultimately -- what is your current

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

- 1 status with the Red Cross as far as being an employee?
- 2 A. They terminated me, sir.
- 3 Q. Now, did you -- do you remember going to a
- 4 workers' comp hearing in November 2009?
- 5 A. Yes, sir.
- 6 Q. After that hearing, did workers' comp --
- 7 workers' comp insurance carrier pick a doctor for you?
- 8 A. Yes, sir.
- 9 Q. Who did they pick?
- 10 A. Dr. Z.
- 11 Q. Is that Dr. Zgleszewski?
- 12 A. Yes.
- 13 Q. We can stick with Dr. Z.
- 14 A. He said I could call him Dr. Z because his
- 15 last name is so hard to pronounce.
- 16 MR. SHULL: I'll stipulate that Dr. Z means
- 17 Dr. Zgleszewski.
- 18 BY MR. SAMUELS:
- 19 Q. And what conditions has Dr. Z been treating
- 20 you for?
- 21 A. CRPS, sir.
- 22 Q. And has workers' comp been authorizing the
- 23 treatment of Dr. Z?
- 24 A. Yes, sir.
- 25 Q. You have not had to pay for any of it?

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kimberlytpower@aol.com

1 A. No, sir.

2 Q. What treatment have you received for your CRPS
3 specifically?

4 A. I've received three blocks -- stellate
5 ganglion blocks, and I had four carpal tunnel injections
6 in each wrist.

7 Q. The stellate ganglion blocks, did they help?

8 A. Yes. I got some relief for about a week.

9 Q. How about after the week?

10 A. It wore off.

11 Q. You were also receiving medication currently
12 for your CRPS?

13 A. Yes, sir.

14 Q. What medication are you receiving?

15 A. Lyrica, I take it three times a day; Naproxen,
16 twice a day; and Flexeril, one at bed time.

17 Q. Have you tried going without the medication?

18 A. Yes, sir.

19 Q. What happened when you went without the
20 medication?

21 A. Gets worse.

22 Q. How do you feel about being on these
23 medications?

24 A. I don't like it, but I don't have no choice
25 because I'm in pain all the time.

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kimberlytpower@aol.com

1 Q. Do you want to continue seeing Dr. Z as your
2 doctor?

3 A. Yes, sir.

4 Q. Do you want him to continue treating your CRPS
5 with these medications?

6 A. Yes, sir.

7 Q. Did Dr. Z refer you to any other doctors?

8 A. Yes, sir.

9 Q. Who did he refer you to?

10 A. Dr. Shealy.

11 Q. What did Dr. Shealy do for you?

12 A. Surgery on both hands for carpal tunnel.

13 Q. Was the surgery successful?

14 A. No, sir.

15 Q. Because of your injury, are you in any pain as
16 we sit here today?

17 A. Yes, sir.

18 Q. Where does it hurt?

19 A. Both wrists, hands, both shoulders, and neck.

20 Q. Do you know why your neck and shoulders would
21 hurt?

22 A. Yes, sir.

23 Q. Why?

24 A. It comes from the carpal tunnel where I stay
25 crunched up all the time.

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kimberlytpower@aol.com

- 1 Q. Where does it hurt the most?
- 2 A. My neck.
- 3 Q. On a scale of one to ten, how bad is that
- 4 pain?
- 5 A. A nine.
- 6 Q. And how about in your arms and hands, how is
- 7 the pain?
- 8 A. An eight.
- 9 Q. Would you describe the pain in your arms and
- 10 hands today?
- 11 A. Well, the right thumb, I can't hardly use it
- 12 anymore. There are some times a sharp, stabbing,
- 13 shooting pain runs up both arms. I still drop things.
- 14 Swelling is still in both of them and it's just
- 15 miserable. I just hurt all the time.
- 16 Q. I notice you're wearing gloves today.
- 17 A. Yes, sir.
- 18 Q. Were you wearing gloves at the last hearing?
- 19 A. Yes, sir.
- 20 Q. How often do you wear gloves?
- 21 A. About every day.
- 22 Q. Why do you have to wear gloves?
- 23 A. To keep my hands warm. They stay cold a lot.
- 24 Q. Do you know why they're cold?
- 25 A. Yes, sir.

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kimberlytpower@aol.com

1 Q. Why?

2 A. From the CRPS.

3 Q. Now, do you notice any changes in the
4 appearance of your hands?

5 A. Yes, sir. Nails brittle, skin be blotchy
6 sometimes. They change.

7 Q. Do you have any problem with swelling?

8 A. Yes, sir. They stay swelling all the time.

9 Q. How is the strength in your arms and hands?

10 A. Weak.

11 Q. Which is worse, if either is worse?

12 A. I would say the left one.

13 Q. Is any part of your arms and hands extremely
14 sensitive to touch?

15 A. The right one.

16 Q. And would you explain what you mean? I've
17 asked you extremely sensitive. What does that mean to
18 you?

19 A. Well, I can't hardly stand anything to touch
20 my right hand. The left one is not as bad as the right
21 one.

22 Q. And when you say "touch," what about like a
23 light touch? Like just tapping your hand with my pinky
24 finger here, what would that feel like?

25 A. Well, it would bother the thumb, but the rest

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kimberlytpower@aol.com

1 of them not that much. But I don't hardly ever use
2 the...

3 Q. Are you right-handed or left-handed?

4 A. Right-handed, sir.

5 Q. Let me ask you about activities and what
6 you're able to do around the house. Do you do any
7 cooking at home?

8 A. No, sir.

9 Q. Did you used to cook before you got hurt?

10 A. Yes, sir.

11 Q. Who does all the cooking?

12 A. My husband or my oldest daughter.

13 Q. Why can't you cook?

14 A. Because my hands.

15 Q. Are you able to do any cleaning or other
16 housework?

17 A. No, sir.

18 Q. Who does the housework?

19 A. My husband and my two daughters.

20 Q. What is a typical day for you?

21 A. I be home every day. I read my Bible. I
22 watch a little TV. That's about it.

23 Q. How do you feel about that being your average
24 day?

25 A. Well, it's kind of depressing and sad because

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kimberlytpower@aol.com

1 I can't do anything that I used to do anymore.

2 Q. In terms of personal care, does your injury
3 cause you any problems with personal care?

4 A. Yes, sir. I have to have some help.

5 Q. What help do you need?

6 A. Like sometimes depends on what type of tennis
7 shoes I wear. My daughter have to tie my shoes. She
8 helps put some of my shirts or my bras on.

9 Q. Did you ever have those problems before your
10 injury?

11 A. No, sir.

12 Q. Let me ask you some questions about work and
13 your work status. Even if the Red Cross had not
14 terminated you, would you be able to go back to that job
15 in your present condition?

16 A. No, sir.

17 Q. Could you work anywhere now as a phlebotomist
18 or a CNA in your present condition?

19 A. No, sir.

20 Q. What is -- what are your current work
21 restrictions?

22 A. Five pound weight restriction.

23 Q. Who put those restrictions on you?

24 A. Dr. Shealy and Dr. Z.

25 Q. Are both of those doctors the authorized

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kimberlytpower@aol.com

1 treating physicians selected by the workers' comp
2 carrier?

3 A. Yes, sir.

4 Q. Are you aware that Dr. Z had also opined,
5 quote, In my medical opinion from a medical standpoint,
6 Ms. Dozier cannot perform even in a sedentary position if
7 the job requires anything greater than less than
8 occasional use of her arms given the diagnosis she has of
9 CRPS and CTS?

10 A. Yes.

11 Q. Cindy, do you want to go back to work?

12 A. Yes, sir, I would like to.

13 Q. Do you believe you will?

14 A. No, sir.

15 Q. Have you looked into getting vocational
16 rehabilitation to get you back to work?

17 A. Yes, sir.

18 Q. Did you actually go to the South Carolina
19 Department of Vocational Rehabilitation?

20 A. Yes, sir.

21 Q. And were they able to offer you any services?

22 A. No, sir.

23 Q. Do you know the reason why they were not?

24 A. Yes, sir. They said you had to be able to
25 work. Your doctor had to say you were able to work, and

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kimberlytpower@aol.com

1 the doctor said I'm not able to work.

2 Q. Have you applied for Social Security
3 disability?

4 A. Yes, sir.

5 Q. Have you got a ruling yet?

6 A. No, sir.

7 MR. SAMUELS: I have no further questions.
8 Please answer any questions Mr. Shull has for you.

9 CROSS-EXAMINATION

10 BY MR. SHULL:

11 Q. Cindy, you stated earlier that Dr. Shealy is
12 the doctor who performed the carpal tunnel release
13 surgeries?

14 A. Yes, sir.

15 Q. And that those gave you no benefit?

16 A. No, sir.

17 Q. All right. On -- and this is on APA Page 41.
18 On May 23rd, he released you at MMI. Have you been back
19 to see him since May 23rd?

20 A. No, sir.

21 Q. All right. And he stated, quote, At her
22 request, she is provided with a permanent restriction of
23 five pounds, period. Did you request that he give you a
24 five pound -- or you did request that he give you a five
25 pound restriction, didn't you?

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1 A. No, sir.

2 Q. Okay. Are you aware that he testified in his
3 deposition that that's exactly what you did?

4 A. No, sir.

5 Q. Okay. So you just disagree with Dr. Shealy
6 with respect to his note and his deposition testimony?

7 MR. SAMUELS: Objection, Your Honor. That's
8 argumentative.

9 THE COURT: Overruled. She can answer.

10 THE WITNESS: I can explain, sir. He told
11 me -- Dr. Shealy said he doesn't normally put any of his
12 patients on a weight restriction. He asked me how many
13 pounds could I lift, and I told him I couldn't even lift
14 a gallon of milk. So he said he would put me on a five
15 pound restriction.

16 BY MR. SHULL:

17 Q. All right. Now, you treated with Dr. Mancuso
18 and Dr. Bitting because you were referred there by
19 Dr. Moore; is that correct?

20 A. That's correct.

21 Q. And Dr. Moore, you were sent to him by your
22 prior lawyer, Mr. McElveen; is that correct?

23 A. That's correct.

24 Q. So Dr. Bitting and Dr. Mancuso were attorneys
25 of you and your attorney's choosing?

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1 THE COURT: I think you mean doctors.

2 MR. SHULL: Did I not say doctors?

3 THE COURT: You said attorneys.

4 MR. SHULL: Sorry. They got demoted.

5 BY MR. SHULL:

6 Q. Dr. Bitting and Dr. Mancuso are doctors of you
7 and your prior attorney's choosing?

8 MR. SAMUELS: Your Honor, I would object. I
9 think the question itself says that she was referred to
10 those doctors by Dr. Moore, and we would note the records
11 specifically say for treatment of CRPS. There's no
12 evidence of any attorney involvement in there and,
13 frankly, it's irrelevant.

14 MR. SHULL: There's no evidence of any
15 attorney involvement with Dr. Moore?

16 MR. SAMUELS: No, no. No question
17 Mr. McElveen sent her to Dr. Moore.

18 MR. SHULL: Okay. Well, I'll rephrase the
19 question.

20 MR. SAMUELS: The question --

21 THE COURT: Let him rephrase. Then see if you
22 object.

23 BY MR. SHULL:

24 Q. You were sent to Dr. Mancuso and Dr. Bitting
25 by Dr. Moore?

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1 A. That's correct.

2 Q. And you and your attorney chose Dr. Moore?

3 A. If you're referring to the first attorney that
4 I had.

5 Q. Yes.

6 A. Yes.

7 Q. All right. Workers' comp did not pay for
8 Dr. Bitting and Dr. Mancuso, did they?

9 A. No, sir. Because at the time, they weren't --
10 they were denying the workman's comp.

11 Q. All right. The first time you saw Dr. Mancuso
12 was on January 26, 2009. And I won't hold you to that
13 date, but do you remember going and treating with him?

14 A. Yes, I treated with him. Yes, sir.

15 Q. Okay. On that first treatment date, and I am
16 referring to APA Page No. -- excuse me, APA Page No. 16,
17 Dr. Mancuso noted --

18 MR. SAMUELS: Can I just ask counsel if he's
19 referring to defense or claimant's Page 16?

20 MR. SHULL: It's my Page 16. Thank you.

21 BY MR. SHULL:

22 Q. That you denied temperature changes or
23 sudomotor changes in your arms and hands. And to
24 clarify, sudomotor changes means unusually moist or
25 unusually dry. Did you deny -- when they asked you, did

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kimberlytpower@aol.com

1 you deny that you had temperature changes in your hands
2 and arms?

3 A. I really don't remember.

4 Q. Okay. So you could have denied it if you
5 don't remember?

6 A. I just don't remember. I mean, I've been
7 through so many doctors. So...

8 Q. Okay. You denied sudomotor changes or you
9 denied moistness or dryness in your arms and hands on
10 that day as well?

11 MR. SAMUELS: Objection, Your Honor. Asked
12 and answered. She's already said --

13 THE WITNESS: I mean, what day is that?

14 MR. SHULL: I asked her as to temperature
15 changes.

16 BY MR. SHULL:

17 Q. With respect to moistness, did you deny that
18 on that date as well?

19 A. Sir, I really don't remember on that day
20 you're talking about.

21 Q. So you could have denied on that date?

22 A. I haven't seen Dr. Mancuso maybe but two
23 times.

24 Q. Now, you testified earlier to your nails being
25 brittle. When did that start, ma'am?

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- 1 A. That started probably back in '09 sometime.
- 2 Q. Well, how long after your injury did it start?
- 3 A. Well, I got hurt January 17th, '08. So maybe
- 4 a year later because it was in '09 sometime.
- 5 Q. So your nails were getting brittle by January
- 6 of 2009?
- 7 A. Well, I can't be for sure what date. I know
- 8 it was in '09 sometime, sir. I'm not sure what date.
- 9 Q. You began your treatment with Dr. Bitting and
- 10 Dr. Mancuso on January 26th. Is it fair to say that your
- 11 nails were brittle at that point in 2009?
- 12 A. I would say so.
- 13 Q. You complained of your skin being blotchy.
- 14 When did that start?
- 15 A. That started last year sometime.
- 16 Q. That started in 2011?
- 17 A. Yep.
- 18 Q. Are your nails brittle today?
- 19 A. I think so.
- 20 Q. Okay. Can we see them?
- 21 A. Yeah.
- 22 Q. And I would just like for you to show them to
- 23 the Commissioner, and for the Commissioner to note if he
- 24 notes any unusual findings.
- 25 THE COURT: Turn your hands back over and let

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kimberlytpower@aol.com

1 me look at your nails. That's what he's asking about.

2 MR. SAMUELS: Your Honor, for the record, I
3 don't believe brittle nails would be something that would
4 be --

5 THE COURT: I can't judge that.

6 MR. SAMUELS: You've got to touch and see if
7 they break off and so on.

8 THE COURT: I really can't make a
9 determination.

10 BY MR. SHULL:

11 Q. What about skin blotches, ma'am? So you claim
12 that there's blotches on your skin?

13 A. They get blotchy. Yes, sir.

14 Q. Okay. Are they blotchy today in your opinion?

15 A. I think so. Pale looking.

16 Q. And if you will show those to the Commissioner
17 as well.

18 THE COURT: Okay.

19 BY MR. SHULL:

20 Q. And you told me in your deposition that your
21 hair had started falling out. Is that the truth?

22 A. Yes, sir.

23 Q. When did that start, your hair?

24 A. I want to say back in '09 sometime.

25 Q. Okay. Well, how long after your injury did

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kimberlytpower@aol.com

1 the hair start falling out?

2 A. I'm not sure. I noticed it's coming out real
3 bad. It's very noticeable.

4 Q. Okay. And it's hair where? Hair on your arms
5 only or elsewhere?

6 A. Just on my hand.

7 Q. What about the hair on your head, is that
8 falling out?

9 A. Yes, sir.

10 Q. Okay. And you credit the hair falling out on
11 your head to your injury -- to your repetitive trauma
12 injury in 2008?

13 A. Yes, sir.

14 Q. Did you report all of these things that we're
15 talking about here today, brittle nails, blotchy skin,
16 and hair falling out, did you report those to your
17 doctors?

18 A. Yes, I did.

19 Q. You reported it to Dr. Z?

20 A. Yes, I did.

21 Q. You reported it to Dr. Mancuso?

22 A. I only saw her like two times, sir.

23 Q. Did you report it to Dr. Bitting?

24 A. No. I've seen him I think once.

25 Q. Okay. Did you report it to them or -- I'm not

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kimberlytpower@aol.com

1 asking how many times you saw him. I'm asking did you
2 report it to him?

3 A. No. I didn't see him that long.

4 Q. Okay. I'm not asking how many times you saw
5 him. I'm asking when you did see him, did you report it
6 to him?

7 A. No.

8 Q. Okay. So you reported it to Dr. Z, but not to
9 two those doctors?

10 A. Yes, sir. I didn't treat with them that long
11 that it started happening.

12 Q. You are aware that Dr. Z's notes contain no
13 mention of hair loss?

14 A. I don't know why, but he knows and his nurses
15 as well because I reported it to them on visits that I
16 went in.

17 Q. You're aware that he testified that he didn't
18 notice any hair loss?

19 A. No, I'm not aware of that at all. No, sir.

20 Q. You're aware that he testified he didn't
21 notice any nail changes?

22 A. No.

23 Q. But you told him about nail changes?

24 A. Yes, I did.

25 Q. And coolness of touch, is that an every day

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kimberlytpower@aol.com

1 occurrence or is that something that comes and goes?

2 A. Comes and goes. And he knows about that. He
3 used to come in and touch my hands.

4 Q. Are you aware he testified that your hands
5 were cool to touch, but minimally?

6 A. No, I'm not aware of that.

7 Q. Would you agree with that statement?

8 A. No, sir. I'm not aware of that. He never
9 spoke to me -- said nothing like that to me.

10 Q. Okay. You testified just a minute ago -- let
11 me just ask you this one more time with respect to that.
12 With what we're talking about here today with brittle
13 nails, hair -- loss of hair, with those problems that we
14 spoke about, if you were having them as early as January
15 of 2009, you were definitely having those problems on
16 January 8, 2009 when you first saw Dr. Z; is that
17 correct?

18 A. Rephrase that. Say that again.

19 Q. The first time you saw Dr. Z was in September
20 of '09 because we had a hearing coming up, remember?

21 A. Right.

22 Q. You would have been having the problems that
23 we've talked about when you saw him on that date in
24 September of '09?

25 A. I can't say that.

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kimberlytpower@aol.com

1 Q. Well, you testified earlier that the nail
2 problem started as early as January of 2009.

3 A. I didn't say what date. I told you I can't
4 say when. I just say it started in January, but I'm not
5 sure what date it started. But I had those problems.

6 Q. So January is before September, so you would
7 have had them when you saw Dr. Z the first time?

8 A. (No response.)

9 Q. Answer.

10 A. I reported to him as soon as I noticed.
11 That's all I can tell you.

12 Q. Okay. You've been prescribed splints for your
13 wrists; is that correct?

14 A. Yes, sir.

15 Q. You don't wear those?

16 A. No, sir, because they make them hurt worse.

17 Q. Okay. So you have not been following those
18 orders to wear your splints for how long?

19 A. Well, Dr. Z said if they were bothering me, I
20 didn't have to wear them.

21 Q. And when I took your deposition in September
22 of this year, Mr. Samuels here asked you -- he was asking
23 you about your physical symptoms and he asked you that if
24 he were to touch you lightly on the top of your left
25 hand, would it cause extra pain and you said no. Do you

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kimberlytpower@aol.com

1 remember that?

2 A. No.

3 Q. You were in here testifying today, I think
4 earlier, that light touches on your hand would cause you
5 extra pain?

6 A. Yes, sir. I said on the right one more so
7 because I can't hardly use that thumb.

8 Q. Okay. On the left one, would light touches on
9 your hand cause you pain? Didn't you already testify to
10 that?

11 A. It bothers me some, but not as much as this
12 right one, sir.

13 Q. Okay. Do you deny stating that light touches
14 on your hands cause you pain?

15 A. No, I'm not going to deny that.

16 Q. Do you deny that in your deposition you said
17 it didn't cause you pain?

18 A. What deposition?

19 Q. The deposition I took of you in September.

20 A. I'm not denying it. I just don't remember it.
21 I mean, I done had a lot of depositions. I don't
22 remember everything.

23 MR. SHULL: Can I present her with this to
24 refresh her recollection?

25 THE COURT: Yes.

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1 MR. SHULL: This is her September of this past
2 year --

3 MR. SAMUELS: Your Honor, I'm objecting to the
4 entire deposition being handed up and being made a part
5 of the record. I think the appropriate --

6 MR. SHULL: That's fine.

7 MR. SAMUELS: -- impeachment is to hand it to
8 her --

9 MR. SHULL: That's fine.

10 MR. SAMUELS: -- and he can question her on
11 it.

12 MR. SHULL: That's fine. I'll take it back
13 from her. I'm not asking to put the whole thing in the
14 record.

15 BY MR. SHULL:

16 Q. On Page 23 you were asked -- or Page 22 you
17 were asked by Steve: "Okay. Let me ask you some
18 questions about pain." You answered -- on Line 1 you
19 answered -- what did you answer?

20 A. Yes, sir.

21 Q. And then Steve says, "Specifically on your
22 hands, if I were to touch you lightly on the top of your
23 left hand, would that cause extra pain?" And you stated?

24 A. No, sir.

25 Q. Okay. And I think you testified earlier that

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kimberlytpower@aol.com

1 if you were touched on the top of your hand, it would
2 cause you extra pain. So can you explain the difference
3 in your testimony?

4 A. Okay. Because my hands have gotten worse.

5 Q. That was on page -- do you need to read it?

6 A. It's gotten worse, sir.

7 Q. Your hands have gotten worse since September.
8 Is that your explanation?

9 A. Yes, sir, they have.

10 Q. You testified earlier also about your belief
11 or disbelief about the ability to work. Now, you've held
12 that belief for a long time, haven't you?

13 A. Yes, sir.

14 Q. Okay. And you talked about applying for
15 Social Security disability, right? You talked about
16 applying for Social Security disability.

17 A. What about it?

18 Q. Well, you talked about that earlier, didn't
19 you? You've applied for it?

20 A. Oh, yes, sir. Yeah.

21 Q. I think you had a hearing a couple of weeks
22 ago?

23 A. I had a hearing on the 10th.

24 Q. When I deposed you the first time in September
25 of '09, two and a half years ago, you had applied then

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kimberlytpower@aol.com

1 too, hadn't you?

2 A. Yes, sir.

3 Q. Okay. So this last application is actually
4 your third application. So you were denied twice for
5 Social Security?

6 A. That's correct. I was denied twice.

7 Q. So it's been since September of 2009 that
8 you've been believing that you can't go back to work?

9 A. Yeah.

10 Q. Is that a yes?

11 A. Yes, sir.

12 Q. Okay. When I deposed you in September of '09,
13 you told me you hadn't applied for any jobs anywhere?

14 A. No. Back then, no, sir, I didn't.

15 Q. And when I deposed you this past September,
16 you said you haven't applied for any jobs then either?

17 A. Past September, no, I didn't.

18 Q. So have you applied for any jobs since you've
19 been released by your doctors?

20 A. I went to the vocational rehabilitation place.

21 Q. Okay. So you went to voc rehab since
22 September?

23 A. Yes, sir.

24 Q. Have you applied for any jobs?

25 A. They couldn't put me on any.

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1 Q. Okay. I'm not asking what they said. I'm
2 asking have you applied for any jobs?

3 A. Well, they wouldn't even let me apply.

4 THE COURT: Please answer his question.

5 THE WITNESS: No, sir, then. No.

6 BY MR. SHULL:

7 Q. Now, how old is your daughter, ma'am?

8 A. Which one, sir? I have two daughters.

9 Q. Okay. What are their ages?

10 A. Twenty and eight.

11 Q. Okay. So the eight-year-old, she lives with
12 you?

13 A. Yes, sir.

14 Q. Okay. And she was living with you when your
15 injuries occurred?

16 A. Yes, sir.

17 Q. Okay. And you've been out of work since
18 September of 2008, I think you testified; is that right?

19 A. Yes, sir.

20 Q. So in September 2008, if she's eight now, she
21 would have been roughly five years old?

22 A. Yes, sir.

23 Q. Okay. So were you staying home and taking
24 care of her when she was five? Who was taking care of
25 your five-year-old?

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1 A. Oh, my husband was.

2 Q. But your husband is a truck driver?

3 A. No, he's not.

4 Q. Or a bus driver?

5 A. He was. But, I mean, [REDACTED] goes to school.

6 Q. What about when she's not in school?

7 A. When I was working, my husband took care of
8 her.

9 Q. I'm talking about in 2008 when you were
10 terminated, you haven't worked since then. You've been
11 receiving --

12 A. Oh, when I was terminated.

13 Q. You've been receiving TTD since 2008?

14 A. Right. Yes. I was home.

15 Q. My question to you is --

16 (There was a brief interruption.)

17 BY MR. SHULL:

18 Q. My question to you is, three years ago you
19 were receiving temporary total disability, she was five
20 years old and had to have been home during some of that
21 time with you and you were taking care of her?

22 A. Okay. What's your question to that?

23 Q. My question is, were you taking care of a
24 five-year-old three years ago while you received TTD?

25 A. Well, my husband only worked like in the

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kimberlytpower@aol.com

1 morning times and he was unemployed part of that time as
2 well.

3 Q. Okay. While your husband was working, you
4 were taking care of your child and receiving TTD? You
5 deny that?

6 A. I'm not denying that. I mean, it depends on
7 what do you mean on taking care of her? Because she goes
8 to school until -- 7:45 until 2:30.

9 Q. Okay.

10 A. And normally my husband gets home around that
11 time.

12 Q. Okay. When we had that prior hearing, I
13 believe you testified that Lionel was a bus driver?

14 A. Yes, he was.

15 Q. So it's your testimony that since 2008, you
16 haven't had to take care of your kid because he's either
17 done it or she's been in school?

18 A. Well, I mean, she can do most -- some things
19 for herself. It's not that much. But, yes, I was home.

20 Q. And taking care of a five-year-old, do you
21 consider that to be work?

22 A. Not really. Not like on a job.

23 Q. Now, some of the jobs that Mr. Myers found for
24 you, you don't -- have you gone over the list that
25 Mr. Myers compiled of jobs he found for you?

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1 A. No, sir.

