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THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RECEIVED
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SC Court of Appeals

SCWCC No. 0920040

John R. Bowen,

Respondent/Appellant,

v.

Vinyl Services, Inc. South Carolina Builders
SIF and Bridgefield Casualty Ins. Co.,

Defendants,

Of whom Vinyl Services, Inc. and Bridgefield
Casualty Ins. Co. are

Appellants/Respondents.

and South Carolina Builders is the

Respondent.

RECORD ON APPEAL

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

FILE NO.: 0920040

John R. Bowen,

Employee-Claimant,

vs.

Vinyl Services, Inc.,

Employer, and

**S.C. Home Builders SIF/Bridgefield Casualty Insurance
Co.,**

Carrier/Defendants

Appellate Panel Review held in Columbia,
South Carolina on April 18, 2011, per notice timely
and properly served upon all parties of interest.

Appearances:

Kathryn Williams, Esq. of Kathryn Williams, P.A.,
for claimant

J. South Lewis, Esq. of Wilson, Jones, Carter &
Baxley, P.A., for defendant Bridgefield

Andrew D. Smith, Esq. of Smith Poe, P.A. for defendant
Home Builders

Filed:

7/21/11

STATEMENT OF THE CASE

Commissioner Avery B. Wilkerson, Jr. heard the parties on June 24, 2010 in Anderson, SC. On November 18, 2010, the Commissioner entered the following Order:

It is ordered that:

1. Defendant Bridgefield is responsible for all causally related medical evaluation and treatment expenses incurred to date as a result of claimant's injury by repetitive trauma and also for additional related medical care and treatment as directed by Dr. Lucas.
2. Defendant Bridgefield is responsible for temporary total disability benefits at the rate of \$430.52 from December 20, 2009 to the present and continuing. All payments shall be made to claimant through his attorney's office.

Within the statutory period, claimant and defendant Bridgefield each filed an Application for Review in the case, copies of which were furnished to the parties prior to briefing and oral argument before the Appellate Panel. By appeal, claimant respectfully submitted that the Hearing Commissioner erred in finding and ruling claimant's average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52, and in finding and ruling claimant is entitled to temporary total disability compensation benefits from December 20, 2009 to the present and continuing. By appeal, defendants respectfully submitted that the Hearing Commissioner erred in finding claimant sustained a compensable repetitive trauma injury on November 11, 2009, in finding that claimant gave timely notice of this injury, and in failing to find claimant's current back problems are related to a previous injury by accident which he sustained in 2004.

All proffered testimony and documentary evidence has been taken and delivered to the individual members of the Appellate Panel for their study and consideration.

In an Appellate Panel review under S.C. Code Ann. § 42-17-50, the Commission's Appellate Panel shall review the award, weigh the evidence as presented at the initial hearing, and,

if good grounds be shown therefore, make its own findings and conclusions consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the record in this case, the Commission has determined that all of the Hearing Commissioner's Findings of Fact and Rulings of Law are correct as stated. Accordingly, the Hearing Commissioner's Order is affirmed in its entirety, and the Commissioner's Findings of Fact and Rulings of Law, as set forth below, are hereby the law of this case.

FINDINGS OF FACT

1. By Order of the Commission dated August 6, 2009, an employee/employer relationship existed between the parties at the time of claimant's injuries on March 22, 2004. This finding is based on the parties' stipulation.

2. An employee/employer relationship existed between the parties at the time of claimant's injuries on November 11, 2009. This finding is based on the parties' stipulation.

3. By Order of the Commission dated August 9, 2006, claimant's average weekly wage for the 2004 injury is \$529.54, for a corresponding compensation rate of \$353.04.

4. Claimant's average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52. This finding is based on the information on the corrected Form 20.

5. By Order of the Commission dated August 9, 2006, claimant sustained injury by accident arising out of and in the course of his employment with employer-defendant on March 22, 2004 causing injury to his neck, back, and right lower extremity for which he was awarded permanent partial disability.

6. Claimant filed a claim alleging a change of condition for the worse on June 13, 2007. This finding is based on all the evidence on the record, including but not limited to the information in the Commission's file.

7. The claim Form 50 alleging a change of condition for the worse was timely filed, and defendant Home Builders withdrew its claimed statute of limitations defense at the hearing. This finding is based on defendant Home Builders' admission and all the evidence on the record, including but not limited to the information in the Commission's file.

8. Since the Order of the Commission dated August 9, 2006, claimant has experienced increased pain in his right ankle that has caused increased limitations on his ability to function and work. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. McCallum.

9. Dr. Sean McCallum performed right ankle surgery on July 10, 2007, after which claimant was unable to work and received temporary total disability compensation benefits from defendant Home Builders for a period of time. This finding is based on all the evidence on the record, including but not limited to claimant's testimony, information in the Commission's file, and the medical records of Dr. McCallum.

10. Claimant has continued to experience problems with his right ankle after being released by Dr. McCallum which have further affected his ability to perform his job and everyday activities. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. McCallum.

11. Claimant has experienced a compensable change of condition for the worse with regard to his right lower extremity since the Order of the Commission dated August 9, 2006. This finding is based defendant S.C. Homebuilders' admission and all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. McCallum.

12. Defendant Home Builders filed a Form 21 stop-payment application in February 2008 but subsequently withdrew the Form 21, and to date, no hearing has been held to determine whether claimant has sustained any additional permanent disability to his right lower extremity as a result of the change of condition. This finding is based on the information in the Commission's file.

13. The change of condition claim remains open, and all additional issues regarding that change of condition, including but not limited to any determination of additional permanent disability, are held in abeyance pending a future hearing before this Commission or an agreement of the parties. This finding is based on all the evidence on the record, including but not limited to the information in the Commission's file.

14. Defendant Home Builders is responsible for any additional permanent disability for claimant's right lower extremity as a result of his compensable change of condition. This finding is based on all the evidence on the record.

15. Claimant was ultimately released to full duty work by his doctors following his 2004 accident and was never advised by his doctors not to continue doing full duty work. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

16. In 2004, claimant's work with employer-defendant began to slowly shift to using more Hardie board than vinyl siding, which is significant in that the Hardie board is heavier than the vinyl siding and can weigh up to 100 pounds. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

17. Claimant worked eight hours per day and throughout his shift was required to lift and carry the Hardie board, climb up and down ladders with the boards to get them into place for installation, and then after installation, perform the process all over again. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

18. All of the tasks which claimant was required to perform in his job for employer-defendant required repetitive lifting, bending, and stooping. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

19. Claimant did various duties while working and did not do the same job every day, and hard work is not itself compensable. However, the evidence shows that this employee has been worn out by his 20 years of work with this employer. While claimant may have changed tasks, he did not escape the stressors of the repetitive trauma to his back. Moving from one job that requires repetitive bending and lifting to another job that also requires repetitive bending and lifting does not provide a break in the stressors of the repetitive trauma.

20. On April 21, 2010, Dr. Lucas signed a questionnaire statement indicating his opinion, stated to a reasonable degree of medical certainty, that claimant's work activities, including but not limited to the lifting and carrying of walk boards, were sufficiently repetitive to cause injury. This finding is based on the records and opinions of Dr. Lucas.

21. Claimant described with specificity the job activities he performed for employer-defendant, and based on claimant's testimony and the testimony and opinions of Dr. Lucas, such job activities clearly rose to the level of repetitive trauma as defined in the Act. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and deposition of Dr. Lucas.

22. Claimant knew in 2008 that he was still having back problems, but those problems increased in 2009 to the point that he began to have difficulty performing his job, which he reported to his employer and for which he requested medical help. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

23. Claimant returned to Dr. Lucas on January 1, 2010, and Dr. Lucas noted the earlier fusion surgery in 2005, that claimant has continued to experience chronic pain, that the low back pain had progressively worsened over the previous two years, and that claimant had been out of

work since November 11, 2009 because of the pain. This finding is based on the medical records of Dr. Lucas.

24. Dr. Lucas recommended cervical and lumbar MRI scans and later recommended epidural steroid injections and restricted claimant from working. This finding is based on the medical records of Dr. Lucas.

25. Dr. Lucas opined to a reasonable degree of medical certainty that claimant's current low back condition was aggravated by his repetitive work activities and that the medical treatment he is recommending is necessary as a result of that aggravation. This finding is based on the medical records and opinions of Dr. Lucas.

26. In his deposition, Dr. Lucas stated he had read claimant's deposition testimony concerning his work activities, and he opined that those activities contributed to the worsening of his low back pain over time, that "his job is the thing that's causing him pain more than anything else," and that the opinions stated in his April 2010 statements remain his opinions. This finding is based on the deposition of Dr. Lucas.

27. Claimant has submitted the requisite evidence of medical causation stated to a reasonable degree of medical certainty as required by S.C. Code Ann. § 42-1-172, specifically the April 2010 statements signed by Dr. Lucas and the deposition testimony of Dr. Lucas. This finding is based on all the evidence on the record, including but not limited to the medical records and deposition testimony of Dr. Lucas.

28. Claimant contends he injured his low back as a result of work-related repetitive trauma and that claim is supported by the greater weight of the evidence on the record. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

29. The greater weight of the evidence on the record shows that the work claimant performed for employer-defendant, specifically the lifting and bending required to install vinyl and Hardie board siding, was repetitive and sufficient to cause repetitive trauma within the meaning of

S.C. Code Ann. § 42-1-172. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

30. The greater weight of the evidence on the record shows that the repetitive trauma claimant sustained to his back as a result of the lifting and bending he performed in his work with employer-defendant caused injury by repetitive trauma in that the repetitive trauma aggravated his preexisting lumbar spine condition leading to his inability to work and the need for additional medical treatment. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

31. Claimant has sustained repetitive trauma injury to his low back in that he has sustained injury to this body part which was gradual in onset and was caused by the cumulative effects of repetitive traumatic events, specifically the repetitive heavy lifting and bending he was required to do in his job for employer-defendant. This finding is based on all the evidence on the record, including but not limited to all of the deposition and hearing testimony which has been submitted into the record.

32. A preponderance of the evidence on the record in this claim, and specifically claimant's testimony and the opinions of Dr. Lucas, clearly establishes a direct causal connection or relationship between claimant's low back injuries and the repetitive activities he was engaged in as a part of the regular duties of his employment with employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records, deposition, and opinions of Dr. Lucas.

33. Claimant sustained repetitive trauma injury arising out of and in the course of his employment with employer-defendant causing injury to his low back as such is defined in S.C. Code Ann. § 42-1-172. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records, deposition, and opinions of Dr. Lucas.

34. Claimant's low back injury by repetitive trauma extends to, interferes with, and adversely affects his bilateral lower extremities to create greater disability. This finding is based on all the evidence on the record, including but not limited to the medical records.

35. On or around November 11, 2009, claimant had a conversation with his boss in which he told him that he was having trouble performing his job because of his condition. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

36. At the time of his conversation with his employer on or around November 11, 2009, claimant still thought that his back problems were coming from his 2004 injury by accident and did not know what a repetitive trauma injury was or that such an injury could be compensable under workers' compensation. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

37. While claimant may have experienced low back pain prior to November 2009 and knew that his work was causing his low back problems, he clearly did not know that continuing to work would cause additional injury and would cause him to become disabled and need additional medical treatment, as his physicians had returned him to full duty work following his 2004 injury by accident and did not advise him not to continue performing such physical work activities. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

38. Since Dr. Lucas returned claimant to full-duty work when he released him from his care following the 2004 injury by accident and no doctor advised claimant that continued work with employer-defendant would cause further injury or disability, claimant's additional injury by repetitive trauma was unexpected to him. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

39. A preponderance of the evidence establishes that claimant did not know or discover that his low back injuries were compensable under the Act until on or about April 21, 2010 when

Dr. Lucas indicated that his low back condition was aggravated as a result of repetitive trauma sustained in his work for employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

40. Under S.C. Code Ann. § 42-15-20, as amended in 2007, the Commission must determine when a claimant knew or should have known that his injury was compensable, and the earliest date on which the claimant in this case could have done so is April 21, 2010, when Dr. Lucas opined that his condition was aggravated as a result of his repetitive work activities. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

41. A Form 50 alleging the repetitive trauma injury was filed on February 19, 2010; therefore, claimant timely reported his injuries to his employer as required by S.C. Code Ann. § 42-15-20. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the information in the Commission's file.

42. Claimant has not yet reached maximum medical improvement from his repetitive trauma injuries. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

43. The medical evaluation and treatment provided to claimant to date for his repetitive trauma injury, including but not limited to the medical evaluation and treatment provided by Dr. Lucas, has been reasonable and necessary to effect a cure or give relief and has been designed to lessen the period of his disability. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

44. Claimant is in need of additional medical evaluation and treatment for his repetitive trauma injury to effect a cure or give relief and to lessen the period of his disability. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

45. Claimant testified that he went out of work because of his low back pain on or around November 11, 2009. This finding is based on claimant's testimony.

46. The treating physician opined that claimant became medically unable to work because of his back condition on November 11, 2009. This finding is based on the medical records of Dr. Lucas.

47. Claimant drew unemployment benefits from November 11, 2009 to December 20, 2009. This finding is based on claimant's testimony and the information in the Commission's file.

48. Claimant became temporarily totally disabled and unable to work because of his repetitive trauma injury on December 20, 2009, and at the time of hearing, he remained temporarily totally disabled and unable to work because of that injury. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

49. Claimant is entitled to temporary total disability compensation benefits from December 20, 2009 to the present and continuing. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

50. Any determination of permanent disability with regard to claimant's repetitive trauma injury is premature. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

RULINGS OF LAW

1. Under S.C. Code Ann. §§ 42-1-130 to -150, the South Carolina Workers' Compensation Commission has jurisdiction over claimant's claim for benefits.

2. Under S.C. Code Ann. § 42-1-40 and S.C. Code Reg. 67-1603, claimant's average weekly wage for the 2004 injury is \$529.54, for a corresponding compensation rate of \$353.04, and his average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52.

3. Under S.C. Code Ann. § 42-17-90, claimant has sustained a change of condition for the worse concerning his 2004 injury by accident, in that his right lower extremity condition has worsened requiring additional medical treatment and surgery and a period of temporary total disability.

4. The 2004 change of condition claim remains open, and all issues additional regarding that change of condition, including but not limited to any determination of additional permanent disability, are held in abeyance pending a future hearing before this Commission or an agreement of the parties.

5. Under S.C. Code Ann. § 42-1-172, claimant has sustained injury by repetitive trauma to his low back, in that he has sustained injury to this body part which was gradual in onset and was caused by the cumulative effects of repetitive traumatic events and a preponderance of the evidence on the record in this claim clearly establishes a direct causal connection or relationship between claimant's injuries and the repetitive activities he was engaged in as a part of the regular duties of his employment with employer-defendant.

6. S.C. Code Ann. § 42-1-172 requires that the injury have a "direct causal relationship" to the repetitive activities in the employment; it does not exclude aggravations any more than § 42-1-160, as neither statute mentions aggravations.

7. Claimant's low back injury by repetitive trauma extends to, interferes with, and adversely affects his bilateral lower extremities to create greater disability. Morgan v. JPS Automotives, 321 S.C. 2012, 467 S.E.2d 457 (Ct.App.1996); Brown v. Owen Steel Co., 316 S.C. 278, 450 S.E.2d 57 (Ct.App.1994).

8. Under S.C. Code Ann. § 42-15-20(c), claimant timely reported his repetitive trauma injuries to employer-defendant, as he filed a claim on February 19, 2010 and within 90 days of the date that he knew or discovered those injuries were compensable under the Act.

9. Defendant Bridgefield's contention that the appellate courts' decisions in Havird v. Columbia YMCA, 308 S.C. 397, 418 S.E.2d 329 (Ct.App.1992) and Capers v. Flautt, 305 S.C.

254, 407 S.E.2d 660 (Ct.App.1991) bar compensability of this repetitive trauma claim is without merit and is rejected, as the evidence shows that claimant's injuries were unexpected to him.

10. Claimant has not yet reached maximum medical improvement. See Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(maximum medical improvement is plateau at which no further medical care or treatment will lessen the degree of impairment).

11. Under S.C. Code Ann. § 42-15-60, claimant is entitled to and defendant Bridgefield is responsible for all causally related medical evaluation and treatment expenses related to claimant's injuries by repetitive trauma incurred to date and also for additional medical care and treatment as directed by Dr. Lucas.

12. Under S.C. Code Ann. §§ 42-1-120 and 42-9-10, claimant is entitled to and defendant Bridgefield is responsible for temporary total disability benefits from December 20, 2009 to the present and continuing. All payments shall be made to claimant through his attorney's office.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Hearing Commissioner is hereby affirmed by the Appellate Panel of the Commission.

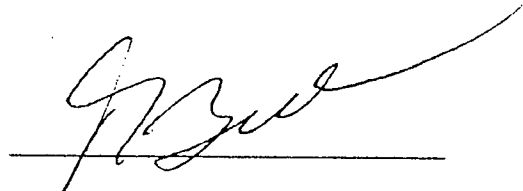
IT IS FURTHER ORDERED that:

1. Defendant Bridgefield is responsible for all causally related medical evaluation and treatment expenses incurred to date as a result of claimant's injury by repetitive trauma and also for additional related medical care and treatment as directed by Dr. Lucas.

2. Defendant Bridgefield is responsible for temporary total disability benefits at the rate of \$430.52 from December 20, 2009 to the present and continuing. All payments shall be made to claimant through his attorney's office.

AND IT IS SO ORDERED

S.C. Workers' Compensation Commission

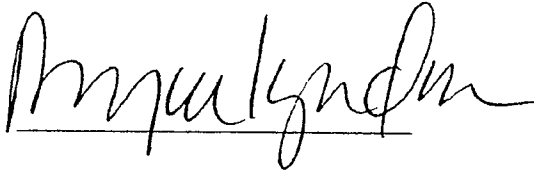


T. Scott Beck, Commissioner

CONCUR:



Susan S. Barden, Commissioner



G. Bryan Lyndon, 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 depositing a copy hereof, postage paid, in the United State mail addressed to the attorney or attorneys for said parties.

This 21 day of July, 2011
By Valerie D. Deller

Administrative Assistant to the Commissioner

Kathryn Williams
T. South Lewis
Andrew D. Smith

ORDER
of the
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
File Nos.: **0402800 & 0920040**

John R. Bowen,

Employee/Claimant,

vs.