2 Q. You haven't gone over it?

3 A. No, sir.

4 Q. Okay. You feel like you couldn't work as a
5 greeter at Wal-Mart?

6 A. No, sir.

7 Q. What about working for Culligan Water Company
8 out of Lexington selling bottled water, you don't believe
9 you could do that?

10 A. I don't know what the job description is for
11 that.

12 Q. It says sedentary.

13 A. No, sir.

14 MR. SHULL: I think that's all I have, Your
15 Honor. Thank you.

16 THE COURT: Mr. Samuels.

17 MR. SAMUELS: Yes, Your Honor. Thank you.

18 REDIRECT EXAMINATION

19 BY MR. SAMUELS:

20 Q. Cindy, Red Cross terminated you because they
21 were unable to accommodate your work restrictions; is
22 that right?

23 A. Yes, sir.

24 Q. The question about your husband being a bus
25 driver, what kind of bus did he drive?

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kimberlytpower@aol.com

1 A. School bus for the high school.

2 Q. And regarding your daughter, [REDACTED] there
3 was some confusing testimony about taking care of her.
4 Were you with her when she was home and not in school?

5 A. Yes, sir. And then I have an older daughter,
6 she helps a lot.

7 Q. As far as -- this is not a baby we're talking
8 about. You don't have to lift her or change her?

9 A. Yeah. That's what I meaning, you know. She
10 can pretty much do most things for herself.

11 Q. As far as RSD, you saw Dr. Rhea on a referral
12 from Dr. Mancuso; is that right?

13 A. Yes, sir.

14 Q. And did Dr. Rhea prescribe any treatment for
15 you?

16 A. No, sir.

17 Q. Let me ask you -- show you something and see
18 if this refreshes your memory.

19 MR. SAMUELS: Your Honor, I'm looking at Page
20 103 of the claimant's APA submissions.

21 BY MR. SAMUELS:

22 Q. Cindy, do you see this description April 6 --
23 prescription April 6, 2009?

24 A. Yes, sir.

25 Q. Do you now remember?

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1 A. Yes, sir, I remember now.

2 Q. Okay. What was the diagnosis?

3 A. RSD.

4 Q. What treatment did Dr. Rhea recommend for you?

5 A. Those cervical sympathetic blocks.

6 Q. You weren't actually able to get that block
7 until Dr. Patel in late 2009; is that right?

8 A. Yes, sir.

9 Q. You're also aware that Dr. Moore -- this would
10 be APA Page 1, claimant's APA 1, Your Honor, also
11 diagnosed you with CRPS?

12 A. Yes, sir.

13 Q. Now, let me ask you about the restrictions.
14 There was some testimony about the restrictions put on
15 you by Dr. Shealy. And I think you've already explained
16 this, but who came up with the five pound weight
17 restriction, you or Dr. Shealy?

18 A. Dr. Shealy.

19 Q. And he asked you how much you could lift?

20 MR. SHULL: Object to what he asked her.

21 THE COURT: Rephrase.

22 BY MR. SAMUELS:

23 Q. Who was the person who said five pounds?

24 A. Dr. Shealy.

25 Q. And he gave you the five pounds in response to

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kimberlytpower@aol.com

1 what question and answer?

2 A. I told him I couldn't even hardly lift a
3 gallon of milk.

4 Q. What did he ask you that made you say you --

5 MR. SHULL: Objection to what he asked.

6 MR. SAMUELS: It's not being offered for the
7 truth of the matter, therefore it's not hearsay.

8 THE COURT: You can answer.

9 THE WITNESS: Repeat the question, sir.

10 BY MR. SAMUELS:

11 Q. What did Dr. Shealy ask you to where you gave
12 the response, "I can't even lift a gallon of milk?"

13 A. He said he normally doesn't give any patients
14 any restrictions. But since my hands were still hurting
15 me, he asked me how much weight could I lift. And I said
16 I couldn't lift a gallon of milk, so he said he was going
17 to put me on a five pound restriction.

18 Q. And then we've already discussed Dr. Z also
19 put you under a five pound restriction, but with only
20 occasional use, no repetitive use; is that right?

21 A. Yes, sir.

22 Q. Now, Mr. Shull asked you about -- oh, I need
23 to ask you another question. I'm sorry. There was also
24 some testimony about your deposition. Now, in the
25 testimony of the deposition you were asked if light touch

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kimberlytpower@aol.com

1 to your left hand caused any pain?

2 A. Yes, sir.

3 Q. Okay. Today -- earlier today you were asked
4 if light touch on your right hand caused you any pain?

5 A. Yes, sir.

6 Q. Does left hand -- and left hand you said no
7 and the right hand you said yes?

8 A. That's correct.

9 MR. SHULL: This is leading.

10 THE WITNESS: Yes, sir.

11 MR. SHULL: Objection.

12 BY MR. SAMUELS:

13 Q. Does light touch on the right hand cause you
14 pain?

15 A. Yes, sir.

16 Q. Were you asked about the right hand in your
17 deposition?

18 A. No, sir.

19 Q. Which hand were you asked about?

20 A. Left hand.

21 Q. Did you give true answers both times?

22 A. Yes, sir.

23 Q. Let me ask you some questions about the --

24 MR. SAMUELS: Your Honor, I'm going to refer
25 to Defendant's APA Page 70, but I would also ask Your

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1 Honor to review the peer review done by Glen Adams at
2 Pages 231 through 237 of the APA submissions. And I
3 apologize. This may be a little tedious, but I think
4 it's necessary for this hearing.

5 BY MR. SAMUELS:

6 Q. Now, regarding a job in data entry, are you
7 able to do a job that requires repetitive frequent
8 fingering and occasional handling and repetitive use of
9 your upper extremities?

10 A. No, sir.

11 Q. How about the second job as a mail sorter, are
12 you able to do repetitive use of your arms sorting mail?

13 A. No, sir.

14 Q. The third job is to work in a warehouse. You
15 ever worked in a warehouse?

16 A. No, sir.

17 Q. Would working in a cold warehouse bother you?

18 A. Yes, sir.

19 Q. Are you able to do repetitive use -- frequent,
20 handling and occasional fingering?

21 A. No, sir.

22 Q. Job number four, have you ever worked as an
23 EKG tech?

24 A. No, sir.

25 Q. Are you licensed to do that kind of work?

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1 A. No, sir.

2 Q. Does that job require a special license you
3 don't have?

4 A. Yes, sir.

5 Q. Does that job also require repetitive use of
6 your hands?

7 A. Yes, sir.

8 MR. SHULL: Objection. She doesn't know and
9 it's leading.

10 MR. SAMUELS: Your Honor, I would refer to
11 Page 233 of the claimant's APA submissions where
12 Mr. Adams states, "The DOT classifies this occupation as
13 requiring frequent fingering and occasional handling and
14 that that job most probably exceeds the limitations
15 provided by her treating physicians." And that's the
16 problem, quite frankly, with all of these jobs. They are
17 all outside the restrictions and that's the point. If
18 there are no jobs that you can do within your
19 restrictions, you're unemployable.

20 BY MR. SAMUELS:

21 Q. Move on to job six. That would be a file
22 clerk. Are you able to do filing?

23 A. No, sir.

24 Q. Job number seven, are you able to work as a
25 Wal-Mart greeter?

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1 A. No, sir..

2 Q. Let me ask you specifically --

3 MR. SAMUELS: Your Honor, we have the Wal-Mart
4 greeter job description, Page 272 of the APA submissions
5 and specifically at Page 273. It states, "Frequently
6 lifting, placing, deactivating items weighing up to ten
7 pounds without assistance and regularly lifting
8 merchandise over ten pounds with team lifting."

9 BY MR. SAMUELS:

10 Q. Cindy, with the five pound lifting
11 restriction, are you allowed by your doctors to do a job
12 that requires lifting up to ten pounds?

13 A. No, sir.

14 Q. Skip number eight because that's the EKG tech
15 and I've already asked you about that. Job number nine
16 is a job as a customer service representative for Flour
17 in Eastover.

18 MR. SAMUELS: And I just refer Your Honor to
19 Page 234. That would be a light duty job with repetitive
20 use of the upper extremities which would be outside of
21 her restrictions.

22 BY MR. SAMUELS:

23 Q. Job number ten, Cindy, that would be working
24 as a sorter. Collecting, sorting, distributing incoming
25 mail. Would you be able to do that kind of repetitive

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kimberlytpower@aol.com

1 use of your hands such as sorting mail?

2 A. No, sir.

3 Q. That would be outside your restrictions?

4 A. Yes, sir.

5 Q. Mr. Shull asked you about specifically
6 Culligan Water Company. According to the DOT code, that
7 would be a light duty job. Light duty requires lifting
8 between ten and 20 pounds. Would you be able to do that
9 job?

10 A. No, sir.

11 Q. Ever sold anything in your life? Have you
12 ever worked in a commission sales job?

13 A. No, sir.

14 Q. And lastly, job number 12, which is apparently
15 a collection clerk for Title Max. Are you able to go out
16 and repossess people's automobiles if they haven't paid
17 their car title loan?

18 A. No, sir.

19 MR. SHULL: Object. That assumes that's what
20 she's required to do.

21 THE COURT: Sustained.

22 MR. SAMUELS: Your Honor, I would take
23 referral at Page 235, job number 12.

24 BY MR. SAMUELS:

25 Q. If this job will require -- required frequent

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1 fingering and occasional handling with repetitive use of
2 the upper extremities, would that be outside the
3 restrictions you've been placed on by your authorized
4 treating physician?

5 A. Yes, sir.

6 Q. If these jobs are outside your restrictions,
7 is there any point in applying for these jobs?

8 A. No, sir.

9 Q. Would you be able to do these jobs?

10 A. No, sir.

11 Q. Has anybody -- any of the experts who have
12 evaluated you or voc rehab been able to offer you any
13 suggestions as to jobs that you could actually do?

14 A. No, sir.

15 Q. If somebody could, would you apply for those
16 jobs?

17 A. If I could.

18 Q. And if you were able -- if we could wave a
19 magic wand and cure your carpal tunnel syndrome and your
20 CRPS, would you go back to work?

21 A. Yes, sir.

22 Q. Would you like to go back to work being a
23 phlebotomist?

24 A. Yes, sir.

25 Q. Is work important to you?

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1 A. Yes, sir.

2 Q. Are you happy with the way you are today?

3 A. No, sir.

4 MR. SAMUELS: I have no further questions.

5 THE WITNESS: Thank you, sir.

6 MR. SHULL: Brief follow-up.

7 THE COURT: Yes.

8 RECROSS-EXAMINATION

9 BY MR. SHULL:

10 Q. You gave a pretty descriptive -- you gave a
11 pretty detailed description of the conversation you had
12 with Dr. Shealy over my objection. So what I would like
13 to do is read to you what he said the conversation was
14 and get you to tell me how you disagree with it. And I'm
15 reading off --

16 MR. SAMUELS: Objection, Your Honor. Pitting
17 witnesses and this testimony is already in the record.

18 MR. SHULL: I think the objection is pitting
19 experts, not pitting witnesses. And over my objection,
20 she got to testify and I just want to read what the
21 doctor said about the conversation. I think that's only
22 fair.

23 THE COURT: I'll allow it.

24 BY MR. SHULL:

25 Q. I stated on Page 10 of the deposition, Line

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1 19, "Did she -- question: Do you remember if she
2 specifically asked you for five pounds?"

3 "Answer: She did."

4 "Question: Okay. And typically what --
5 typically you would not have done -- what would you have
6 typically given somebody who had bilateral" --

7 He interrupted me and said, "Answer: I'd send
8 them back to full duty."

9 "Question: Full duty. Okay. Was there
10 anything other than her asking you to do that with
11 respect to this lady's case?"

12 "Answer: That's exactly what I dictated."

13 "Question: Okay. Was there anything else
14 that you can remember or from the chart that we've gone
15 through that would have made you give her the five pound
16 restriction?"

17 "Answer: No, not that I recall."

18 So would you agree, Cindy, that Dr. Shealy was
19 asked his version of that conversation and he said
20 nothing about a five gallon jug of milk and he indicated
21 that you're the one who came up with the five pound work
22 restriction? Would you agree with that based on what I
23 read?

24 A. No, I don't agree with that. My husband was
25 right there the whole time when Dr. Shealy said that, and

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kimberlytpower@aol.com

1 he's here today if you need to ask what really was said,
2 sir.

3 MR. SHULL: Thank you. That's all for me.
4 Thank you.

5 MR. SAMUELS: Your Honor, if I may, I just
6 simply wanted to point out that in Dr. Shealy's
7 deposition, there's a follow on, and this is Page 11 of
8 the deposition. It's Page 59 of the defendant's APA
9 submissions. He was also asked, "And then you stated she
10 is advised she may return to work on limited duty status.
11 And when you said limited duty status, what exactly did
12 you mean?"

13 "Five pound weight restriction."

14 Then asked, "Did you feel she could work at a
15 greater than five pound weight restriction?"

16 And he stated, "My experience with these, and
17 I've done many of them through the years, has been that
18 most of these people are able to go back to their normal
19 activities at that point in time. And I'm very reluctant
20 to provide somebody with permanent restrictions because I
21 don't think they usually indicate."

22 And I think, Your Honor, that's exactly what
23 Ms. Dozier testified to that --

24 MR. SHULL: Is this a question?

25 MR. SAMUELS: It's not a question. It's an

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kimberlytpower@aol.com

1 argument I'm making to Your Honor about the deposition
2 testimony. The point is, Your Honor, that he says much
3 the same thing she says. He doesn't like to provide
4 restrictions and normally doesn't. But the bottom line
5 is we have an authorized treating physician who gave
6 restrictions, and the patient is bound to comply with her
7 doctor's restrictions. And by complying with her
8 doctor's restrictions, if he didn't believe them, he
9 wouldn't have given them to her. So he's given her the
10 restrictions. That's the basis of her disability. Not
11 the impairment rating, but her restrictions that
12 disqualify her from doing every job including the jobs
13 listed by the defense vocational expert.

14 THE COURT: Anything else, Mr. Shull?

15 MR. SHULL: I rest.

16 THE COURT: All right. Anything else?

17 MR. SAMUELS: No, Your Honor. The claimant
18 rest.

19 THE COURT: All right. Thank you so much.
20 That concludes this hearing.

21 (The hearing concluded at 12:00 p.m.)
22
23
24
25

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kimberlytpower@aol.com

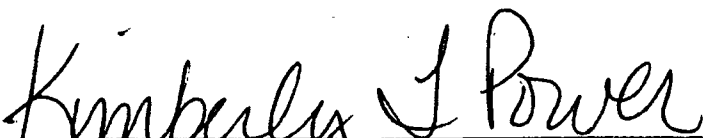
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I, Kimberly T. Power, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript of proceedings was taken before me on the date and at the time and location stated on page 1 of this transcript; that the witness was duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the testimony of the witness and all objections made at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing transcript of proceedings as typed is a true, accurate and complete record of the testimony and of all objections made at the time to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 14th day of February, 2012, at Richland County, South Carolina.


Kimberly T. Power, Court Reporter
Notary Public, State of South Carolina
My Commission Expires: 07/22/2015

Kimberly T. Power, Court Reporter
kimberlytpower@aol.com

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION FULL COMMISSION
WCC No. 0800660

Cindy Dozier,)
)
Claimant/Appellant,)
)
v.)
)
American National Red Cross,)
)
Employer/Respondent,)
)
and)
)
Old Republic Insurance Company,)
)
Carrier/Respondent.)
-----)

COPY

FULL COMMISSION HEARING

Tuesday, September 18, 2012
11:07 a.m. - 11:32 a.m.

The Full Commission Hearing before Commissioner T. Scott Beck; Commissioner Melody L. James; and Commissioner Susan S. Barden, Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 18th day of September, 2012 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

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1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES:

Stephen B. Samuels, Esquire
 Samuels Law Firm, LLC
 Post Office Box 50349
 1527 Blanding Street
 Columbia, South Carolina 29201
 Attorney for the Claimant/Appellant

Wesley J. Shull, Esquire
 Willson, Jones, Carter & Baxley, P.A.
 872 South Pleasantburg Drive
 Greenville, South Carolina 29607
 Attorney for the Defendants/Respondent

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1 THE COURT REPORTER: Today is Tuesday, September 18,
2 2012. This is South Carolina Workers'
3 Compensation Case Number 0800660. This is the
4 case of Cindy Dozier, Claimant, versus American
5 National Red Cross, Employer, and Old Republic
6 Insurance Company, Carrier.

7 The Appellant is the Claimant, represented by
8 Stephen Samuels. The Respondent is represented
9 by Wesley Shull.

10 Each side is allowed ten minutes for oral
11 argument and the Appellant three minutes in
12 rely. You are requested to argue the grounds
13 of exception and stay within the record.

14 COMMISSIONER BARDEN: Okay. Mr. Samuels.

15 ARGUMENT BY MR. SAMUELS:

16 MR. SAMUELS: Good morning, Your Honors. May it
17 please the Commission. I represent Cindy
18 Dozier. This is an appeal from the Form 50 and
19 before Commissioner McCaskill.

20 Commissioner McCaskill awarded 20 percent
21 disability to each arm, ongoing medical
22 treatment under Dodge. Ms. Dozier been
23 receiving authorized medical treatment for both
24 carpal tunnel syndrome and complex regional
25 pain syndrome for two and a half years, really

1 ever since the hearing before Commissioner
2 Huffstetler in November of 2009.

3 There are some complicated legal issues in this
4 case, but basically boils down to two primary
5 issues. The first is the finding that
6 Ms. Dozier is not totally and totally (sic)
7 disabled. The second was a finding that she
8 did not have complex regional pain syndrome and
9 her only injury is bilateral carpal tunnel.

10 A little bit of background. Ms. Dozier is 41.
11 She worked as a CNA and phlebotomist. It's
12 undisputed she cannot return to any of her
13 previous employment, which was all medium work.
14 Now, there are two authorized treating
15 physicians in this case. Dr. Zgleszewski,
16 Dr. Z, was the authorized treating physician
17 for her CRPS/RSD and he referred her to
18 Dr. Gerald Shealy for carpal tunnel releases.

19 When Dr. Shealy released her, he assigned
20 five-pound lifting restrictions. Dr. Z
21 concurred with the five-pound lifting
22 restriction, stating in his deposition that it
23 was reasonable for the carpal tunnel syndrome.
24 He also went on to state that she could not use
25 either upper extremity on a repetitive basis,

1 secondary to her CRPS and chronic pain from her
2 failed CTS release surgery; stated that his
3 opinion from a medical standpoint, Ms. Dozier
4 cannot perform even at a sedentary level if a
5 job requires anything greater than less than
6 occasional use of her arms given the diagnosis
7 she has of CRPS and CTS.

8 So, in short, we have a person who was a CNA
9 and phlebotomist; now she's got restrictions of
10 less than occasional use of her arms, no
11 lifting over five pounds. And that is what
12 determines whether she is employable or not.

13 The Single Commissioner made a finding that
14 there is work available that would allow her to
15 work under the five-pound restriction by
16 Dr. Shealy and Dr. Zgleszewski rendered for her
17 compensable to the carpal tunnel syndrome.
18 Specifically stated, "In arriving at this
19 finding, the undersigned put great weight on
20 the report of James Myers."

21 Now, Mr. Myers came up with a list of ten jobs
22 that she could work. All of those jobs are
23 outside of her restrictions because they are
24 all sedentary to light duty. He basically
25 ignored the five-pound lifting restrictions put

1 on by both authorized treating physicians. In
2 fact, he never even mentions Dr. Z's opinions
3 in his report at all.

4 And what it comes down to is, there is no
5 foundation for that vocational expert's opinion
6 because he is ignoring the restrictions. He is
7 giving an opinion that there are jobs out there
8 that are sedentary to light that she can do;
9 none of those she can do because they are all
10 outside of her restrictions.

11 His report is not credible. It should be given
12 no weight as a matter of law because it lacks
13 foundation.

14 I would add, there were actually four
15 vocational opinions given in this case. Two of
16 them were from 2009 when she had lesser
17 restrictions, when her restrictions were five
18 pounds.

19 In 2009, Dr. Brabham opined she was totally
20 disabled. The Defense had a vocational expert,
21 Harriett Wilkerson, who listed seven jobs that
22 she thought Ms. Dozier could do. But in her
23 deposition, which is part of the record, she
24 admitted that Ms. Dozier did not have the
25 skills or experience to be hired in any of

1 those jobs.

2 Now that the restrictions have been increased
3 to occasional lifting, no more than five
4 pounds, they're simply no jobs out there for
5 this lady that would be impossible for her to
6 do any kind of work. And that is based on not
7 just the complex regional pain syndrome, which
8 was denied by Commissioner McCaskill, but also
9 on the carpal tunnel syndrome, because the
10 restrictions are the same. And even the Single
11 Commissioner's findings says he is basing his
12 opinion presuming the five-pound lifting
13 restriction is correct.

14 There's a report from Glenn Adams which opines
15 she's totally disabled and also does a peer
16 review of James Myers' report.

17 So, therefore, Your Honors, we would ask
18 specifically that the Appellate Panel reverse
19 the finding that Ms. Dozier could work, find
20 that she's permanently and totally disabled.

21 Let me get to the second issue and that has to
22 do with complex regional pain syndrome. This
23 has a lot of legal issues and is somewhat
24 complex.

25 The bottom line is, is the parties went before

1 a hearing from in front of Commissioner
2 Huffstetler in 2009. Commissioner Huffstetler
3 issued order notes finding the CRPS was
4 compensable.

5 He ultimately issued his own order, which was
6 very short, brief and to the point, and he
7 never specifically addressed the exact
8 diagnosis. He simply stated that the Claimant
9 suffered injuries to both arms and that the
10 Defendant -- the Defense shall provide the
11 Claimant with medical treatment for both of her
12 arms through a physician of their choosing.

13 At that point Mr. Shull and I got together to
14 figure out who the authorized treating
15 physician was going to be and he asked me: Who
16 in Columbia or Sumter can treat her for RSD?
17 And, you know, we mentioned some names of some
18 pain doctors who would do it. Ultimately, they
19 chose Dr. Z.

20 And I think it's -- Dr. Z has stated
21 unequivocally in his deposition that Ms. Dozier
22 has CRPS because of this injury. He has been
23 treating her for it for two and a half years.

24 Now, I think the question that the panel should
25 be asking of Mr. Shull is: Why did you pick a

1 pain doctor as the authorized treating
2 physician if you didn't think she had RSD? Why
3 did you authorize treatment for over two years
4 if you didn't think she had RSD?

5 And the reason that is important is, not only
6 are the fact that she has RSD, but legally, I,
7 attorney for the Claimant, appealed
8 Commissioner Huffstetler's order and
9 specifically the provision that the Defendants
10 got to choose the doctor.

11 When they actually authorized Dr. Z to treat
12 the RSD, we withdrew that appeal. We put in
13 the -- put in our brief -- because we did have
14 another issue we did appeal on -- when we
15 withdrew it, we put in our brief, "After the
16 hearing, the Defendants designated
17 Dr. Zgleszewski as the authorized treating
18 physician. If Dr. Zgleszewski is acceptable to
19 Claimant, she no longer requests Dr. Moore be
20 designated the treating physician." And that's
21 the point.

22 We were now satisfied that Ms. Dozier would
23 finally, after all these years, be getting the
24 treatment she needed for the condition that
25 needed treating. They were providing. They'd

1 authorized it. We withdrew an appealable issue
2 and that is classic estoppel. We withdrew it
3 based on the detrimental reliance that the
4 Defendants were providing a doctor and
5 authorizing him to treat the RSD and CRPS.
6 Classic estoppel, classic waiver. We put all
7 of that in our brief.

8 In addition, just on the merits, which I would
9 say it's not even proper to reach because of
10 the legal issues and they should not be allowed
11 to relitigate this issue -- and, again, I
12 should say, they never denied the CRPS until
13 this hearing. It was not in their 51. It was
14 not -- I believe they finally put it in their
15 prehearing brief ten days before the hearing.
16 Never been denied up until that time.

17 But Dr. Z, Dr. Moore, Dr. Ray, numerous doctors
18 diagnosed her with CRPS or RSD. They have gone
19 back and relied on a doctor who saw her for
20 several months in 2009 who didn't think she had
21 it.

22 That doctor actually referred her to a
23 neurosurgeon, that's Dr. Ray, who said, "She's
24 got RSD. You need to give her some stellate
25 ganglion blocks, sent her back to this doctor

1 and that doctor never gave her the blocks, so
2 he never did the things to really find out if
3 she had RSD or not.

4 Those blocks were done. She had some relief.
5 That is part of the reason that Dr. Z opines
6 that she has and still has and still needs
7 treatment for the RSD.

8 That concludes my argument as the Appellant.
9 If there are no questions?

10 COMMISSIONER BARDEN: Any questions? Thank you.

11 All right. Mr. Shull. Go ahead, sir.

12 ARGUMENT BY MR. SHULL:

13 MR. SHULL: Okay. The central issue that we're
14 really here about today is whether or not the
15 Hearing Commissioner's finding that she didn't
16 suffer from related RSD and whether or not
17 there's medical evidence to support that
18 opinion of his. There's probably not enough
19 time for me to go through all of the evidence
20 in ten minutes, but there is a lot of evidence
21 in the record that would lead the Hearing
22 Commissioner to conclude that she doesn't.
23 The evidence that I would point to would be the
24 opinions of Dr. George Bitting, who was an
25 independent physician sought out by Claimant

1 that she went and unilaterally treated with.
2 He said numerous times before the prior hearing
3 that she did not have RSD. I went and took his
4 deposition, which is summarized on page 11
5 through 15 of my brief, that I would encourage
6 you to read, whereby he said numerous times
7 that she did not suffer from RSD.

8 Dr. Z was deposed. Dr. Z started off -- before
9 the November 3rd, 2009 hearing, Dr. Z started
10 off as Steve's IME doctor. He saw the Claimant
11 on September 8th, 2009. And I elaborated in my
12 brief on what his findings were. His findings
13 were that she had carpal tunnel syndrome, would
14 need some CTS injections and might possibly
15 need a referral to a surgeon for her wrist for
16 carpal tunnel releases, if that didn't work.

17 Didn't say anything about RSD. Didn't say
18 anything about -- and that opinion is on
19 page -- that summary is on page six of my
20 brief. Didn't say anything about RSD. Didn't
21 say anything about CRPS.

22 And after the hearing, when we were ordered to
23 provide more medical treatment -- and by the
24 way, they were claiming an injury to her neck,
25 back, both wrists and I think psyche at the

1 time.