Vinyl Services, Inc.,

Employer, and

S.C. Home Builders SIF/Bridgefield Casualty Insurance Co.,

Carrier/Defendants.

Hearing:	Held in Anderson, South Carolina on June 24, 2010
Appearances:	Kathryn Williams, Esq. of Kathryn Williams, P.A. for claimant Andrew D. Smith, Esq. of Smith Poe, P.A. for defendant Home Builders J. South Lewis, Esq. of Wilson, Jones, Carter & Baxley, P.A. for defendant Bridgefield
Purpose:	To determine issues as set forth on the Forms 50 and 51
Decision & Order:	Avery B. Wilkerson, Commissioner
Filed:	<u>November 18, 2010</u>

SUBMITTED DOCUMENTS
(as numbered and submitted by the parties)

By claimant:

#1	Oconee Memorial Hospital	3/22/04	pages 1 - 9
#2	P. Sean McCallum	3/24/04 - 4/9/10	10 - 25
#3	S. Emmett Lucas, III	9/15/04 - 4/22/10	26 - 41c
#4	Greenville Memorial Hospital	1/24/05	42 - 44
#5	Dr. Robert Dameron	2/15/06 - 3/5/08	45 - 51
#6	Mountainview Imaging	4/30/07	52
#7	Blue Ridge Surgery Center	7/10/07 - 5/18/10	53 - 54i
#8	Seneca Diagnostic Imaging	2/2/10	55 - 56
#9	Oconee Medical Center	4/9/10	57
#10	STD Documents		58 - 62

By defendant Bridgefield:

#11	Dr. Sean McCallum	4/16/01 - 12/13/02	63 - 78
#12	Dr. Emmett Lucas	9/15/04 - 2/19/10	79 - 98
#13	Golden Corner Family Practice	3/26/07 - 3/31/10	99 - 127
#14	Oconee Memorial Hospital	2/10/10 - 2/15/10	128 - 143

By defendant Home Builders:

#1	Dr. Sean McCallum	6/25/04 - 10/22/07	63 - 65
#2	Order of the WCC	8/10/06	66 - 78
#3	Form 19	9/7/06	79
#4	Form 17	8/24/07	80
#5	Form 18	10/5/07	81
#6	Form 50	2/18/10	82 - 85
#7	Deposition of John Bowen	4/8/10	86 - 103

EXHIBITS

By claimant:

#1	Copy of claimant's 2008 W-2
#2	Copy of claimant's 2007 W-2

By defendant Bridgefield:

#1	Old South Carolina Workers' Compensation Claim Forms

DEPOSITIONS

- #1 Deposition of Dr. Emmett Lucas, dated May 12, 2010, consisting of 47 pages
- #2 Deposition of claimant, dated April 8, 2010, consisting of 68 pages

STIPULATIONS

Counsel for all parties stipulated at the hearing to the following issues:

1. The parties agreed to consolidate Workers' Compensation Commission file numbers 0402800 and 0920040 for the purposes of this hearing.
2. The purpose of the hearing is to determine the issues set forth in the hearing notice, issues pled in the Forms 50 and 51, and other issues timely brought before the Commissioner.
3. Notice of the hearing was timely and properly served upon all parties of interest.
4. Venue, set in Anderson County, is proper.
5. Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon injuries by accident he alleges he sustained as a result of change of condition and repetitive trauma while he was working for employer-defendant, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction of the case.
6. The Commission's files and the Hearing Commissioner's notes are a part of the record of this case, with the exception of any self-serving declarations or unstipulated medical reports.
7. Claimant's average weekly wage for his injury by accident on March 22, 2004 is \$529.54, for a corresponding compensation rate of \$353.04.

CLAIMANT'S BIOGRAPHICAL INFORMATION

Age: 45
Education: High School Diploma
Work History: Claimant has worked for employer-defendant as a working foreman for approximately 20 years

STATEMENT OF THE CASE

For the purposes of this hearing and the issues stated below, the parties agreed to consolidate the claims numbered 0402800, which concerns claimant's March 22, 2004 injury by accident, and 0920040, which concerns claimant's alleged November 11, 2009 injury by repetitive trauma.

By Order dated August 9, 2006, claimant sustained injury by accident arising out of and in the course of his employment with employer-defendant on March 22, 2004 causing compensable injury to his neck, back, and right lower extremity. He was awarded permanent partial disability compensation for the injuries to his neck/back and his right lower extremity.

Claimant now contends that he has sustained a change of condition for the worse as to his low back and right lower extremity injuries sustained in the March 22, 2004 injury by accident. He also contends that he has sustained an additional injury as a result of repetitive trauma causing injury to his back on or about November 2009. He seeks temporary total disability benefits from November 11, 2009 to the present and continuing and medical treatment as recommended by Dr. Emmett Lucas.

Defendant Home Builders, the insurance carrier for the 2004 claim, admits claimant filed a Form 50 on June 13, 2007 alleging a change of condition for the worse. While it initially alleged a statute of limitations defense, defendant Home Builders withdrew that defense at the hearing. Defendant Home Builders contends it is only responsible for the change of condition of claimant's right ankle and contends his current back condition is the result of a new injury due to repetitive trauma as

alleged in his 2009 claim.

Defendant Bridgefield, the insurance carrier for the 2009 claim, denies claimant has sustained compensable injury by repetitive trauma. It rather contends that claimant's back problems are solely a result of the 2004 injury by accident. Defendant Bridgefield further contends the 2009 claim is barred by the holding found in Havird v. Columbia YMCA, 308 S.C. 397, 418 S.E.2d 329 (Ct.App.1992) and by claimant's alleged failure to give timely notice of any injury. Defendant Bridgefield denies claimant is entitled to temporary total disability benefits from November 11, 2009 to the present and continuing.

In response to defendant Bridgefield's contentions under Havird, claimant counters that he was specifically returned by his physicians to full duty work following his 2004 injury by accident. Furthermore, claimant asserts that the notice statute requires knowledge of compensability and that he did not have such knowledge until on or about April 21, 2010 when Dr. Lucas opined that his condition was aggravated by the work that he was doing for employer-defendant.

For the 2009 claim, claimant contends the Form 20 submitted by defendant Bridgefield was incorrectly completed and that since his payroll records were not provided, his average weekly wage should be based on his 2008 W-2s. Those numbers provide an average weekly wage of \$811.18 and a corresponding compensation rate of \$540.81. The record was held open for the submission of a corrected Form 20, to include a week-by-week accounting of earnings for the quarter ending December 2008 and the first three quarters of 2009.

EVIDENCE OF THE CASE

Claimant has worked for employer-defendant for approximately 20 years and while he was a job foreman, he was a working foreman and helped to load and unload trucks, build scaffolding, and

install siding. This required frequent bending, stooping, lifting, walking, climbing, and working overhead, and he estimated that he would have to bend and stoop some 50 to 100 times a day.

Claimant fell from a walk board on March 22, 2004 sustaining multiple injuries. The Commission determined by Order dated August 9, 2006 that he sustained compensable injuries to his neck, back, and right lower extremity. The injury to his neck required spinal fusion surgery, and he received extensive treatment for his right foot and ankle. Claimant testified that he was having continued low back problems at the time of the hearing but that he had returned to full-duty work before the hearing when allowed to do so by his doctors and continued working full duty after the hearing, as no doctor had advised him not to do so. Claimant testified that the pain in his ankle worsened after the hearing in 2006 and that he underwent additional surgery on his right ankle, for which he was out of work for two months. Claimant testified that he returned to work after those two months and continued to work full duty, as no doctor had advised him not to do so.

Claimant testified that all of the tasks he performed at work were the same, in that they all required repetitive lifting, bending, and stooping. He stated that the jobs slowly shifted to using more Hardie board than vinyl siding, and he explained that Hardie board is heavier than vinyl siding, with the biggest trim pieces weighing about 100 pounds. Claimant testified that he was required to lift and carry the Hardie board, climb up and down ladders with the boards to get them into place for installation, and then after installation, perform the process all over again with other pieces. He worked about eight hours a day and did these tasks all day long.

Claimant stated that he had increasing back problems as he performed this work but that he continued as best he was able since his physicians had told him to return to full-duty work. He testified that he never anticipated that continuing his work would cause him to become disabled and need

additional medical treatment.

Claimant testified that he continued performing his job until about November 11, 2009, when he could no longer continue because of the level of his pain. He stated that he had a conversation with his boss before he went out of work on that date, in which he told his boss that he was having trouble and needed medical help. Defendant Home Builders allowed him to return to Dr. Lucas on January 20, 2010 and did not began denying further treatment until February 2010. Claimant testified that Dr. Lucas recommended more treatment for his low back and has discussed additional surgery. He stated that he wants the treatment recommended by Dr. Lucas so that he can get better and get back to work but that it is impossible for him to work in his current condition.

Claimant admitted that he likes to hunt deer. Previously, he hunted from a tree stand, but he can no longer climb to a tree stand and has to hunt from a ground blind. He also now has a fixed tripod so that he does not have to carry it back and forth out of the woods. Claimant stated that he has not injured himself while hunting.

Claimant further admitted that he fell off a walk board while working a couple of years ago, but stated that he was able to get back on the walk board within 30 minutes and has had no lasting problems from that fall.

Claimant testified that he drew unemployment benefits until December 20, 2009, when the benefits were discontinued.

Dr. Emmett Lucas first evaluated claimant for neck and thoracic pain on September 15, 2004 following the initial work injury and at the request of the workers' compensation carrier. He treated the neck and low back and eventually performed spinal fusion surgery at the C5-7 levels. Claimant returned to him on January 1, 2010, and Dr. Lucas noted the earlier fusion surgery in 2005, that

claimant has continued to experience chronic pain, that the low back pain had progressively worsened over the previous two years, that the back pain extends down both of his legs to his knees, and that claimant had been out of work since November 11, 2009 because of the pain. Dr. Lucas obtained cervical and lumbar MRI scans, and on February 3, 2010, he recommended lumbar epidural steroid injections and continued time out of work. In April 2010, by way of several questionnaires, Dr. Lucas opined – to a reasonable degree of medical certainty – that claimant’s work activities, including but not limited to the lifting and carrying of walk boards he is required to do in his job for employer-defendant, was sufficiently repetitive to cause injury, that claimant’s low back condition was directly caused or aggravated by his work, and that the medical treatment he was recommending was necessary as a result of that aggravation.

Dr. Lucas testified in his deposition that he released claimant from his neck surgery in April 2005, but that he saw him once more for complaints of ongoing pain in his neck from very vigorous work. He reviewed claimant’s MRI from Oconee Memorial Hospital dated March 22, 2004 and stated that claimant had a bulging disc in his lumbar spine. Dr. Lucas stated that claimant came to see him again in January 20, 2010 with complaints of low back and neck pain. He stated that claimant’s low back pain was worse and that claimant was also having leg pain. Dr. Lucas further stated that he did not think claimant was relating his current injury to his 2004 fall and opined that claimant had experienced chronic low back pain, worse over time, which was exacerbated by the work he did. Dr. Lucas stated that he did not think claimant’s problems had to do with his fall in March 2004. He also stated that he read claimant’s deposition about his work activities and opined that claimant’s condition has worsened to the point that he can no longer work. Dr. Lucas stated that the statements he signed on April 21, 2010 were still his opinion, though he would describe claimant’s condition as aggravated

rather than caused by his work activities.

The medical records further show that Dr. Sean McCallum evaluated claimant for significant pain in both ankles, right worse than left, on April 23, 2007. He subsequently read the results of claimant's ankle MRI to show increased fluid along the peroneal tendon sheath and discussed arthroscopic surgery. This surgery was performed on July 10, 2007. On March 19, 2010, Dr. McCallum noted progressive pain in both of claimant's knees and further noted significant low back pain.

Short term disability forms dated January 21, 2010 and February 2, 2010, which were signed by Dr. Lucas, indicate claimant sustained an injury due to employment.

FINDINGS OF FACT

1. By Order of the Commission dated August 6, 2009, an employee/employer relationship existed between the parties at the time of claimant's injuries on March 22, 2004. This finding is based on the parties' stipulation.

2. An employee/employer relationship existed between the parties at the time of claimant's injuries on November 11, 2009. This finding is based on the parties' stipulation.

3. By Order of the Commission dated August 9, 2006, claimant's average weekly wage for the 2004 injury is \$529.54, for a corresponding compensation rate of \$353.04.

4. Claimant's average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52. This finding is based on the information on the corrected Form 20.

5. By Order of the Commission dated August 9, 2006, claimant sustained injury by accident arising out of and in the course of his employment with employer-defendant on March 22,

2004 causing injury to his neck, back, and right lower extremity for which he was awarded permanent partial disability.

6. Claimant filed a claim alleging a change of condition for the worse on June 13, 2007. This finding is based on all the evidence on the record, including but not limited to the information in the Commission's file.

7. The claim Form 50 alleging a change of condition for the worse was timely filed, and defendant Home Builders withdrew its claimed statute of limitations defense at the hearing. This finding is based on defendant Home Builders' admission and all the evidence on the record, including but not limited to the information in the Commission's file.

8. Since the Order of the Commission dated August 9, 2006, claimant has experienced increased pain in his right ankle that has caused increased limitations on his ability to function and work. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. McCallum.

9. Dr. Sean McCallum performed right ankle surgery on July 10, 2007, after which claimant was unable to work and received temporary total disability compensation benefits from defendant Home Builders for a period of time. This finding is based on all the evidence on the record, including but not limited to claimant's testimony, information in the Commission's file, and the medical records of Dr. McCallum.

10. Claimant has continued to experience problems with his right ankle after being released by Dr. McCallum which have further affected his ability to perform his job and everyday activities. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. McCallum.

11. Claimant has experienced a compensable change of condition for the worse with regard to his right lower extremity since the Order of the Commission dated August 9, 2006. This finding is based defendant S.C. Homebuilders' admission and all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. McCallum.

12. Defendant Home Builders filed a Form 21 stop-payment application in February 2008 but subsequently withdrew the Form 21, and to date, no hearing has been held to determine whether claimant has sustained any additional permanent disability to his right lower extremity as a result of the change of condition. This finding is based on the information in the Commission's file.

13. The change of condition claim remains open, and all additional issues regarding that change of condition, including but not limited to any determination of additional permanent disability, are held in abeyance pending a future hearing before this Commission or an agreement of the parties. This finding is based on all the evidence on the record, including but not limited to the information in the Commission's file.

14. Defendant Home Builders is responsible for any additional permanent disability for claimant's right lower extremity as a result of his compensable change of condition. This finding is based on all the evidence on the record.

15. Claimant was ultimately released to full duty work by his doctors following his 2004 accident and was never advised by his doctors not to continue doing full duty work. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

16. In 2004, claimant's work with employer-defendant began to slowly shift to using more Hardie board than vinyl siding, which is significant in that the Hardie board is heavier than the vinyl

siding and and can weigh up to 100 pounds. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

17. Claimant worked eight hours per day and throughout his shift was required to lift and carry the Hardie board, climb up and down ladders with the boards to get them into place for installation, and then after installation, perform the process all over again. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

18. All of the tasks which claimant was required to perform in his job for employer-defendant required repetitive lifting, bending, and stooping. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

19. Claimant did various duties while working and did not do the same job every day, and hard work is not itself compensable. However, the evidence shows that this employee has been worn out by his 20 years of work with this employer. While claimant may have changed tasks, he did not escape the stressors of the repetitive trauma to his back. Moving from one job that requires repetitive bending and lifting to another job that also requires repetitive bending and lifting does not provide a break in the stressors of the repetitive trauma.

20. On April 21, 2010, Dr. Lucas signed a questionnaire statement indicating his opinion, stated to a reasonable degree of medical certainty, that claimant's work activities, including but not limited to the lifting and carrying of walk boards, were sufficiently repetitive to cause injury. This finding is based on the records and opinions of Dr. Lucas.

21. Claimant described with specificity the job activities he performed for employer-defendant, and based on claimant's testimony and the testimony and opinions of Dr. Lucas, such job activities clearly rose to the level of repetitive trauma as defined in the Act. This finding is based on

all the evidence on the record, including but not limited to claimant's testimony and the medical records and deposition of Dr. Lucas.

22. Claimant knew in 2008 that he was still having back problems, but those problems increased in 2009 to the point that he began to have difficulty performing his job, which he reported to his employer and for which he requested medical help. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

23. Claimant returned to Dr. Lucas on January 1, 2010, and Dr. Lucas noted the earlier fusion surgery in 2005, that claimant has continued to experience chronic pain, that the low back pain had progressively worsened over the previous two years, and that claimant had been out of work since November 11, 2009 because of the pain. This finding is based on the medical records of Dr. Lucas.

24. Dr. Lucas recommended cervical and lumbar MRI scans and later recommended epidural steroid injections and restricted claimant from working. This finding is based on the medical records of Dr. Lucas.

25. Dr. Lucas opined to a reasonable degree of medical certainty that claimant's current low back condition was aggravated by his repetitive work activities and that the medical treatment he is recommending is necessary as a result of that aggravation. This finding is based on the medical records and opinions of Dr. Lucas.

26. In his deposition, Dr. Lucas stated he had read claimant's deposition testimony concerning his work activities, and he opined that those activities contributed to the worsening of his low back pain over time, that "his job is the thing that's causing him pain more than anything else," and that the opinions stated in his April 2010 statements remain his opinions. This finding is based on the deposition of Dr. Lucas.

27. Claimant has submitted the requisite evidence of medical causation stated to a reasonable degree of medical certainty as required by S.C. Code Ann. § 42-1-172, specifically the April 2010 statements signed by Dr. Lucas and the deposition testimony of Dr. Lucas. This finding is based on all the evidence on the record, including but not limited to the medical records and deposition testimony of Dr. Lucas.

28. Claimant contends he injured his low back as a result of work-related repetitive trauma and that claim is supported by the greater weight of the evidence on the record. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

29. The greater weight of the evidence on the record shows that the work claimant performed for employer-defendant, specifically the lifting and bending required to install vinyl and Hardie board siding, was repetitive and sufficient to cause repetitive trauma within the meaning of S.C. Code Ann. § 42-1-172. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

30. The greater weight of the evidence on the record shows that the repetitive trauma claimant sustained to his back as a result of the lifting and bending he performed in his work with employer-defendant caused injury by repetitive trauma in that the repetitive trauma aggravated his preexisting lumbar spine condition leading to his inability to work and the need for additional medical treatment. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records and opinions of Dr. Lucas.