2 We looked at Dr. Z's medical report and we
3 thought, "Well, you know, if he thinks she
4 needs some injections, then that's what" -- and
5 he's very specific in that report about exactly
6 what she needs. We said, "We'll provide that
7 treatment to her." That treatment was
8 authorized sometime after the November hearing.
9 She then returned to Dr. Z for the first time
10 on January 26, 2010, and he gives her a
11 stellate ganglion block. He does not really
12 indicate why all of a sudden he thought she
13 needed a stellate ganglion block, but that's
14 what he gave her.

15 The treatment he gave her for RSD -- this is
16 very well-documented and I questioned him
17 thoroughly about it at his deposition. The
18 treatment he gave her was three unsuccessful
19 stellate ganglion blocks. When those didn't
20 work, he sent her -- he referred her to two
21 other hand surgeons and ultimately she had the
22 carpal tunnel release surgeries by Dr. Shealy.
23 When I deposed Dr. Z on these issues, he said
24 a lot of things. He did say in one of his
25 opinions to Steve that he felt she had RSD or

1 CRPS, but he also -- he also admitted to me
2 under oath that the stellate ganglion blocks
3 were unsuccessful and the only reason why he
4 decided to do one when she came back to him in
5 January 2010 was because she had told him that
6 she, in the meantime, had gone and treated with
7 some Dr. Patel and that they had been
8 successful.

9 When I asked him what he was basing his
10 diagnosis on, he diagnosed on something called
11 the IASP. He admitted under oath that the
12 fifth edition AMA guides, under those guides
13 she would not have reached the diagnostic
14 criteria to be diagnosed with it.

15 He denied personally witnessing a lot of the
16 symptoms of RSD or CRPS, including cyanotic
17 skin, model skin. He noted no edema, no
18 trophic changes, no hair growth changes. And
19 so it would be my argument to you that Dr. Z's
20 opinion of RSD or CRPS has got to be given less
21 weight or less credibility than you would
22 ordinarily give it because of his statements
23 that he made in his deposition.

24 Dr. Bitting, on the other hand, was unequivocal
25 that she didn't have it. She had a triple

1 phase bone scan that was interpreted as being
2 normal. And I would submit to you that
3 Dr. Mancuso, who was Dr. Bitting's partner, she
4 also indicated that she did not have RSD or
5 CRPS.

6 And I want to point out to you that all of
7 these opinions are a year or more after the
8 original injury. Most specifically, I think,
9 and the most compelling piece of evidence that
10 we have is when she first treated with
11 Dr. Mancuso on January the 26th, 2009, about a
12 year afterwards.

13 She was given a patient history form that she
14 completed and signed -- it's in her
15 handwriting -- and in that form, she denies any
16 of the neurological or signs or symptoms that
17 they were clearly asking her in order to try to
18 diagnosis her with it.

19 Specifically, she denied any loss -- or she
20 failed to indicate loss of sensation, muscle
21 weakness. With respect to her skin, she failed
22 to answer that she had any color changes,
23 texture changes, itching, hair changes, no
24 changes. And then she answered "none of the
25 above" with respect to any paralysis in these

1 hands.

2 So, first of all, I think there's ample
3 evidence -- probably the overwhelming amount of
4 the evidence for the Hearing Commissioner to
5 conclude that she didn't have it, it would be
6 my argument to you that the authorization of
7 three stellate ganglion blocks is just not
8 necessarily enough to hook the Defendants
9 forever on the diagnosis.

10 Those three stellate ganglion blocks were
11 authorized. I would submit to you that they
12 could have been denied. Had they been denied,
13 we would have been in front of one of y'all in
14 one of those hearings. And so that would be my
15 argument to you with respect to the medical
16 causation and medical evidence of the case.

17 With respect to the legal issues that have been
18 raised, waiver, Steve says in his brief one of
19 the elements is a false representation. We
20 authorized Dr. Z and I think his theory is, is
21 that because we authorized him, we thereby were
22 admitting that she had CRPS or RSD. And he
23 also says several times through his brief and
24 he said it today that we never denied it and
25 that's just not true.

1 If you look at the hearing transcript from the
2 prior hearing, that issue was raised and we
3 were denying it on the record at that point.
4 We're still denying it.

5 Conversely, my argument to Commissioner
6 McCaskill was this thing was raised back in
7 November of '09. There was an order issued.
8 Steve obviously thought that it was an
9 appealable issue because he initially appealed
10 it and then he did not argue the issue at the
11 appeal. We ended up going forward on another
12 issue. But there was several things that he
13 appealed that he decided not to argue.

14 He had filed for a 25 percent penalty for
15 failure -- or for incorrectly terminating
16 benefits. He decided not to argue that. There
17 was also the issue of the neck and the back
18 that Commissioner Huffstetler left out. Steve
19 had initially appealed that and then -- and so
20 I think it's just kind of a little bit of a
21 stretch to say that, "Well, they authorized
22 Dr. Z, so therefore they're estopped from
23 claiming that she didn't have RSD, and that
24 caused me to not argue that at the appeal,"
25 when he didn't -- there were other things that

1 he decided not to argue and there's no real
2 explanation. I mean, are those related to the
3 fact that we authorized -- is the 25 percent
4 penalty and his choosing not to argue that, is
5 that related to Dr. Z's authorization?

6 He can't meet the requirement of a false -- of
7 any proof of any kind of false or concealment
8 on my part or on my client's part.

9 He cites *Jervey versus Martint*. I would submit
10 to you that is misplaced. *Jervey versus*
11 *Martint* deals with the Court of Appeals finding
12 that the Commission could allow an Employer to
13 terminate benefits after 150 days based upon a
14 good faith investigation under 42-9-260(F).

15 In this case, we've got a compensable injury.
16 We're not saying she didn't injure her wrist.
17 And so I think it's misplaced. I don't think
18 it has anything to do with -- we didn't try to
19 stop her benefits. If anything, I think the
20 logic in *Jervey* would probably help our side to
21 say that, "Hey, the Court of Appeals let's you
22 question the compensability of an accident
23 after 150 days," then certainly they would let
24 an employer argue that the extent of the
25 injury -- which is really what we're here about

1 today; not the accident, but the extent of the
2 injury -- could clearly argue that after 150
3 days.

4 Throughout the brief -- and I don't know if he
5 said it here today, but throughout the brief it
6 said that the parties designated Dr. Z to treat
7 CRPS/RSD. Dr. Z's a pain management doctor.
8 I don't think that necessarily means that he
9 only treats people for RSD or CRPS.

10 We based our authorization of him off of a
11 September 8th, 2009 report. And it's very
12 clear at that point in time what Dr. Z had
13 diagnosed her with. In his deposition, I got
14 him to admit that when he saw her on September
15 9th, 2009, a year and eight months after her
16 injury, he didn't think she had RSD or CRPS.
17 So I'm not sure what changed his opinion or who
18 changed his opinion between September of '09
19 and January 2010.

20 I did -- with respect to the award of
21 permanency, she was given five percent to each
22 wrist for the carpal tunnel syndrome.
23 Dr. Shealy gave her five percent and Dr. Z
24 reiterated that.

25 In his deposition, I got Dr. Z -- he also gave

1 her a rating to the central nervous system for
2 the RSD --

3 COMMISSIONER BARDEN: Finish your thought.

4 MR. SHULL: Thank you. And I got him to convert
5 that to 15 percent to each arm. So even if you
6 encompass the RSD, the 20 percent to each arm
7 is more than what the doctors' ratings would
8 have been.

9 COMMISSIONER BARDEN: Thank you.

10 MR. SHULL: Thank you.

11 COMMISSIONER BARDEN: All right. Mr. Samuels.

12 REPLY BY MR. SAMUELS:

13 MR. SAMUELS: Thank you, Your Honors. In reply,
14 regarding the RSD, Mr. Shull suggests that the
15 mere fact they authorized Dr. Z to treat
16 Ms. Dozier should not bind them to having to
17 treat RSD, except that they specifically chose
18 a doctor who would be somebody to treat RSD.

19 If you've got just carpal tunnel syndrome, we
20 always know you send them to the hand surgeon.
21 They picked Dr. Z because he is not a carpal
22 tunnel doc; he is an RSD/CRPS doc.

23 Secondly, they --

24 COMMISSIONER JAMES: Did you say earlier that he
25 referred her on to Dr. Shealy; is that what you

1 said?

2 **MR. SAMUELS:** Yes, Your Honor. He referred her to
3 Dr. Shealy specifically for carpal tunnel
4 releases. So Dr. Shealy, the hand surgeon down
5 in Charleston, was the guy who treated the
6 carpal tunnel syndrome.

7 Dr. Z has always, in every single one of his
8 reports, once he became the authorized treating
9 physician, diagnosed this code as RSD and had
10 those reports -- all of his treatment has been
11 about RSD. They authorized three injections
12 specifically to treat RSD.

13 And if you don't believe that Commissioner
14 Huffstetler's order ordered you to provide
15 treatment for RSD, then you don't pick an RSD
16 doctor, authorize and pay for his treatment.

17 And Dr. Z specific in his deposition that -- he
18 said, "I don't know what the problem is. I've
19 always treated her for this. They've never
20 denied it. I've never had any problem getting
21 authorization. I don't know what the issue
22 is."

23 And there's some discussion about the test
24 for -- what is the appropriate measure for
25 what -- determining whether somebody has

1 complex regional pain syndrome.

2 Dr. Z says he replies (sic) on the IASP, which
3 is the International Association of something
4 Pain -- Society for Pain. And he says that is
5 the authoritative test. She meets all four of
6 those elements to be properly diagnosed with
7 CRPS.

8 Mr. Shull points to the AMA guides, which are
9 a measure of disability, which Dr. Z says are
10 not authoritative and cannot be relied on as a
11 measure for diagnosing RSD.

12 That's the opinion that is the most reliable,
13 the opinion of the authorized treating
14 physician.

15 And, you know, I would mention, they talk about
16 Dr. Bitting and rely on Dr. Bitting. But, my
17 God, Dr. Moore referred Ms. Dozier to
18 Dr. Bitting and Dr. Mancuso to treat RSD.
19 Those doctors sent her out to a neurosurgeon,
20 who sent her back and said she needs injections
21 because she's got RSD. She doesn't have a
22 cervical spine legion. She's got RSD.

23 **COMMISSIONER BARDEN:** Finish your thought.

24 **MR. SAMUELS:** So, therefore, Your Honors, based both
25 on the legal issues of estoppel and waiver, but

1 also based on the evidence of the opinions of
2 the authorized treating physician, we would ask
3 that Your Honors reverse and find Ms. Dozier is
4 permanently and totally disabled and is
5 entitled to treatment for her RSD.

6 **COMMISSIONER BARDEN:** Thank you. That concludes
7 this proceeding.

8 **MR. SHULL:** I did appeal one issue and I'll just
9 rely on my appellate brief.

10 **COMMISSIONER JAMES:** Is that a credit issue?

11 **MR. SHULL:** Yes.

12 **COMMISSIONER JAMES:** Okay.

13 (The hearing concluded at 11:32 a.m.)
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KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD FACS
144 COLDSTREAM DRIVE
COLUMBIA SC 29212

(803)-749-7497
FAX: (803)-781-8907
EMAIL: BHMFACTS@hotmail.com

PATIENT: CINDY E. DOZIER
DOB: 4/28/1970
ADDRESS: [REDACTED]
SS# [REDACTED]
Phone: 803-316-6533

/ PREPARED FOR: SAMUELS LAW FIRM
ADDRESS: P.O. BOX 50349
COLUMBIA, S.C. 29250

DATE: July 30th, 2009

Dear Mr. Samuels;

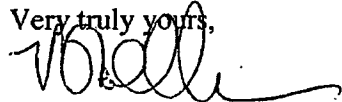
Pursuant to the request of your client, I am providing the following case update. I saw Ms. Dozier again this day.

She has been seen by Carolina PT at the request of the Workers Comp. insurance carrier. Their findings revealed loss of strength, pain, and loss of ROM. They recommended ongoing treatment for "CTS and cervical DDD for pain management". It is clear that she remains short of MMI.

She has been seen in consultation by Dr. Lisa Mancuso and George Bitting with the First Choice Pain Clinic in Florence. A cervical MRI has been obtained revealing multilevel cervical disc disease. A Nuclear Medicine Bone Scan was obtained revealing bilateral wrist uptake. This is consistent with the diagnostic impression of a Complex Regional Pain Syndrome as previously suspected.

Dr. Rhea has seen her and concurred that her pain is inconsistent with a simple median neuropathy or simple cervical disc disease. Her findings suggest a CRPS entity. I have made a referral to Dr. Ogburu a Columbia pain specialist to consider a diagnostic and therapeutic ganglion block to further define the issue of CRPS.

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

Very truly yours,

Blake H. Moore, MD FACS

Kingstree Surgical Associates, Dr. Blake Moore, M.D., FACS

Date 4/9/09

Patient Name Cindy Dover

DOB _____

Chief

Complaint flu

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox
<u>166</u>	<u>138/90</u>			<u>97%</u>

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH

RALES DOE

CV: REG IRREG RATE 74 RUE --- LUE ---

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

seem to

no cramps, hand pain

PLAN: ⊕ Debra ⊕ Bittner

⊕ Wadsworth

Reck CONKERN Brown Mandy

BONE SCAN → CW OPD -

Cent proct can

TESTS ORDERED:

FINCH GNP
Grip: R | 15, 10, 13 | 51, 48, 46
L | 7, 5, 7 | 32, 30, 27

mm

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 3/5/09

Patient Name CANDY DOWNE DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH RALES DOE

CV: REG IRREG RATE _____ RUE _____ LUE _____

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

Long hwp. - Had "IME" app but as Dr. Moore's refund to her
She brought new HRS but not old Pils.

PLAN: Dwp importance of cuplance to plan.

Had transient relief i. 150 ESI. - to see Dr. B. B. B. B.

Progress will. - /yolk

TESTS ORDERED:

KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD FACS
144 COLDSTREAM DRIVE
COLUMBIA SC 29212

(803)-749-7497
FAX: (803)-781-8907
EMAIL: BHMFACTS@hotmail.com

PATIENT: CINDY E. DOZIER

DOB: 4/28/1970

ADDRESS: [REDACTED]

SS# [REDACTED]

Phone: 803-316-6533

PREPARED FOR: JOSEPH T. MCELVEEN, JR., ESQ.
ADDRESS: 17 EAST CALHOUN STREET
SUMTER, S.C. 29150

DATE: February 22nd, 2009

Dear Mr. McElveen;

Pursuant to your request I have reviewed my records of your client Ms. Dozier in regards to her documented complaints related to her upper extremities. I offer the following as an interval update as per your request.

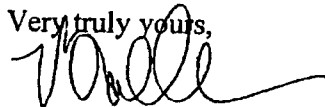
Since my last update she has been seen in consultation by Dr. Lisa Mancuso with the First Choice Pain Clinic in Florence. A cervical MRI has been obtained revealing multilevel cervical disc disease. A Nuclear Medicine Bone Scan was obtained revealing bilateral wrist uptake. This is consistent with the diagnostic impression of a Complex Regional Pain Syndrome as previously suspected.

Dr. Mancuso has begun a planned series of diagnostic/therapeutic blocks. Cervical ESI has been provided. Ms. Dozier reports subjective improvement with this course of treatment.

As her ability to engage in her employment activities is still impaired, she is unable to return to her previous work activities and should remain under a temporary disability status. She is making progress and hopefully will soon be able to return to an increased schedule of activity.

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

Very truly yours,



Blake H. Moore, MD FACS

THE FACE OF THIS DOCUMENT HAS A GREEN BACKGROUND

Telephone: (843) 355-5462
Fax: (843) 355-5463

DEA #BM 4461872
Lic. #SC21490

KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD, FACS

135 NORTH ACADEMY STREET
KINGSTREE, SC 29556

920 ST. ANDREWS ROAD
COLUMBIA, S.C. 29210

Name C. NISYCHA DORIER Date 4/5/09
Address _____

1. Lorazepam 5/500mg 2. Flexeril 10mg
Sig: + po q 8h prn
Disp: 40- 001526
Sig: + po bid prn
Disp: 50-

☒ Label

Refill 0 1 - 2 - 3 - 4 - PRN

Dispense As Written

_____, M.D.

[Signature], M.D.
Substitution Permissible

VERIFICATION BOX: RUB BETWEEN THUMB & FOREFINGER
OR BREATHE ON IT. COLOR WILL DISAPPEAR, THEN REAPPEAR.

KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD FACS
144 COLDSTREAM DRIVE
COLUMBIA SC 29212

(803)-749-7497
FAX: (803)-781-8907
EMAIL: BHMFACTS@hotmail.com

PATIENT: CINDY E. DOZIER
DOB: 4/28/1970
ADDRESS: [REDACTED]
SS# [REDACTED]
Phone: 803-316-6533

PREPARED FOR: JOSEPH T. MCELVEEN, JR., ESQ.
ADDRESS: 17 EAST CALHOUN STREET
SUMTER, S.C. 29150

DATE: January 22nd, 2009

Dear Mr. McElveen;

Pursuant to your request I have reviewed my records of your client Ms. Dozier in regards to her documented complaints related to her upper extremities. I offer the following as an interval update as per your request.

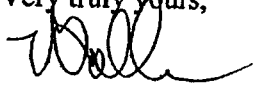
The current management plan consists of her seeing a pain specialist to further evaluate Complex Regional Pain Syndrome via ganglion blockade. As per prior she is noted with a mild case of median neuropathy (carpal tunnel syndrome). Her orthopaedic consultants have felt that non-operative management is most prudent at this time.

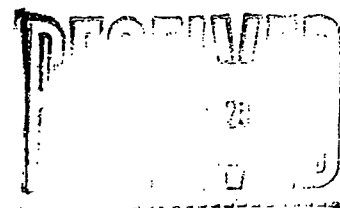
As her ability to engage in her employment activities is still impaired, she is unable to return to her previous work activities and should remain under a temporary disability status. It is hopeful that ganglion blockade may result in significant symptom abatement. She will be re-evaluated in 2 weeks, at which time a decision will be made as to her ability to return to work. It is hopeful that the ganglion block will be both diagnostic and therapeutic, and will allow her to return to a reasonable level of function.

I have had several lengthy discussions with Ms. Dozier regarding the differential diagnoses and the treatment plan. I have filled out forms with Matrix regarding her Freedom Finance Loan in accordance with this treatment plan.

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

Very truly yours,


Blake H. Moore, MD FACS



Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 1/16/09

Patient Name CINDY DORR DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE
FLUSH

RESP: CTA WH RALES DOE

CV: REG IRREG RATE _____ RUE _____ LUE _____

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

Telemed 2/16

Forms referred to insur/sty.

PLAN: Still in pain/mumbuss.

For exam to be scheduled 4/16

[Signature]

TESTS ORDERED:

Kingstree Surgical Associates, Dr. Blake Moore, M.D., FACS

Date 1/10/08

Patient Name Cindy Doren

DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH RALES DOE

CV: REG IRREG RATE RUE LUE

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

PLAN:

Spoken to Dr. Doren

New Fluoride Rx given

New Discharge form filled out - see Attached

TESTS ORDERED:

MATRIX

Absence Management, Inc.

7 Skyline Drive, Suite 275
Hawthorne, NY 10532
Telephone (877) 315-9838
Fax (914) 784-0025

TO BE COMPLETED BY THE ATTENDING PHYSICIAN

This form should be completed by the physician who was treating the claimant when he or she last worked.

A. GENERAL INFORMATION

THIS CLAIM IS FOR (PATIENT'S NAME)

CINDY DOZIER

EMPLOYER NAME AND POLICY NUMBER

DATE OF BIRTH (Month, Day, Year)

4/28/1970

HEIGHT (Ft., Inches)

5'7"

WEIGHT (Lbs.)

160

BLOOD PRESSURE

122/80

PATIENT'S SOCIAL SECURITY NUMBER

B. PREGNANCY: PHYSICIAN COMPLETES THIS SECTION FOR NORMAL PREGNANCY

1. DATE OF LAST MENSTRUAL PERIOD

2. EXPECTED DATE OF DELIVERY

3. TYPE OF DELIVERY EXPECTED

4. DATE OF DELIVERY

5. INITIAL VISIT FOR THIS PREGNANCY

6. LAST DATE OF TREATMENT

7. EXPECTED LENGTH OF POSTPARTUM RECOVERY

C. PHYSICIAN COMPLETES THIS SECTION FOR ALL CONDITIONS EXCEPT NORMAL PREGNANCY

1. PRIMARY DIAGNOSIS (INCLUDING ICD-9 CODE):

Reflex Sympathetic Dystrophy / Complex Regional Pain Syndrome

2. SYMPTOMS:

ARM PAIN

3. OBJECTIVE FINDINGS: (PLEASE PROVIDE COPIES OF TEST RESULTS AND OFFICE NOTES)

MIDIAN NEUROPATHY ON NCS

4. ARE THERE ANY SECONDARY CONDITIONS CONTRIBUTING TO DISABILITY? IF YES, WHAT ARE THEY? (INCLUDING ICD-9 OR DSM-IV R CODES)

ANXIETY

5. WHEN DID SYMPTOMS FIRST APPEAR

1/17/08

6. DATE OF PATIENT'S FIRST VISIT

8/15/08

7. DATE OF PATIENT'S LAST VISIT

12/5/08

8. FREQUENCY OF VISITS

Variable

9. WAS THE PATIENT REFERRED BY ANOTHER MEDICAL PRACTITIONER?

No

10. IF SO, FURNISH THE NAME AND ADDRESS

11. IS THE PATIENT'S CONDITION WORK RELATED? ☒ YES ☐ NO IF YES, EXPLAIN: WORK INJURY12. HAS THE PATIENT UNDERGONE A SURGICAL PROCEDURE? ☐ YES ☒ NO IF NO, SKIP TO 13.

12a. PROCEDURE:

12b. DATE:

12c. FACILITY (NAME/ADDRESS)

13. DO YOU EXPECT SURGERY IN THE NEAR FUTURE? ☒ YES ☐ NO IF NO, SKIP TO 14.

13a. PROCEDURE:

13b. DATE:

13c. FACILITY (NAME/ADDRESS)

14. WHAT PRESCRIBED MEDICATION IS THE PATIENT CURRENTLY TAKING AND WHAT DOSAGE?

Ultram 50, Gabapentin

15. HAVE YOU REFERRED THE PATIENT FOR OTHER TYPES OF CONSULTATIONS? ☒ YES ☐ NO IF YES, EXPLAIN.

PAIN MANAGEMENT, ORTHOPEDICS

16. HAVE YOU REFERRED THE PATIENT TO A MEDICAL REHABILITATION OR THERAPY PROGRAM? IF YES, PLEASE IDENTIFY:

A.D.

MATRIX

Absence Management, Inc.

7 Skyline Drive, Suite 275
Hawthorne, NY 10532
Telephone (877) 315-9838
Fax (914) 784-0025

D. PHYSICIAN COMPLETES FOR ANY HOSPITAL CONFINEMENTS

1. NAME AND ADDRESS OF HOSPITAL:

N/A

2. DATE(S) CONFINED FROM/TO IN THE PRIOR 2 YEARS.

E. DESCRIPTION OF PATIENT'S RESTRICTIONS AND LIMITATIONS

1) Over the course of an 8 hour day, with 2 breaks and lunch, the patient can alternately:

stand	☐ None	☐ 1-3 Hours	☐ 3-5 Hours	☒ 5-8 Hours
sit:	☐ None	☐ 1-3 Hours	☐ 3-5 Hours	☒ 5-8 Hours
walk:	☐ None	☐ 1-3 Hours	☐ 3-5 Hours	☒ 5-8 Hours
drive:	☐ None	☒ 1-3 Hours	☐ 3-5 Hours	☐ 5-8 Hours

2) Patient can use upper extremities for repetitive:

A. Simple Grasping
Right ☒ Yes ☐ No
Left ☒ Yes ☐ No

B. Pushing/Pulling
Right ☐ Yes ☒ No
Left ☐ Yes ☒ No

C. Fine Manipulation
Right ☐ Yes ☒ No
Left ☐ Yes ☒ No

3) Patient is able to:

CONTINUOUS
67-100%FREQUENT
34-66%OCCASIONAL
0-33%

NO RESTRICTIONS

A. Bend (at waist)
B. Squat (at waist)
C. Climb
D. Reach above Shoulder
E. Kneel
F. Crawl
G. Use Feet (foot controls)
H. Drive

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4) Patient can lift/carry:

☒ 10 lbs. maximum and occasionally carry small objects: **SEDDENTARY WORK**
☐ 20 lbs. maximum and frequently lift/carry up to 10 lbs.: **LIGHT WORK**
☐ 50 lbs. maximum and frequently lift/carry up to 25 lbs.: **MEDIUM WORK**
☐ 100 lbs. maximum and frequently lift/carry up to 50 lbs.: **HEAVY WORK**
☐ In excess of 100 lbs. and frequently lift/carry 50 lbs.: **VERY HEAVY WORK**

F. PHYSICIAN COMPLETES IF LIMITATIONS ARE MENTAL/NERVOUS IN NATURE

TO WHAT DEGREE, IF ANY, ARE THE FOLLOWING CAPACITIES AFFECTED?