31. Claimant has sustained repetitive trauma injury to his low back in that he has sustained injury to this body part which was gradual in onset and was caused by the cumulative effects of

repetitive traumatic events, specifically the repetitive heavy lifting and bending he was required to do in his job for employer-defendant. This finding is based on all the evidence on the record, including but not limited to all of the deposition and hearing testimony which has been submitted into the record.

32. A preponderance of the evidence on the record in this claim, and specifically claimant's testimony and the opinions of Dr. Lucas, clearly establishes a direct causal connection or relationship between claimant's low back injuries and the repetitive activities he was engaged in as a part of the regular duties of his employment with employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records, deposition, and opinions of Dr. Lucas.

33. Claimant sustained repetitive trauma injury arising out of and in the course of his employment with employer-defendant causing injury to his low back as such is defined in S.C. Code Ann. § 42-1-172. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records, deposition, and opinions of Dr. Lucas.

34. Claimant's low back injury by repetitive trauma extends to, interferes with, and adversely affects his bilateral lower extremities to create greater disability. This finding is based on all the evidence on the record, including but not limited to the medical records.

35. On or around November 11, 2009, claimant had a conversation with his boss in which he told him that he was having trouble performing his job because of his condition. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

36. At the time of his conversation with his employer on or around November 11, 2009, claimant still thought that his back problems were coming from his 2004 injury by accident and did not know what a repetitive trauma injury was or that such an injury could be compensable under workers'

compensation. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

37. While claimant may have experienced low back pain prior to November 2009 and knew that his work was causing his low back problems, he clearly did not know that continuing to work would cause additional injury and would cause him to become disabled and need additional medical treatment, as his physicians had returned him to full duty work following his 2004 injury by accident and did not advise him not to continue performing such physical work activities. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

38. Since Dr. Lucas returned claimant to full-duty work when he released him from his care following the 2004 injury by accident and no doctor advised claimant that continued work with employer-defendant would cause further injury or disability, claimant's additional injury by repetitive trauma was unexpected to him. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

39. A preponderance of the evidence establishes that claimant did not know or discover that his low back injuries were compensable under the Act until on or about April 21, 2010 when Dr. Lucas indicated that his low back condition was aggravated as a result of repetitive trauma sustained in his work for employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

40. Under S.C. Code Ann. § 42-15-20, as amended in 2007, the Commission must determine when a claimant knew or should have known that his injury was compensable, and the earliest date on which the claimant in this case could have done so is April 21, 2010, when Dr. Lucas

opined that his condition was aggravated as a result of his repetitive work activities. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

41. A Form 50 alleging the repetitive trauma injury was filed on February 19, 2010; therefore, claimant timely reported his injuries to his employer as required by S.C. Code Ann. § 42-15-20. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the information in the Commission's file.

42. Claimant has not yet reached maximum medical improvement from his repetitive trauma injuries. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

43. The medical evaluation and treatment provided to claimant to date for his repetitive trauma injury, including but not limited to the medical evaluation and treatment provided by Dr. Lucas, has been reasonable and necessary to effect a cure or give relief and has been designed to lessen the period of his disability. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

44. Claimant is in need of additional medical evaluation and treatment for his repetitive trauma injury to effect a cure or give relief and to lessen the period of his disability. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

45. Claimant testified that he went out of work because of his low back pain on or around November 11, 2009. This finding is based on claimant's testimony.

46. The treating physician opined that claimant became medically unable to work because of his back condition on November 11, 2009. This finding is based on the medical records of Dr. Lucas.

47. Claimant drew unemployment benefits from November 11, 2009 to December 20, 2009. This finding is based on claimant's testimony and the information in the Commission's file.

48. Claimant became temporarily totally disabled and unable to work because of his repetitive trauma injury on December 20, 2009, and at the time of hearing, he remained temporarily totally disabled and unable to work because of that injury. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

49. Claimant is entitled to temporary total disability compensation benefits from December 20, 2009 to the present and continuing. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

50. Any determination of permanent disability with regard to claimant's repetitive trauma injury is premature. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas.

RULINGS OF LAW

1. Under S.C. Code Ann. §§ 42-1-130 to -150, the South Carolina Workers' Compensation Commission has jurisdiction over claimant's claim for benefits.

2. Under S.C. Code Ann. § 42-1-40 and S.C. Code Reg. 67-1603, claimant's average weekly wage for the 2004 injury is \$529.54, for a corresponding compensation rate of \$353.04, and his average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52.

3. Under S.C. Code Ann. § 42-17-90, claimant has sustained a change of condition for the worse concerning his 2004 injury by accident, in that his right lower extremity condition has worsened requiring additional medical treatment and surgery and a period of temporary total disability.

4. The 2004 change of condition claim remains open, and all issues additional regarding that change of condition, including but not limited to any determination of additional permanent disability, are held in abeyance pending a future hearing before this Commission or an agreement of the parties.

5. Under S.C. Code Ann. § 42-1-172, claimant has sustained injury by repetitive trauma to his low back, in that he has sustained injury to this body part which was gradual in onset and was caused by the cumulative effects of repetitive traumatic events and a preponderance of the evidence on the record in this claim clearly establishes a direct causal connection or relationship between claimant's injuries and the repetitive activities he was engaged in as a part of the regular duties of his employment with employer-defendant.

6. S.C. Code Ann. § 42-1-172 requires that the injury have a "direct causal relationship" to the repetitive activities in the employment; it does not exclude aggravations any more than § 42-1-160, as neither statute mentions aggravations.

7. Claimant's low back injury by repetitive trauma extends to, interferes with, and adversely affects his bilateral lower extremities to create greater disability. Morgan v. JPS Automotives, 321 S.C. 2012, 467 S.E.2d 457 (Ct.App.1996); Brown v. Owen Steel Co., 316 S.C. 278, 450 S.E.2d 57 (Ct.App.1994).

8. Under S.C. Code Ann. § 42-15-20(C), claimant timely reported his repetitive trauma injuries to employer-defendant, as he filed a claim on February 19, 2010 and within 90 days of the date that he knew or discovered those injuries were compensable under the Act.

9. Defendant Bridgefield's contention that the appellate courts' decisions in Havird v. Columbia YMCA, 308 S.C. 397, 418 S.E.2d 329 (Ct.App.1992) and Capers v. Flautt, 305 S.C. 254,

407 S.E.2d 660 (Ct.App.1991) bar compensability of this repetitive trauma claim is without merit and is rejected, as the evidence shows that claimant's injuries were unexpected to him.

10. Claimant has not yet reached maximum medical improvement. See Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(maximum medical improvement is plateau at which no further medical care or treatment will lessen the degree of impairment).

11. Under S.C. Code Ann. § 42-15-60, claimant is entitled to and defendant Bridgefield is responsible for all causally related medical evaluation and treatment expenses related to claimant's injuries by repetitive trauma incurred to date and also for additional medical care and treatment as directed by Dr. Lucas.

12. Under S.C. Code Ann. §§ 42-1-120 and 42-9-10, claimant is entitled to and defendant Bridgefield is responsible for temporary total disability benefits from December 20, 2009 to the present and continuing. All payments shall be made to claimant through his attorney's office.

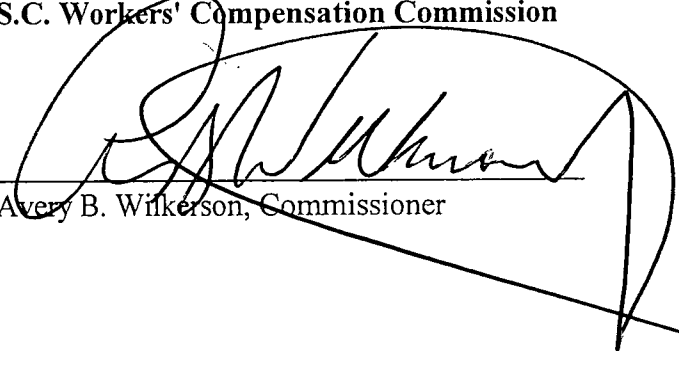
ORDER

It is therefore ordered that:

1. Defendant Bridgefield is responsible for all causally related medical evaluation and treatment expenses incurred to date as a result of claimant's injury by repetitive trauma and also for additional related medical care and treatment as directed by Dr. Lucas.

3. Defendant Bridgefield is responsible for temporary total disability benefits at the rate of \$430.52 from December 20, 2009 to the present and continuing. All payments shall be made to claimant through his attorney's office.

S.C. Workers' Compensation Commission


Avery B. Wilkerson, Commissioner

Date: 11-17-2010

KW
ADS
JOL

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date
served this order in the above mentioned 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 18 day of November, 2010
By Eraine M. Boyd
Administrative Assistant to the Commissioner

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

John R. Bowen,

Claimant,

vs.

Vinyl Services,

Employer,

and

SC Home Builders/Bridgefield
Casualty,

Carrier/Defendants.

WC FILE NO. 0402800/0920040

TRANSMITTAL ORDER

A Motion regarding the following issue(s) has been received:

☒ Motion to Consolidate

☐ Appointment of a Guardian ad Litem

☐ Attorney's appearance before the Commission

☐ Withdrawal of Representation

☐ Attorney's Fee

☐ Claim Pending Commission Review

☐ Postpone

☐ Adjourn the Scheduled Hearing

☐ Self-insurance Privileges

☐ Penalties and Interest

☐ Third Party Practice

☐ Other:

The following disposition has been made:

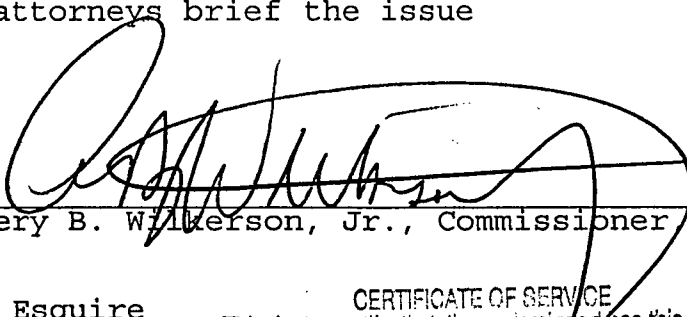
☒ Grant

☐ Deny

☐ Set for a hearing

☐ Have attorneys brief the issue

REASONS:


Avery B. Wilkerson, Jr., Commissioner SCWCC

CC: Kathryn Williams, Esquire
J. South Lewis, Esquire
Andrew D. Smith, Esquire

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 17 day of May, 2010

By E. Anne Anderson
Administrative Assistant to the Commissioner

Rec'd 8/10/06

ORDER
of the
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
File No.: **0402800**

John R. Bowen,

Employee/Claimant,

vs.

Vinyl Services, Inc.,

Employer, and

S.C. Home Builders Self Insurance Fund,

Carrier/Defendants.

Hearing: Held in Greenville, South Carolina on March 7, 2006

Appearances: Kathryn Williams, Esq. of Kathryn Williams, P.A. for claimant
Mark A. Allison, Esq. of McAngus, Goudelock & Courie, LLC
for defendants

Purpose: To determine issues as set forth on the Forms 50 and 51

Decision & Order: George N. Funderburk, Commissioner

Filed: Aug. 9, 2006

APA SUBMISSIONS

#1	Oconee Memorial Hospital	3/22/04	pages 1-9
#2	P. Sean McCallum, M.D.	3/24/04-5/28/04	10-15
#3	Clemson Sports Medicine and Rehab.	3/31/04-7/23/04	16-30
#4	American Radiological Services	8/17/04	31
#5	Calhoun Chiropractic	8/17/04-8/28/04	32-39
#6	Anderson Radiology	10/9/04	40
#7	Greenville Radiology, P.A.	2/2/05	41-43
#8	S. Emmett Lucas, III, M.D.	9/15/04-11/9/05	44-54
#9	Greenville Hospital System	1/24/05	55-57
#10	Robert A. Dameron, M.D.	2/15/06	58-62
#11	P. Sean McCallum, M.D.	5/28/04-6/25/04	63-64
#12	S. Emmett Lucas, III, M.D.	4/13/05	65

STIPULATIONS

Counsel for all parties stipulated at the hearing to the following issues:

1. The purpose of the hearing is to determine the issues set forth in the hearing notice, issues pled in the Forms 50 and 51, and other issues timely brought before the Commissioner.
2. Notice of the hearing was timely and properly served upon all parties of interest.
3. Venue, set in Greenville County, is proper.
4. Claimant seeks additional benefits under the South Carolina Workers' Compensation Act based upon an admitted injury by accident which occurred on March 22, 2004 while he was working for employer-defendant, and therefore, the South Carolina Workers' Compensation Commission has jurisdiction of the case.
5. The Commission's file is a part of the record of this case, with the exception of any self-serving declarations or unstipulated medical reports.
6. Claimant's average weekly wage is \$529.54, and the corresponding compensation rate is \$353.04.

CLAIMANT'S BIOGRAPHICAL INFORMATION

Age: 41
Education: High School diploma
Work History: Claimant has worked for employer-defendant as a working foreman for approximately 18 years

STATEMENT OF THE CASE

Claimant seeks additional benefits for injury by accident he sustained on March 22, 2004 while working for employer-defendant. He specifically contends that he sustained injuries to his neck, back, left upper extremity, and right lower extremity as a result of the accident, and he seeks a determination of permanent disability, contending that he has sustained greater than 50% loss of use of his spine, and continuing medical treatment as is discussed in Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999).

Defendants admit claimant sustained injury by accident as alleged and admit that he sustained compensable injury to his neck, back, and right ankle, but deny that he has sustained compensable injury to any other body part or system. Defendants join in the request for a determination of permanent disability, but deny that claimant has sustained any permanent disability to his low back. They do not dispute that claimant is entitled to continuing medical treatment under Dodge for his neck and right ankle injuries, but deny that he is entitled to such continuing treatment for his low back.

EVIDENCE OF THE CASE

Claimant testified that he has worked for employer-defendant for approximately 18 years and at the time of his injury was functioning as a working supervisor, running a crew of employees. He

stated that his job involved loading and unloading trucks, climbing ladders to work on roofs, and moving and carrying scaffolding. Claimant admitted that he has had some prior knee problems, but he stated that he was not having any difficulty with the knee at the time of this accident.

On March 22, 2004, claimant was working some 18 feet up on a scaffold when he fell to the ground. He was taken for medical treatment and underwent extensive treatment on his right foot and ankle, his neck, and his low back. Claimant stated that he was out of work some three months while undergoing treatment on his right foot and was out for an additional six months while undergoing treatment on his neck. He returned to full-duty work in May 2005, and he continues to perform many of the same duties but avoids carrying heavier items, such as the larger ladders.

Claimant testified that he continues to experience pain and difficulty in his neck, low back, and right ankle. He stated that because of his neck injury, he has difficulty looking up, that he has numbness in his arms, especially when driving or trying to sleep, and has no feeling in his left index finger and thumb. As a result, he has difficulty doing things that he used to be able to do easily, such as driving nails above his head. He also has difficulty sleeping because of his pain and the numbness in his arms, and he cannot work in tight spaces. His continued pain causes him to have severe headaches three or four days per week, and he sometimes has difficulty drinking from a cup.

As for his low back and right ankle, claimant stated that he has low back pain consistently but that it is worse on some days than others. He stated that he has bad days with his low back about three times per week, and he cannot function much when that happens. The pain is very sharp and burning and extends down his left leg. He has to avoid any heavy lifting, and he cannot bend or stoop to work on things on the ground. Claimant testified that his right ankle locks up about three times per week, and he has to avoid walking on inclines or roofs and climbing ladders. He has more difficulty with the

ankle on cold mornings.

Despite these continuing problems, claimant stated that he wants to work and has continued working as best he is able since May 2005, but he has good days and bad days. He described himself as an outdoorsman and stated that he owns a farm, but claimant testified that he now has difficulty performing the farm work and is now only able to keep the grass mowed. Claimant estimated that he has lost about 30% use of his neck, due especially to his inability to work overhead, and some 50% of his low back, since he really cannot function at all when his low back is bothering him. Claimant estimated that he has lost some 30% use of his right leg, due especially to the continued difficulty he has with walking and his inability to do much when the leg is bothering him. He stated that he continues to take several medications for his problems, including glucosamine, anti-inflammatories, and Tylenol.

The medical records reveal that claimant was taken to Oconee Memorial Hospital on March 22, 2004 after falling about 20 feet while working. After examination, the attending physician diagnosed sprains of both ankles and lumbar strain, and he recommended medications and follow-up with an orthopaedic surgeon. A lumbar CT scan performed on that date was read by the radiologist to show disc space bulging at several levels, with a herniation L4-5 causing significant effacement of the thecal sac and another possible herniation at L3-4. In addition, x-ray examinations of each level of claimant's spine were read to show degenerative changes at C5-6, a wedge deformity at T12, degenerative disc narrowing at L5-S1, and retrolisthesis at L4-5.

Dr. Sean McCallum evaluated claimant on March 24, 2004 and noted his fall at work. He further noted that claimant described continued right foot and ankle pain, to the point that he was unable to bear weight on the foot, and continued pain in the right chest wall. After examination, Dr.

McCallum diagnosed contusion of the chest wall and sprains of the right ankle and midfoot, and he recommended continued medications, physical therapy, and restriction from working. In follow-up on April 16, 2004, Dr. McCallum noted that claimant's right foot was somewhat improved with therapy, but that claimant reported increasing low back and left hip pain. After additional examination, he diagnosed low back strain and trochanteric bursitis of the left hip, and he recommended additional medications, physical therapy directed at these areas, and continued restriction from any work. On May 28, 2004, Dr. McCallum noted that claimant had been able to return to work and had experienced intermittent swelling and pain in his right ankle, but was slowly improving. He measured a 30% loss of range of motion of the right ankle and assigned a 5% permanent impairment for this injury. He further stated that claimant may need arthroscopic debridement of the ankle if he continues to have mechanical symptoms and difficulty walking on uneven ground.

Claimant reported to Dr. Ryan Calhoun, a chiropractor, on August 17, 2004 complaining of pain throughout his spine. Dr. Calhoun obtained an x-ray examination of the spine, and the report shows that the radiologist found mild arthrosis with IVF encroachment on the right at C3-4 and bilaterally at C4-5, facet arthrosis at the cervicothoracic and lumbosacral junction, severe degenerative disc disease at L5-S1, and mild spondylosis from C3 to C6, throughout the mid- to lower thoracic spine, and from L3 to L5. Dr. Calhoun provided treatment through August 28, 2004.