CAPACITY

NOT LIMITED

MODERATELY LIMITED

EXTREMELY LIMITED

Ability to relate to other people beyond giving and receiving instructions

☐☒☐

Ability to complete and follow instructions

☒☐☐

Ability to perform simple and repetitive tasks

☒☐☐

Ability to perform complex and varied tasks

☐☒☐In your opinion, does the claimant possess the mental capacity to understand his/her financial affairs and to direct the use of his/her funds? ☒ Yes ☐ No**G. PHYSICIAN COMPLETES ONLY IF THE CONDITION IS CARDIAC IN NATURE**

Functional Capacity

☐ Class 1 (no limitation)☐ Class 2 (slight limitation)

(American Heart Association)

☐ Class 3 (marked limitation)☐ Class 4 (complete limitation)**H. PHYSICIAN COMPLETES FOR ALL CONDITIONS: PROGNOSIS FOR RECOVERY TO BE DETERMINED**1. HAS THE PATIENT ACHIEVED MAXIMUM MEDICAL IMPROVEMENT? ☐ YES ☒ NO

2. IF YES, AS OF WHAT DATE CAN PATIENT RETURN TO WORK?

MTH DAY YR

3. IF NO, WHEN DO YOU EXPECT PATIENT WILL ACHIEVE MAXIMUM MEDICAL IMPROVEMENT?

☐ <2 weeks☐ <4 weeks☐ <2 months☐ 3-4 months☒ 5-6 months☐ 8-8 months☐ <12 months☐ <16 months4. WHEN THE ABOVE CHANGE OCCURS, WHAT FUNCTIONAL CAPACITY WILL THE PATIENT ACHIEVE? *unknown*☐ FULL RECOVERY☐ IMPROVED OVER CURRENT BUT NOT FULL☐ REMAIN AT PRESENT

Any person who knowingly and with intent to injure, defraud or deceive Matrix Absence Management, Inc. and Reliance Standard Life Insurance Company, files a statement of claim or submits any information in conjunction with a claim containing fraudulent, false, misleading, incomplete or deceptive information commits a fraudulent insurance act, which is a crime. These actions will result in the denial of the claim, and are subject to prosecution under state and/or federal law. Matrix Absence Management, Inc. and Reliance Standard Life Insurance Company will cooperate fully with any prosecution and will seek any and all appropriate legal remedies.

Your Name (Please Print) *BLAKE H. MOORE, M.D.*Degree *MD*Specialty *GERIATRIC PHYSICIAN*Telephone: *(813) 358-5462* Fax: *(813) 358-5463*Address (Please Print) *13511 AUSTIN ST. KILGORE, NC 27002*

Physician's Signature (no stamp)

Date

1/19/09

IMPORTANT: PLEASE ATTACH ALL MEDICAL RECORDS FROM THREE (3) MONTHS PRIOR TO DATE OF DISABILITY TO PRESENT.

Faxed 12/5/08 - Key contact patient.

Needs a stellate GAGNION block

→ with Dr. Riber — Dr. Riber's office

Palmetto Pain Management, LLC

PAIN MANAGEMENT & SPINAL DIAGNOSTICS

EZRA B. RIBER, M.D.

2601 Laurel Street • Suite 130 • Columbia, SC 29204

Office 779-3263 • Fax 779-3207

NPI: 1487610697

will call her
to schedule

NEW PATIENT REFERRAL

Patient Name: ODZIER, CINOY

Diagnosis: CRPS (Complex Regional Pain Syndrome)

DOB: 04/28/70

SS#: [REDACTED]

Patient Address: [REDACTED]

(City)

(State)

(Zip)

Patient Phone: Home: 803-316-6533

Cell: 803-316-6533

Work: 803-251-6000

MUST HAVE

PRIMARY CARE PHYSICIAN: CINOY REESE, M.D. Phone: [REDACTED]

Primary Insurance: BCBS - PPO Account ID#: 1900872-0A10

Phone Number: 877-228-7268

2nd Insurance: [REDACTED]

ID#: [REDACTED]

***** Referring Office **MUST** obtain authorization from insurance company
OR worker's compensation **PRIOR** to appointment being scheduled in our office.
If the patient has been seen by any other pain physician we **MUST HAVE** those
dictation notes as well.

When faxing: Please send our referral forms, latest physician dictations,
MRI's, CT Scan's and Nerve Conduction studies. Fax **NO** more than **10** pages
please. You will need to mail the rest of the records to our office. (When
mailing, please put our referral form on top and indicate you have already faxed the
patient referral) ANY QUESTIONS, CONTACT OUR OFFICE.

THANK YOU for your referral.

Dr. Referring & NPI#: Blake H. Moore, M.D., F.A.C.S.

Person to contact: Dr. Judy Marley

Phone: 843-355-

EXT: 5462

Fax: 843-355-5463

KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD FACS
144 COLDSTREAM DRIVE
COLUMBIA SC 29212

(803)-749-7497

FAX: (803)-781-8907

EMAIL: BHMFACTS@hotmail.com

PATIENT: CINDY E. DOZIER

DOB: 4/28/1970

ADDRESS: [REDACTED]

SS# [REDACTED]

Phone: 803-316-6533

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

ADDRESS: 17 EAST CALHOUN STREET
SUMTER, S.C. 29150

DATE: December 5th, 2008

Dear Mr. McElveen;

Pursuant to your request I have reviewed my records of your client Ms. Dozier in regards to her documented complaints related to her upper extremities. I offer the following as a means of explanation.

The current management plan consists of arranging a referral to Dr. Ezra Riber to evaluate her for diagnostic and possible therapeutic ganglion block. As I have previously outlined she has carpal tunnel syndrome. Her symptom complex seems to be in excess of what one would typically expect to see from an isolated median compression neuropathy. I have discussed carpal tunnel release with her orthopaedic consultant, but at this time the recommendation is to proceed with an evaluation of concurrent Complex Regional Pain Syndrome via ganglion blockade.

As her ability to engage in her employment activities is still impaired, she is unable to return to her previous work activities and should remain under a temporary disability status. It is hopeful that ganglion blockade may result in significant symptom abatement. She will be re-evaluated in 8 weeks, at which time a decision will be made as to her ability to return to work. I hope this answers your questions and concerns as to Ms. Dozier's status.

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

Very truly yours,



Blake H. Moore, MD FACS

Faxed 12/5/08 - they contact patient.

Palmetto Pain Management, LLC

PAIN MANAGEMENT & SPINAL DIAGNOSTICS

EZRA B. RIBER, M.D.

2501 Laurel Street • Suite 130 • Columbia, SC 29204

Office 779-3263 • Fax 779-3207

NPI: 1487610697

Worker's Compensation

Information required BEFORE we can schedule referring patient:

Patient Name: Dozier, Cindy ^{Olo Republic Insurance Co.} DOB: 04/28/70
Worker's Compensation Company Name: ~~Palmetto Integrated Services~~
Address: 445 South Moorland Road Suite 300
Brookfield, Wisconsin 53005
Main Phone Number: () 262-797-3400
Case Manager Name: Kathie Haller
Phone Number: () 262-797-3400 Fax: () 866-299-2094
Adjuster Name: Kathie Haller
Phone Number: () _____ Fax: () _____
Claim Number: 1167461X2 Date of Injury: 1/17/08
Company working for at time of Injury: American Red Cross

Kingstree Surgical Associates, Dr. Blake Moore, M.D., FACS

Date 10/31/08

Patient Name Chris Doan

DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH

CV: REG IRREG RATE _____ RALES DOE

GI: DIAARRHEA _____ RUE LUE

GU: FREG _____ CONSTIPATION N/V

HESITNACY BURNING PAIN

called again -

Still 8 1/2 "burning" pain

PLAN:

Reg with rectal DOW -

Urged to scheduled appt. -

Instructed that my policy is to not rx; CSS with ab fix to face eval. -

To Pw & next week

TESTS ORDERED:

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 10/30/88

Patient Name Chris Dorian

DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH

RALES DOE

CV: REG IRREG

RATE

RUE

LUE

GI: DIAARRHEA

CONSTIPATION

N/V

GU: FREG

BURNING

PAIN

HESITNACY

called again

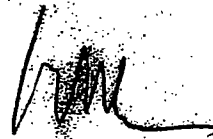
go hand pain / weakness

PLAN:

Had sword ingestion - w/ great pain. Re-evaluated

Instructed that would not be immediate (saw or did)

Cent brace / NAD: -



TESTS ORDERED:

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 10/29/08

Patient Name Cathy Dora

DOB _____

Chief

Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE
FLUSH

RESP: CTA WH

RALES DOE

CV: REG IRREG RATE _____ RUE _____ LUE _____

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

Spoke to Mr. Dora

Will fill STD form - Employer claims "didn't receive"

PLAN:

/yml

TESTS ORDERED:

FAXED to Mr. M. E. Green

FAX 803-773-5471

Courtney Dawson

on 10/30/08 - JLM-M.

AMERICAN NATIONAL INSURANCE COMPANY
CREDIT INSURANCE DIVISION
LEAGUE CITY TEXAS

STATEMENT OF LENDING INSTITUTION

Loan No.	Name of Debtor <u>CINDY DOWSE</u>	Social Security No.	Age <u>38</u>
Effective Date of Indebtedness	Termination Date	Term of Indebtedness Months	
Identifiable Insurance Charge to Debtor: LIFE \$ DISABILITY \$	Initial Total Indebtedness	Insured Mo. Installment Payment \$	
Name of Creditor Payee	Address	No. & Street	City State Zip Telephone

The debtor has been continuously covered by disability since 9/1/08, 20 08

Branch Office No. _____ By _____ Signature _____ Title _____

STATEMENT OF ATTENDING PHYSICIAN

1. Patient's Name CINDY DOWSE Address _____

2. Diagnosis-Please mention any complications: Medial Nerve Palsy / Common Peroneal Palsy

3. Please advise of history pertinent to the CAUSE of this disability: HAND TRAUMA

4. When did patient first consult you about this condition? 8/15/08

5. When did symptom appear according to patient? 1/17/08

6. What diagnostic and surgical procedures were performed? NEUROMUSCULAR, multiple injections

7. What treatment was prescribed? Analgesia, anti-inflammatory

8. Date patient was confined to hospital: From N/A To _____

9. Name of hospital _____ Address _____

10. Number of times you have treated patient during the past 30 days: 1 Please document date(s) and location(s):
At home _____ At Office 10/24/08 At hospital _____

11. In your opinion when did patient become totally disabled? Month 9 Day 18 Year 08

12. In your opinion when can or did patient resume any work? Month to be determined Year _____

13. Name of other attending physicians: _____

14. Telephone No: 843-355-842 Signed [Signature], MD
Date _____ Physician _____ Degree _____
Address 135 N. ACADEMY ST. 14 NORTREE ST 2900
City & State _____ Zip Code _____

Physician's Full Name (Please Print): BURKE MORSE, MD

STATEMENT OF EMPLOYER

Our employee, _____ Whose original date of employment was _____
a.m. _____ p.m. _____
was disabled from work beginning at _____ and did not return until _____
a.m. _____ p.m. _____

Employer _____

Name of Company _____ Street Address _____ City & State _____ Zip Code _____

Telephone No. _____ By _____ Signature _____ Title _____

Date _____

ALL QUESTIONS MUST BE FULLY ANSWERED OR DELAY WILL RESULT

CINDY DOZIER

Name

AMERICAN RED CROSS

Employer

We need additional information to pay benefits beyond 10/29/08. Please complete the Claimant's Certification (below), ask your doctor to complete the Doctor's Supplementary Certificate, and RETURN THIS FORM TO US AS SOON AS POSSIBLE BUT NO LATER THAN 11/03/08.

CLAIMANT'S CERTIFICATION

I certify that I continue to be disabled and incapable of doing my regular work, and I have reported all wages, workers' compensation benefits, and other moneys received during the claim period to Matrix.

Signature

Date

DOCTOR'S SUPPLEMENTARY CERTIFICATE

IF THIS FORM IS NOT COMPLETED IN ITS ENTIRETY, YOUR PATIENT'S BENEFITS WILL BE DELAYED.

- Is this extension based on a current physical examination? ☒ Yes ☐ No If yes, on what date? 10/24/08
List all dates of treatment since mult. Rx - 8/15/08 - current
- What is your current diagnosis? Median Nerve; RSD/CRPS ICD9 Code: _____
- Please list objective findings which support this extension of disability: Marked hand pain, ↓ grip strength
- Please explain what symptoms you have observed which prevent this patient from working:
Hand pain/weakness
- Please describe treatment and specify medications: Ortho referral for CTR. Analgesic-Ultram + Cymbalta

Please provide a specific date, even if estimated, when your patient can return to work:

Part-Time

Full-Time

(This area must be completed.)

? 12 | 24 | 08
Month Day Year

? 1 | 24 | 09
Month Day Year

How many hours per day? 8List any restrictions: Lift < 10lb.

I certify that the information shown above is accurate and complete.

Doctor's Signature

Specialty

Telephone

License Number

Fax

Print or Type Doctor's Name / Degree

Street Address

City

State

Zip

Date

PLEASE FOLD AND PLACE STAMP ON REVERSE (Self-addressed for mailing)

May be faxed to: (914) 784-0025



AMERICAN NATIONAL INSURANCE COMPANY
CREDIT INSURANCE DIVISION
P.O. BOX 9007 LEAGUE CITY TEXAS 77574-9007
800-899-6502

POLICY OR
CERTIFICATE NO.

APPLICATION FOR DISABILITY BENEFITS

(Please make a copy)

STATEMENT OF CLAIMANT

This is to certify that I am the insured under the above numbered contract, and for the purpose of applying for benefits under the contract, furnish the following information which I warrant to be true, complete and correct:

1. Name Candella Doria ☐ Male ☒ Female Telephone No. (800) 316-6533
2. Address [REDACTED] Birth Date: Month 04 Day 28 Year 1970
3. Occupation Collect in Tech II Employer American Red Cross
If unemployed, give last Occupation and Employer
4. Cause of Disability (Check One) Injury ☒ Sickness ☐ Describe Ailment Carpal Tunnel Syndrome both hands
 - a. When did current condition first appear? Hour _____ Month 01 Day 17 Year 2008
 - b. Have you had this condition before? No If so, when? _____
5. Treatment:
 - a. Name of all physicians who have treated you for current conditions Dr. Blake Miller, Dr. Nichols
 - b. Date of first treatment: Month 01 Day 17 Year 2008 Where Midlands
 - c. Name of Hospital: Dr. Shubert's Address: Columbia S.C. Camden Base - Joint
 - d. Date confined to hospital: NA Month _____ Day _____ Year _____ to Month _____ Day _____ Year _____
 - e. Was medical advice, consultation or treatment required or recommended during the six month period before the effective date of your indebtedness (Yes or No)? Yes
 - f. Was medical advice, consultation or treatment required or recommended during the six month period after the effective date of your indebtedness (Yes or No)? Yes
6. First date you were entirely away from work due to current disability: Month 09 Day 08 Year 2008 Second th
7. Date of first return to any part of your work: Month _____ Day _____ Year 2008 not sure how long after first time turn out of medical region

I hereby assign, transfer and set over all my interest in the above numbered contract pertaining to this loss, and direct that my benefits payable to me under this policy be paid to the lending institution as listed on the policy, whose receipt for benefits that may be due me shall be a full acquittance of all my claim under the said contract.

I hereby authorize to permit the bearer representing American National Insurance Company or any of its subsidiaries to obtain a copy of my records pertaining to any and all medical practitioners, physician, pharmacists, hospitals, clinics, nurses, records custodians, employers, financial custodians, medical examiners/coroners or insurance companies. I understand that the information I am authorizing to be released may include:

- Alcohol abuse & treatment and Drug abuse & treatment.
- Pharmacy prescriptions.
- Psychiatric treatment.
- AIDS/HIV test results.

I further understand that this authorization is valid for one year from the date executed below. I also understand that I may revoke this authorization at any time during this period by notifying the Claims Department in writing at the address shown at the top of this form. The information obtained by this authorization will be used to evaluate this claim. The information obtained by this authorization may be disclosed to reinsurance companies, if the policy is reinsured, to any agency employed by the Company and to any party which the Company is required by law or subpoena to disclose, information re-disclosed may not be protected by HIPAA. I certify under penalty of perjury, that the information and Social Security Number provided are true and correct. I understand that if I refuse to sign this authorization to release my complete medical records, my insurance company may not be able to process benefit payment requested on my policy.

Date 10-21-08 Claimant Candella Doria
(over) Signature

(CR) 95

(ALL CLAIMS SHOULD BE FILED THROUGH THE DEALER OR CREDITOR)

10/03

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 7/20/08
 Patient Name Cindy Dörner DOB _____

Chief Complaint flu

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox
160	122/80			BR 99%

PE: SKIN WM COOL DRY COLOR: GOOD PALE
 FLUSH
 RESP: CTA WH
 CV: REG IRREG RATE 75 RUES DOE
 GI: DIAARRHEA CONSTIPATION RUE LUE
 GU: FREG BURNING N/V
 HESITANCY PAIN

small CTR dump. - No relief - angio in lower part.
 Has been unable to wear splints causing "burning" pain from pressure
 PLAN: Long term plan: 5.1 cm circumf Dist 2 aspects ~~at~~ least to pain
 1) Medial Neuropathy 2) Tendinitis +/- 3) CRPS +/- 4) Anxiety disorder
 Trial Saline graft block dump. - Drop off that surgery may not
 resolved ex. - Orthopedic referral given. - /MM

TESTS ORDERED:

Aspt scheduled 7/21/08

Dr. WAONER 10/15/08 10:40AM Palmco 3700 Ohio St SW. WILMINGTON, DE 19804 427-4028

/MM



KINGSTREE SURGICAL ASSOCIATES



KINGSTREE OFFICE
135 North Academy Street
Kingstree, South Carolina 29556
Phone: 843-355-5462 • Fax: 803-781-8970
E-Mail: bhmfac@hotmail.com

COLUMBIA OFFICE
920 St. Andrews Road
Columbia, South Carolina 29210
Phone: 803-447-4565 • Fax: 803-781-8970
E-Mail: bhmfac@hotmail.com

PHYSICIAN REFERRAL

TO Ortho/Hand

DATE _____

NAME Cindy Decker

DOB: _____

DOS: 7/20/08

DIAGNOSIS

Plz. No document, Carpal Tunnel, Bil. Hand Pain + numbness

No response to cock-up splint. Please evaluate for CTRs.

PHYSICIAN SIGNATURE _____

DATE: _____

Matrix Absence Management, Inc. **HEALTH CARE PROVIDER CERTIFICATION**

(Please Fax Completed Form to Matrix Absence Management to 866)683-9548
 Mail original to: Matrix Absence Management, Inc.
 11221 N. 28th Drive, Bldg. E, Ste 100
 Phoenix, AZ 85029

Dear Doctor: Moore

The purpose of this form is to help us determine whether the clinical condition of this patient is disabling. It is necessary for us to document functional impairment. Please complete the following report as completely as possible, and provide us copies of all objective data.

**The asterisk questions must be completed to process benefits for your patient.

GENERAL INFORMATION		
This claim is for (Patient's Name): <u>Cliny Dozier</u>	Claim No.: <u>498194</u>	Employer: <u>ARC</u>
Date of Birth (Month, Date, Year): <u>04-28-70</u>	Patient's Social Security No.: <u>[REDACTED]</u>	
TREATMENT INFORMATION		
Was the patient referred to you by another medical practitioner? ☐ Yes ☒ No If so, please furnish their the name and telephone number:		
**Diagnosis: <u>Median Neuropathy</u> ICD9 Codes _____ Are there any concurrent medical conditions? ☐ Yes ☐ No If yes, please explain: **For pregnancy EDC: _____		
Date of initial visit: <u>8/15/08</u>	Total number of visits: <u>multiple</u>	
Date of last visit: _____ Date of next visit: _____	<u>9/21/08 (last) ; 10/14/08 next</u>	
**First Date Patient was unable to work <u>8/22/08</u>	Anticipated Return to Work Date: <u>12/15/08</u>	
**Objective findings *C provide copies of test results and office notes that support findings: <u>NCS → Median Neuropathy</u>		
**Please explain the symptoms, which, in your opinion, prevent this patient from working: <u>Intense hand pain / numbness</u>		
Is the patient's condition work related? ☒ Yes ☐ No If Yes, please explain:		
Have you filed a Doctor's Report of Injury? ☐ Yes ☒ No		
SERIOUS HEALTH CONDITION		
**The attached sheet provides the definition of a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition qualify under any of the categories described? ☒ Yes ☐ No If yes, please check the applicable category:		
(1)	(2) ☒	(3) (4) (5) (6)
RETURN TO WORK		
**Work Status:		
☐ Regular Work Release	From: _____	☐ Part time _____ Hours per Week or Day
☐ Modified Work Release	From: _____ Through: _____	Hours Daily: _____
☒ No Work	From: <u>08/22/08</u> Through: <u>current</u>	If no work, why? <u>Unable to meet job duty -</u>

☐ Discharged from Care ☐ Yes ☐ No If yes, date: _____

Patient's Name: Cindy Douer

WORK RESTRICTIONS:

Check Appropriate Capabilities	No Restriction	Frequent 34-66% 4-7-9 hr. 200 reps/day	Occasional 0-33% 0-3.9 hr. 32 reps/day	Seldom 0-6% 0-1 hr. 14 reps/day	Weight: 1-11 lbs.	Up to 20 lbs.	Up to 35 lbs.	Up to 50 lbs.
Lifting				✓	✓			
Push/Pull: R L				✓	✓			
Sitting:	✓							
Bending/Streching:	✓							
Climbing:	✓							
Repetitive Work:				✓				
Other: Restrictions								

Number of hours the patient may work each day: ☐ 4 hours ☐ 6 hours ☒ 8 hours ☐ 10 hours ☐ 12 hours

Date Patient may return to work with above noted conditions: 2/18/08 (P. 530) NO LIFT DUTY WORK HOWEVER

Date you anticipate these conditions may change/end: positive surgery

PATIENT TREATMENT PLAN

What is the treatment plan including prescribed medications?

Trial of Brac + NSAIDS. IF no improvement surgical neurolysis

Have you referred the patient for other types of consultations or tests? ☒ Yes ☐ No If Yes Explain:

Referred to: Medicare Office

Telephone: _____

Type of Test: NCS

PHYSICIAN COMPLETES FOR ANY HOSPITAL CONFINEMENTS

Name and address of hospital

N/A

Date(s) treated from/to in the prior 2 years

FROM: _____

TO: _____

FROM: _____

TO: _____

DATES OF IMPAIRMENT AND PROGNOSIS FOR RECOVERY

**What is your prognosis for expected recovery? Good

**When do you expect Patient to be able to return to work? 12.15.08
MO DAY YEAR

"A specific date is required
even if it is an
estimate"

Has your Patient achieved maximum medical improvement? ☐ Yes ☒ No

A person who knowingly files a statement of a claim containing false, incomplete, or misleading information with the intent to injure, defraud, or deceive an insurance company/administrator is committing a fraudulent insurance act, which is a crime. "I certify that the facts, as indicated above, are true and correct to the best of my knowledge."

Physician's Name (PRINT): BLAKE MACE

Degree: MD

Specialty: SURGERY

Tax Identification No.: _____

Dr. License No.: 21490

Physician's Address: 135 N. Academy St

Telephone No.: 843.355-5462

Fax No.: 843.355-5463

Physician's Signature: [Signature]

Date Signed: 2/17/08

A structured Return to Work Program may be available for the injured/disabled employee during their medical recovery. Clear Return-to-Work restrictions will enable us to assist the Employee with a safe return to work. If you have questions or concerns, please contact Matrix Absence Management. Thank you for your cooperation. Return Completed Statement to:

FAXED to Mr. M Elveen

on 10/30/08 - JLM-M

FAX 800-770-5471
Courtney DawsonAMERICAN NATIONAL INSURANCE COMPANY
CREDIT INSURANCE DIVISION
LEAGUE CITY TEXAS

STATEMENT OF LENDING INSTITUTION

Loan No.	Name of Debtor <u>CINDY DOWE</u>	Social Security No.	Age <u>38</u>
Effective Date of Indebtedness	Termination Date	Term of Indebtedness Months	
Identifiable Insurance Charge to Debtor LIFE \$ <u>DISABILITY \$</u>	Initial Total Indebtedness \$	Insured Mo. Installment Payment \$	
Name of Creditor Payee	Address	No. & Street	City State Zip Telephone

The debtor has been continuously covered by disability since 7/1/08 2008.

Branch Office No. _____ By _____ Signature _____ Title _____

STATEMENT OF ATTENDING PHYSICIAN

1. Patient's Name CINDY DOWE Address [REDACTED]

2. Diagnosis-Please mention any complications: Medial Nerve Pain / Chronic Regional Pain

3. Please advise of history pertinent to the CAUSE of this disability: HAND TRAUMA

4. When did patient first consult you about this condition? 8/15/08

5. When did symptom appear according to patient? 1/17/08

6. What diagnostic and surgical procedures were performed? NCSEMG, multiple radiographs

7. What treatment was prescribed? Analgesia, anti-inflammatory

8. Date patient was confined to hospital: From N/A To _____

9. Name of hospital _____ Address _____

10. Number of times you have treated patient during the past 30 days: 1 Please document date(s) and location(s):
At home _____ At Office 12/20/08 At hospital _____

11. In your opinion when did patient become totally disabled? Month 9 Day 13 Year 08

12. In your opinion when can or did patient resume any work? Month late November Year _____

13. Name of other attending physicians: _____

14. Telephone No. 943-355-5462 Signed [Signature] Physician _____ Degree _____
Date _____ Address 135 N. ACADEMY ST. KINGSTREE SC 2952
City & State Zip Code

Physician's Full Name (Please Print): BUCKE MOORE, MD

STATEMENT OF EMPLOYER

Our employee, _____ Whose original date of employment was _____
a.m. _____ p.m. _____ and did not return until _____
was disabled from work beginning at _____ a.m. _____ p.m. _____

Employer _____
Name of Company _____ Street Address _____ City & State _____ Zip Code _____

Telephone No. () By _____ Signature _____ Title _____

Date _____

ALL QUESTIONS MUST BE FULLY ANSWERED OR DELAY WILL RESULT)

AMERICAN RED CROSS BLOOD SERVICES
SOUTH CAROLINA REGION
2751 BULL STREET - COLUMBIA SC 29201

APPROVAL FOR RELEASE FORM

Employee Name: CINDY DOVER

Date: 9/6/08

Is employee able to perform following tasks:

	YES	NO
Stand for at least 2-3 hours	☒	☐
Sit/ride for at least 2-3 hours	☒	☐
Frequent bending/stooping	☒	☐
Push/pull heavy objects up and down ramps and/or stairs	☐	☒
Life objects up to 35 lbs alone and 55-60 lbs. with assistance	☐	☒
Safely operate ARC vehicles	☐	☒
Adapt to long irregular hours and frequent schedule changes	☒	☐

Employee may return to work with NO restrictions

☐

☒

Employee may return to work with the following restrictions (please list below):

Ms. Dover has a median neuropathy affecting her hands.
She has ongoing pain and numbness. She may require
surgical neurolisis.

MD's Name:

Blake Moore

MD Signature:

[Signature]

Date:

9/6/08

SCARCBS/28MAY08/bcm

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M. D., FACS



135 North Academy Street • Kingstree, SC 29556
Ph # 843-355-5462 • Fax 803-781-8970

NAME CINDY DOLZ

ADDRESS _____ DATE 9/4/08

R_x

Please excise from phlebotomy lab
secondary to head pain/numbness -

Via Fax 803-251-6102

REFILL _____ TIMES APRN NR

DISPENSE AS WRITTEN M.D. Blake H. Moore M.D.
SUBSTITUTION PERMITTED

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M.D., FACS



125 North Academy Street, Kingstree, SC 29556
PH # 843-355-5462 Fax 843-781-0570

NAME

CINK? DORSE

ADDRESS

DATE 2/14/08

R

Please excise from phlebectasy, debris
secondary to heel pain/numbness -

Vs Fax 803-251-6102

REFILL

PRESCRIPTION

NR

M.D.

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

M.D.

DEA No.

SUBSTITUTION

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 9/4/08

Patient Name CININ Down

DOB _____

Chief
Complaint _____

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE
FLUSH

RESP: CTA WH RALES DOE

CV: REG IRREG RATE RUE LUE

GI: DIAARRHEA CONSTIPATION N/V

GU: FREG BURNING PAIN

HESITNACY

Again called - needs clarification for work,

PLAN: Sub note via Fax. (251-6102). -

Dup'd issue of CTS vs. CRP > (again). -

[Signature]

TESTS ORDERED:

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M. D.
GILBERTAS RIMKUS, M. D.
JAFER GHERAIBEH, M. D.



500 Thurgood Marshall Blvd. • Suites A-C • Kingstree, SC 29556
Ph # 843-354-9577 • Fax 843-354-5707

CINDY DORSE

Patient Name

has been under the care of this office and may return
to School/Work on _____ under the
following conditions: No Restriction Light Duty
Restricted duty: Patent has bilateral median
neuropathy. She is being evaluated for
surgery. She is limited by hand strength
and pain. She will be reassessed in 6 weeks

Wall

Signature

8/30/08
Date

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M. D., FACS



135 North Academy Street • Kingstree, SC 29556
Ph # 843-355-5462 • Fax 803-781-8970

NAME

CINDY DORSE

ADDRESS

DATE

8/30/08

R

(Please Print)

Don't

sig + poe 8/30/08

Dop 30-

REFILL

TIMES

PRN

NR

M.D.

M.D.

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

29



Prescription &
Letter of Medical Necessity

SERVING THE CAROLINAS

Fax 800-995-2763

CORPORATE OFFICE 920 ST. ANDREWS ROAD
COLUMBIA, SC 29210

TOLL
FREE

FOR APPOINTMENT PHONE: 866-860-6650
TRANSPORTATION PROBLEMS? - WE FIT IN YOUR HOME!

PATIENT	<u>CINDY</u> FIRST NAME	<u>Davis</u> LAST NAME
	DOB	SOCIAL SECURITY #

PRESCRIPTION **(R) BIL CTS Brace**

DIAGNOSIS	<u>BIL CTS</u> DIAGNOSIS	ICD-9 CODE
	DIAGNOSIS	ICD-9 CODE
PLEASE PROVIDE PATIENT CHART NOTES RELATED TO THIS DIAGNOSIS		

MEDICAL NECESSITY	☐ ORTHOTIST	PROGNOSIS
	☐ PROSTHETIST	
	☐ PEDORTHIST	REASON FOR NEED
	☐ DIABETIC SHOES	
	☐ POST MASTECTOMY CONSULTANT	
	☐ DURABLE MEDICAL EQUIPMENT	
☐ OTHER	SURGERY DATE	

LENGTH OF NEED	☐ LONG TERM USE	☐ PURCHASE ONLY			
	☐ 6-9 MONTHS, PURCHASE IF EFFECTIVE	SPECIFY NUMBER OF MONTHS MONTHS			
USE:	DAY	EVENING	24 HRS	PRE-OP	POST OP

PHYSICIAN SIGNATURE	PHYSICIAN'S NAME	UPIN #
	PHONE #	FAX #
	☐ HAVE ORTHOTIST/PROSTHETIST CALL AFTER CONSULTATION WITH PATIENT	
	☐ PRODUCT SELECTION PERMITTED	USE AS DIRECTED
	PHYSICIAN'S SIGNATURE	DATE <u>8/30/08</u>

Kingstree Surgical Associates, Dr. Blake Moore, M.D., FACS

Date 8/30/08

Patient Name CNN DOW

DOB _____

Chief

Complaint FW

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox
	<u>130/86</u>			<u>98% bc</u>

PE: SKIN: WM COOL DRY COLOR: GOOD PALE FLUSH

RESP: CTA WH

RALES DOE

CV: REG IRREG RATE 74 RUE LUE

GI: DIAARRHEA CONSTIPATION N/V

GU: FREQ BURNING PAIN

HESITANCY

Semi-few

Reynolds NCS = PE. → BA-CTS (mild)

PLAN: Dwpd → ? CTS symptoms

Rec → BA-CTS Brees

L> if 6 pain → cont

L> if no response → CTR referral

Rx: DON for pain

TESTS ORDERED:

NOTE for workup -

[Signature]

KINGSTREE SURGICAL ASSOCIATES
BLAKE H. MOORE, MD FACS
144 COLDSTREAM DRIVE
COLUMBIA SC 29212

(803)-749-7497
FAX: (803)-781-8907
EMAIL: BHMFACTS@hotmail.com

INDEPENDENT MEDICAL REVIEW:

PATIENT: CINDY E. DOZIER
DOB: 4/28/1970
ADDRESS: [REDACTED]
SS# [REDACTED]

PREPARED FOR: JOSEPH MCELVEEN, ESQ.
ADDRESS: 17 E. CALHOUN STREET
SUMTER, S.C. 29151-2038

DATE: August 20th, 2008

Dear Mr. McElveen;

I had the pleasure of seeing your client Ms. Dozier on 8/15/08. As you are aware she claims that she was injured at work, while employed by the Red Cross. She describes her job duties as including lifting 80 pound kits for blood drives. She was diagnosed by Dr. Nichols with Camden Bone and Joint as having "tenosynovitis" in her wrist. Conservative care failed and she continued to have significant pain. She was seen by my office for a second opinion.

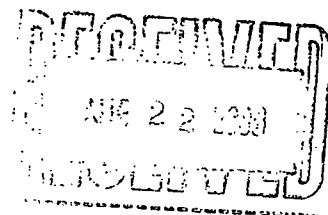
She was noted with marked hypersensitivity in her left hand. She described temperature sensitivity, and was noted with resting edema. Her exam revealed a positive Phalen's and a positive Tinnel's sign.

I strongly suspect that she has an underlying neuropathy that has gone undiagnosed. This will likely be either a simple median neuropathy (Carpal Tunnel Syndrome), or a more complex CRPS type entity.

I have ordered serology testing and an NCS/EMG to clarify her condition further. I have prescribed Ultram and Cymbalta to assist with her symptoms. I believe that she has a significant injury that appears to be work related to the standard of "reasonable medical certainty". She will require ongoing treatment and care.

RESPECTFULLY SUBMITTED


BLAKE H. MOORE, MD, FACS



Fax: 254-6102
K TREE SURGICAL ASSOCIA
BLAKE H. MOORE, M. D., FACS
135 North Academy Street • Kingstree, SC 29556
Ph # 843-355-5462 • Fax 803-781-8970

NAME CINDY DOZIER
ADDRESS _____ DATE 8/18/08

R_x (Please Print)
Please excuse absences 8/16-8/18
for medical illness.
She has appt. for today 8/25 at 10AM

REFILL _____ TIMES _____ PRN _____ NR _____
DISPENSE AS WRITTEN M.D. [Signature] M.D. _____
SUBSTITUTION PERMITTED
DEA No. _____ SC Lic No. _____

Kingstree Surgical Associates, Dr. Blake Moore, M.D., FACS

Date 8/18/08
Patient Name Cindy Dove DOB

Chief
Complaint Note for work-

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE
FLUSH

RESP: CTA WH RALES DOE
CV: REG IRREG RATE RUE LUE
GI: DIAARRHEA CONSTIPATION N/V
GU: FREG BURNING PAIN
HESITNACY

PLAN: Called -> chris needs not for work
Referred to Employer (251-6102)
NCS scheduled 8/29/08 10AM (damp)

TESTS ORDERED:

Kingstree Surgical Associates, Dr. Blake Moore, M.D, FACS

Date 8/16/08
Patient Name Cindy Torz DOB 4/28/70

Chief
Complaint Nausea

Weight	Blood pressure	Glucose	Hemoglobin	Pulse ox

PE: SKIN: WM COOL DRY COLOR: GOOD PALE
FLUSH

RESP: CTA WH RALES DOE
CV: REG IRREG RATE RUE LUE
GI: DIAARRHEA CONSTIPATION N/V
GU: FREG BURNING PAIN
HESITNACY

90 Nausea stop Rx: Uribem / Cymbalta

Dawp - 7 AGE vs Drug Effect → PB convinced Cymbalta (?)

PLAN: Rx: Phenergan → called to CUS (778-0460)

POC x file
/mm

TESTS ORDERED:

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M. D., FACS



135 North Academy Street • Kingstree, SC 29556
Ph # 843-355-5462 • Fax 803-781-8970

NAME CINDY DOLIZR
ADDRESS _____ DATE 3/15/08

Rx 1. NCS/EMG
2. CBC/TSH/CMP/ESTR/ANA

Dx. HAND NEUROPATHY

REFILL _____ TIMES 10 PRN _____ NR _____
DISPENSE AS WRITTEN M.D. [Signature] M.D. SUBSTITUTION PERMITTED
DEA No. _____ SC Lic No. _____

KINGSTREE SURGICAL ASSOCIATES



BLAKE H. MOORE, M. D., FACS



135 North Academy Street • Kingstree, SC 29556
Ph # 843-355-5462 • Fax 803-781-8970

NAME CINDY DOLIZR
ADDRESS _____ DATE 3/15/08

Rx 1. ULTRAM 750 mg
50 + po qd
Disp # 30
2. Cymbalta 60 mg
50 + po qd
Disp # 30

REFILL 1 TIMES 10 PRN _____ NR _____
DISPENSE AS WRITTEN M.D. [Signature] M.D. SUBSTITUTION PERMITTED
DEA No. B1441077 SC Lic No. 21420

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970
Date Printed: 06/10/11

Progress Notes

05/23/11 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier has reached maximum medical improvement following surgical decompression of the median nerve in both the right and left carpal tunnel. She is discharged from care to be followed for reevaluation in the future as needed. On evaluation today following measurements of her two-point discrimination, I am noting that she continues to be symptomatic with pain in the median nerve. It is my opinion that she has a 5% permanent residual impairment to her dominant right hand and a 5% permanent residual impairment to her nondominant left hand secondary to the surgery and the carpal tunnel decompression. At her request, she is provided with a permanent restriction of 5 pounds. She is advised that she may return to work on a limited-duty status and is to return for reevaluation by me in the future as needed.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:567
3943068

SIGNED BY GERALD J SHEALY, M.D. (GS1) 05/26/2011 03:34PM

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MUSC PAGE 3 OF 105

MUSC
MEDICAL UNIVERSITY
OF SOUTH CAROLINA

Page: 48

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970

Date Printed: 06/10/11

XXX

05/23/11 : 06:21 PM : 1785415

XXX

PROBLEM LIST UPDATE

WORK RELAT DISABL E : 99455

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MUSC PAGE 13 OF 105

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970

Date Printed: 06/10/11

Progress Notes

04/12/11 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier continues to progress well following the carpal tunnel decompression in her right hand. Overall, her progress has been as anticipated. She is encouraged to resume her activities more on a limited basis. Follow up for reevaluation in four to six weeks and consideration of a final impairment rating.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:568
3757446

SIGNED BY GERALD J SHEALY, M.D. (GS1) 05/26/2011 03:40PM

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Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970 Date Printed: 06/10/11

Progress Notes

03/15/11 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier is progressing well following right carpal tunnel decompression. Wounds have healed, and sutures are removed. Limited usage is recommended. Follow up for reevaluation in three to four weeks.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:567
3683359

SIGNED BY GERALD J SHEALY, M.D. (GS1) 04/07/2011 08:34AM

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M 1785415

Bon Secours St. Francis
OPERATIVE REPORT
03/03/2011

DOZIER, CINDY
001808016
Gerald J. Shealy, MD
Page 1

ANESTHESIA: IV sedation

SURGEON: Gerald J. Shealy, M.D.

PREOPERATIVE DIAGNOSIS: Right carpal tunnel syndrome.

POSTOPERATIVE DIAGNOSIS: Right carpal tunnel syndrome.

OPERATION: Exploration and decompression of median nerve in right carpal tunnel. CPT Code 64721.

DESCRIPTION OF PROCEDURE: With the patient under adequate IV sedation, in supine position, the right upper extremity was scrubbed, prepped and draped in routine sterile fashion. Anesthesia was supplemented with Marcaine 0.5% local infiltration. Following elevation and exsanguination, a tourniquet was inflated. A 4-cm longitudinal incision was made in the palmar aspect of the hand at the base of the thenar eminence in line with the palmar crease. Dissection was carried sharply through skin and subcutaneous tissue exposing the palmar fascia and the fascia was divided longitudinally in the direction of its fibers to expose the transverse carpal ligament which was sharply divided to expose the median nerve. The nerve demonstrated signs of chronic compression with hyperemia and flattening of the nerve within the carpal tunnel. Complete exploration and decompression of the nerve was undertaken. The recurrent motor branch of the nerve was examined and noted to be intact. Following decompression of the nerve, the wound was irrigated, tourniquet released and hemostasis obtained. Skin was closed with 4-0 nylon sutures. Sterile dressing with a splint applied and the patient returned to the recovery room in satisfactory condition.

The patient is discharged today to be followed in the office in seven to ten days, given Vicodin for pain, is to elevate the extremity, limit its usage and call us if problems arise.

Gerald J. Shealy, MD

TR: sls DD: 03/03/2011 3:12 PTD: 03/04/2011 11:14A JOB#: 002208234 DOC#: 1879341

cc: Gerald J. Shealy, MD

Gerald J. Shealy

Gerald J. Shealy, MD

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970
Date Printed: 06/10/11

Progress Notes

02/15/11 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier is progressing well following left carpal tunnel decompression. She has noted improvement in her symptoms, regaining her motion. She is to continue working with therapy, remain on a limited-duty status, and follow up for reevaluation in four weeks.

The problem on her carpal tunnel is discussed with her. She would like to have surgical decompression rendered for this, and following discussion, the surgery will be scheduled. She understands the procedure and would like to have it undertaken.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:568
3562811

SIGNED BY GERALD J SHEALY, M.D. (GS1) 03/28/2011 08:29AM

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Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970 Date Printed: 06/10/11

Progress Notes

01/24/11 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier is progressing well following carpal tunnel decompression of her right hand on January 11, 2011. Her wounds are healing well. Sutures are removed. Limited usage is recommended. Therapy is also recommended due to limited range of motion. Follow up for reevaluation in three to four weeks.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:567
3499947

SIGNED BY GERALD J SHEALY, M.D. (GS1) 02/21/2011 07:12AM

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11 LINDY DOZIER 9:45 9:45 Shealy

WC

Charleston Hand Group
(W.A.; Mt. P; N. Chas.)

DOZIER, CINDY
001785415 04/28/70 F B
01/24/11 09:45AM PST CHG
SHEALY MD, GERALD J.
V# 274685957 A# 9336221 Z99
WA CHG

Physician: _____

Date Dictated: _____

WORKER'S COMP.

NOTES:

DOS: 01-11-2011

(L)CTR

pt states lots of pain

Recommendation:

Surgery

Test

Physician Referral

Procedure:

HWS

Anesthesia: Local MAC General Regional Choice Other _____

Time: _____ Diagnosis: _____

Equipment: _____

Is patient on blood thinners?

Coumadin Plavix Aspirin Other _____

Is patient diabetic? Yes No

DOES PATIENT NEED LETTER OF CLEARANCE? YES/NO

Patient contact phone number: _____



MRN 1785415

Bon Secours St. Francis
OPERATIVE REPORT
01/11/2011

DOZIER, CINDY
001808016
Gerald J. Shealy, MD
Page 1

PREOPERATIVE DIAGNOSIS: Left carpal tunnel syndrome.

POSTOPERATIVE DIAGNOSIS: Left carpal tunnel syndrome.

OPERATION: Exploration and decompression of the median nerve of left carpal tunnel (CPT 64721).

SURGEON: Gerald J. Shealy, MD.

ANESTHESIA: Intravenous sedation

SURGEON: Gerald J. Shealy, M.D.

DESCRIPTION OF PROCEDURE: With the patient under adequate IV sedation, in supine position, the left upper extremity was scrubbed, prepped and draped in routine sterile fashion. Anesthesia was supplemented with Marcaine 0.5% local infiltration. Following elevation and exsanguination, a tourniquet was inflated. A 4-cm longitudinal incision was made in the palmar aspect of the left hand at the base of the thenar eminence in line with the palmar crease and dissection was carried sharply through skin and subcutaneous tissue exposing the palmar fascia and the fascia was divided longitudinally in the direction of its fibers to expose the transverse carpal ligament which was sharply divided to expose the median nerve. The nerve demonstrated signs of chronic compression with hyperemia and flattening of the nerve within the carpal tunnel. Complete exploration and decompression of the nerve was undertaken. The recurrent motor branch of the nerve was examined and noted to be intact. Following decompression of the nerve, the wound was irrigated, tourniquet released and hemostasis obtained. Skin was closed with 4-0 nylon sutures. Sterile dressing with a splint applied and the patient returned to the recovery room in satisfactory condition. The patient is discharged today to be followed in the office in seven to ten days, given Vicodin for pain, is to elevate the extremity, limit its usage and call us if problems arise.

Gerald J. Shealy, MD

TR: In DD: 01/18/2011 TD: 01/18/2011 4:01 P JOB#: 002197173 DOC# 1862501

Patient: DOZIER, CINDY

MRN: 001808016

Encounter: 1101100081

Page 1 of 2

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970

Date Printed: 06/10/11

Progress Notes

12/16/10 : 00:00am

MUSC ORTHOPAEDICS FOLLOW-UP NOTE

GS1

Ms. Dozier returns with the electrodiagnostic studies confirming that she does have a moderately severe right with a mild left carpal tunnel syndrome. This is consistent with her clinical history and physical examination.

The MRI is not available to me. However, based on these electrodiagnostic studies, it is felt that surgical decompression of the median nerve in the right and left carpal tunnel needs to be undertaken in order to alleviate this lady's symptoms. She would like to have a left carpal tunnel decompression initially. The surgical procedure, risks, complications, and anticipated results are carefully discussed. Following discussion with her, the surgery will be scheduled as an outpatient at her request.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:567
3271314

SIGNED BY GERALD J SHEALY, M.D. (GS1) 01/05/2011 01:11PM

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12/13/2010 15:18 8438569161

SPINE&ORTHO

PAGE 01/02



J. Robert Alexander, Jr., M.D.

Chris P. Tountas, M.D.

180 Wingo Way, Suite 104
Mt. Pleasant, SC 294669100 Medcom Street
North Charleston, SC 294052145 Henry Tecklenburg Drive, #271
Charleston, SC 29411

M: 1785415

DOZIER, CINDY
12/08/10

CHIEF COMPLAINT: Hand numbness/arm pain.

HPI: Patient is seen in initial consultation for electrodiagnostic examination. Individual describes work injury 01/17/08. Presents with complaints of chronic bilateral hand pain/paresthesias. Reported history of EMG x 2 with evidence of carpal tunnel. Had multiple bilateral wrist injections without benefit. Additionally reports chronic cervical and bilateral shoulder pain. No relief with multiple cervical epidurals and stellate ganglion blocks performed by Drs. Zgleszewski and Patel. Maximum VAS is a 10/10.

ALLERGIES: DILAUDID, CODEINE.

CURRENT MEDS: Flexeril, Lyrica, tramadol.

PAST MEDICAL HISTORY: OA, hysterectomy, RSD.

SOCIAL HISTORY: Married. Unemployed. Denies tobacco and ethanol.

FAMILY HISTORY: Hypertension, diabetes.

REVIEW OF SYSTEMS: ROS sheet reviewed with patient. Most significant for hand paresthesias.

PHYSICAL EXAM: Well-nourished, well-developed, 40-year-old, 5'7", 158 pound African-American female in no acute distress. Alert and oriented to person, place, and time. Cranial nerves intact grossly. Non-antalgic gait. Mild cervical tenderness to palpation. Motor, sensory, DTRs intact upper extremities. No evidence of dysesthesias or allodynia during testing.

ASSESSMENT:

1. Chronic bilateral hand pain/paresthesias.
2. Work injury 01/17/08.

PLAN: Performed electrodiagnostic examination upper extremities. Findings consistent with bilateral carpal tunnel syndrome. Please see report for details. Follow up with surgeon as scheduled.

(continued)



12/13/2010 15:10 8438569161

SPINE&ORTHO

PAGE 02/02



m: 1785415

J. Robert Alexander, Jr., M.

Chris P. Tountas, M.

160 Wingo Way, Suite 11
Mt. Pleasant, SC 294669100 Medcom St
North Charleston, SC 294052145 Henry Tecklenburg Drive, #22
Charleston, SC 29405

DOZIER, CINDY

12/08/10

Page Two

Thank you for the opportunity to assist in the care of Cindy Dozier.

With kindest regards,

J. Robert Alexander, Jr., M.D.

JRA/ts

cc: Gerald Shealy, M.D.
Worker's Comp.

12-06-2010 04:25PM FROM-

843 745 0102

T-563 P.001/001 F-267

PHYSICIANS IMAGING CENTER

Charleston Physicians Imaging Center
4000 Salt Pointe Parkway
N. Charleston, SC 29405
843 ▲ 745 ▲ 0100
843 ▲ 745 ▲ 0102 (fax)

Final Report
Name: Cindy Dozier
Referred by: Dr. Gerald J. Shealy
ID: [REDACTED]
DoB: Apr 28, 1970

men
1785415

OBSERVATION**MRI OF THE RIGHT WRIST: 12/03/10**

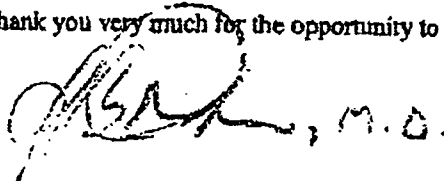
Clinical Indication: Lifting injury at work with joint pain and thumb pain.

TECHNIQUE: The right wrist was imaged in the axial, sagittal and coronal planes utilizing various standard pulse sequences.

FINDINGS: There is no fracture or dislocation. There is no marrow edema to suggest contusion. There is no suspicious osseous lesion. All of the tendons demonstrate normal signal void. There is no peritendinitis. There is fluid surrounding the proximal carpal row bone. Clinical significance of this is uncertain. This could represent inflammation in this region. There is clearly no ligamentous, tendinous or osseous abnormality. Muscular structures have a normal appearance.

IMPRESSION: Fluid is present in the proximal carpal row without evidence of tendinous, ligamentous or osseous abnormality. Please correlate with clinical findings.

Thank you very much for the opportunity to examine your patient.


Irene Darocha, M.D.

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970

Date Printed: 06/10/11

Progress Notes

12/02/10 : 00:00am

MUSC ORTHOPAEDICS INITIAL NOTE

GS1

CHIEF COMPLAINT: Carpal tunnel with numbness and tingling in both hands.

HISTORY OF PRESENT ILLNESS: Ms. Dozier is a 40-year-old right-handed female, previously employed as a phlebotomist by the Red Cross, who presents for evaluation of problems with both hands. She relates that in 2008 she injured her hands while lifting and loading. She continued to have problems with pain in her hands associated with intermittent numbness and tingling. She was placed on limited duty, and in 2009, she was terminated from her employment due to her persistent symptoms. She describes numbness, tingling, and burning pain in both hands. The pain is primarily in the radial aspect of her hand and in her wrist. She has undergone four injections into her carpal tunnel with no significant resolution. She relates a history of aching pain all day and nighttime associated with her symptoms. She is seen today for evaluation. She underwent electrodiagnostic studies in 2009, which indicate mild median neuropathy consistent with mild carpal tunnel syndrome affecting both upper extremities. There is no evidence of a cervical radiculopathy.

PAST MEDICAL HISTORY/REVIEW OF SYSTEMS: Positive for arthritis.

PAST SURGICAL HISTORY: Includes hysterectomy and hernia repair.

FAMILY HISTORY: Negative.

MEDICATIONS: Include Lyrica, Flexeril, and Motrin.

ALLERGIES: Dilaudid and codeine.

PHYSICAL EXAMINATION: Physical examination is unremarkable with the exception of both hands revealing decreased sensibility in the median nerve distribution, there is also a positive Phalen's and a positive Tinel's, median nerve compression is positive, range of motion of the wrist and fingers is normal, and Allen test is negative.

RADIOGRAPHIC IMAGING: X-rays are not obtained.

IMPRESSION: Bilateral median neuropathy, carpal tunnel syndrome.

RECOMMENDATIONS: The problem is discussed at length with the patient, primarily in regard to the etiology and anticipated course. I would recommend that she undergo repeat electrodiagnostic studies to reassess the status of the median nerve in both the right and left carpal tunnels. This would confirm if there has been any interval worsening in her studies. In addition, I would recommend that she undergo an MRI of both the right and left wrists to rule out the possibility of any underlying problem of which we are not aware as well as to assess the status of the median nerve in the carpal tunnel. This can be adequately assessed with an MRI specifically to look for evidence of compression of the nerve. Following discussion with Ms. Dozier of the recommendations, she is to remain on limited duty and this MRI and nerve conduction study will be scheduled pending authorization by

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MUSC
MEDICAL UNIVERSITY
OF SOUTH CAROLINA

Page: 9

Patient Chart

DOZIER, CINDY

1785415 Sex: F Age: 41 DOB: 04/28/1970 Date Printed: 06/10/11

her insurance carrier.