Orthopaedic spine specialist Dr. Emmett Lucas evaluated claimant on September 15, 2004 at the request of carrier-defendant. He noted claimant's description of his injury at work, his initial low back and ankle pain, and his increasing neck and mid-back pain since that time, with numbness and tingling in the fingers of his left hand. He further noted that claimant stated that he had returned to work, that the work activity was causing increased pain, and that the level of his pain was interfering

with his sleep and limiting his ability to walk. Dr. Lucas obtained an MRI scan of the cervical spine, which was read to show moderate to large caliber disc extrusion/herniation at C5-6 with significant left foraminal stenosis and probable left C6 nerve root compression and also mild degenerative disc disease and spondylosis from C3 to C7.

Dr. Lucas recommended cervical anterior/posterior fusion surgery, with plating, and this was accomplished in late January 2005. Postsurgery, Dr. Lucas noted that claimant was continuing to experience some numbness in the fingers of his left hand, and he noted on March 2, 2005 that claimant has a very strenuous job and was unable to return to work at that time. He placed claimant at maximum medical improvement on April 24, 2005 and opined that he has sustained 15% permanent impairment as a result of his injury.

Claimant returned to Dr. Lucas on November 9, 2005 complaining of increased pain and stiffness in his neck as a result of his vigorous work duties, including having to look up and use a nail gun over his head. After examination, Dr. Lucas opined that the cervical spine graft was well incorporated, except for a small area at the superior aspect anteriorly, and he recommended either physical therapy or steroid and anti-inflammatory medications.

Dr. Robert Dameron, another orthopaedic surgeon, evaluated claimant on February 15, 2006 and noted the description of injury and the treatment to that date. He further noted that claimant described continued low back pain, with some symptoms radiating into both lower extremities, aching pain in the right foot and ankle, a pinching sensation in the neck, numbness in the left thumb and index finger, and headaches radiating into his neck and upper back. Claimant stated that the level of his pain was interfering with his sleep and that he has increased numbness in arms when driving, increased neck pain when looking up, increased back pain with prolonged sitting, and increased right foot and ankle

pain when climbing ladders and walking uphill. He described an inability to do heavy work because of increased low back pain and an inability to work for more than about two hours without increased pain. After thorough examination, Dr. Dameron rated claimant's permanent impairment at 11% of the lumbar spine, 80% of the cervical spine, 5% of the left upper extremity, and 9% of the right lower extremity.

FINDINGS OF FACT

1. An employee/employer relationship existed between the parties at the time of claimant's injury. This finding is based on the parties' stipulation.

2. Claimant's average weekly wage is \$529.54, and the corresponding compensation rate is \$353.04. This finding is based on the parties' stipulation.

3. On March 22, 2004, claimant was performing his regular work duties and was working on a scaffold some 18 feet above the ground when the board he was standing on broke and caused him to fall to the ground. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

4. Claimant sustained injury by accident arising out of and in the course of his employment with employer-defendant on March 22, 2004 causing injury to his neck, back, and right lower extremity. This finding is based on defendants' admission and all the evidence on the record, including but not limited to claimant's testimony and the medical records of Oconee Memorial Hospital, Dr. McCallum, Dr. Calhoun, Dr. Lucas, and Dr. Dameron.

5. As a result of his injury by accident, claimant was diagnosed with bilateral ankle sprains, lumbar strain, contusion of the chest wall, sprains of the right ankle and midfoot, low back

strain and trochanteric bursitis of the left hip, degenerative disc disease at L5-S1, mild spondylosis of the lumbar spine, moderate to large disc herniation at C5-6 with significant left foraminal stenosis and probable left C6 nerve root compression, and mild degenerative disc disease and spondylosis from C3 to C7. This finding is based on all the evidence on the record, including the medical records of Oconee Memorial Hospital, Dr. McCallum, Dr. Calhoun, Dr. Lucas, and Dr. Dameron.

6. Claimant has been provided medical treatment for his injuries, including physical therapy, medications, and cervical spine fusion surgery. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Oconee Memorial Hospital, Dr. McCallum, Dr. Calhoun, Dr. Lucas, and Dr. Dameron.

7. Claimant reached maximum medical improvement from his injuries by April 24, 2005. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Lucas and Dr. Dameron.

8. Despite the medical treatment that has been provided, claimant continues to experience low back pain, with some symptoms radiating into both lower extremities, aching pain in the right foot and ankle, a pinching sensation in the neck, numbness in his arms, numbness and loss of sensation in his left thumb and index finger, and headaches radiating into the neck and upper back. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Oconee Memorial Hospital, Dr. McCallum, Dr. Calhoun, Dr. Lucas, and Dr. Dameron.

9. As a result of his injuries and his continued pain and symptoms, claimant has difficulty looking up, driving, sleeping, sitting for long periods of time, lifting heavier weights, bending, stooping, working in tight spaces, climbing ladders, and walking on inclines. This finding is based on all the

evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas and Dr. Dameron.

10. As a result of his right lower extremity injury, claimant has significant loss of range of motion of his neck and right ankle. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. McCallum and Dr. Dameron.

11. Claimant returned to work on or about May 2005, and he continues to work as best he is able but experiences increased neck, low back, right lower extremity pain and symptoms as a result of his required vigorous work duties, including having to look up, use a nail gun over his head, carry heavy weights, and walk in roofs and other inclines. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas and Dr. Dameron.

12. Claimant returned to his surgeon, Dr. Lucas, concerning his increased pain and other symptoms as a result of his work activities, and Dr. Lucas recommended additional conservative treatment, including medications. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

13. Claimant is in need of continuing medical treatment, including medications, for his neck, back, and right lower extremity injuries in order to maintain his current level of functioning, prevent further deterioration of his condition, and allow him to continue working. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas.

14. Claimant has received medical impairment ratings, including 5% of the right lower extremity from Dr. McCallum; 15% of the whole person for the cervical spine injury from Dr. Lucas;

and 11% of the lumbar spine, 80% of the cervical spine, 5% of the left upper extremity, and 9% of the right lower extremity from Dr. Dameron. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. McCallum, Dr. Lucas, and Dr. Dameron.

15. Claimant has sustained 10% loss of use of his right lower extremity as a result of his injury by accident. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. McCallum and Dr. Dameron.

16. Claimant has sustained 35% loss of use of his back as a result of his injury by accident. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Lucas and Dr. Dameron.

RULINGS OF LAW

1. Under S.C. Code Ann. §§ 42-1-130 to -150, the South Carolina Workers' Compensation Commission has jurisdiction over claimant's claim for benefits.

2. Under S.C. Code Ann. § 42-1-40 and S.C. Code Reg. 67-1603, claimant's average weekly wage is \$529.54, and the corresponding compensation rate is \$353.04.

3. Under S.C. Code Ann. § 42-1-160, claimant sustained compensable injury by accident as a result of his work activities with employer-defendant causing injury to his neck, back, and right lower extremity.

4. Claimant reached maximum medical improvement from his injuries by April 24, 2005. See Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(maximum medical improvement is plateau at which no further medical care or treatment will lessen the degree of impairment).

5. Claimant is entitled to continuing medical treatment, including medications, for his neck, back, and right lower extremity injuries in order to maintain his current level of functioning, prevent further deterioration of his condition, and allow him to continue working. See Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(injured worker is entitled to additional medical treatment to maintain current level of functioning and prevent a worsening of condition despite a finding of maximum medical improvement).

6. Under S.C. Code Ann. § 42-15-60, claimant is entitled to and defendants are responsible for all causally related medical treatment and expenses from March 22, 2004 through April 24, 2005, and such continuing medical treatment for his neck, back, and right lower extremity injuries, including medications, as is needed to maintain his current level of functioning, prevent further deterioration of his condition, and allow him to continue working. Defendants are not responsible for any evaluation or treatment provided to date by Dr. Dameron.

6. Under S.C. Code Ann. § 42-9-30(15), claimant is entitled to permanent partial disability compensation for 10% loss of use of the right lower extremity.

7. Under S.C. Code Ann. § 42-9-30(19), claimant is entitled to permanent partial disability compensation for 35% loss of use of the back.

ORDER

It is ordered that defendants shall make the following payments:

1. All causally related medical treatment and expenses from March 22, 2004 through April 24, 2005, and such continuing medical treatment for his neck, back, and right lower extremity injuries, including medications, as is needed to maintain his current level of functioning, prevent further

deterioration of his condition, and allow him to continue working. Defendants are not responsible for any evaluation or treatment provided to date by Dr. Dameron.

2. Permanent partial disability compensation at the rate of \$353.04 per week for a period of 19.5 weeks for 10% loss of use of the right lower extremity.

3. Permanent partial disability compensation at the rate of \$353.04 per week for a period of 105 weeks for 35% loss of use of the back.

S.C. Workers' Compensation Commission



George N. Funderburk, Commissioner

Date: 8/4/06

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 9 day of Aug, 2006.

By Lynn A. Martin
Administrative Assistant to the Commissioner

12w
mmt

John R. Bowen

Vinyl Services, Inc.

Claimant's Name

SSN

Employer's Name

175 Old Plantation Drive

Walhalla, SC 29691

Address

City State Zip

Address

City State Zip

SCHB Self Insurers Fund

Home Phone #

Work Phone #

Insurance Carrier

Kathryn Williams

(864) 235-6254

Preparer's Name

Phone #

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 worker's compensation benefits is made based on the following grounds:

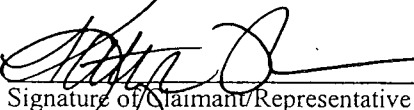
A claim for workers compensation benefits is made based on the following grounds:

Date of Injury or Illness: on or about 3/22/04

☒ Injury ☐ Illness ☒ Repetitive Trauma

- 1a. That Claimant sustained an accidental injury to back, right lower extremity, right foot, neck, left upper extremity, psychiatric on 3/22/04 in Oconee County, State of South Carolina.
- 1b. Describe briefly how the accident occurred Ladder slipped out from under walkboard causing claimant to fall approximately 16 feet.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of the injury.
3. The relationship of employer and employee existed at the time of the 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 3/22/04 in the following manner: Claimant reported to his supervisor.
- ☒ 6. Due to the injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for
☒ (b) additional medical examination and treatment for back, right lower extremity, right foot, neck, left upper extremity, psychiatric.
- ☒ 7. Due to the injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 11/11/09 to the present 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
☐ Partial ☐ Partial
- Body part(s) affected are: premature at this time.
- ☐ 9. Due to the injury, the claimant has a serious bodily disfigurement consisting of.
- 10a. At the time of injury the claimant was paid weekly wages of \$; 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.
- 11a. Further grounds of claim: See #12; Claimant requests lump sum & Utica Mohawk language.
- 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 ATTACHED.
- 11c. To the best of your knowledge, did you have any prior permanent disability? To be determined
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.
14. Estimated time needed for hearing:

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


Signature of Claimant/Representative

Attorney
Title

kwilliams@bellsouth.net
Email

2/19/10
Date

Columbia, South Carolina 29202-1715

(803) 737-5700

885646

Carrier Code #

Employer FEIN

John R. Bowen

Claimant's Name

SSN

Address

City State Zip

Home Phone #

Work Phone #

Kathryn Williams

Vinyl Services, Inc.

Employer's Name

175 Old Plantation Drive

Walhalla, SC 29691

Address

City State Zip

SCHB Self Insurers Fund

Insurance Carrier

(864) 235-6254

Preparer's Name

Phone #

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 worker's compensation benefits is made based on the following grounds:

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

Date of Injury or Illness: on or about 11/11/09

[X] Injury [] Illness [X] Repetitive Trauma

1a. That Claimant sustained an accidental injury to back, right lower extremity, right foot, neck, left upper extremity, left lower extremity, psychiatric on 11/11/09 (last date worked) in Oconee County, State of South Carolina.

1b. Describe briefly how the accident occurred Repetitive motion at work

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

3. The relationship of employer and employee existed at the time of the 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 11/11/09 last date worked

in the following manner: Claimant reported to his supervisor.

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

[] (a) medical examination and treatment for

[X] (b) additional medical examination and treatment for back, right lower extremity, right foot, neck, left upper extremity, left lower extremity, psychiatric.

[X] 7. Due to the injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 11/11/09 to the present and continuing.

[X] 8. Due to the injury, the claimant has permanent disability of the following nature and extent: (check one)

[] (1) General Disability

[] Total

[] (2) Specific Disability

[] Total

[] Partial

[] Partial

Body part(s) affected are: premature at this time.

[] 9. Due to the injury, the claimant has a serious bodily disfigurement consisting of.

10a. At the time of injury the claimant was paid weekly wages of \$; 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.

11a. Further grounds of claim: See #12; Claimant requests lump sum & Utica Mohawk language.

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 ATTACHED.

11c. To the best of your knowledge, did you have any prior permanent disability? To be determined

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.

[X] 13b. I am requesting a hearing.

14. Estimated time needed for hearing:

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

Signature of Claimant/Representative

Attorney
Title

kwilliamslaw@bellsouth.net
Email

2/19/10
Date

SE Region

MAR 01 2010

Received

Refer to R.67-205, R.67-206, R.67-207, and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department.
WCC FORM #50. Rev. Date 9/90

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

South Carolina Workers' Compensation Commission

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

WCC File # 0920040

Carrier File # 885646

Carrier Code #

Employer FEIN

John R. Bowen

Claimant's Name

SSN

Vinyl Services, Inc.

Employer's Name

Address

City

State

Zip

175 Old Plantation Drive, Walhalla, SC 29691-5841

Address

City

State

Zip

Home Phone

Work Phone

Bridgefield Casualty Insurance Company

Insurance Carrier

J. South Lewis, II

(864) 527-3284

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 deny the claimant sustained a compensable (repetitive) injury by accident, in the course and scope of his employment with the employer.
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: § 42-15-20 (no notice within 90 days as required by statute)
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 \$ 552.51 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: § 42-15-20 (90 day notice); McDevitt and Street (Misrepresentation defense) 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 Kathryn Williams, Esquire,

Name

619 N. Main St., P.O. Box 10693, Greenville, SC 29603 and Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715,
Columbia, SC 29202

Address

on the 17th day of March, 2010 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

J. South Lewis, II

Willson Jones Carter & Baxley, P.A.

872 S. Pleasantburg Drive

Greenville, SC 29607

Julie E. Harris, Certifier

March 17, 2010

Date

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

South Carolina Workers' Compensation Commission

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

WCC File # 0920040

Carrier File # 885646

Carrier Code #

Employer FEIN

John R. Bowen

Claimant's Name

SSN

Address

City

State

Zip

Home Phone

Work Phone

J. South Lewis, II

Preparer's Name

Vinyl Services, Inc.

Employer's Name

175 Old Plantation Drive, Walhalla, SC 29691-5841

Address

City

State

Zip

Bridgefield Casualty Insurance Company

Insurance Carrier

(864) 527-3284

Phone #

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

Date of injury: 11/11/2009

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

SEE ATTACHED

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

I certify that X I have served this document pursuant to R.67-211 by delivering a copy to Kathryn Williams, Esquire
Name

619 N. Main St., P.O. Box 10693, Greenville, SC 29603; Andrew D. Smith, Esquire, 330 East Coffee Street, Greenville, SC 29601; and
Virginia Crocker, Judicial Director, SC WCC, P.O. Box 1715, Columbia, SC 29202-1715

Address

on the 1st day of December, 2010 by ☒ first class mail; ☐ personal service; ☐ certified mail.

Preparer's Signature

J. South Lewis, II

Willson Jones Carter & Baxley, P.A.

872 S. Pleasantburg Drive

Greenville, SC 29607

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

Attorney for Defendants

Title

December 1, 2010

Date

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

1. The Hearing Commissioner erred in signing a Decision and Order which did not accurately incorporate the Hearing Commissioner's Findings of Fact, contrary to the Hearing Commissioner's specific findings.
2. The Hearing Commissioner erred in finding that the claimant's job duties with the employer/defendant from 2004 going forward involved repetitive lifting, bending, and stooping (See Findings of Fact No. 16 and 19); the error being that such is not supported by a preponderance of the evidence.
3. The Hearing Commissioner erred in finding that based on the claimant's testimony and the testimony and opinions of Dr. Lucas, the claimant's job duties with the employer/defendant rose to the level of repetitive trauma as defined in the Act (See Findings of Fact No. 20 and 21); the error being that such is not supported by a preponderance of the evidence.
4. The Hearing Commissioner erred in finding that the claimant began having more difficulty in his job in 2009, reported back problems to the employer, and requested medical help for same (See Finding of Fact No. 22); the error being that such is not supported by a preponderance of the evidence.
5. The Hearing Commissioner erred in finding that Dr. Lucas opined that the claimant's work activities were the cause of his ongoing back problems (See Findings of Fact No. 25 and 26); the error being that such is not supported by a preponderance of the evidence.
6. The Hearing Commissioner erred in finding that the claimant satisfied medical causation to a reasonable degree of medical certainty as required under § 42-1-172 for a repetitive trauma injury (See Findings of Fact No. 27, 29 and 33); the error being that such is not supported by a preponderance of the evidence.
7. The Hearing Commissioner erred in finding that the claimant's low back condition is a result of a work-related repetitive trauma claim (See Findings of Fact No. 28, 30 and 31); the error being that such is not supported by a preponderance of the evidence.
8. The Hearing Commissioner erred in finding that the claimant established a "direct causal connection or relationship" between the claimant's back problems and "repetitive activities he was engaged in as part of the regular duties of his employment" (See Finding of Fact No. 32); the error being that such is not supported by a preponderance of the evidence.
9. The Hearing Commissioner erred in finding that the claimant's repetitive injury, to the extent he sustained one, accrued during Bridgefield Casualty's coverage period; the error being that such is not supported by a preponderance of the evidence.
10. The Hearing Commissioner erred in finding that the claimant's low back injury by repetitive trauma extends to and interferes with his lower extremities to create greater disability (See Finding of Fact No. 34); the error being that such is not supported by a preponderance of the evidence.
11. The Hearing Commissioner erred in finding that the claimant had a conversation with his boss in which he told him that he was having trouble performing his job because of his condition (See Finding of Fact No. 35); the error being that such is not supported by a preponderance of the evidence on the record.
12. The Hearing Commissioner erred in finding that at the time the claimant had a conversation with his employer in November 2009, he did not know what a repetitive trauma injury was, seemingly excusing his failure to give notice (See Finding of Fact No. 36); the error being that such is not supported by a preponderance of the evidence, nor is it supported by the status of the law regarding notice.
13. The Hearing Commissioner erred in finding that the claimant's repetitive trauma injury was unexpected to him (See Finding of Fact No. 38); the error being that such a Finding is not supported by the claimant's own testimony in the record.
14. The Hearing Commissioner erred in finding that the claimant did not know or discover that his low back problems were aggravated by his repetitive trauma on the job with the employer/defendant (See Finding of Fact No. 39); the error being that such is not supported by a preponderance of the evidence in the record.