Gerald J. Shealy, MD
Medical University of South Carolina

GS/AM:568
3239569

SIGNED BY GERALD J SHEALY, M.D. (GS1) 01/05/2011 04:21PM

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DOZIER, CINDY
 001785415 04/28/70 F
 12/02/10 10:00AM NEW CHG
 SHEALY MD, GERALD J
 V# 272846221 21-57144 W000
 WA CHG
WORKER'S COMP

NAME: Cindy Dozier TODAY'S DATE: 11-26-2010
 SOCIAL SECURITY #: [REDACTED] DATE OF BIRTH: 4-28-1970
 AGE: 40 HANDEDNESS: (R) (L) INJURY DATE: 1-17-08
 SOCIAL HISTORY
 Occupation: NA Employer: NA Marital Status: M
 Number of Children (if applicable): 2 Do you live alone? No Yes
 Are you currently smoking? No Yes - If yes, what is the number of packs per day?
 Do you drink alcohol? No Daily 1-2 times/week 1-2 times/month 1-2 times/year Never

CHIEF COMPLAINT: Why are you seeing the doctor today? Carpal tunnel
 Numbness/Tingling/burning some sharp shooting pain running up both
 arms swelling and holding fluids Thumbs hurt bad left hand and wrist:
 then right but both are bad. I had had four injections in L and 3 in
 R wrist. didn't help hurting and aching all day in both hands.

HISTORY OF PRESENT ILLNESS OR COMPLAINT

Is this a work related problem? Yes
 How long have you had this illness or complaint? 07 Dec 1-17-08
 What medications are you taking to help this illness or complaint? Lyrica, Flector, motrin
 Is the current problem the result of a: Check all that apply:
 Car Accident Work Accident Sports Injury Other
 List previous treatment for THIS problem: 4 injections in Left wrist 3 injections in Right wrist
 REFERRED BY: Dr Zgierski M.D

Angie 779-4000
 803-573-9997
 Phlebotomist

Injured 2008 - Red cross lifting
 and loading - LD 2009
 terminated
 Injured at XA in @ @ @ - to relief
 NW 3 '09

PAST MEDICAL AND SURGICAL HISTORY

List other medical problems you have or have had in the past. Examples are heart disease, high blood pressure, diabetes, cancer or depression.

None

Your Past Surgical History: Please list your previous operations and approximate date.

Hysterectomy 12/01 hearing at age 7 years old

Did you have any problems with anesthesia? ☒ No ☐ Yes, Describe _____

MEDICATIONS: (Please list all medications you are currently taking.)

Lyrica 5mg Fleural Dmg 1 at bedtime morfine 80mg, Darvon.

ALLERGIES: Dilaudid, Codeine

Family History

List all medical problems which have occurred in your family. Examples are heart disease, high blood pressure, diabetes, cancer or depression.

high blood pressure diabetes

Reviews of Systems

Are you currently having or have you had problems with:

	Circle	Describe all YES responses
Numbness / Tingling	Yes ☒ No ☐	Skeletal Problems
Balance Problems	Yes ☐ No ☒	Diabetes
Blackout / Fainting	Yes ☒ No ☐	AIDS
Bleeding Problems	Yes ☒ No ☐	Cancer
Eyes	Yes ☒ No ☐	Arthritis in hands
Ears, Nose, Throat	Yes ☒ No ☐	Polio <u>from stroke</u>
High Blood Pressure	Yes ☒ No ☐	TB
Heart Attack	Yes ☒ No ☐	Epilepsy
Heart Failure	Yes ☒ No ☐	Hepatitis
Lungs, Breathing	Yes ☒ No ☐	Anxiety
Digestion	Yes ☒ No ☐	Depression
Bowel Movements	Yes ☒ No ☐	Nursing or Pregnant
Bladder Problems	Yes ☒ No ☐	Form of Birth Control

Patient Signature: Cindy Dozier

Date: 11, 26, 2010

Physician review: _____

Date: 1 / 1

DOZIER, CINDY

001785415

04/28/70

F

12/02/10

10:00AM

NEW CHG

SHEALY MD, GERALD J.

V# 272846221

A# 5187144

W000

WA CHG

WORKER'S COMP

Florence Neurosurgery & Spine

1204 E. Cheves Street ~ Florence, S.C. 29506

ph: 843 673 0122 ~ fax: 843 673 0227

www.florenceneurosurgery.com

Andrew H. Rhea, M.D.

James J. Brennan, M.D.

William B. Naso, M.D.

Christopher G. Paramore, M.D.

Patient Name: CINDY DOZIER (38954E)

DOB: 04/28/1970

Date of Service: 04/06/2009

HISTORY AND PHYSICAL

HISTORY:

Chief Complaint: Bilateral wrist and arm pain

History of Present Illness: 38-year-old female from Sumter South Carolina, referred through First Choice Healthcare. She complains of pain in the wrists and hands. This has been present since January 2008. She states it is related to her work. She states that she was involved in some repetitive work for the Red Cross involving pulling and lifting.

She also has some neck pain but states that this came on after her cervical injections. She has some numbness and tingling in both hands. No major weakness.

Treatment thus far has been with epidural injections and pain medication without any lasting relief.

Past Medical History: Negative

Past Surgical History: Hysterectomy and hernia repair

Review of Systems: Positive for heat and cold intolerance and some weight gain.

Medications

LYRICA ORAL CAPSULE CONVENTIONAL 50 MG,
ULTRAM ORAL TABLET 50 MG,
LORTAB 5 ORAL TABLET 5-500 MG,

Allergies

CODEINE DERIVATIVES
DILAUDID

Social History:

MARITAL STATUS: Married, living with spouse.

OF CHILDREN: 2

OCCUPATION: Lab technician.

SMOKING: Has no smoking history.

ALCOHOL: Does not give any significant history of alcohol usage.

Family History: Positive history of cerebrovascular accident, positive history of insulin dependent diabetes, positive history of hypertension.

Florence Neurosurgery & Spine

1204 E. Cheves Street ~ Florence, S.C. 29506

ph: 843 673 0122 ~ fax: 843 673 0227

www.florenceneurosurgery.com

Andrew H. Rhea, M.D.

James J. Brennan, M.D.

William B. Naso, M.D.

Christopher G. Paramore, M.D.

Patient Name: CINDY DOZIER (38954E)

DOB: 04/28/1970

Date of Service: 04/06/2009

PHYSICAL EXAMINATION:

Heart rate 90, BP 103/73, respirations 18 temperature is 96.9

Her height is 5 feet 7 inches and weighs 163 pounds

General medical evaluation reveals patient to be awake, alert, and oriented.

General appearance: healthy-appearing patient in no acute distress.

HEENT: atraumatic, neck supple, no masses

Chest: lungs clear to auscultation, full breath sounds bilaterally

Heart: regular, no murmurs noted

Abdomen: soft and nontender

Extremities: atraumatic, no cyanosis, or major edema. joints unremarkable

Neuro/musculoskeletal:

Motor: manual motor strength testing was performed on both upper and lower extremities and seems to show full strength (5/5) in all muscle groups tested.

Sensory: Sensory exam was intact to light touch and pinprick throughout all 4 extremities and proprioception seems full.

Reflexes: +2 in biceps, triceps, brachial radialis, knee jerks, ankle jerks. Toes were downgoing bilaterally.

Hoffman's negative. Muscle tone normal.

Gait: Normal gait station

straight leg raising: Negative

MEDICAL DECISION MAKING:

Radiographic Review: MRI scan was reviewed cervical spine from Toumy healthcare system dated February 5, 2009. This study shows a few posterior paracentral osteophytes at multiple levels. There is no frank disk herniation or significant cervical stenosis present.

I also reviewed her EMG and nerve conduction studies which were performed in 2008. The studies show bilateral carpal tunnel syndrome mild on the right very mild on the left.

Impression: Vague pain in the wrists and forearms. She does have some cervical pain as well, but I don't believe her wrist and arm pain is a manifestation of cervical radiculopathy. She states it is secondary to repetitive injury and this may be some type of a sympathetic mediated pain syndrome.

Recommendations: Would not recommend cervical disk surgery for her. I would instead recommend continued treatment with injections and would recommend a trial of cervical sympathetic block to see if this alleviates some

Florence Neuro surgery & Spine

1204 E. Cheves Street ~ Florence, S.C. 29506

ph: 843 673 0122 ~ fax: 843 673 0227

www.florenceneurosurgery.com

Andrew H. Rhea, M.D.

James J. Brennan, M.D.

William B. Naso, M.D.

Christopher G. Paramore, M.D.

Patient Name: CINDY DOZIER (38954E)

DOB: 04/28/1970

Date of Service: 04/06/2009

of her symptoms. I appreciate the opportunity to see and evaluate this patient. Sorry I could not be of further help with her pain at this time.

Cc: Dr. Bitting

Electronically Signed by: Andrew H. Rhea, M.D. on Thursday, April 09, 2009

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04/08/2009 00:15 8436730221

FLORENCE NEUROSURGEY

PAGE 02/01

DOB 4-28-70
Andrew H. Rhea, M.D.
1204 E. Cheves Street
Florence, South Carolina 29506
(843) 673-0122
DEA # AR 2833216
LIC. 414854
Name Cindy Doherty
Address _____ Date 4/6/09
R DX: RSD

Cervical
Sympathetic
BLOCK

Andrew H. Rhea _____
DISPENSE AS WRITTEN SUBSTITUTION PERMITTED

TA:
TB:
TC:

Date of Visit _____
Page 1 of 2

Florence Neurosurgery and Spine

Patient Health History Questionnaire

Patient Name Cindy ELLA Dorien Phone # (803) 316-6533 cell
Date of Birth 04-28-1970 Age 38 Work # (803) 254-6000
Residence [REDACTED]

Handedness: R L Height: 5' 7" Weight: 163
HR 90 BP 103/73 R 18 T 96.9 male/female/race B

Who sent you to us? First Choice HealthCare Family Physician? Cindy Reese

Chief Complaint (What is the reason for your visit?) bad pain in L and R wrist and hands and back
neck pain sometimes sharp pain run in back but in very bad pain from neck
and both wrist and hands. numbness tingling in both hands

Date of onset: 01-17-08

Therapy to date:

☒ ESI ☐ Oral steroids ☒ Pain medication ☐ Non-steroids
☐ Physical therapy ☐ Chiropractor ☐ Brace/collar ☐ Muscle relaxer
☐ Other: had two CESIS

Past Medical History	Yes	No		Yes	No
High Blood Pressure	<u> </u>	<u>✓</u>	Cancer	<u> </u>	<u>✓</u>
Diabetes	<u> </u>	<u>✓</u>	Stomach ulcers	<u> </u>	<u>✓</u>
Asthma	<u> </u>	<u>✓</u>	Bleeding disorders	<u> </u>	<u>✓</u>
Heart Disease	<u> </u>	<u>✓</u>	Alcoholism	<u> </u>	<u>✓</u>
Heart Attack	<u> </u>	<u>✓</u>	Liver disease	<u> </u>	<u>✓</u>
Other	<u> </u>				

Past Surgical History: Hysterectomy and hernia

Medications (include dosage) Lypica 1 capsule 3 times a day Ultram 50mg 1 tablet
4 times a day, Lorazepam 1 tablet every 6 hours for pain

Allergies Penicillin, codeine no blood thinners no allergic to latex, x-ray dye
Social History: Single Married ✓ Divorced Widowed Bitalline.

Children? yes How Many? 2

Occupation: Photographer Last worked:

Do you smoke? Yes No ✓ How much? How many years?

Did you previously smoke? Yes No ✓ How much? Years?

Do you drink alcohol? Yes No ✓ How much?

Did you previously drink alcohol? Yes No ✓ How much?

Family Hx HTN, DM, CVA (mom)

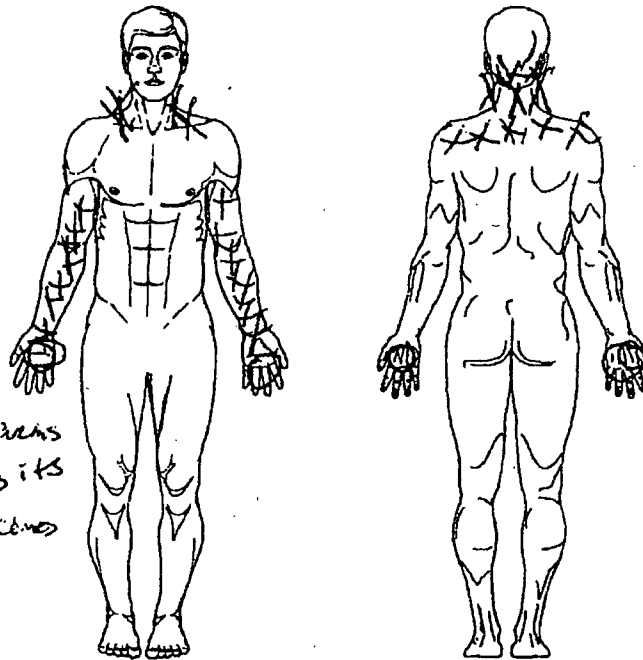
Complaint Related to an injury? yes Workman's compensation? no denying it

Other physicians seen for this problem? yes If so, Who? Dr. DeGree, Dr. Moore, Dr. Walsh, Dr. Wright
Dr. L. A. Mancuso, Dr. George B. Hing, Dr. Nichols, Dr. Haskings, Dr. David Redmond, Dr. Strobel

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Description of Problems

Location of Symptoms



*Pain runs up both arms
At times sometimes it's
a stabbing pain goes and comes
head aches a lot*

Please draw in the pattern of your pain (XXXXXX), numbness (OOOOO), or tingling (----)

Rate the intensity of your pain (if present) with an X

NO PAIN

0-----1-----2-----3-----4-----5-----6-----7-----8-----9-----10

WORST PAIN

Previous Treatments
(Check all that apply)

Surgery _____

Nerve Blocks _____

Steroid Injections 2 in neck

TENS Unit _____

Physical Therapy ✓ in 2008

Psychological Therapy _____

Relaxation Training _____

Biofeedback _____

Chiropractic Treatment _____

Other _____

History of Injuries (Please list any injuries associated with your symptoms)

None

Patient Review of Systems Questionnaire

Constitutional Symptoms

	Yes	No
fever	___	☒
weight loss	___	___
night sweats	___	___
chills	___	___

Eyes

	Yes	No
recent visual loss	___	☒
double vision	___	☒
blind spots	___	☒
tunnel vision	___	☒
trauma	___	☒

Ears, Nose, Mouth, Throat

	Yes	No
recent hearing loss	___	☒
ear pain	___	☒
nose bleeds	___	☒
sore throat	___	☒

Cardiac / Circulatory

	Yes	No
chest pain	___	☒
swelling of feet / ankles	___	☒
pain in lower legs when walking	☒	☒
abnormal heart rhythm	___	☒

Hematologic

	Yes	No
bleeding problems	___	☒
frequent / recurrent infections	___	☒
previous bleeding problems w / surgery	___	☒

Genitourinary

	Yes	No
blood in urine	___	☒
pain with urination	___	☒
involuntary loss of urine	___	☒

Gastrointestinal

	Yes	No
abdominal pain	___	☒
vomiting	___	☒
dark or bloody stools	___	☒
diarrhea	___	☒
involuntary loss of stools	___	☒

Musculoskeletal

	Yes	No
joint pain	☒	___
which?	<i>hands and wrists of going up arms</i>	___
joint swelling	☒	___
which?	<i>hands both sometimes</i>	___
inflammation / redness joints	___	___

Endocrine

	Yes	No
breast discharge	___	☒
irregular / absent menstrual cycle	___	☒
heat / <u>cold intolerance</u>	☒	☒
recent severe <u>weight gain</u> <i>some</i>	☒	☒
possible pregnancy	___	☒

Respiratory

	Yes	No
shortness of breath	___	☒
cough	___	☒
cough with bleeding	___	☒

Patient Signature

Date

Cindy Elly Dyer *04/3-09*

Physician Signature

Date

Andrew L. H...

4/6/09



Timothy M. Zgleszewski, MD

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Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Oct, 03, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Dear Attorney Samuels,

I will address your questions from an email dated 10/3/2011.

1. I have reviewed the vocational evaluation from Corvel. There indeed is no mention of the diagnosis of Complex Regional Pain Syndrome (CRPS) in the report. The only diagnosis mentioned is of Carpal Tunnel Syndrome (CTS). I would agree Ms Dozier can lift up to 5 pounds; but secondary to not only her chronic hand pain from her failed CTS release surgery, but also her CRPS of the upper extremities, she can not use her hands on a repetitive basis. In my review of the Corvel Vocational Rehabilitation report, there is no mention of the repetitive nature of her jobs, or the proposed jobs, including no detailed job description of her prior Phlebotomist position or any of the eleven positions recommended in the Corvel report. Knowing the detailed job description is vitally important for making any recommendations as to whether she would be able to return to those jobs based on her CRPS and CTS diagnoses. Her diagnosis of CRPS and her continued pain symptoms are ignored or omitted for whatever reason.

I would recommend an independent Vocational Assessment.

2. Ms. Dozier cannot return to work at her current job as a Phlebotomist. She has chronic pain secondary to her CRPS and CTS which would preclude her from any job position requiring lifting greater than 5 pounds. Dr. Shealy lists this five pound weight restriction as well. She is unable to use either upper extremity on a repetitive basis secondary to her CRPS and chronic pain from her failed CTS release surgery. Apparently Dr. Shealy stated in his deposition that he "normally releases with no restrictions." Since no two patients are alike, and since Carpal Tunnel Release surgery is not 100% successful, one needs to treat each patient as an individual. Categorical statements regarding work restrictions and accommodations are not possible due to the wide range of clinical presentations in individuals with CRPS. Work restrictions and accommodations are based upon the interaction between a person's medical impairment (if any) and the job requirements. Therefore, in my medical opinion from a medical standpoint, Ms. Dozier cannot perform even at a sedentary position if the job requires anything greater than less than occasional use of her arms given the diagnoses she has of CRPS and CTS. She cannot use either upper extremity on a repetitive basis.

What would be very helpful regarding the eleven positions mentioned in the Corvel report would be detailed job descriptions and not just a short summation of the job.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 10/03/2011 Page: 1

P111

3. CRPS is a malfunction of part of the nervous system. The main symptom with CRPS is constant pain and often out of proportion to the severity of the initial injury. Nerves misfire, sending constant pain signals to the brain. It develops in response to an event the body regards as traumatic, such as an accident or a medical procedure. This syndrome may follow 5% of all nerve injuries. This is what Ms. Dozier has along with failed CTS surgery and continued pain symptoms.

Current Medication:

- 1 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 2 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 3 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 4 Lyrica 75 Mg Capsule SIG: 1 TID
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83 Encounter for Therapeutic Drug Monitoring

Electronically signed off by Timothy M. Zgleszewski, MD on 10/03/2011 at 11:24 AM.

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

**Physician's Statement**

Claimant's Name: Dozier, Cindy
Physician's Name: Timothy M. Zgleszewski, MD
Practice/Clinic: Palmetto Spine & Sports Medicine, P.A.
Preparer's Name: Timothy M. Zgleszewski
Phone: (843) 573 - 9997

Employer's Name: American Red Cross
Insurance Carrier: _____
SCWCC File No: _____

The undersigned physician has been authorized by the Employer/Carrier to treat this Claimant for his or her injury by accident pursuant to §§42-15-60, 42-1-172 or 42-11-10.

Date of Injury or Illness: 01/17/2008

Date of first office visit: 01-26-2010

Date of last visit: 08-16-2011

Diagnosis or nature of injury or illness 337.21 Reflex Sympathetic Dystrophy of Upper Limb, 728.85 Spasm of muscle, 354.0 Carpal Tunnel Syndrome, 728.1 Cervical Myalgia / MFP, V58.69 Encounter for Long-Term Use of Other Medications, V58.83 Encounter for Therapeutic Drug Monitoring

Body part(s) injured: Right and Left Upper Extremities Body part(s) affected: Central Nervous System

Date of Maximum Medical Improvement: 08-09-2011

Based on the AMA Guidelines, the claimant has sustained a 5 / 5 % medical impairment to RUE / LUE injured body part(s) and a 12 % medical impairment to Central Nervous System other affected body part(s).

____ The claimant is able to return to work without restriction.

____ The claimant is able to return to work with the following restrictions:

☒ The claimant is unable to return to work at his or her current employment.

As of the date I last saw this patient, it is my professional medical opinion the claimant:

____ will not need future medical care related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not).

☒ will need future medical care and treatment related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not) and that medical care and treatment including medication is as follows:

She requires pain medication management along with appropriate physician follow up visits and medication compliance testing.

She has the option of proceeding with an SCS trial if her medication regimen does not provide adequate pain control.

Treating Physician

08/31/2011
Date

Electronically signed by Timothy M. Zgleszewski MD on 08/31/2011 11:52 AM

9/07

14B

Physician's Statement

P113



Timothy M. Zgleszewski, MD

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Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Aug, 16, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She is here for her medication refill. She reports increased right thumb pain today.

The patient states that the pain is located in the right and left neck. It radiates into the arm(s). The pain extends into the bilateral upper trapezius. The patient describes the pain as achy. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient has pain in the wrist but it stops before reaching the hand. The pain is described as achy sensation. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Medication side effects felt by the patient include swelling of the ankles.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

VAS: 9 /10, BP: 128/80, Pulse: 82, Respiration: 12

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 08/16/2011 Page: 1

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Physical Examination:**CONSTITUTIONAL:**

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

Diagnostic Reviewed:

Most recent medication compliance test was reviewed today and found to be consistent with current prescribed pain medication regimen.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83 Encounter for Therapeutic Drug Monitoring

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier had their medication compliance testing performed today. The purpose of this testing is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

15 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Diagnostic/Lab Orders:**Lab:**

Medication Compliance Testing-ALL Others (80101)

Electronically signed off by Timothy M. Zgleszewski, MD on 08/16/2011 at 09:29 AM.



Timothy M. Zgleszewski, MD

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• 3 Southern Court • Suite B • West Columbia, SC 29169 • (803) 791-3773 • fax (803) 791-3997 •
Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Aug, 09, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She is status post bilateral carpal tunnel injections. She reports that she recieved minimal benefit in the left thumb; she experienced decreased tenderness. Despite the reduction in tenderness she reports difficulty with use and pain that "runs up my arm." Ms. Dozier reports no benefit with the right side.

The patient states that the pain is located in the right and left neck. It radiates into the arm(s). The pain extends into the bilateral upper trapezius. The patient describes the pain as achy. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and . She states she also has pain in her right and left neck. The patient has pain in the wrist but it stops before reaching the hand. The pain is described as achy sensation. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Medication side effects felt by the patient include swelling of the ankles.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 08/09/2011 Page: 1

P116

VAS: 9 /10, BP: 126/72, Pulse: 64, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83 Encounter for Therapeutic Drug Monitoring

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has not had significant improvement in her hand symptoms post carpal tunnel release nor with ultrasound guided carpal tunnel injections. She stated she does not want to repeat that surgery. She is at MMI.

She will require medication management only along with those physician visits and if need be medication compliance testing if appropriate. She has the option to proceed with an SCS trial if her medication regimen does not provide adequate pain control for her bilateral upper extremity CRPS.

She can not return to being a phlebotomist from a medical standpoint and I unfortunately believe she is disabled from that occupation. She can not use her bilateral hands (upper extremities) on a repetitive basis. She is limited to sedentary work.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above. After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above.

Based on the AMA Guides to the Evaluation of Permanent Impairment 5th Edition, the examinee has a 5% impairment rating to the left upper extremity and 5% impairment rating to the right extremity secondary to her left and right carpal tunnel syndromes and continued pain complaints and loss of function despite carpal tunnel release surgery and ultrasound guided carpal tunnel injections.

Secondary to her CRPS of the bilateral upper extremities, her central nervous system has been affected by the work accident. Based on the AMA Guides to the Evaluation of Permanent Impairment 5th Edition, she has a 6% impairment to the whole person for the right arm CRPS and a 6% impairment to the whole person for the left arm CRPS. The combined impairment rating for her CRPS is therefore 12% to the whole person.

Electronically signed off by Timothy M. Zgleszewski, MD on 08/10/2011 at 11:53 AM.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 08/09/2011 Page: 2

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Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jul, 26, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Lyrica 75 Mg Capsule SIG: 1 TID
3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83
Encounter for Therapeutic Drug Monitoring

PROCEDURES/TREATMENT:

PROCEDURE: 1. Right carpal tunnel corticosteroid injection.
2. Ultrasound Guidance, musculoskeletal.

DIAGNOSIS: 1. Right carpal tunnel syndrome.

METHOD OF PROCEDURE:

The patient was prepped and draped in a sterile fashion in the prone position after informed consent was signed and all of the patient's questions were answered including the risks, benefits, alternative treatment options, and prognosis. The risks include but are not limited to infection, allergic reaction, nerve damage, paralysis, syncope, headache, respiratory or cardiac arrest, and scar formation.

Using ultrasound-guided technique with an HFL 38 13-6 MHz 38mm broad band linear array, a linear probe in long orientation was initially positioned over the right distal palmar surface of the right wrist. In this position, the right median nerve was identified.

A 30G needle was then inserted into the right wrist from the ulnar side, making sure to avoid the ulnar nerve and accompanying vascular structures, under live ultrasound guidance. Local anesthesia using 1% lidocaine without

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/26/2011 Page: 1

P119

epinephrine was instilled. Hydrodissection of the right median nerve was performed without problems using 1% lidocaine without epinephrine. A total solution of 1cc containing 0.5cc of 1% Lidocaine without epinephrine and 0.5cc of Depomedrol(80 mg/mL) was instilled after a negative aspirate for blood and joint fluid was performed around the right median nerve. Static real-time views in long orientation were obtained for documentation purposes and stored. The needle was withdrawn and found to be intact. The site was cleaned and bandaged.

The patient was observed for an appropriate period of observation post procedure and discharged to home with a driver in stable condition. They will be seen back in the office within about 2 weeks.

Electronically signed off by Timothy M. Zgleszewski, MD on 07/26/2011 at 04:42 PM.



Timothy M. Zgleszewski, MD

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Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jul, 21, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Lyrica 75 Mg Capsule SIG: 1 TID
3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP.354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.63
Encounter for Therapeutic Drug Monitoring

PROCEDURES/TREATMENT:

PROCEDURE: 1. Left carpal tunnel corticosteroid injection.
2. Ultrasound Guidance, musculoskeletal.

DIAGNOSIS: 1. Left carpal tunnel syndrome.

METHOD OF PROCEDURE:

The patient was prepped and draped in a sterile fashion in the prone position after informed consent was signed and all of the patient's questions were answered including the risks, benefits, alternative treatment options, and prognosis. The risks include but are not limited to infection, allergic reaction, nerve damage, paralysis, syncope, headache, respiratory or cardiac arrest, and scar formation.

Using ultrasound-guided technique with an HFL 38 13-6 MHz 38mm broad band linear array, a linear probe in long orientation was initially positioned over the left distal palmar surface of the left wrist. In this position, the left median nerve was identified.

A 30G needle was then inserted into the left wrist from the ulnar side, making sure to avoid the ulnar nerve and accompanying vascular structures, under live ultrasound guidance. Local anesthesia using 1% lidocaine without

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/21/2011 Page: 1

P121

epinephrine was instilled. Hydro-dissection of the right median nerve was performed without problems using 1% lidocaine without epinephrine. A total solution of 1cc containing 0.5cc of 1% Lidocaine without epinephrine and 0.5cc of Depomedrol(80 mg/mL) was instilled after a negative aspirate for blood and joint fluid was performed around the left median nerve. Static real-time views in long orientation were obtained for documentation purposes and stored. The needle was withdrawn and found to be intact. The site was cleaned and bandaged.

The patient was observed for an appropriate period of observation post procedure and discharged to home with a driver in stable condition. They will be seen back in the office within about 2 weeks.

Electronically signed off by Timothy M. Zgleszewski, MD on 07/22/2011 at 12:47 PM.



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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jul, 19, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier is here for a medication follow up. She is on the schedule for right and left carpal tunnel injections for later this month. Ms. Dozier reports no changes in her pain patterns. She is still experiencing bilateral thumb weakness and discomfort.

The patient states that the pain is located in the right and left neck. It radiates into the arm(s). The pain extends into the bilateral upper trapezius. The patient describes the pain as achy. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and . She states she also has pain in her right and left neck. The patient has pain in the wrist but it stops before reaching the hand. The pain is described as achy sensation. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 8/10 in the pain scale.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Medication side effects felt by the patient include swelling of the ankles.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Physical Examination:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/19/2011 Page: 1

P123

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

Diagnostic Reviewed:

Most recent medication compliance test was reviewed today and found to be consistent with current prescribed pain medication regimen.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83 Encounter for Therapeutic Drug Monitoring

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has not had significant improvement in her hand symptoms post carpal tunnel release. She requires carpal tunnel injections under ultrasound guidance to each hand. Depending on how she responds, she may need to consider repeat carpal tunnel releases but she has already stated she may not want to repeat that surgery.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

THERAPEUTIC PROCEDURES:

The patient will require her first therapeutic bilateral carpal tunnel injection with corticosteroids under ultrasound guidance.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Diagnostic/Lab Orders:**Lab:**

Medication Compliance Testing-ALL Others (80104)

Electronically signed off by Timothy M. Zgleszewski, MD on 07/19/2011 at 11:24 AM.



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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
 Encounter Date: Jul, 06, 2011

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 41 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier is here to review the results of her EMG/NCS. She is reporting continued pain in both her wrists as well as in her neck and shoulders. Ms. Dozier states that she is also having headaches.

The patient states that the pain is located in the right and left neck. It radiates into the arm(s). The pain extends into the bilateral upper trapezius. The patient describes the pain as achy. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and . She states she also has pain in her right and left neck. The patient has pain in the wrist but it stops before reaching the hand. The pain is described as achy sensation. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 8/10 in the pain scale.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Medication side effects felt by the patient include swelling of the ankles.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasms
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/06/2011 Page: 1

P125

VAS: 8 /10, BP: 112/72, Pulse: 66, Respiration: 14

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.69 Encounter for Long-Term Use of Other Medications V58.83 Encounter for Therapeutic Drug Monitoring

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has not had significant improvement in her hand symptoms post carpal tunnel release. She requires carpal tunnel injections under ultrasound guidance to each hand. Depending on how she responds, she may need to consider repeat carpal tunnel releases but she has already stated she may not want to repeat that surgery.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

THERAPEUTIC PROCEDURES:

The patient will require her first therapeutic bilateral carpal tunnel injection with corticosteroids under ultrasound guidance.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Electronically signed off by Timothy M. Zgleszewski, MD on 07/06/2011 at 09:38 AM.



Timothy M. Zgleszewski, MD

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Visit Note

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jun, 28, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

Diagnosis:
354.0 Carpal Tunnel Syndrome

Current Medication:
1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Lyrica 75 Mg Capsule SIG: 1 TID
3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

PROCEDURES/TREATMENT:
Bilateral Upper Extremity Electrodiagnostic Evaluation

Impression:

1. Abnormal electrodiagnostic examination.
2. Moderate bilateral carpal tunnel syndrome.
3. No evidence of a cervical radiculopathy, brachial plexopathy, peripheral polyneuropathy or myopathic process.

Nerve conduction studies:

Motor nerve conduction studies performed today of the bilateral median nerves showed prolonged distal latencies with normal amplitudes and nerve conduction velocities. The ulnar nerves demonstrated normal latencies, amplitudes and normal nerve conduction velocities. Sensory nerve conduction studies performed today demonstrated normal peak distal latencies as well as amplitudes for the bilateral radial and ulnar nerves. The bilateral median SNAP's were prolonged.

Needle electromyography:

Bilateral upper extremity needle electromyography evaluating the C5-T1 myotomes including the bilateral cervical paraspinal musculature was performed today. There was normal insertional activity, no abnormal spontaneous activity, normal motor unit action potentials as well as recruitment patterns.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/28/2011 Page: 1

P127

Electronically signed off by Timothy M. Zgleszewski, MD on 06/28/2011 at 03:53 PM.



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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: May, 24, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 41 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier states that she had her last visit with Dr. Shealy, her hand surgeon. She reports that she has also completed all of her occupational therapy secondary to a bilateral carpal tunnel release.

The patient states that the pain is located in the right and left neck. It radiates into the arm(s). The pain extends into the bilateral upper trapezius. The patient describes the pain as achy. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 7/10 in the pain scale.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and. She states she also has pain in her right and left neck. The patient has pain in the wrist but it stops before reaching the hand. The pain is described as achy sensation. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 7/10 in the pain scale.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Patient reports no medication side effects.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

VAS: 8/10, BP: 124/76, Pulse: 80, Respiration: 12

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 05/24/2011 Page: 1

P129

Physical Examination:**CONSTITUTIONAL:**

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

Diagnostic Reviewed:

Most recent medication compliance test was reviewed today and found to be consistent with current prescribed pain medication regimen.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has not had significant improvement in her hand symptoms post carpal tunnel release. Whether this is related to a delay in getting the surgery or not does not affect that we need to repeat her EMG/NCS studies to both arms as well as do MSK diagnostic U/S testing to both median nerves to assess any nerve swelling or entrapment that would explain her continued pain. Until these are done, she can not be considered to be at MMI.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

DIAGNOSTIC PROCEDURES:

An electrodiagnostic study (EMG/NCS) of the bilateral upper extremities.

DIAGNOSTIC TESTING ORDERED:

Diagnostic musculoskeletal ultrasound of the bilateral wrists (median nerves) to be performed at PSSM.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier had their medication compliance testing performed today. The purpose of this testing is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 05/24/2011 Page: 2

reviewing the above.

Prescription:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00 REF: 3

2 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00 REF: 3

3 Naproxen 250 Mg Tablet SIG: Take 1 twice daily QTY: 60.00 REF: 3

Diagnostic/Lab Orders:

Lab:

Medication Compliance Testing-ALL Others (80104)

Electronically signed off by Timothy M. Zgleszewski, MD on 05/24/2011 at 10:09 AM.



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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Apr, 21, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier reports that she has been experiencing flare ups of her typical pain. Most recently she had a flare up "a couple of days ago." She reports that the pain is located in her bilateral shoulders and neck. Ms. Dozier states the pain causes her headaches. She is also reporting bilateral hand and wrist pain. She recently underwent bilateral carpal tunnel releases with the most recent one being in March of 2011. She is currently progressing through physical/occupational therapy for the hands.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Hydrocodone-apap 7.5/500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening
- 6 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

VAS: 8/10, BP: 124/78, Pulse: 60, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 04/21/2011 Page: 1

P132

The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnostic Reviewed:

Most recent urine drug test was reviewed today and found to be consistent with current prescribed pain medication regimen.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier was random urine drug screened today. The purpose of a urine drug screen is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

Prescription:

1 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00

Changed/Discontinued Medication(s):

Discontinued: HYDROCODONE-APAP 7.5-500 MG TB

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 04/21/2011 Page: 2

Diagnostic/Lab Orders:

Lab:

Urine Drug Screen -ALL (80104)

Electronically signed off by Timothy M. Zgleszewski, MD on 04/21/2011 at 01:23 PM.



Timothy M. Zgleszewski, MD

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Toll Free (866) 977-4633

Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Mar, 29, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 8/10 in the pain scale.

She has had bilateral CTR and is currently in rehab for her hands. She notes that the left hand is more improved than the right hand. The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well except for headache pain. Patient reports no medication side effects.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening
- 6 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/29/2011 Page: 1

P135

VAS: 8 /10, BP: 108/88, Pulse: 78, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a minimal to moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased. Well healed surgical incision on the palmar surface of the left and right hand.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier was random urine drug screened today. The purpose of a urine drug screen is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

Timothy M. Zgleszewski, MD provided supervision of Physician Assistant Eliza C. Hough, PA-C for today's patient encounter and he agrees with the above stated treatment plan.

Prescription:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/29/2011 Page: 2

1 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00

Diagnostic/Lab Orders:

Lab:

Urine Drug Screen -ALL (80104)

Electronically signed off by Timothy M. Zgleszewski, MD on 04/11/2011 at 10:54 AM.
Electronically signed off by Eliza Hough, PA-C on 04/04/2011 at 03:17 PM.



Timothy M. Zgleszewski, MD

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Mar, 01, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

She has had her left CTR and reports relief from this procedure thus far. She is presently in rehab for her hands. She will have her right CTR done in the near future. The patient states she has pain in her right and left hands. , states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well except for headache pain. Patient reports no medication side effects.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening
- 6 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/01/2011 Page: 1

P138

VAS: 8 /10, BP: 108/64, Pulse: 72, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood. She demonstrates a flattened affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

WRIST/HAND:

Inspection of the upper extremities demonstrates no edema and intact radial pulses. She has a left CTR surgical scar that is well healed. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome. Well healed surgical incision on the palmar surface of the left hand.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She is still in therapy for the carpal tunnel, the left CTR has been done and the right CTR will be done soon. Her medications help to make her pain more tolerable but she is not getting much pain relief with regard to the cervical spine and upper extremities in rehabilitation therapy as this therapy is only for the hands for the carpal tunnel. She will require bilateral upper extremity and cervical rehabilitation therapy but this has been deferred for when she completes the rehab for the hands.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier was random urine drug screened today. The purpose of a urine drug screen is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/01/2011 Page: 2

contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

Timothy M. Zgleszewski, MD provided supervision of Physician Assistant Eliza C. Hough, PA-C for today's patient encounter and he agrees with the above stated treatment plan.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Prescription:

1 Hydrocodone-apap 7.5/500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00

Diagnostic/Lab Orders:

Lab:

Urine Drug Screen -ALL (80104)

Electronically signed off by Timothy M. Zgleszewski, MD on 04/12/2011 at 12:22 PM.
Electronically signed off by Eliza Hough, PA-C on 04/09/2011 at 02:06 PM.



Timothy M. Zgleszewski, MD

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Feb, 01, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors. The patient's current pain averages around 9/10 in the pain scale.

She has had her left CTR and reports relief from this procedure thus far. She is presently in rehab for her hands. She will have her right CTR done in the near future. The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well except for headache pain. Patient reports no medication side effects.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Hydrocodone-apap 7.5/500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening
- 6 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 02/01/2011 Page: 1

P141

VAS: 9 /10, BP: 118/84, Pulse: 82, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood. She demonstrates a flattened affect. Gait and station is nonataltic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

CARPAL TUNNEL:

Range of motion of the cervical spine is painful. Pain is increased with extension.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome. Well healed surgical incision on the palmar surface of the left hand.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

Timothy M. Zgleszewski, MD provided supervision of Physician Assistant Eliza C. Hough, PA-C for today's patient encounter and he agrees with the above stated treatment plan.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 02/01/2011 Page: 2

P142

Prescription:

1 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00

Electronically signed off by Timothy M. Zgleszewski, MD on 02/01/2011 at 11:12 AM.
Electronically signed off by Eliza Hough, PA-C on 02/01/2011 at 10:03 AM.



Timothy M. Zgleszewski, MD

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jan, 04, 2011

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are working well except for headache pain. Patient reports no medication side effects.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: 1 TID
- 3 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 4 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)
- 5 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening
- 6 Naproxen 250 Mg Tablet SIG: Take 1 twice daily

Vital Signs:

VAS: 9 /10, BP: 124/80, Pulse: 84, Respiration: 12

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 01/04/2011 Page: 1

P144

**Physical Examination:
CONSTITUTIONAL:**

Physical exam reveals a well nourished, well developed, slender female. She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood. She demonstrates a flattened affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

CARPAL TUNNEL:

Range of motion of the cervical spine is painful. Pain is increased with extension. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She is scheduled for her left CTR next week and the right will follow 2-3 weeks later. This will be done with Dr. Shealy at MUSC. Her medications are effective for all but her headache pain. Hydrocodone has not caused any new side effects. Medications have been written as noted below with no changes.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the carpal tunnel and upper extremity and cervical muscle imbalances but will require further treatment as outlined below prior to the initiation of rehabilitation therapy.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 4 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 01/04/2011 Page: 2

Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

Prescription:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00 REF: 3

2 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00 REF: 3

3 Hydrocodone-apap 7.5-500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00

4 Naproxen 250 Mg Tablet SIG: Take 1 twice daily QTY: 60.00 REF: 3

Electronically signed off by Timothy M. Zgleszewski, MD on 01/05/2011 at 12:32 PM.

Electronically signed off by Eliza Hough, PA-C on 01/04/2011 at 10:13 AM.



Timothy M. Zgleszewski, MD

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Dec, 07, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She has returned secondary to requiring a medication change as Darvocet has been taken off the market. She has not undergone her CTRs but is being evaluated with a repeat EMG/NCS by Dr. Shealy prior to the CTRs being performed.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day
- 6 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT)

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 12/07/2010 Page: 1

P147

Vital Signs:

VAS: 9 /10, BP: 126/76, Pulse: 78, Respiration: 12

Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person place and time. The patient does not appear to be in acute distress Patient demonstrates a normal mood. She demonstrates a flattened affect Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

CARPAL TUNNEL:

Range of motion of the cervical spine is painful. Pain is increased with extension. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. Rehab should go ahead and be initiated given the time frame it has taken to get her referred to a hand surgeon. Her medications were refilled as noted below. She was changed from Darvocet to hydrocodone due to Darvocet being discontinued from production.

For her left thumb pain, this is a carpometacarpal joint pain and would benefit from a custom made CMC joint splint once she has had her carpal tunnel release. She would wear this splint nightly and while doing activities associated with increased left thumb pain.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination Should be started as soon as possible.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 12/07/2010 Page: 2

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The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim, she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 3 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

15 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Prescription:

1 Hydrocodone-apap 7.5/500 Mg Tb SIG: 1 every morning, 1 every afternoon, 1 every evening QTY: 90.00
2 Naproxen 250 Mg Tablet SIG: Take 1 twice daily QTY: 60.00
3 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00 REF: 3
4 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00 REF: 3

Changed/Discontinued Medication(s):

Discontinued: DARVOCET-N 100 TABLET 100-650 MG
Discontinued: IBUPROFEN 800 MG TABLET

Electronically signed off by Timothy M. Zgleszewski, MD on 12/08/2010 at 01:38 PM.
Electronically signed off by Eliza Hough, PA-C on 01/03/2011 at 07:17 PM.



Timothy M. Zgleszewski, MD

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Nov, 16, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up.

The patient states that the pain is located in the left greater than right neck. It radiates into the right arm(s). The pain extends past the elbow into the extending into the 1st, 2nd, 3rd, 4th and 5th finger(s) of the hand. The patient describes the pain as achy, numbing, sharp, throbbing and tingling. There is no change in Ms. Dozier's aggravating and alleviating factors.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day

Vital Signs:

VAS: 9 /10, BP: 116/80, Pulse: 74, Respiration: 12

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 11/16/2010 Page: 1

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Physical Examination:

CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood. She demonstrates a flattened affect. Gait and station is nonataltic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

CARPAL TUNNEL:

Range of motion of the cervical spine is painful. Pain is increased with extension. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

There is no heave or abnormal pulsation in the chest noted. She demonstrates a regular rate and rhythm without audible murmurs, rubs or gallops. Skin is pink, capillary refill is <2 seconds. No pitting edema in the extremities is noted.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle V58.83 Encounter for Therapeutic Drug Monitoring V58.69 Encounter for Long-Term Use of Other Medications

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. Rehab should go ahead and be initiated given the time frame it has taken to get her referred to a hand surgeon. She was not accepted as a patient by Dr. Constable and is now being referred to Dr. Shealy in the Charleston Hand Group with MUSC in Charleston, SC. Her medications were refilled as noted below. For her left thumb pain, this is a carpometacarpal joint pain and would benefit from a custom made CMC joint splint once she has had her carpal tunnel release. She would wear this splint nightly and while doing activities associated with increased left thumb pain.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. Ms. Dozier was random urine drug screened today. The purpose of a urine drug screen is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 11/16/2010 Page: 2

contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 3 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

15 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Prescription:

- 1 Cmc Joint Splint - Custom SIG: To be worn nightly and during increased pain, dx CMC joint pain (LEFT) QTY: 1.00
- 2 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00 REF: 3
- 3 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day QTY: 90.00
- 4 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00 REF: 3
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day QTY: 90.00

Diagnostic/Lab Orders:

Lab:

Urine Drug Screen -ALL (80101)

Electronically signed off by Timothy M. Zgleszewski, MD on 11/17/2010 at 01:36 PM.
Electronically signed off by Eliza Hough, PA-C on 01/03/2011 at 07:19 PM.



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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Oct, 07, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She is here for a review of the results of her bilateral wrist ultrasound. She is s/p 3 bilateral carpal tunnel injections with only mild temporary relief and has been authorized for evaluation by Dr. Constable for bilateral carpal tunnel release.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Promethazine 25 Mg Tablet SIG: Take 1 twice daily PO for nausea from headaches
- 6 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day

Vital Signs:

VAS: 9 /10, BP: 124/72, Pulse: 92, Respiration: 12

Physical Examination:

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 10/07/2010 Page: 1

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CONSTITUTIONAL:

Physical exam reveals a well nourished, well developed, slender female. She is in a moderate amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to person, place and time. The patient does not appear to be in acute distress. Patient demonstrates a normal mood. She demonstrates a flattened affect. Gait and station is nonataltic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the cervical spine demonstrates normal cervical lordosis. Range of motion of the cervical spine is painful. Pain is increased with extension. On palpation, there is tenderness in bilateral cervical paraspinals and spasm in bilateral cervical paraspinals. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Inspection of the shoulder demonstrates muscle atrophy of upper trapezius and levator scapulae (left).

CARPAL TUNNEL:

Range of motion of the cervical spine is painful. Pain is increased with extension. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper sensory examination to soft touch and pinprick is decreased in the dermatome.

ABDOMEN:

The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds.

HEART:

PMI is nondisplaced and normal in character, no heave or abnormal pulsation. Normal sinus rhythm with normal S1 and S2 without audible click, murmur or rub.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome 728.85 Spasm of muscle

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She will require rehab once she has recovered from her bilateral carpal tunnel release.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 3 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

15 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 10/07/2010 Page: 2

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Prescription:

Changed/Discontinued Medication(s):

Discontinued: PROMETHAZINE 25 MG TABLET

Electronically signed off by Timothy M. Zgleszewski, MD on 11/17/2010 at 12:12 PM.
Electronically signed off by Eliza Hough, PA-C on 11/11/2010 at 12:14 PM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Timothy M. Zgleszewski, MD
3030 Ashley Town Center Drive
Charleston, SC 29414

Deanna Constable
P O Box 2539, Ste. 120
West Columbia, SC 29171
Phone: 803-794-9191
Fax: 803-699-5547

08/03/2010

Referral To: Deanna Constable,
Re: Cindy E Dozier, DOB: 04/28/1970

This is a referral of our patient Ms. Cindy Dozier. Thank you!

She is being referred to you for the follow reason(s):
337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP
354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle

Bilateral carpal tunnel release, failure to receive benefit from 3 bilateral carpal tunnel injections.

We would appreciate any records generated from this referral to be sent to our office via fax (843) - 377-1446

Sincerely,

Eliza C. Hough, PA-C

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Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Aug, 03, 2010

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 40 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She has had three carpal tunnel steroid injections to the bilateral hands with no prolonged benefit. She is still having pain and tingling in the hands in all 5 fingers, pain level today is reported at an 8/10. She denies side effects from her other medications at this point.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects.

The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day

Vital Signs:

VAS: 9 /10, BP: 122/91, Pulse: 84, Respiration: 17

Physical Examination:

CONSTITUTIONAL:

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 08/03/2010 Page: 1

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Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonatonic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in bilateral cervical paraspinals spasm in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. Trigger points located in the muscles today with a positive twitch response upper trapezius, rhomboids, levator scapulae bilaterally. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

CARPAL TUNNEL:

Inspection of the upper extremities demonstrates intact radial and pedal pulses and mild edema. There is positive Phalen's on the right and left wrist. There is negative Tinel's sign on the right and left elbow. There is positive Tinel's sign right and left wrist.

HEART:

Cardiovascular exam remains stable compared to initial visit.

LUNGS:

Respiratory exam remains stable compared to initial visit.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome 728.85 Spasm of muscle

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has had 3 carpal tunnel injections with minimal benefit and will need to be evaluated by a hand surgeon for a carpal tunnel release.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 2 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

REFERRAL TO:: Patient is referred to hand surgeon.

Prescription:

- 1 Promethazine 25 Mg Tablet SIG: Take 1 twice daily PO for nausea from headaches QTY: 60.00
- 2 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00
- 3 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day QTY: 90.00
- 4 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day QTY: 45.00

Electronically signed off by Timothy M. Zgleszewski, MD on 09/03/2010 at 10:44 AM.

Electronically signed off by Eliza Hough, PA-C on 08/31/2010 at 10:22 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
 Encounter Date: Jul, 20, 2010

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 40 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel Syndrome (Both) 728.85 Spasm of muscle

Vital Signs:

BP: 138/83, Pulse: 60, VAS: 6 /10

PROCEDURES/TREATMENT:

PERFORMING PROVIDER: Eliza C. Hough, PA-C.

DATE: Jul 20, 2010.

PROCEDURE: Right carpal tunnel injection.

METHOD OF PROCEDURE:

After informed consent was signed, the right wrist was prepped in a sterile manner using alcohol and Hibiclens. Next, a 30-gauge 1/2 inch needle was inserted to the distal wrist crease just medial to the palmaris longus tendon. At this point in time, a negative aspirate for blood was performed. There was no elicitation of any pain during the procedure. Next, a total solution of 1 ml. containing 0.5ml Depo-Medrol (40mg/ml) and the remainder of 1% lidocaine without epinephrine was instilled. The patient reported tingling sensation in the thumb, index fingers and 3rd fingers. The needle was then withdrawn and found to be intact. The site was then cleaned and dressed with band-aid.

Ms. Dozier was observed for an appropriate period of observation, post procedure, and then discharged home in stable condition. We will see her back in follow-up in 2 weeks to see how she is progressing with the above treatment.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/20/2010 Page: 1

P159

Electronically signed off by Timothy M. Zgleszewski, MD on 07/20/2010 at 01:19 PM.
Electronically signed off by Eliza Hough, PA-C on 07/20/2010 at 10:30 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jul, 13, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
3 Lyrica 75 Mg Capsule SIG: 1 TID
4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb 729.1 Cervical Myalgia / MFP 354.0 Carpal Tunnel
Syndrome (Both) 728.85 Spasm of muscle

Vital Signs:

BP: 116/88, Pulse: 99, Respiration: 20, VAS: 8/10

PROCEDURES/TREATMENT:

PERFORMING PROVIDER: Eliza C. Hough, PA-C.

DATE: Jul 20, 2010.

PROCEDURE: Left carpal tunnel injection.

METHOD OF PROCEDURE:

After informed consent was signed, the left wrist was prepped in a sterile manner using alcohol and Hibiclens. Next, a 30-gauge 1/2 inch needle was inserted to the distal wrist crease just medial to the palmaris longus tendon. At this point in time, a negative aspirate for blood was performed. There was no elicitation of any pain during the procedure. Next, a total solution of 1 ml containing 0.5ml Depo-Medrol (40mg/ml) and the remainder of 1% lidocaine without epinephrine was instilled. The patient reported tingling sensation in the thumb, index fingers and 3rd fingers. The needle was then withdrawn and found to be intact. The site was then cleaned and dressed with band-aid.

Ms. Dozier was observed for an appropriate period of observation, post procedure, and then discharged home in stable condition. We will see her back in follow-up in 2 weeks to see how she is progressing with the above treatment.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/13/2010 Page: 1

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Electronically signed off by Timothy M. Zgleszewski, MD on 09/03/2010 at 10:44 AM.
Electronically signed off by Eliza Hough, PA-C on 07/20/2010 at 10:29 AM



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jul, 06, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She has had two carpal tunnel steroid injections to the bilateral hands with benefit. She is still having pain and tingling in the hands, pain level today is reported at an 8/10. She denies side effects from her other medications at this point.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and. She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects. The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day
- 6 Lortab (Other MD)
- 7 Tramadol (Other MD)

Vital Signs:

BP: 123/86, Pulse: 94, Respiration: 18, VAS: 8 /10

Physical Examination:

CONSTITUTIONAL:

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/06/2010 Page: 1

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Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in bilateral cervical paraspinals spasm in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. Trigger points located in the muscles today with a positive twitch response upper trapezius, rhomboids, levator scapulae bilaterally. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

CARPAL TUNNEL:

Inspection of the upper extremities demonstrates intact radial and pedal pulses and mild edema. There is positive Phalen's on the right and left wrist. There is negative Tinel's sign on the right and left elbow. There is positive Tinel's sign right and left wrist.

HEART:

Cardiovascular exam remains stable compared to initial visit.

LUNGS:

Respiratory exam remains stable compared to initial visit.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP
354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. She has noted some benefit from her carpal tunnel injections. We will repeat them for the third and final time. If she does not get a long term benefit from this we will most likely refer her for a surgical consult for a carpal tunnel release. She will continue on the Darvocet along with the Lyrica and Flexeril.