15. The Hearing Commissioner erred in finding the claimant gave timely notice pursuant to § 42-15-20 for a repetitive trauma injury (See Findings of Fact No. 40 and 41); the error being that such is not supported by a preponderance of the evidence in the record.
16. The Hearing Commissioner erred in finding that the claimant had not reached maximum medical improvement for any repetitive trauma injuries and that he was entitled to additional medical care and treatment to be provided by Dr. Lucas (See Findings of Fact No. 43 and 44); the error being that such is not supported by a preponderance of the evidence in the record.
17. The Hearing Commissioner erred in finding that the claimant went out of work because of his low back problems (See Finding of Fact No. 45); the error being that such is not supported by a preponderance of the evidence in the record.
18. The Hearing Commissioner erred in finding that the claimant was entitled to temporary total disability benefits from December 20, 2009 and continuing (See Findings of Fact No. 46 and 49); the error being that such is not supported by a preponderance of the evidence in the record.
19. The Hearing Commissioner erred in his Rulings of Law that the claimant sustained a compensable repetitive trauma injury, for which he gave timely notice (See Conclusions of Law No. 5 and 8); the error being that such is not supported by a preponderance of the evidence.
20. The Hearing Commissioner erred in Ruling of Law No. 9, in rejecting the *Havird* and *Capers* defenses; the error being that such a Ruling is contrary to the present state of law.
21. The Hearing Commissioner erred in finding that the claimant was not at maximum medical improvement and entitled to additional medical care; the error being that claimant did not sustain a compensable injury and, therefore, defendants are not responsible for treatment for same.
22. The Hearing Commissioner erred in ordering Bridgefield Casualty to provide medical treatment for claimant; the error being that Bridgefield's coverage began April 30, 2009 and no compensable injury occurred during that period.
23. The Hearing Commissioner erred in not finding claimant's back problems are related to his longstanding, pre-existing back condition; the error being that the evidence dictates that such is the case.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

P. O. Box 1715 - 1333 Main Street, Suite 500
Columbia, South Carolina 29202-1715

WCC File No. **0920040**

Carrier File #

Carrier Code #

Employer FEIN

John R. Bowen

Claimant's Name

SSN

Address City State Zip

(864) ()

Home Phone

Work Phone

Kathryn Williams, P.A.

Preparer's Name

Vinyl Services, Inc.

Employer's Name

Address City State Zip

Bridgefield Casualty Ins. Co.

Insurance Carrier

(864) 235-6254

Phone #

Request for Commission Review by **CLAIMANT. ORAL ARGUMENT IS REQUESTED.**

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

1. The Hearing Commissioner erred in finding and ruling claimant's average weekly wage for the 2009 injury is \$645.75, for a corresponding compensation rate of \$430.52; the error being that the evidence overwhelmingly demonstrates that claimant's average weekly wage and compensation rate for the 2009 injury is much higher.
2. The Hearing Commissioner erred in finding claimant drew unemployment benefits from November 11, 2009 to December 20, 2009; the error being that this is irrelevant to any issue before the Commission, as our appellate courts have determined that there is no authority in the Workers' Compensation Act for an offset for received unemployment benefits, and the evidence on the record shows that claimant became unable to work and temporarily totally disabled because of his compensable injury on November 11, 2009.
3. The Hearing Commissioner erred in finding claimant became temporarily totally disabled and unable to work because of his repetitive trauma injury on December 20, 2009; the error being that the evidence on the record shows that claimant became unable to work and temporarily totally disabled because of his compensable injury on November 11, 2009, our appellate courts have determined that there is no authority in the Workers' Compensation Act for an offset for received unemployment benefits, and therefore the Commissioner should have found and awarded claimant temporary total disability compensation benefits from November 11, 2009 and continuing.
4. The Hearing Commissioner erred in finding and ruling claimant is entitled to temporary total disability compensation benefits from December 20, 2009 to the present and continuing; the error being that the evidence on the record shows that claimant became unable to work and temporarily totally disabled because of his compensable injury on November 11, 2009, our appellate courts have determined that there is no authority in the Workers' Compensation Act for an offset for received unemployment benefits, and therefore the Commissioner should have found and awarded claimant temporary total disability compensation benefits from November 11, 2009 and continuing.

ORAL ARGUMENT IS REQUESTED.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to the Commission at P.O. Box 1715, Columbia, SC 29202-1715 and to the attorney for defendants, J. South Lewis, II of Willson, Jones, Carter & Baxley, LLC at 872 S. Pleasantburg Dr., Greenville, SC 29607, on the 6th day of December, 2010 by first class U.S. mail.

Preparer's Signature

Attorney for Claimant
Title

Date

If claimant appeals and is not represented by an attorney, the Judicial Department will prepare additional copies of this form and serve it on the opposing party. Rule 67-701(B). Otherwise, file the original and eight 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. Rule 67-205(D). Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to Rules 67-701 through -711 for additional information.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

WCC Number: 0920040

John Bowen, Employee, ... Respondent,

v.

Vinyl Services, Inc., Employer,

and

Bridgefield Casualty Insurance Company, Carrier Appellants.

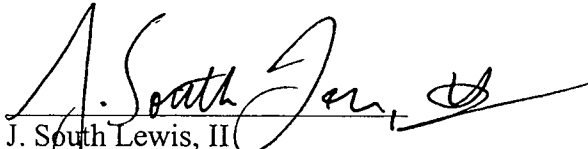
and

S.C. Home Builders SIF,
Carrier,

NOTICE OF APPEAL

Pursuant to S.C. Code Ann. § 42-17-60, Vinyl Services, Inc. and Bridgefield Casualty Insurance Company appeals the Order of the Appellate Panel of the S.C. Workers' Compensation Commission, filed June 29, 2011 and amended and re-served July 21, 2011. Appellant received written notice of the entry of the original Order on June 29, 2011 and of the amended Order on July 21, 2011.

July 28, 2011


J. South Lewis, II
SC Bar # 69646
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607

Other Counsel of Record:

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Kathryn Williams, P.A.
619 N. Main St., P.O. Box 10693
Greenville, SC 29603

Andrew D. Smith
Smith Poe, P.A.
330 East Coffee Street
Greenville, SC 29601

As S.C. Code Ann. § 42-17-60 provides that the “[n]otice of appeal must state the grounds of the appeal or the alleged errors of law,” the following is provided as an attachment to the Notice of Appeal:

1. The Commission erred in sustaining/affirming a Decision and Order which did not accurately incorporate the Hearing Commissioner’s Findings of Fact, contrary to the Hearing Commissioner’s specific findings.
2. The Commission erred in finding that the claimant’s job duties with the employer/defendant from 2004 going forward involved repetitive lifting, bending, and stooping (See Findings of Fact No. 16-19); the error being that the evidence in the record does not support the Commission’s findings about the nature of claimant’s job.
3. The Commission erred in finding that based on the claimant’s testimony and the testimony and opinions of Dr. Lucas, the claimant’s job duties with the employer/defendant rose to the level of repetitive trauma as defined in the Act (See Findings of Fact No. 20 and 21); the error being that the evidence as a whole does not support said findings.
4. The Commission erred in finding that the claimant began having more difficulty in his job in 2009, reported back problems to the employer, and requested medical help for same (See Finding of Fact No. 22); the error being that the testimony of claimant and other evidence does not support the finding. Specifically, claimant admitted his back continued to give him problems after his original injury in 2004.
5. The Commission erred in finding that Dr. Lucas opined that the claimant’s work activities were the medical cause of his ongoing back problems (See Findings of Fact No. 25 and 26); the error being that the evidence demonstrates that Dr. Lucas offered multiple etiologies for claimant’s back problems.
6. The Commission erred in finding that the claimant satisfied medical causation to a reasonable degree of medical certainty as required under § 42-1-172 for a repetitive trauma injury (See Findings of Fact No. 27, 29 and 33); the error being that such is not an accurate application of the law.
7. The Commission erred in finding that the claimant’s low back condition is a result of a work-related repetitive trauma claim (See Findings of Fact No. 28, 30 and 31); the error being that the evidence clearly shows that claimant’s back gave him problems ever since his 2004 injury.
8. The Commission erred in finding that the claimant established a “direct causal connection or relationship” between the claimant’s back problems and “repetitive activities he was engaged in as part of the regular duties of his employment” (See Finding of Fact No. 32);

the error being that the evidence does not support a causal link between an alleged repetitive activity and claimant's back problem(s).

9. The Commission erred in finding that the claimant's repetitive injury, to the extent he sustained one, accrued during Bridgefield Casualty's coverage period; the error being that the evidence indicates that no repetitive injury by accident occurred during Bridgefield's coverage.
10. The Commission erred in finding that the claimant's low back injury by repetitive trauma extends to and interferes with his lower extremities to create greater disability (See Finding of Fact No. 34); the error being that the medical evidence does not support an injury to the legs.
11. The Commission erred in finding that the claimant had a conversation with his boss in which he told him that he was having trouble performing his job because of his condition (See Finding of Fact No. 35); the error being that claimant's testimony indicates that he had other reasons for going out of work.
12. The Commission erred in finding that at the time the claimant had a conversation with his employer in November 2009, he did not know what a repetitive trauma injury was, seemingly excusing his failure to give notice (See Finding of Fact No. 36); the error being that such a finding is not supported by claimant's testimony, nor is it supported by the status of the law regarding notice in a repetitive trauma claim.
13. The Commission erred in finding that the claimant's repetitive trauma injury was unexpected to him (See Finding of Fact No. 38); the error being that such a Finding is not supported by the claimant's own testimony in the record.
14. The Commission erred in finding that the claimant did not know or discover that his low back problems were aggravated by his repetitive trauma on the job with the employer/defendant (See Finding of Fact No. 39); the error being that such is not supported by the evidence in the record, including claimant's own testimony.
15. The Commission erred in finding the claimant gave timely notice pursuant to § 42-15-20 for a repetitive trauma injury (See Findings of Fact No. 40 and 41); the error being that claimant's own testimony establishes that he knew, or could have discovered, that his condition was allegedly related to work and, thus, "compensable."
16. The Commission erred in finding that the claimant went out of work because of his low back problems (See Finding of Fact No. 45); the error being that claimant's own testimony does not even fully endorse this proposition.
17. The Commission erred in finding that the claimant was entitled to temporary total disability benefits from December 20, 2009 and continuing (See Findings of Fact No. 46 and 49); the error being that claimant did not sustain a compensable repetitive trauma against Bridgefield Casualty, and thus no benefits from Bridgefield Casualty should be due.

18. The Commission erred in his Rulings of Law that the claimant sustained a compensable repetitive trauma injury, for which he gave timely notice (See Conclusions of Law No. 5 and 8); the error being that claimant did not give timely notice pursuant to §42-15-20, nor did he meet the burden of proving a compensable repetitive trauma injury.
19. The Commission erred in Ruling of Law No. 9, in rejecting the *Havird* and *Capers* defenses; the error being that such a Ruling is contrary to the present state of the law and not supported by claimant's own testimony.
20. The Commission erred in finding that the claimant was not at maximum medical improvement and entitled to additional medical care (Findings of Fact No. 42-44; Conclusions of Law No. 10-11); the error being that claimant did not sustain a compensable injury and, therefore, appellants are not responsible for treatment for same.
21. The Commission erred in ordering Bridgefield Casualty to provide medical treatment for claimant; the error being that Bridgefield's coverage began April 30, 2009 and no compensable injury occurred during that period.
22. The Commission erred in not finding claimant's back problems are related to his longstanding, pre-existing back condition; the error being that the medical evidence and testimony clearly establish that claimant had low back problems dating back to his 2004 injury.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #0402800 and 0920040

JOHN R. BOWEN)

CLAIMANT,)

VS.)

VINYL SERVICES, INC.)
EMPLOYER,)

AND)

SC HOME BUILDERS SIF)
BRIDGEFIELD CASUALTY)
CARRIER.)

SC WORKERS' COMPENSATION COMMISSION

HEARING OF

JOHN R. BOWEN

VS

VINYL SERVICES, INCORPORATED

This is the Transcript of the South Carolina Workers' Compensation Hearing of John R. Bowen versus Vinyl Services, Incorporated, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 11:10 A.M., Thursday, June 24, 2010, at Anderson Court House, 100 South Main Street, Anderson, South Carolina.

COPY**REPORTED****BY****GLORIA DAVIS**

APPEARANCES

FOR THE CLAIMANT:
Kathryn Williams, Esquire
619 North Main Street
P.O. Box 10693
Greenville, SC 29603

FOR THE EMPLOYER/CARRIER:
J. South Lewis, Esquire
Willson Jones Carter & Baxley
872 South Pleasantburg Drive
Greenville, SC 29601

Andrew D. Smith, Esquire
Smith Poe, PA
33 Coffee Street
Greenville, SC 29601

ALSO PRESENT:

Mr. Larry Bolt
Ms. Darlene Frick

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

**This is an Official Transcript governed by 25A S.C. Code ANN. Regs 67-615 D (Supp. 2000). The unauthorized copying of this document is deemed to be conversion of an asset belonging to the Court Reporter.

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Stipulations

Commissioner Wilkerson: Today's date is June 24th, 2010. We're here on Workers' Comp File Numbers 0402800 as well as 0920040. The Claimant on this case or these cases is John Bowen. The Employer on these cases is Vinyl Services, Incorporated. The Carrier for the 2004 case is South Carolina Home Builders Self-Insured Fund and their Attorney is Andrew D. Smith. The Attorney for the 2009 case is J. South Lewis, II and their Carrier is Bridgefield Casualty Insurance Company. The date of accident on the '04 case is 3/22 of '04. The average weekly wage on that case was five twenty-nine, fifty-four (\$529.54) thus the comp rate is three fifty-three, oh-four (\$353.04) and as I've been told by the parties that that is a prior order setting that average weekly wage and comp rate. The '09 case, the date accident or alleged date of accident is 11/11 of '09. There is some dispute as far as the average weekly wage and comp rate in reference to that. The Attorney for Mr. Bowen on both of these cases is Kathryn Williams. I've asked that the Employer, through their Attorney, South Lewis, provide the quarter ending '08 with the three (3) quarters of '09, on

1 a Form 20, as well as those be broken down each
2 week to determine if there's any weeks that should
3 be taken out. As noted on their Form 20 initially
4 that there were only thirty-seven (37) weeks in
5 the initial report they sent; so, we would -- can
6 analyze that, have the Attorneys, South as well as
7 Kathryn analyze that as well, okay? So, we're not
8 going to state what the average weekly wage and
9 comp rate is for the '09 case if indeed it is
10 compensable; that will be determined at some point
11 in time. If I could, I didn't mention this, but
12 if we could get that within ten (10) days or
13 fifteen (15), one (1) of those -- one (1) of those
14 isn't a problem I don't think. That's not that
15 big a deal but just, if not we'll all get busy
16 with the forth (4th) coming on and it'll get set
17 somewhere and when I'm ready it might not be ready
18 for you all; so, please, do that as well. I think
19 I stated the case. Is there anything else that
20 needs to be added to that part of the case before
21 I ask any objection to APA's. Is there anything
22 else that needs to be added from you all's
23 perspective?

24 Ms. Williams: I don't believe so.

25 Mr. Lewis: No, sir.

1 Commissioner Wilkerson: Okay. Thank you. Are
2 there any objections to APA's, jurisdiction, venue
3 or any other items, Kathryn?

4 Ms. Williams: No, sir.

5 Mr. Lewis: No, sir.

6 Commissioner Wilkerson: I'm sort of doing this
7 backwards but --

8 Mr. Smith: No, sir.

9 Commissioner Wilkerson: -- I might as well do it
10 this way. Okay. Thank you. Without objection
11 the Commission's file becomes a part of the record
12 with the exception of self-serving declarations
13 and unstipulated medical reports. We're here on a
14 50 and 51; so, Kathryn, I'll ask you, if you
15 would, put your position on the record.

16 Ms. Williams: Your Honor, it's our contention that
17 the Claimant sustained -- it looks like he
18 sustained an injury by accident in 2004, to his
19 back, his neck, and his right lower extremity.
20 And it's our contention that he has sustained a
21 change of condition for the worse to his back and
22 his right lower extremity. With regard to the --
23 we also contend that Claimant has sustained an
24 injury by accident on -- on November 11th, 2009,
25 by repetitive trauma to his back, low back in

1 particular. And that he had -- that -- that he
2 -- the statute requires that you give notice
3 within ninety (90) days of the date that the
4 Claimant knows that it's a compensable accident
5 and that date would not be until April 21st of
6 2010, when Dr. Lucas indicated that his injury,
7 indeed, was related to repetitive trauma. We are
8 asking for temporary total from November 11th,
9 2009, to the present and continuing. And we're
10 asking for medical treatment as recommended by Dr.
11 Lucas. With regard to the '09 claim we are
12 contending that the comp rate should be based on
13 -- that the Form 20 is incorrectly -- is
14 incorrectly completed. We have not received
15 payroll records for that and so we would contend
16 an average weekly wage of eight hundred and eleven
17 dollars, eighteen cents (\$811.18) and comp rate of
18 five-forty, eighty-one (\$540.81) based on his 2008
19 W-2's.

20 Commissioner Wilkerson: Okay. Thank you. I'm
21 going to hear from the '04 case in reference to
22 that.

23 Mr. Smith: Okay.

24 Commissioner Wilkerson: All right. Thank you.

25 Mr. Smith?

1 Mr. Smith: Thank you, Your Honor. In regard to
2 the March 25th, 2004 case we would submit that
3 there was a Form 50 filed on June 13th, 2007. At
4 that time it was a right ankle injury only. Dr.
5 McCall had indicated it was a zero percent (0%)
6 impairment. And so, we would submit that there
7 was a change of condition formerly filed but
8 regarding the back there's absolutely no medical
9 evidence. In fact, Dr. Lucas testified with a
10 reasonable degree of medical certainty that the
11 Claimant's current back condition is not causally
12 related back to the March 22 of '04 injury; he
13 states that very clearly in his deposition. Also,
14 it would be the Claimant's position on his
15 deposition testimony that it's due to repetitive
16 trauma. So, therefore, we would rely on the
17 medical evidence and the Claimant's testimony.
18 Ms. Williams: And -- and just to be clear, as I
19 stated my position already, I'm not asking for a
20 determination of disability on any body parts
21 today.

22 Commissioner Wilkerson: Right. And -- and -- and
23 that from -- I want to make sure Andy, I
24 understood him correctly, that since the Form 50
25 was filed on June 13th of '07, Kathryn meets the

1 threshold of the statute as far as statute of
2 limitations.

3 Mr. Smith: I know what you're saying.

4 Commissioner Wilkerson: That being for disability,
5 she meets the statute of limitations --

6 Mr. Smith: Exactly, Your Honor.

7 Commissioner Wilkerson: -- right. So, you don't
8 need to waive that because it's already been met,
9 okay?

10 Mr. Smith: That's fine.

11 Commissioner Wilkerson: All right. South?

12 Mr. Lewis: Thank you, Commissioner. Kindly bear
13 with me just a minute. I'll try to be brief.

14 Commissioner Wilkerson: No, that's fine.

15 Mr. Lewis: Since we didn't go over it in the
16 pre-hearing.

17 Commissioner Wilkerson: We didn't.

18 Mr. Lewis: Your Honor, I represent Vinyl Services
19 and Larry Bolt, who is here, and I represent
20 Bridgefield Casualty, who is the most recent
21 carrier with coverage in this particular case.
22 And -- and as Kathryn has outlined, Mr. Bowen has
23 recently filed a claim for repetitive trauma for
24 his back as it relates against my client. And we
25 have a number of defenses and I'm going to go

1 through them. The first one (1) is that we don't
2 believe that Mr. Bowen sustained an injury by
3 accident. Granted it's a repetitive claim but he
4 still has to prove that it's an accident, which
5 means that it's an unexpected result. Mr. Bowen
6 has testified in his deposition, and I imagine
7 that it will come out here today, that he's
8 basically had problems ever since he returned back
9 to work for Vinyl Services. There's no question
10 that this is a physical job that he did and he --
11 he acknowledges that since 2008, he's had problems
12 doing this and that he knew it was from of his
13 job. So, therefore, we don't feel that under the
14 Havird case, which they handed up to you, Havird
15 held that an aggravation of a pre-existing
16 condition, which was simply a -- a natural result
17 of doing a job, didn't come on suddenly and,
18 therefore, wasn't an accident. And we think this
19 is a classic Havird Case because the Claimant
20 acknowledges that he was having problems with his
21 job over time, it simply progressed; that doesn't
22 necessarily amount to an injury by accident. The
23 second thing, Commissioner, is that we feel that
24 despite what Dr. Lucas initially said in his
25 deposition that there is evidence that the low

1 back is related to the '04 claim. In the order
2 that was drafted dated August 9th, 2007,
3 specifically on page 4, it says, "Further,
4 Claimant states that he has low back pain
5 consistently but that it's worse on some days than
6 others. He stated he has bad days with his low
7 back about three (3) time per week and he cannot
8 function much when that happens."

9 Commissioner Wilkerson: Was that in the APA's?

10 Mr. Lewis: I don't know if it was -- I don't know
11 if it was to be submitted to you here.

12 Mr. Smith: It's part of ours, Your Honor.

13 Commissioner Wilkerson: Okay. That's fine.

14 Mr. Lewis: It's --

15 Commissioner Wilkerson: I just thought I was
16 looking at the wrong one.

17 Mr. Lewis: -- It's page 4 of the order. But --
18 and then when I took Dr. Lucas' deposition while
19 he did do a checkoff questionnaire indicating that
20 his low back pain was related to his repetitive
21 functions, I showed Dr. Lucas this order and he
22 acknowledged that the Claimant did, in fact, have
23 low back problems relative to the '04 injury.
24 With -- moving on along those lines, Dr. Lucas
25 also testified that he -- and he used the word,

1 "absolutely", at page 44 of his deposition that
2 the Claimant's low back condition is
3 multifactorial. While he said that his job
4 certainly contributed to it and aggravated it, he
5 said it didn't cause it, it aggravated it. He
6 said other activities such as normal activities of
7 daily living because he's an avid -- Mr. Bowen is
8 an avid hunter, he's an avid fisher. He did all
9 these things after he left the job in November of
10 '09, that they all contributed. And he testified
11 that -- that this was a multifactorial situation;
12 so, his job would just be one (1) among several
13 factors under the Nylar Case. We have a notice
14 defense under 42-15-20. Kathryn is correct that
15 the -- the statute requires that the Claimant give
16 notice within ninety (90) days when he discovered
17 that his condition was compensable. But Mr. Bowen
18 testified in his deposition as far back as 2008,
19 he knew that his problems were from his job and
20 we'll go over that on cross-exam that he testified
21 to that. So, therefore, they did not give notice
22 until the filing of the Form 50 in February of
23 2010; so, our contention is that it's not within
24 ninety (90) days. Finally, Mr. -- Mr. Bowen, I
25 think is going to, from what I understand, testify

1 that he left the job in November of '09, because
2 he was having problems; actually, we don't think
3 that. There was a temporary layoff type situation
4 and when they called him to come back he said I'm
5 not able to do the job anymore and it wasn't until
6 the 50 came that they actually had notice of an
7 actual work claim; that's -- that's all under the
8 notice issues. And finally, Commissioner, we
9 don't believe that the Claimant can establish that
10 this is a repetitive job. Again, I'm not going to
11 tell you it's not a heavy job; it is a heavy job.
12 It's a physically demanding job but a physically
13 demanding job does not amount to a repetitive job.
14 Dr. Lucas, when I took his deposition, testified
15 he can't identify any specific or repetitive task
16 for this job. You know, it's not like he's a
17 widget maker and he's doing something two thousand
18 (2,000) times a day. He could identify no
19 particular task that -- that really qualified this
20 as a repetitive job and caused Mr. Bowen's
21 problems. And further, it's not a repetitive job
22 at all from Mr. Bowen's testimony -- I mean
23 subjective complaints to him. And I think that
24 along the lines in the Havird case, simply having
25 a repetitive job deteriorates your physical

1 condition over time is not -- does not amount to a
2 compensable injury and we don't think that it
3 meets the burden for repetitive -- under the
4 repetitive statute. So, I apologize for the
5 lengthiness but --

6 Commissioner Wilkerson: No, no. No, I understand.

7 Mr. Lewis: -- okay.

8 Commissioner Wilkerson: I am A-okay with that
9 because I knew it would take awhile just because
10 of the uniqueness of the case.

11 Ms. Williams: And this -- since this the first
12 time I've seen this list of -- of defenses, could
13 I respond to those --

14 Commissioner Wilkerson: Yes.

15 Ms. Williams: -- briefly?

16 Commissioner Wilkerson: Please.

17 Ms. Williams: With regard to the *Havird versus*
18 *YMCA case*; this is not a Havird Case. In Havird
19 the doctor specifically had advised the Claimant
20 not to return to work and that -- doing what he
21 was doing and that if he did that he would have
22 additional difficulty. Nobody ever advised Mr. --
23 Mr. Bowen not to return to work. In fact, they
24 returned him to full duty work and he did so.
25 With regard to -- to whether -- to the notice

1 issues and that he knew that his problems were
2 related to work and he testified to that and he
3 did. Knowing that his problems were related to
4 work and knowing that he has a compensable
5 repetitive trauma claim are two (2) different
6 things. With regard to the fact that Dr. Lucas
7 has testified that it was multifactorial, he did.
8 But he also testified at page 27 that the other
9 activities could have, I mean, anything is
10 possible, could have been a contributing factor.
11 But he also testified at page 42 that -- that
12 absolutely the work he was doing was the most
13 significant factor in -- in the problems that he's
14 having now. With regard to whether he's
15 identified repetitive tasks, Dr. Lucas was
16 specifically asked about that and at page 29 he
17 said that he doesn't know how many times a day he
18 did each activity but that he did read in his
19 deposition about the work that he did and based on
20 that thought that the work was repetitive enough
21 to cause the problems that he's having.

22 Commissioner Wilkerson: Do we have Dr. Moore's
23 deposition?

24 Ms. Williams: You mean Dr. Lucas?

25 Mr. Lewis: Dr. Ed Lucas?

1 Commissioner Wilkerson: I mean Dr. Lucas? I'm
2 sorry.

3 Mr. Smith: Yes, sir.

4 Mr. Lewis: Yes, I'll put it in.

5 Commissioner Wilkerson: No, that's fine. Dr.
6 Lucas. I just know it was a doctor. I don't know
7 if that was good news or bad news. That's fine..
8 I just -- thank you.

9 Mr. Lewis: Thank you.

10 Commissioner Wilkerson: Thank you all. Sir, if
11 you'd raise your right hand we're going to swear
12 you in and take your testimony.

13 Whereupon,

14 JOHN RANDOLPH BOWEN, being duly sworn and
15 cautioned to speak the truth, the whole truth, and
16 nothing but the truth, testified as follows:

17 Court Reporter: Please state your full name for
18 the record.

19 Witness: John Randolph Bowen.

20 Court Reporter: Thank you, sir.

21 DIRECT EXAMINATION

22 By Ms. Williams:

23 Q. John, how old are you?

24 A. I'm forty-two (42).

25 Q. And how far did you go in school?

1 A. The twelfth (12th) grade.

2 Q. You graduated from high school?

3 A. Yes, ma'am.

4 Q. And what types of work have you done since you left
5 high school?

6 A. Construction mostly is all --

7 Q. Okay.

8 A. -- all I've ever done.

9 Q. And how long have you worked for Vinyl Services?

10 A. Twenty (20) years.

11 Q. Okay. And what are your job duties there?

12 A. I actually run a crew. I have to -- I install vinyl
13 siding, Hardie board, windows. I have to help build
14 the scaffolds, load and unload the truck, load and
15 unload the material for the job and that's -- that's
16 about it.

17 Q. Okay. Physically, what does that require of you?

18 A. I don't understand the question.

19 Q. In terms of bending, stooping, lifting; what does it
20 require of you?

21 A. All -- bending, stooping; I bend down to pick materials
22 up. Carrying materials, sometimes I have to carry them
23 to the back of the house because I can't get a lift
24 around back. And it's -- it's bending, stooping,
25 lifting; all the above.

1 Q. How many times a day would you estimate that you're
2 bending and lifting materials?

3 A. It's hard to say, probably -- I'm guessing -- I've
4 never tried to figure this out.

5 Q. I know you probably you never counted.

6 A. I would say fifty (50) to a hundred (100) times at
7 least bending and stooping and -- at least.

8 Q. Okay. In a day?

9 A. Yes, ma'am.

10 Q. Okay. And when you're not bending and stooping and
11 lifting, what are you doing?

12 A. Walking, climbing, working over my head.

13 Q. All right. And are you carrying things when you're
14 walking?

15 A. Yes, ma'am, at times.

16 Q. All right. Now, I'm going to show you your W-2 from
17 2008.

18 Mr. Lewis: Are these same ones that were in your
19 APA's; did you send them over or did you just list
20 them?

21 Ms. Williams: I think I just listed them. I -- I
22 think we sent them to you but I don't think
23 they've been submitted in the APA's.

24 Q. Is -- is that a copy of the -- of your 2008 W-2?

25 A. Yes, ma'am, it is.

1 Ms. Williams: Claimant's One (1).

2 Commissioner Wilkerson: Claimant's One (1); okay.

3 If you would mark that, please.

4 (CLAIMANT'S EXHIBIT NUMBER ONE WAS MARKED FOR
5 IDENTIFICATION)

6 Q. And I'm also going to show --

7 Commissioner Wilkerson: Okay.

8 Q. -- you 2007. Is this a copy of your 2007 w-2?

9 A. Yes, ma'am.

10 Ms. Williams: Claimant's Two (2).

11 Commissioner Wilkerson: Claimant's Two (2), '07.

12 (CLAIMANT'S EXHIBIT NUMBER TWO WAS MARKED FOR
13 IDENTIFICATION)

14 Court Reporter: Okay.

15 Q. Now, you had a prior accident on March 22nd of 2004; is
16 that correct?

17 A. Yes, ma'am.

18 Q. And I think you fell from a wall board?

19 A. Yes, ma'am.

20 Q. And you've got a prior order on that and you injured
21 your right ankle and your back; is that correct --

22 A. Yes.

23 Q. -- and your neck?

24 A. Yes, ma'am.

25 Q. Were you having some low back pain at that time as

1 well?

2 A. Oh, yes. Yes, ma'am.

3 Q. Okay. And did you also have some -- some problems with
4 your neck?

5 A. Yes, ma'am.

6 Q. Was it primarily at that time in 2004, although you
7 were having low back pain, was it more neck or low
8 back?

9 A. It was probably about the same --

10 Q. Okay.

11 A. -- low back and neck. Even on the medical records that
12 I've got the date of accident at Oconee Memorial
13 Hospital they said I injured my back from a fall.

14 Q. Okay. But you wound up having a fusion on your neck --

15 A. Yes, ma'am.

16 Q. -- is that correct? And Dr. Lucas did that fusion?

17 A. Yes, ma'am.

18 Q. Okay. Now, after that did Dr. Lucas return you back to
19 work?

20 A. Yes, ma'am.

21 Q. And did you go back full duty?

22 A. Yes, I did.

23 Q. And I think we had a hearing in March of '06, where you
24 were awarded some disability to your neck and back, and
25 to your leg; is that --

1 A. Correct.

2 Q. -- correct? Now, you had -- and -- but you had already
3 returned to work before that hearing; is that right?

4 A. Correct.

5 Q. And you were working full duty?

6 A. Yes, ma'am.

7 Q. Were you still having problems though working full
8 duty?

9 A. Yes, ma'am.

10 Q. Okay. Now, you continued to perform -- to perform your
11 job after your hearing; is that correct?

12 A. That's correct.

13 Q. The same job?

14 A. Correct.

15 Q. Full duty?

16 A. Correct.

17 Q. Had any doctor ever advised you not to do that?

18 A. No, ma'am.

19 Q. And then your ankle got worse; is that correct?

20 A. Yes, ma'am.

21 Q. And you went back for some -- the carrier provide some
22 more -- another -- excuse me. A surgery for your ankle
23 --

24 A. Yes.

25 Q. -- after that time?

- 1 A. Yes, ma'am. That's correct.
- 2 Q. Okay. After that did you -- after you -- you were out
- 3 for surgery for the ankle -- first of all, how long
- 4 were you out for the ankle, about?
- 5 A. About two (2) months.
- 6 Q. Okay. And then did you go back to work?
- 7 A. Yes, ma'am.
- 8 Q. Full duty?
- 9 A. Yes, ma'am.
- 10 Q. Did your doctor ever advise you not to do that?
- 11 A. No, ma'am.
- 12 Q. Okay. Now, in 2004, did anything change about your
- 13 job?
- 14 A. No, ma'am, it didn't.
- 15 Q. Okay. Did you take over on more of the -- of the
- 16 Hardie board as opposed to the other stuff that you
- 17 were handling?
- 18 A. Yes, ma'am. We started doing more Hardie board
- 19 probably around that time --
- 20 Q. Okay.
- 21 A. -- other than vinyl that it came in.
- 22 Q. And what's the difference in the Hardie board and
- 23 vinyl?
- 24 A. It's heavier, I would say three (3) to four (4) times
- 25 heavier as far as the trim work. It's an inch stick.

1 Some of it's five (5), five and a half (5 1/2) inches
2 wide, some of it's eight (8), some of it's twelve (12).
3 Some of it's sixteen (16) inches wide; all of it is
4 sixteen (16') foot lengths.

5 Commissioner Wilkerson: Is Hardie -- is Hardie
6 board and Hardie plank the same thing?

7 A. Yes, sir, it is.

8 Commissioner Wilkerson: So, it's --

9 A. Yes, sir.

10 Commissioner Wilkerson: -- it's cement in nature?

11 A. Right.

12 Commissioner Wilkerson: Okay.

13 A. Correct. The -- the -- the siding is but now the --
14 the trim was more of a -- a Masonite type base what we
15 use. They do make a Hardie trim but we actually used
16 the Masonite type base.

17 Q. So, what sort of weight were you lifting now that you
18 started doing more of the Hardie board?

19 A. Well, we just kind of -- we split two (2) crews and was
20 kind of sort on help and all. It was usually me and
21 Chuck Land and one (1) other man installing. And we
22 was probably -- I'd say, the -- the biggest trim, the
23 widest trim, which is sixteen inch (16"), sixteen foot
24 (16') foot long, probably weighs a hundred (100)
25 pounds, maybe.

1 Q. Okay.

2 A. Like I said, I never weighed it; it could be more, it
3 could be less and that's what we did. And we did all
4 that with the sixteen inch (16"); we did all different
5 size trim.

6 Q. Okay. But are you bending and lifting that all day
7 long --

8 A. Yes, ma'am.

9 Q. -- or carrying that?

10 A. Yes, ma'am.

11 Q. Okay. Now, did you continue -- after 2004, when you
12 started with the Hardie board, did you have increased
13 problems with your back or what happened; did the
14 problems with your back get better, get worse, stay the
15 same?

16 A. It had -- it actually -- I had off and on trouble with
17 it. And like I stated, I had good days and bad days
18 after that fall. It had progressively got worse. The
19 -- the more I did the more it -- I could tell it was
20 getting worse and worse. And I didn't want to quit
21 work. I wish to God I could work now. But I pushed
22 myself to try to keep working until that day. I even
23 tried to contact Workman's Comp at times to go get help
24 for my back and get it looked at. The people who work
25 there and it's just -- you can't get through to them.

1 You know, how have I called you to try to get stuff
2 done. It's just aggravating. I couldn't get them to
3 help me do it when I needed them to.

4 Commissioner Wilkerson: Mr. Bowen, let me ask you
5 a question. How many -- how many hours a day did
6 you work?

7 A. Eight (8) hours.

8 Commissioner Wilkerson: Eight (8) hours a day?
9 Okay.

10 A. Yes, sir.

11 Commissioner Wilkerson: I know in the south we
12 have a tendency or I do to hear what I want to
13 hear and don't hear what I don't want to hear.