THERAPEUTIC PROCEDURES:

The patient will require a third bilateral carpal tunnel injection with corticosteroids.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 2 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

Prescription:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00
2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day QTY: 90.00
3 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00
4 Darvocet-n 100 Tablet 100-650 Mg SIG: Take 1 three times a day QTY: 45.00

Change/Discontinued Medication(s):

Discontinued: LORTAB
Discontinued: TRAMADOL

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 07/06/2010 Page: 2

Electronically signed off by Timothy M. Zgleszewski, MD on 07/06/2010 at 09:37 AM.
Electronically signed off by Eliza Hough, PA-C on 07/06/2010 at 08:54 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jun, 22, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross

HPI:

Ms. Dozier presents today for follow-up. She has had two carpal tunnel steroid injections to the left hand and one to the right hand. She is being seen in addition to her second carpal tunnel injection today so that we may take over prescribing her Darvocet. She has taken Darvocet in the past with benefit and feels it provides her the best pain relief. She denies side effects from her other medications at this point.

The patient states she has pain in her right and left hands, states she has pain in her right and left wrists, and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects. The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
- 5 Lortab (Other MD)
- 6 Tramadol (Other MD)

VITALS:

VAS- 9/10 BP: 136/89, Pulse: 96.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/22/2010 Page: 1

354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle
V58.83 Encounter for Therapeutic Drug Monitoring
V58.69 Encounter for Long-Term Use of Other Medications

Physical Examination:**CONSTITUTIONAL:**

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in in bilateral cervical paraspinals spasms in in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. Trigger points located in the muscles today with a positive twitch response upper trapezius, rhomboids, levator scapulae bilaterally. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

CARPAL TUNNEL:

Inspection of the upper extremities demonstrates intact radial and pedal pulses and mild edema. There is positive Phalen's on the right and left wrist. There is negative Tinel's sign on the right and left elbow. There is positive Tinel's sign right and left wrist.

HEART:

Cardiovascular exam remains stable compared to initial visit.

LUNGS:

Respiratory exam remains stable compared to initial visit.

PROCEDURES/TREATMENT:

PERFORMING PROVIDER: Eliza C. Hough, PA-C and Timothy M. Zgleszewski, M.D

DATE: Jun 22, 2010.

PROCEDURE: Right carpal tunnel injection.

METHOD OF PROCEDURE:

After informed consent was signed, the right wrist was prepped in a sterile manner using alcohol and Hibiclens. Next, a 30-gauge 1/2 inch needle was inserted to the distal wrist crease just medial to the palmaris longus tendon. At this point in time, a negative aspirate for blood was performed. There was no elicitation of any pain during the procedure. Next, a total solution of 1 ml containing 0.5ml Depo-Medrol (40mg/ml) and the remainder of 1% lidocaine without epinephrine was instilled. The patient reported tingling sensation in the thumb, index fingers and 3rd fingers. The needle was then withdrawn and found to be intact. The site was then cleaned and dressed with band-aid.

Ms. Dozier was observed for an appropriate period of observation, post procedure, and then discharged home in stable condition. We will see her back in follow-up in 2 weeks to see how she is progressing with the above treatment.

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. We will start her today on Darvocet-N 100 TID and see her back in 2 weeks for follow-up for medications and follow-up for her repeat bilateral carpal tunnel injections.

MEDICATION:

Ms. Dozier will require medications secondary to her pain. The risks and benefits of her medications were reviewed with her today and she consents to further treatment. The patient signed a narcotic contract and agreement form today. She was urine drug screened (UDS) today. Ms. Dozier was random urine drug screened today. The purpose of a urine drug screen is to ensure adherence to the prescribed medication regimens, to ensure only reported medications are being consumed, and to rule out the presence of illicit drugs and potential for diversion or abuse of narcotic substances.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/22/2010 Page: 2

Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 2 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant for this encounter. He has physically examined and discussed this patient with the Physician Assistant Eliza C. Hough, PA-C and he agrees with the above stated treatment plan.

Diagnostic/Lab Orders:

Lab:

Urine Drug Screen -ALL (80101)

Prescription:

1 Darvocet-n 100 Tablet 100.650 Mg SIG: Take 1 three times a day QTY: 45 00

Electronically signed off by Timothy M. Zgleszewski, MD on 06/28/2010 at 05:00 PM.
Electronically signed off by Eliza Hough, PA-C on 06/22/2010 at 10:58 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jun 15, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Intergrated

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
3 Lyrica 75 Mg Capsule SIG: 1 TID
4 Deepwave SIG: 6 DEEPWAVE PENS TREATMENTS FOR BILATERAL CERVICAL PAIN
5 Lortab (Other MD)
6 Tramadol (Other MD)

VITALS:

VAS- 8/10 BP: 120/85 (Left Arm)(Sitting), Pulse: 104 (Left brachial)(Sitting)(Regular), Respiration: 16.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP
354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle

PROCEDURES/TREATMENT:

PERFORMING PROVIDER: Eliza C. Hough, PA-C and Timothy M. Zgleszewski, M.D.

PROCEDURE: Left carpal tunnel injection.

METHOD OF PROCEDURE:

After informed consent was signed, the left wrist was prepped in a sterile manner using alcohol and Hibiclens. Next, a 30-gauge 1/2 inch needle was inserted to the distal wrist crease just medial to the palmaris longus tendon. At this point in time, a negative aspirate for blood was performed. There was no elicitation of any pain during the procedure. Next, a total solution of 1 ml containing 0.5ml Depo-Medrol (40mg/ml) and the remainder of 1% lidocaine without epinephrine was instilled. The patient reported

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/15/2010 Page: 1

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tingling sensation in the thumb, index fingers and 3rd fingers. The needle was then withdrawn and found to be intact. The site was then cleaned and dressed with band-aid.

Ms. Dozier was observed for an appropriate period of observation, post procedure, and then discharged home in stable condition. We will see her back in follow-up in 2 weeks to see how she is progressing with the above treatment.

Electronically signed off by Timothy M. Zgleszewski, MD on 06/18/2010 at 02:38 PM.
Electronically signed off by Eliza Hough, PA-C on 06/15/2010 at 12:58 PM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jun 10, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Intergrated

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier is here for a medications follow up and a status post for her bilateral carpal tunnel injections. She has noted benefit in reduction of symptoms and pain in both hands after the carpal tunnel injections but not optimal relief. Pain relief noted was only about 5-10%. She has not had any rehabilitation therapy since her injury in 2008.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects. The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 3 Lyrica 75 Mg Capsule SIG: 1 TID
- 4 Lortab (Other MD)
- 5 Tramadol (Other MD)

VITALS:

VAS- 8/10 BP: 121/86, Pulse: 104.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/10/2010 Page: 1

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Physical Examination:**CONSTITUTIONAL:**

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in bilateral cervical paraspinals spasms in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. Trigger points located in the muscles today with a positive twitch response upper trapezius, rhomboids, levator scapulae bilaterally. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

CARPAL TUNNEL:

Inspection of the upper extremities demonstrates intact radial and pedal pulses and mild edema. There is positive Phalen's on the right and left wrist. There is negative Tinel's sign on the right and left elbow. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Upper motor examination on both shows weakness in grip.

HEART:

PMI is nondisplaced and normal in character, no heave or abnormal pulsation. Normal sinus rhythm with normal S1 and S2 without audible click, murmur or rub.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP
354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. We will repeat the carpal tunnel bilateral injections as she noted reduction of pain in both hands after the last injections but it was not optimal relief.

In addition, she has cervical myofascial pain still has not been treated with rehabilitation therapy. We ordered rehab May 18, 2010 for the bilateral upper extremities and cervical region. If she fails to achieve improvement of her cervical and upper extremity pain from her CRPS, we may recommend a trial of a spinal cord stimulator. In addition, if she does not benefit from a series of three carpal tunnel injections we may consider referral for carpal tunnel release.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy. muscle imbalances and weaknesses noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy but will require further treatment as outlined below prior to the initiation of rehabilitation therapy.

DEEPWAVE:

The patient will require Deepwave treatment/Percutaneous Electrical Nerve Stimulation (PENS) secondary

to Ms. Dozier's neck pain Ms. Dozier has failed to receive good outcome from prior treatments with home exercise program, interventional procedure and medications. She will possibly require a home unit. The Deepwave treatment is expected to decrease pain, increase function, possibly decrease overall medications dosage as well as enhance Ms. Dozier overall quality of life. Deepwave will be used in conjunction with an active home exercise program and rehabilitation program.

THERAPEUTIC PROCEDURES:

The patient will require a second bilateral carpal tunnel injection with corticosteroids.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 2 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter and he agrees with the above stated treatment plan.

15 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Prescription:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00

2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day QTY: 90.00

3 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00

Electronically signed off by Timothy M. Zgleszewski, MD on 06/11/2010 at 11:47 AM.

Electronically signed off by Eliza Hough, PA-C on 06/10/2010 at 09:53 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jun 01, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Integrated

Current Medication:
1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
3 Lyrica 75 Mg Capsule SIG: 1 TID
4 Lortab (Other MD)
5 Tramadol (Other MD)

VITALS:
BP: 118/82, Pulse: 60, Respiration: 14.

Diagnosis:
354.0 Carpal Tunnel Syndrome
337.21 Reflex Sympathetic Dystrophy of Upper Limb

PROCEDURES/TREATMENT:
PERFORMING PROVIDER: Timothy M. Zgleszewski, M.D. and Eliza C. Hough, PA-C.

PROCEDURE: Right carpal tunnel injection.

METHOD OF PROCEDURE:
After informed consent was signed, the right wrist was prepped in sterile manner using alcohol and Hibiclens. Next, a 30-gauge 1/2 inch needle was inserted to the distal wrist crease just medial to the palmaris longus tendon. At this point in time, a negative aspirate for blood was performed. There was no elicitation of any pain during the procedure. Next, a total solution of 1 ml containing 0.5ml Depo-Medrol (40mg/ml) and the remainder of 1% lidocaine without epinephrine was instilled. The patient reported tingling sensation in the thumb, index fingers and 3rd fingers. The needle was then withdrawn and found to be intact. The site was then cleaned and dressed with band-aid.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 06/01/2010 Page: 1

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Ms. Dozier was observed for an appropriate period of observation, post procedure, and then discharged home in stable condition. We will see her back in follow-up in 2 weeks to see how she is progressing with the above treatment.

Followup:

1 Week(s) Follow-up for meds

Electronically signed off by Timothy M. Zgleszewski, MD on 06/01/2010 at 01:12 PM.
Electronically signed off by Eliza Hough, PA-C on 06/01/2010 at 10:39 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: May 18, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 40 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Intergrated

HPI:

Ms. Dozier presents today for follow-up. Ms. Dozier reports little to no relief of pain s/p repeat stellate ganglion blocks, any pain relief that she did have only lasted several hours after the procedure and was felt in the neck only. She states she has had effective blocks before done in an anterior approach that decreased some of her shoulder pain but never her arm symptoms. She has not had any rehabilitation therapy since her injury in 2008.

The patient states she has pain in her right and left hands., states she has pain in her right and left wrists. and . She states she also has pain in her right and left neck. The patient reports night time paresthesias. The patient reports difficulty buttoning and unbuttoning his clothing. The patient reports dropping objects. The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
- 2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day
- 3 Ibuprofen 800 Mg Tablet SIG: Take 1 three times a day
- 4 Lortab (Other MD)
- 5 Tramadol (Other MD)

VITALS:

VAS- 8/10 BP: 112/83 (Left Arm)(Sitting), Pulse: 111 (Left brachial)(Sitting)(Regular), Respiration: 18.

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 05/18/2010 Page: 1

Physical Examination:**CONSTITUTIONAL:**

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonantalgic and able to raise up on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in bilateral cervical paraspinal spasms in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. Trigger points located in the muscles today with a positive twitch response upper trapezius, rhomboids, levator scapulae bilaterally. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

CARPAL TUNNEL:

Inspection of the upper extremities demonstrates intact radial and pedal pulses and mild edema. There is positive Phalen's on the right and left wrist. There is negative Tinel's sign on the right and left elbow. There is positive Tinel's sign right and left wrist.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Upper motor examination on both shows weakness in grip.

HEART:

PMI is nondisplaced and normal in character, no heave or abnormal pulsation. Normal sinus rhythm with normal S1 and S2 without audible click, murmur or rub.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
729.1 Cervical Myalgia / MFP
354.0 Carpal Tunnel Syndrome
728.85 Spasm of muscle

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. We will not repeat the stellate ganglion blocks as they have not provided any significant benefit at this time. This could be due to the fact that her carpal tunnel pain is significantly more of a pain concern for her at this time. It causes her repeated nighttime awakenings and chronic discomfort.

She has had a left carpal tunnel injection in the past with no benefit, but given she experienced increased pain during and after the injection it is possible that the injection may have placed incorrectly. We are recommending bilateral carpal tunnel injections, with a pain diary. In addition, she has cervical myofascial pain that has not been treated with rehabilitation therapy. We will order rehab today for the bilateral upper extremities and cervical region. If she fails to achieve improvement of her cervical and upper extremity pain from her CRPS, we may recommend a trial of a spinal cord stimulator. In addition, if she does not benefit from a series of three carpal tunnel injections we may consider referral for carpal tunnel release.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy. Muscle imbalances and weaknesses noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy but will require

further treatment as outlined below prior to the initiation of rehabilitation therapy.

THERAPEUTIC PROCEDURES:

The patient will require her first therapeutic bilateral carpal tunnel Injection with corticosteroids.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 2 weeks.

Timothy M. Zgleszewski, MD was present onsite and provided direct supervision of the Physician Assistant, Eliza C. Hough, PA-C for this encounter.

25 minutes were spent in total visit time with Cindy Dozier and greater than 50% of that time was spent in counseling and reviewing the above.

Prescription:

1 Lyrica 75 Mg Capsule SIG: 1 TID QTY: 90.00

2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day QTY: 90.00

Changed/Discontinued Medication(s):

Discontinued: LYRICA 75 MG CAPSULE - duplicate

Electronically signed off by Timothy M. Zgleszewski, MD on 05/19/2010 at 02:13 PM.

Electronically signed off by Eliza Hough, PA-C on 05/18/2010 at 12:29 PM.



Palmetto Spine
& Sports Medicine, P.A.

Timothy M. Zgleszewski, MD
Bliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
 Encounter Date: May 06, 2010

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 40 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross
 Insurance: Cambridge Integrated

Current Medication:
 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
 2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day
 3 Lortab (Other MD)
 4 Tramadol (Other MD)

Diagnosis:
 337.21 Reflex Sympathetic Dystrophy of Upper Limb
 728.85 Spasm of muscle
 354.0 Carpal Tunnel Syndrome

PROCEDURES/TREATMENT:
PROCEDURE: Right Stellate Ganglion Block.

DIAGNOSIS: Right Upper Extremity CRPS.

ANESTHESIA: None.

FLUIDS: None.

FINDINGS: After appropriate needle placement, contrast was instilled, and flow of contrast was noted in the cervical epidural space without vascular or fascial flow.

METHOD OF PROCEDURE:
 The patient was prepped and draped in a sterile fashion in the prone position after informed consent was signed and all the patient's questions were answered including risks, benefits, alternative treatment options, and prognosis. The risks include but are not limited to infection, allergic reaction, nerve damage, paralysis, epidural hematoma, syncope, headache, respiratory or cardiac arrest, spinal cord injury, and

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 05/06/2010 Page: 1

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scar formation. All vital signs were monitored prior to, during and after the procedure. Oxygen saturation was also monitored and noted to be greater than or equal to 94% throughout the procedure. Cardiac monitoring revealed normal sinus rhythm. The patient was slightly sedated prior to and during the procedure via IV infusion with the anesthesia noted above.

The C-arm was positioned so that the anterior oblique view of the right foramen was visualized. A #25 gauge spinal needle was inserted down to the C6 level. Contact was made with periosteum. This was done under live fluoroscopy. After negative aspirate for air or blood, 1-2 cc volume of Omnipaque 300 was injected, and flow of contrast was noted to be fascial. A 2 cc volume of fluid containing 0.5cc of Dexamethasone (10mg/ml) and the remainder of the 1% lidocaine without epinephrine was mixed. One cc of solution was injected as a test. After 1 minute, the remainder of the solution was injected.

The patient tolerated the condition and was discharged after an appropriate period of observation. If there are any complications, the patient was instructed to contact my office. The patient is to follow-up with the physician within 10-14 days.

Electronically signed off by Timothy M. Zgleszewski, MD on 05/06/2010 at 09:35 AM.



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Timothy M. Zgleszewski, MD
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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Apr 22, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 39 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Intergrated

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day
3 Lortab (Other MD)
4 Tramadol (Other MD)

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
728.85 Spasm of muscle
354.0 Carpal Tunnel Syndrome

Electronically signed off by Timothy M. Zgleszewski, MD on 05/19/2010 at 02:13 PM.



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Visit Note - Office Visit

Provider:
 Supervising: Timothy M. Zgleszewski, MD
 Performing: Eliza Hough, PA-C

Encounter Date: Mar 30, 2010

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 39 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross
 Insurance: Cambridge Intergrated

HPI:

Ms. Dozier reports absolutely no relief of pain and increased pain in the shoulders and increased hand symptoms s/p her last stellate ganglion block. She states she has had effective blocks before, but the were done through an anterior approach. The patient remains on the below listed medications prescribed by Palmetto Spine and Sports Medicine, P.A. (PSSM). She states that her medications are not effective. Patient reports no medication side effects. No medication abuse is suspected.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Current Medication:

- 1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime pm spasm
- 2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day
- 3 Lortab (Other MD)
- 4 Tramadol (Other MD)

VITALS:

VAS- 10/10 BP: 130/76 (Left Arm)(Sitting), Pulse: 103 (Left brachial)(Sitting)(Regular), Respiration: 20.

Physical Examination:

CONSTITUTIONAL:

Physical examination reveals well nourished, well-developed, Slender female. She is in a severe amount of pain. Grooming, nutrition and body habitus is normal for her age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonantalgic and able to raise up

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/30/2010 Page: 1

on her heels and toes.

CERVICAL:

Inspection of the upper extremities demonstrates no edema and 2+ radial pulses. Inspection of the cervical spine demonstrates normal cervical lordosis. There are no new surgical incisions. Range of motion of the cervical spine is painful. Pain is increased with left lateral rotation. On palpation, there is tenderness in bilateral cervical paraspinals spasm in bilateral cervical paraspinals. On palpation, there is no generalized tenderness present in the cervical facet joints. There are no trigger points in the cervical spine today. There is tightness noted in bilateral upper trapezius and bilateral levator scapulae muscle(s) today.

SHOULDER:

Range of motion of the shoulder is painful.

HEART:

PMI is nondisplaced and normal in character, no heave or abnormal pulsation. Normal sinus rhythm with normal S1 and S2 without audible click, murmur or rub.

LUNGS:

Lungs are clear to auscultation bilaterally. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
728.85 Spasm of muscle
354.0 Carpal Tunnel Syndrome

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Ms. Dozier has the above diagnoses. Ms. Dozier will require repeat stellate ganglion blocks, but from the anterior approach this time. She did not benefit from the posterior approach. Once we have her pain decreased we will have her enter a rehab program. In addition, she will likely need to have her medications refilled for Lyrica within the next few weeks. We can see her back for med follow-up at that time.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy muscle imbalances and weaknesses noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy but will require further treatment as outlined below prior to the initiation of rehabilitation therapy.

THERAPEUTIC:

The patient will require a repeat bilateral stellate ganglion sympathetic block under fluoroscopic guidance.

MEDICATION:

Ms. Dozier needs to continue her medication regimen as noted below to maximize her function, control her pain and increase her overall quality of life. The risks and benefits of her medications were reviewed with her today and she consents to further treatment.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Ms. Dozier today, and she agrees to have the above treatment. She understands any problems in the interim; she can contact this office anytime.

FOLLOW-UP: Cindy Dozier will follow up in 3 weeks.

Prescription:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm QTY: 30.00

Electronically signed off by Timothy M. Zgleszewski, MD on 03/30/2010 at 10:07 AM.
Electronically signed off by Eliza Hough, PA-C on 03/30/2010 at 10:02 AM.



Palmetto Spine
Sports Medicine, P.A.

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
 Encounter Date: Mar 18, 2010

Patient: Dozier, Cindy E
 Gender: Female DOB: Apr 28, 1970 Age: 39 year
 Address: [REDACTED]
 Primary Dr.: Cindy reese
 Injury Date: 01/17/2008
 Employer: American Red Cross
 Insurance: Cambridge Intergrated

Current Medication:

1 Flexeril 10 Mg Tablet SIG: Take 1 at bedtime prn spasm
 2 Lyrica 75 Mg Capsule SIG: Take 1 three times a day
 3 Lortab (Other MD)
 4 Tramadol (Other MD)

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
 728.85 Spasm of muscle
 354.0 Carpal Tunnel Syndrome

PROCEDURES/TREATMENT:

PROCEDURE: Right Stellate Ganglion Block.

DIAGNOSIS: Upper Extremity Complex Regional Pain Syndrome.

ANESTHESIA: None.

FLUIDS: None.

FINDINGS: After appropriate needle placement, contrast was instilled, and flow of contrast was noted in the cervical epidural space without vascular or fascial flow.

METHOD OF PROCEDURE:

The patient was prepped and draped in a sterile fashion in the prone position after informed consent was signed and all the patient's questions were answered including risks, benefits, alternative treatment options, and prognosis. The risks include but are not limited to infection, allergic reaction, nerve damage, paralysis, epidural hematoma, syncope, headache, respiratory or cardiac arrest, spinal cord injury, and

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 03/18/2010 Page: 1

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scar formation. All vital signs were monitored prior to, during and after the procedure. Oxygen saturation was also monitored and noted to be greater than or equal to 94% throughout the procedure. Cardiac monitoring revealed normal sinus rhythm. The patient was slightly sedated prior to and during the procedure via IV infusion with the anesthesia noted above.

The C-arm was positioned so that the anterior oblique view of the right foramen was visualized. A #25 gauge spinal needle was inserted down to the C6 level. Contact was made with periosteum. This was done under live fluoroscopy. After negative aspirate for air or blood, 1-2 cc volume of Omnipaque 300 was injected, and flow of contrast was noted to be fascial. A 2 cc volume of fluid containing 0.5cc of Dexamethasone (10mg/ml) and the remainder of the 1% lidocaine without epinephrine was mixed. One cc of solution was injected as a test. After 1 minute, the remainder of the solution was injected.

The patient tolerated the condition and was discharged after an appropriate period of observation. If there are any complications, the patient was instructed to contact my office. The patient is to follow-up with the physician within 10-14 days.

Electronically signed off by Timothy M. Zgleszewski, MD on 03/18/2010 at 09:45 AM.



Timothy M. Zgleszewski, MD
Eliza C. Hough, PA-C

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Visit Note - Office Visit

Provider: Timothy M. Zgleszewski, MD
Encounter Date: Jan 26, 2010

Patient: Dozier, Cindy E
Gender: Female DOB: Apr 28, 1970 Age: 39 year
Address: [REDACTED]
Primary Dr.: Cindy reese
Injury Date: 01/17/2008
Employer: American Red Cross
Insurance: Cambridge Intergrated

HPI:

HISTORY:

Mr. Dozier is a 39 year old male who presents today for follow-up.

The patient states that the pain is located in the right and left neck. It radiates into the bilateral arm(s). The pain extends past the elbow into the extending into the 5th finger(s) of the hand. The patient describes the pain as burning, sharp and shooting.

Aggravating factors include lying on the back. He denies any aggravating factors. The patient's current pain averages around 9/10 in the pain scale. The patients states that he is not taking medications for his pain. She underwent one stellate ganglion block on the left with reduction in left shoulder pain only. She did not see any improvement in her left wrist or hand pain.

ALLERGIES, CURRENT MEDICATIONS, PAST MEDICAL HISTORY, PAST SURGICAL HISTORY, SOCIAL HISTORY, FAMILY HISTORY AND REVIEW OF SYSTEMS ALL PERSONALLY REVIEWED TODAY AND AS NOTED IN THE INTAKE QUESTIONNAIRE.

Physical Examination:

VITALS: VAS- 9/10; Pulse: 36, BP: 84/51.

CONSTITUTIONAL:

Physical examination reveals well nourished, well-developed, Slender male. He is in a severe amount of pain. Grooming, nutrition and body habitus is normal for his age. The patient is alert and oriented to time, place, and person with normal mood and affect. Gait and station is nonatalgic.

CERVICAL:

Trigger points located in the bilateral upper trapezius and teres minor. muscles today with a positive

Patient: Dozier, Cindy E DOB: 04/28/1970 Visit: 01/26/2010 Page: 1

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twitch response. There are negative neural tension sign in the median, radial and ulnar biases in both arms.

UPPER EXTREMITY MOTOR/SENSORY/DTR:

Bilateral upper extremity motor examination is normal today. Bilateral upper extremity sensory examination is normal to soft touch and pinprick today. Deep tendon reflexes of the bilateral biceps, triceps and brachioradialis are normal and symmetric today.

HEART:

Cardiovascular exam remains stable compared to initial visit.

LUNGS:

Lungs are clear to auscultation and percussion. No wheezes, rales, rubs or rhonchi are noted.

Diagnosis:

337.21 Reflex Sympathetic Dystrophy of Upper Limb
728.85 Spasm of muscle
354.0 Carpal Tunnel Syndrome

Plan/Discussion:

After reviewing today's history, physical examination, review of the medical records and provided diagnostic testing, Mr. Dozier has the above diagnoses.

REHABILITATION THERAPY:

The patient will require rehabilitation therapy to address the upper crossed muscle imbalances as noted in the physical examination but will require further treatment as outlined below prior to the initiation of rehabilitation therapy.

TREATMENT PLAN:

The patient will require his first therapeutic right stellate ganglion sympathetic block under fluoroscopic guidance. She states she still has flexeril, darvocet and hydrocodone from First Choice. She did not schedule the above recommended treatment and stated she wanted to talk to her attorney first. I let her know that I am the agreed upon treating physician for her WC injury.

The risks, benefits, alternative treatment options, and prognosis regarding the above treatment plan were discussed with Mr. Dozier today, and he agrees to have the above treatment. He understands any problems in the interim; he can contact this office anytime.

Work Restrictions:

-No work at this time.

Electronically signed off by Timothy M. Zgleszewski, MD on 01/26/2010 at 10:19 AM.