14 A. Right.

15 Commissioner Wilkerson: I think that's a -- I
16 think we just develop that in the south. The
17 question is, when you answered earlier that you
18 carry that Hardie plank, Hardie board, all day
19 long. You don't literally carry it eight (8)
20 hours a day do you?

21 A. No, sir.

22 Commissioner Wilkerson: I took that to mean that
23 you carried it, get it in place, get it put on the
24 house or whatever you're putting it on, then you
25 may get off the ladder or you may get down and

1 then you have to pick up another piece?

2 A. Correct.

3 Commissioner Wilkerson: Okay. I just wanted to
4 make sure --

5 A. Yes.

6 Commissioner Wilkerson: -- that I heard it
7 correctly.

8 A. Correct.

9 Commissioner Wilkerson: And my thoughts were
10 correct.

11 A. What -- yeah, what we do, we -- we install one (1) --
12 I've actually got a cut man. We'll get on a walk
13 board, me and a helper or me and somebody, and my cut
14 man will cut it. He'll hand it up to us, we install
15 it. Then we'll get another measurement and, you know,
16 give it to him. He'll cut it and we'll get up there
17 and install. A lot of times we've got to get down and
18 help him if it's a big piece of it.

19 Commissioner Wilkerson: Okay.

20 A. And help him physically lift it on the walk board to
21 get it up to where we can install it.

22 Commissioner Wilkerson: Okay. I understood it
23 that way. Okay, that's fine.

24 Q. And is that in essence of what you did all day long?

25 A. Ma'am, that's what?

1 Q. Is that basically what did you did all day long?

2 A. Yes, ma'am.

3 Q. Okay. But you did -- did there come a time in 2009,
4 when it -- when you started having difficulty with --
5 with -- at -- were you able to -- up until 2009, were
6 you able to do your job, your full job?

7 A. I did. I struggled. I -- I actually have another guy
8 that helped me do the -- some of the work on the roofs
9 and stuff.

10 Q. Okay.

11 A. He knew my condition and I couldn't do some of that
12 stuff on the roofs and he'd actually get up and help me
13 do the harder stuff on the roofs. And I was hoping I
14 could get better and I didn't think I'd be in the
15 condition I'm in.

16 Q. Did there come a time when -- when you couldn't do it
17 anymore?

18 A. Yes, ma'am.

19 Q. Okay. What happened then?

20 A. I just got -- it got so bad I just -- I just couldn't
21 do it anymore. It's -- and it's actually progressed
22 even more since then.

23 Q. Okay. When you couldn't do it anymore did you have a
24 conversation with your boss about that?

25 A. I did not have a -- I let him know that I was having

1 trouble and he knew I was, I mean, he saw me on my job.
2 I mean, me an him would talk about it some. And I'm
3 not the kind of person to -- and he knows that -- to
4 complain about a lot of things. And I wanted to keep
5 my job because I liked my job and I liked who I work
6 with. So, I did what I had to do until I couldn't do
7 it anymore. But we did speak, I did not tell him no
8 more than, you know, I was having trouble. I didn't
9 know how long I could do it. I'm going to have to do
10 something or another down the road.

11 Q. Okay. And then was this before you went out on
12 November 11th?

13 A. Yes, ma'am

14 Q. Okay. So, you -- this was sometime in '09, that you
15 were telling him this?

16 A. Yes, ma'am. I'm not sure what day it was. Me and him
17 went upstairs and had a talk about my performance. And
18 -- and he knew it was declining because he saw it.

19 Q. Okay.

20 A. And I tried to -- again, you know, I tried to -- I was
21 wanting to -- to stay if I could, do what I could and
22 keep working but it just got to the point where I
23 couldn't, I couldn't.

24 Q. And then on November 11th what was your conversation
25 with him? When did you -- when did you come to an

1 agreement with him?

2 A. I'm not sure if me and him talked that day or not. We
3 might have talked prior to that or it might have been
4 after that day.

5 Q. Okay.

6 A. I'm not sure but I -- I pretty much told him I --

7 Q. Right around that day did you have a conversation with
8 him?

9 A. -- yes, ma'am, I probably did. I'm -- I'm not exactly
10 sure if it was before that date or, you know, sometime
11 right after it.

12 Q. But it was sometime close to that date?

13 A. Yes, ma'am.

14 Q. Okay. And what was that conversation?

15 A. I -- I just told him that I didn't know what I was
16 going to do and what was going to happen that I had to
17 go get some help medically and that I -- I didn't know
18 where all I would be afterwards that if I could do my
19 job anymore or not; I didn't know.

20 Q. And what did he say?

21 A. I can't remember the exact words. I'm not sure. I'm
22 not sure what he said.

23 Q. Okay. All right. Now, at that point did you think
24 that your low back problems were coming from what had
25 happened to you in 2004?

1 A. At that time I did. I did.

2 Q. Did you know anything -- did you know that there was
3 such a thing as a repetitive trauma claim?

4 A. No, ma'am --

5 Q. Okay.

6 A. -- I did not.

7 Q. Okay. Did you know that a repetitive trauma claim
8 could be a compensable one under Workers' Comp?

9 A. No, ma'am, I did not.

10 Q. Okay. Did you know that -- was -- was the first time
11 you knew that when I told you about it?

12 A. Yes, ma'am.

13 Q. Okay. Now, you had been seeing Dr. Lucas and he's
14 recommended surgery for your low back; is that
15 correct?

16 A. Yes, ma'am. His exact words were -- well, the last
17 time I spoke with Dr. Lucas was because he wanted me to
18 try the nerve blocks first and see how that did and
19 then from there it would probably be surgery.

20 Q. Okay. Do you want the treatment that Lucas has
21 recommended?

22 A. Yes, ma'am.

23 Q. If he can get you better do you want to go back to
24 work?

25 A. Yes, ma'am.

1 Q. Okay. Are you able to work in the condition that you
2 -- that you're in now?

3 A. It's impossible.

4 Ms. Williams: That's all the questions I have.

5 Commissioner Wilkerson: Okay. And I'll get Andy
6 to go first.

7 Mr. Smith: I just have a few for you.

8 CROSS-EXAMINATION

9 By Mr. Smith:

10 Q. You've already established the fact that you had a
11 right lower extremity injury on March the 22nd of '04,
12 correct?

13 A. Correct.

14 Q. And we went to a hearing back in March of '06 in regard
15 to that; is that right?

16 A. Correct.

17 Q. But you'd actually already returned to work in May of
18 '05?

19 A. Yes.

20 Q. Okay. And about a year after the hearing you contacted
21 Home Builders and said, hey, I'm having problems with
22 my right ankle; I need to go back to see Dr. McCall; is
23 that right?

24 A. That's correct.

25 Q. And then you saw Dr. McCall who released you to return

1 to work on July 10th of '07; is that correct?

2 A. That's correct.

3 Q. And at the time that he released you you were able to
4 go back to work and do half-days and you able to
5 perform every aspect of your position, correct?

6 A. Correct. Yeah.

7 Q. And as I understand, and correct me if I'm wrong, all
8 day long you're carrying scaffolding?

9 A. That's correct.

10 Q. All right. You're carrying walk boards?

11 A. Correct.

12 Q. Okay. And that's just getting -- getting set up in the
13 workplace?

14 A. That's correct.

15 Q. And then what you do is you put the scaffolding
16 together, put the walk boards together, and then you
17 start cutting the hard board or the vinyl?

18 A. Correct.

19 Q. Then you disassemble it; then you reassemble it on the
20 other side?

21 A. Correct.

22 Q. And you just do this constantly all day long?

23 A. That's correct.

24 Q. All right. And you believe your current back condition
25 and your lower extremity condition was aggravated,

1 accelerated or exacerbated by this heavy -- this work
2 activity that you were doing?

3 A. At the time now; yes, I do..

4 Q. All right. Thank you.

5 Mr. Smith: That's all the questions I have for
6 you.

7 Mr. Lewis: Thank you, Commissioner.

8 CROSS-EXAMINATION

9 By Mr. Lewis:

10 Q. Mr. Bowen, my name is South Lewis. We haven't met
11 before but I'm -- I'm representing Mr. Bolt and Vinyl
12 Services and their present insurance carrier. You
13 understand when you had your injury in 2004, and all
14 that, that was -- you got medical treatment from a
15 different insurance carrier; do you understand that?

16 A. Correct.

17 Q. Okay.

18 A. Yes, I do.

19 Q. All right. Now, in -- as you testified here today, in
20 your injury in 2004, you certainly -- in addition to
21 injuring your back, you had a fairly significant injury
22 to your -- I mean, in addition to injuring your neck
23 you had a fairly significant injury to your low back,
24 didn't you?

25 A. Correct. Yes, sir.

1 Q. All right. And we've talked a little bit about the
2 order in this case. And you testified in a hearing in
3 2006, that your low back pain was bothering you pretty
4 constantly; isn't that right?

5 A. Correct.

6 Q. Okay. And this was after -- you had this hearing in'
7 '06, after you had already returned to work at vinyl
8 services; is that right?

9 A. That's correct.

10 Q. Okay. And Mr. Bolt, who is sitting here beside me,
11 he's always been good to you, hasn't he?

12 A. Oh, yeah.

13 Q. Okay. Treated you fairly when you came back to work?

14 A. Yes, sir.

15 Q. Okay. Cared about you?

16 A. Oh, yeah.

17 Q. Okay. When he thought you were in pain took time out
18 to make sure that you were taken care of?

19 A. Yes, sir.

20 Q. Okay. And really what's happened here is your back has
21 always been bad since this initial injury and its just
22 gotten worse and worse over time; is that right?

23 A. That's correct.

24 Q. Okay. And you also mentioned -- when you were giving a
25 deposition you mentioned you -- you also had a fall a

1 couple of years ago, didn't you, off of an eight foot
2 (8') walk board?

3 A. Yes, sir, I did.

4 Q. Okay. And that also caused some pain in your low
5 back?

6 A. Yeah. I was actually at a little torn place on a
7 corner and pulling on it and it pulled loose from the
8 house and I fell off of the walk board. I kind of
9 shook it off, got up, it did hurt a little bit; it was
10 like a shocking feeling. I got up and walked it off
11 and within thirty (30) minutes I was back on the walk
12 board working.

13 Q. Okay. And this -- and this happened during the time
14 after you were back at work doing your regular job,
15 correct?

16 A. Yes, sir, that's correct.

17 Q. Now, you -- you've known ever since you came back to
18 work, really, that this job, this work you were doing,
19 was causing your back to kind of get worse over time,
20 didn't you?

21 A. Well, obviously, I wasn't sure. I wasn't sure what was
22 going on with my back. And I thought about a job
23 change before in the past but that's all I knew was
24 construction; I didn't know anything else. I didn't
25 want to go into another line of work and I was going to

1 try to stay with it.

2 Q. well, do you know -- we can go back over your
3 deposition but when -- when you gave the deposition on
4 this case, I mean, you told us that you knew at least
5 back in 2008, that the problems you were having, the
6 pain you were having, was being caused by your work?

7 A. I did, definitely, yeah.

8 Q. All right. So, you've known for some years now that
9 that work was what's causing your problem that you're
10 having now; is that right?

11 A. Yes. I'd have to answer that yes.

12 Q. Okay. And while you testified that Mr. Bolt, you know,
13 knew that you had physical problems ever since you came
14 back to work from your first injury you never went to
15 him and said, hey, look, this particular job duty or
16 whatever is causing me increased pain; I'm going to
17 have to go out of work, did you?

18 A. No, I did not.

19 Q. Okay. And when you went -- you went back to see Dr.
20 Lucas in -- in 2010; is that right?

21 A. That's correct.

22 Q. Okay. And did you -- did you contact the insurance
23 company to have them send you back or how did that come
24 about?

25 A. well, what happened was, when I went out of work

1 November the 13th or 11th, whatever date it was; I
2 can't exactly remember because I couldn't do anymore.
3 I contacted the Workman's Comp myself, talked with a
4 lady there. She told me --

5 Q. well, I -- I --

6 Mr. Lewis: -- Commissioner, I'm going to object.
7 I don't think he can tell what --

8 Commissioner Wilkerson: You can't tell me what the
9 lady said --

10 Mr. Lewis: -- somebody told him.

11 Commissioner Wilkerson: -- but you can tell me
12 who you contacted.

13 A. -- yes, I did.

14 Commissioner Wilkerson: All right.

15 Mr. Smith: I don't think that's relevant.

16 Q. And maybe just to make this easier. Did you contact
17 the insurance company yourself or did somebody do it on
18 your behalf --

19 A. I --

20 Q. -- to contact the doctor?

21 A. -- I did it the first time.

22 Q. Okay. And that was the insurance company that was
23 responsible for your 2004 injury; is that right?

24 A. That is correct.

25 Q. Is that Home Builders?

1 A. Yes, ma'am. Yes, sir.

2 Q. All right. And who did you talk to there?

3 A. If I'm not mistaken, her first name was Rita. I'm not
4 exactly sure.

5 Ms. Williams: And, Your Honor, if he can identify
6 who at Home Builders he talked to --

7 Commissioner Wilkerson: He can then --

8 Ms. Williams: -- they are part of this case --

9 Commissioner Wilkerson: -- yes.

10 Ms. Williams: -- and so he can talk about --

11 Commissioner Wilkerson: He can then tell me --

12 Mr. Lewis: Well, I understand that but he was --
13 when he said Workers' Comp I thought he meant the
14 Commission.

15 Ms. William: -- well, then I -- then I -- but I
16 think he's now entitled to answer the question
17 about what --

18 Commissioner Wilkerson: I would agree. Now, you
19 can tell us what Rita told you.

20 Q. All right. You called -- your testimony is that you
21 called Home Builders and you talked to somebody named
22 Rita?

23 A. That's correct.

24 Q. Okay.

25 A. I believe it was.

1 Q. And was she handling your case?

2 A. She -- I'm not sure she -- she was -- I'm not sure who
3 was handling the case at that time because I had to
4 court order, you know, I'm not sure but that's who I
5 spoke with because that's who -- whoever I spoke with
6 on the phone put me to Rita.

7 Q. Okay. And you contacted them because there was an
8 order for -- for them to provide you with ongoing
9 medical care; is that right?

10 A. They was supposed to provide me with medical care, yes,
11 sir.

12 Q. And when you first went back to see Dr. Lucas they were
13 the ones that allowed you to do that; isn't that
14 right?

15 A. Right. That's correct.

16 Q. Okay.

17 Mr. Lewis: And, Commissioner, just for the record
18 I submitted in my APA's a number of faxes back and
19 forth between the Carrier and the doctor's office
20 approving visits.

21 Commissioner Wilkerson: All right.

22 Q. Okay. So, in your mind, at that time, the problem you
23 were having was something that was part of your 2004
24 injury, correct?

25 A. At the time, yes, I thought it was.

1 Q. And you -- you testified earlier today that you knew
2 ever since the day you returned to work that your
3 problems were getting worse over time, that it was from
4 your job; is that right?

5 A. Yes, sir.

6 Q. You didn't need Dr. Lucas to tell you that?

7 A. No, I didn't.

8 Court Reporter: Mr. Lewis, I need to turn my tape
9 over, please, sir.

10 Mr. Lewis: Okay.

11 Court Reporter: Thank you.

12 (Off the Record)

13 Court Reporter: Thank you.

14 Mr. Lewis: All right. Thank you.

15 Q. And, Mr. -- Mr. Bowen, you -- Dr. Booker; is that your
16 family doctor?

17 A. Yes, it is.

18 Q. And I submitted in the -- into our submissions a number
19 of records where you've gone to him over the years.

20 Mr. Lewis: And for brevity sake, Commissioner,
21 I'm not going to go over each and every one.

22 Commissioner Wilkerson: Good.

23 Q. But is it -- do you agree with me that you went to see
24 Dr. Booker a number of times since you returned to work
25 after your first accident and -- and today complaining

1 of pain in your back?

2 A. Yes, sir.

3 Q. Okay. I mean in the years 2007 and 2009?

4 A. Yes, sir.

5 Q. Okay. And didn't you always tell him that, hey, this
6 is the back pain, essentially, that I've had since my
7 injury in '04?

8 A. Yes, I did.

9 Q. Okay. Now, you testified a little bit about November
10 of 2009, and I'm going to clarify some of this?

11 A. Okay.

12 Q. You indicated that you had a conversation with Mr.
13 Bolt; is that right?

14 A. Yes.

15 Q. Okay. Now, isn't what really happened is -- and work
16 was slow at that time; is that right?

17 A. That's correct.

18 Q. In fact, you were already drawing some partial
19 unemployment weren't you?

20 A. That's correct.

21 Q. Because work had slowed down?

22 A. Correct.

23 Q. Okay. And -- and Mr. Bolt didn't fight you on that did
24 he --

25 A. No.

1 Q. -- I mean, he allowed you to do that?

2 A. Yes.

3 Q. Okay. And then essentially -- really what happened in
4 November, around November 11th or 13th of 2009, is that
5 there was a temporary type layoff; is that right?

6 A. I would say, yes.

7 Q. I mean, he had told you, hey, work is slow, we're not
8 going to have anything for a while, I'll call you when
9 it picks up?

10 A. Not those words but it was more or less a mutual
11 thing.

12 Q. Okay. All right. And then when you went out you
13 started drawing your full unemployment; is that right?

14 A. Right.

15 Q. Okay.

16 A. Right.

17 Q. So, you -- and you -- to -- to do that you had to fill
18 out some paperwork and send it to the Employment
19 Securing Commission, didn't you?

20 A. Correct.

21 Q. And -- and Mr. Bolt got a copy of that and he never
22 objected or contested that did he?

23 A. Oh, no.

24 Q. Okay. And, in fact, I think while you were out you --
25 you hunted pretty avidly didn't you?

1 A. Well, I hunted but not like I wanted to.

2 Q. Okay. Well, you -- I think you told us in your
3 deposition you hunted probably a couple of times a
4 week?

5 A. Uh-huh.

6 Q. Is that right?

7 A. That's correct.

8 Q. Okay. And you stocked your cooler with -- I mean, your
9 freezer full of deer that season?

10 A. Oh, yeah, that's correct.

11 Q. Okay. And, in fact, I think you would go over to Mr.
12 Bolt's shop and get ice from their cooler wouldn't
13 you?

14 A. That's correct.

15 Q. And he would send you or his fellows that worked up
16 there or his wife or something like that; is that
17 right?

18 A. That's correct.

19 Q. Okay. And as of that time when you went out and during
20 that time that you were all drawing unemployment and
21 engaged in these activities, up to that time you had
22 never gone to Mr. Bolt and told him that you were
23 reporting a new Workers' Comp claim, correct?

24 A. No, I did not.

25 Q. Okay. So, that -- that is a correct statement that I

1 made?

2 A. Right. I didn't know that I was even going to file one
3 at that time. I had no idea where I was going or what
4 direction.

5 Q. Okay. And he called you back -- is this -- this is
6 what happened wasn't it, he called you back in January
7 and said, come on back the work has picked up, right?

8 A. I don't remember that.

9 Q. You don't remember that?

10 A. No, sir, I don't.

11 Q. Do you deny that he called you back in January and
12 said, work has picked up, come on back and you said,
13 hey, I don't think I'm able to do it anymore?

14 A. No, I don't deny that, no. But I just don't remember
15 that conversation.

16 Q. Okay. Has -- in your experience has Mr. Bolt always
17 been honest in dealing with you and --

18 A. Yes, sir, he has.

19 Q. -- have you ever known him to be untruthful about
20 anything?

21 A. No, sir.

22 Q. And he's a good -- a good man to work for isn't he?

23 A. Oh, yeah, a good man to work for.

24 Q. And this is -- your back claim in '04, that was your
25 third workers' Comp claim with -- with Vinyl Services;

1 is that right?

2 A. Yes, sir.

3 Q. Maybe even your fourth (4th)?

4 A. I had a -- it was four (4) I believe.

5 Q. Okay. You had had three (3) before 2004; is that
6 right?

7 A. I had -- I had a knee injury in '01, a knee injury in
8 '02; so, it was two (2) and then the fall.

9 Q. Okay. So, the fall in '04 would be your third (3rd)?

10 A. That's correct.

11 Q. And Vinyl Services never disputed anything?

12 A. Oh, no. Not that I recall.

13 Q. In fact, they -- they assisted you when they could and
14 they brought you back work; isn't that right?

15 A. That's correct.

16 Commissioner Wilkerson: When you were deer hunting
17 did you climb up and down out of a tree stand or
18 was it a -- tell me -- tell me what kind of deer
19 hunting you do?

20 A. Actually, I -- I -- I have a tripod. Actually and --
21 where I normally hunt at I use a climbing stand. I
22 hadn't been able to use a climbing stand in two (2) to
23 three (3) years; it's collecting dust. And actually
24 last year I hunted blind on the ground more than I did
25 in my tree stand because -- and I had to ride my four

1 (4) wheeler in and out, and drive my truck because I
2 couldn't walk. But I've got a big -- big fold up chair
3 that I put a big thick pad in and that's about the only
4 way I can stand it. I could sit in my tripod, it's a
5 little uncomfortable if I could get in it without
6 falling off.

7 Commissioner Wilkerson: Did you carry the tripod
8 in and out when you --

9 A. No, sir. It's been up since probably 1997.

10 Commissioner Wilkerson: It's a stationary, one
11 location?

12 A. Yes, sir.

13 Commissioner Wilkerson: And you would climb up in
14 the tripod?

15 A. Yes, sir.

16 Commissioner Wilkerson: How far is the tripod when
17 it's --

18 A. It's twelve foot (12').

19 Commissioner Wilkerson: -- twelve foot (12').

20 Okay. It's a standard, okay. I'm fine with that.
21 I'm a deer hunter that's why I was asking.

22 A. Yeah. I like my hunting myself; I wish I could do
23 more.

24 Q. All right. Mr. Bowen, and I'm going -- I'm going to be
25 brief; we're going to be finished here in just a few

1 minutes. But after you went out of work you then
2 applied for, like, some various types of short term
3 disability, long term disability, with -- with the
4 insurance company; is that right?

5 A. Correct. Correct.

6 Q. And I think one of them was through Sun Life and that
7 was something that was offered through the company; is
8 that right?

9 A. That's correct.

10 Q. And you went up there and they -- and Vinyl Services
11 provided you with the paperwork, assisted you, didn't
12 they?

13 A. That's correct.

14 Q. Okay. And --

15 Commissioner Wilkerson: Was he approved?

16 A. Yes, sir. On that one I was.

17 Q. -- and on those -- on those paperworks we've submitted
18 into evidence you indicated in them that they were
19 related to your 2004 work injury; is that right? Your
20 back pain was dated back to '04?

21 Mr. Smith: That's the other case, Commissioner.

22 Commissioner Wilkerson: That was what you were
23 questioning him --

24 Mr. Smith: Yes.

25 Ms. Williams: Commissioner, may I --

1 Commissioner Wilkerson: Where are you?

2 Ms. Lewis: -- approach the Claimant?

3 Commissioner Wilkerson: Yes. Tell me where you
4 are in yours?

5 Ms. Lewis: I'm at 1 -- I'm at page 1-- I'm at page
6 151, Commissioner.

7 Commissioner Wilkerson: Okay.

8 Q. And, Mr. Bowen, what I mean --

9 Ms. Williams: -- Commissioner, I'm not seeing a
10 page number 151.

11 Mr. Lewis: Well, I really don't know whether
12 there's anything Andy and I duplicated. Do you
13 want me to show you --

14 Ms. Williams: You can show it to me.

15 Commissioner Wilkerson: Is at Tab 12?

16 Mr. Lewis: -- Yes. It's behind Tab 12.

17 Commissioner Wilkerson: Tab 12.

18 Ms. Williams: Well, mine is not tabbed either;
19 they generally don't give me the courtesy of that.

20 Commissioner Wilkerson: You have to dig.

21 Mr. Lewis: That's mine -- that's the one I
22 submitted.

23 Mr. Smith: I get April to tab over it because --

24 Commissioner Wilkerson: Show us --

25 Ms. Williams: I'm sorry?

1 Mr. Smith: -- I think that he tabs over them.

2 Ms. Williams: I can't tell but I very seldom get

3 --

4 Mr. Lewis: It would be behind 12.

5 Ms. Williams: -- get the same treatment.

6 Mr. Lewis: So, it would be 151. I apologize,
7 Commissioner.

8 Ms. Williams: Hang on a second. I think I got it.

9 Mr. Lewis: I renumbered these when I got Andy's
10 because we had started at the same number and used
11 the same numbers.

12 Commissioner Wilkerson: Right.

13 Mr. Lewis: So, I did that just for convenience
14 sake.

15 Commissioner Wilkerson: I get them all kind of
16 ways. I get -- both sides start at 1 and go
17 through 20 and you all start talking about I'm on
18 page 10 and I can't find it.

19 Ms. Williams: Well --

20 Mr. Smith: I'm there.

21 Mr. Lewis: Okay. It's page --

22 Ms. Williams: -- that's --

23 Mr. Lewis: -- you want me to help you out?

24 Ms. Williams: -- I'm just -- okay.

25 Mr. Lewis: It's number 91, right here, the

1 medical records.

2 Ms. Williams: These are Lucas' records --

3 Mr. Lewis: Well, that's --

4 Ms. Williams: -- well, now it's not --

5 Mr. Lewis: -- well, that's why I'm trying to help
6 you, Kathryn.

7 Ms. Williams: -- all right. I'm old and need a
8 lot of help.

9 Mr. Lewis: That's all right. It's page 91. Yes,
10 I just -- I renumbered mine so we wouldn't have
11 the same one.

12 Commissioner Wilkerson: It was submitted as 151?

13 Mr. Lewis: Yes, the one he handed you,
14 Commissioner, it's 151.

15 Commissioner Wilkerson: Okay.

16 Q. Now, there's a number of these forms in here, which
17 came from Dr. Lucas' file --

18 A. Right.

19 Q. -- since then. And I won't go over each and every each
20 and every one of these with you but, for instance, on
21 page 151, and 91 for the one your Attorney is looking
22 at, do you tell these folks and your doctor tell these
23 folks as well that your problems you're having are
24 related to your March '04 injury?

25 Ms. Williams: And my objection, Your Honor, is

1 going to be that this isn't a form that he signed.
2 This was signed by Dr. Lucas and by somebody at
3 the employer's office, not my client.

4 Mr. Smith: And I'm going to have to object at this
5 time. Dr. Lucas testified that he's not the one
6 who signed this. Someone with his staff signed it
7 and he doesn't necessarily agree with it.

8 Mr. Lewis: well, I -- I --

9 Ms. Williams: well, that's true, too. But at any
10 rate --

11 Commissioner Wilkerson: There's an objection.

12 Ms. Williams: -- he didn't fill this out.

13 Mr. Smith: I was objecting to Kathryn's objection
14 that Dr. Lucas was the one who filled it out.

15 Commissioner Wilkerson: well, I thought --

16 Mr. Lewis: Commissioner, I -- I withdraw my
17 question.

18 Commissioner Wilkerson: -- yes, because it doesn't
19 --

20 Mr. Lewis: Okay.

21 Commissioner Wilkerson: -- go anywhere in the
22 case.

23 Mr. Lewis: Let me just ask it a different way and
24 I'll move on.

25 Q. When you applied for these various disability policies

1 you'd have to take things to the doctors and they would
2 sign them?

3 A. That's correct.

4 Q. And you applied for multiple ones, correct?

5 A. That's correct.

6 Q. Okay. And in those you were representing that your
7 problems were from your accident in '04; is that
8 right?

9 A. That's correct.

10 Q. Okay. All right, now your job -- you don't -- just
11 describe the activities you did and certainly we know
12 it's a manual labor job, right?

13 A. Right. That's correct.

14 Q. You're not sitting doing the same thing over and over
15 all day long in the sense that you do something a
16 thousand (1,000) times a day, correct?

17 A. Now, say that again, ask that again.

18 Q. Your most -- well, let me ask you this way. Is your --
19 your job involves a variety of different tasks that you
20 do throughout the day?

21 A. That's correct.

22 Q. And every job is a little bit different. I think you
23 might be doing vinyl siding one place and something
24 else somewhere else; is that right?

25 A. That's correct, yeah.

1 Q. What other kind of work do you do other than siding?

2 A. We install windows. Sometimes we might have to set
3 columns, like a few times we set the columns on a
4 church. We do a little bit of remodeling on certain
5 jobs; very little but we do some. I've set some doors
6 on houses and that's -- that's about it.

7 Q. Okay. It's fair to say every -- every job is a little
8 bit different than the others?

9 A. That's correct.

10 Q. Okay. And you go to -- you actually go to the folks'
11 house or place of business, wherever you're working to
12 do the work; is that right?

13 A. That's correct.

14 Q. You're not in a shop doing the work?

15 A. That's correct.

16 Q. And as far as the actual -- you testified about some of
17 the lifting. What's the heaviest thing you lift,
18 probably the walk boards?

19 A. Probably the twenty-eight foot (28') walk board we
20 have.

21 Q. And that weighs, what, a hundred (100) and something
22 pounds?

23 A. Yes, sir. Correct.

24 Q. All right. Can you say, what, a hundred and twenty
25 (120) or do you know?

1 A. Probably a hundred and twenty (120) or a hundred and
2 fifty (150) I'd say.

3 Q. And you'll set those up before you start a job and
4 you'll walk cross them; is that right?

5 A. That's correct.

6 Q. And then during the course of the day you might have to
7 move it once or twice?

8 A. That's correct.

9 Q. Okay.

10 A. Different walls have different level walk boards; so,
11 sometimes we'll move that one up for the other people
12 and we'll go on and do the job.

13 Q. And after you went out in 2000 -- in November of '09,
14 and how long did you draw your unemployment?

15 A. Ask that question one (1) more time.

16 Q. After you went out from work in November 2009, for --

17 A. Right.

18 Q. -- what length of time did you draw unemployment?

19 A. December 20th is when my new year started; so, the last
20 check that I saw was December 20th of '09. And I
21 didn't go back and file for a new year.

22 Q. So, you were getting income until December 20th of
23 '09?

24 A. That's correct.

25 Mr. Lewis: Just one (1) minute, Commissioner. I

1 think I'm almost finished.

2 A. And, actually, I think I never did receive the three
3 (3) checks I was supposed to get prior to December the
4 20th and I never went back and even pursued that.

5 Q. All right.

6 Mr. Lewis: Commissioner, I don't -- I don't have
7 anymore questions. Thank you.

8 Commissioner Wilkerson: Kathryn?

9 REDIRECT EXAMINATION

10 By Ms. Williams:

11 Q. The -- he asked you about did your -- about your doing
12 a variety of tasks. But all the tasks require you to
13 do repetitive lifting, bending and stooping?

14 A. That's correct.

15 Q. So, in that sense are all the tasks you do the same?

16 A. Correct.

17 Q. Now, you testified about the fact that you get along
18 with your employer; you like him, you like working
19 there. You're not doing any of this because you're mad
20 at anything that --

21 A. Oh, no, ma'am.

22 Q. -- anybody at Vinyl Services has done; is that
23 correct?

24 A. No, ma'am.

25 Q. And, in fact, you want to go back to work there if you

1 can get --

2 A. Correct.

3 Q. -- well enough to go back?

4 A. Correct.

5 Q. Now, you were asked about hunting. Have you ever
6 injured yourself hunting -- well, since you went out on
7 November -- in November of '09, have you injured
8 yourself hunting?

9 A. No, I have not.

10 Q. All right. Now, has any doctor -- you talked about --
11 you were asked some questions about the fact that you
12 knew that this job was causing problems with your back.
13 Did any doctor ever advise you to discontinue that work
14 --

15 A. No, they did not.

16 Q. -- prior to your going out in November?

17 A. No, they did not.

18 Q. Did you anticipate that continuing to do that job was
19 going to get you in the shape that you're in now?

20 A. No, ma'am, I did not.

21 Ms. Williams: That's all the questions I have.

22 Mr. Smith: I just have a couple of follow up.

23 RECROSS-EXAMINATION

24 By Mr. Smith:

25 Q. From July of 2007, when you returned back to work after

1 the ankle, in terms of your condition, up until January
2 of 2010, you hadn't contacted Home Builders requesting
3 any additional medical treatment or care; isn't that
4 correct?

5 A. On my ankle?

6 Q. After you returned to work --

7 A. No.

8 Q. -- following your ankle injury. Remember you went to a
9 hearing --

10 A. Right.

11 Q. -- about a year later and you got some treatment for
12 your ankle?

13 A. Uh-huh.

14 Q. That was in July of 2007?

15 A. Right.

16 Q. From July 2007 up until January 2010, did you ever try
17 to contact Home Builders to try to get additional
18 treatment for your back or legs or anything?

19 A. Yes, I did.

20 Q. When was that?

21 A. I wish I had kept up with those dates. I would
22 actually even contact Kathryn to try to get me in to
23 see them some. And who I talked with there is Tracy.
24 And I would never hear back; so, I'd blow it off. I
25 mean, getting back to see the doctor on a court case is

1 like trying to find a -- a gold nugget in a stream.

2 Mr. Smith: Your Honor, I'd point you to page 8,
3 line --

4 Commissioner Wilkerson: Page what?

5 Mr. Smith: -- Page 8, line 14 of his deposition.

6 Commissioner Wilkerson: Do I have his deposition?

7 Mr. Lewis: I hadn't handed it up.

8 Mr. Smith: Oh, I'm sorry.

9 Commissioner Wilkerson: I don't think I've got it.

10 Mr. Smith: I -- I was thinking you had handed it
11 up. You traded --

12 Ms. Williams: You can't take mine.

13 Mr. Smith: -- you traded the deposition. Line --
14 hold on one (1) second.

15 Commissioner Wilkerson: Page 8, line -- what line?

16 Mr. Smith: 14, I think. Hold on a minute. All
17 right. At least look at line 6. Let's look at
18 line 6. The question, line 21.

19 Q. Between 2007 and 2000 --

20 Mr. Lewis: What page?

21 Commissioner Wilkerson: Whoa, whoa, whoa, whoa.

22 Ms. Williams: Where are we now?

23 Mr. Smith: Page 6.

24 Commissioner Wilkerson: Oh, page 6. Okay. I've
25 got it.

1 Mr. Smith: Line 21.

2 Ms. Williams: Okay.

3 Mr. Smith: I'm sorry, I lost my line. Let me pick
4 up on line --

5 Commissioner Wilkerson: Page 6, line 21?

6 Mr. Smith: -- Yes.

7 Q. "Between 2007 and 2010, did Home Builders pay any kind
8 of medical bills, make any payments to you whatsoever"?
9 And you answer at line 24? Do you have a copy of your
10 deposition?

11 Ms. Williams: I'll share mine with him.

12 A. Yes, I do. The doctor may have.

13 Ms. Williams: You're asking for him to read his
14 answer?

15 Mr. Smith: If he could -- could?

16 Ms. Williams: Line 24.

17 A. "No, sir".

18 Q. All right. And then I asked you --

19 Commissioner Wilkerson: But they did pay some
20 medical bills, right?

21 Mr. Smith: -- they paid one (1) in February, Your
22 Honor.

23 A. They had to have paid on them. They paid them,
24 somebody did.

25 Commissioner Wilkerson: They didn't send to you

1 any payments for being out of work or -- or --

2 A. No, sir.

3 Commissioner Wilkerson: -- mileage or --

4 A. No, sir.

5 Commissioner Wilkerson: -- prescriptions, pills,
6 any of that stuff?

7 A. No, sir.

8 Ms. Williams: For temporary total while he was out
9 for the ankle surgery they did.

10 Commissioner Wilkerson: Okay.

11 Mr. Smith: Whatever, it's two (2) months before
12 then.

13 Court Reporter: Mr. Smith, I'm really having
14 trouble hearing you.

15 A. And I've never received -- I was supposed to receive a
16 medical card through workman's Comp for my pain meds
17 and I never even got one (1) of those either just for
18 the record.

19 Mr. Smith: I have no other questions. Thank you.

20 Commissioner Wilkerson: South?

21 Mr. Lewis: Nothing further.

22 Commissioner Wilkerson: Nothing? Anything else,
23 Kathryn?

24 Ms. Williams: No, sir.

25 Commissioner Wilkerson: Okay. Sir, you can step

1 down. Any witnesses?

2 Mr. Lewis: We rest, Commissioner.

3 Commissioner Wilkerson: Okay. Thank you. This
4 concludes the case. If I could just meet with the
5 Attorneys for a few minutes. Thank you all.

6 (THERE BEING NO FURTHER QUESTIONS, THE HEARING CONCLUDED AT
7 12:10 PM).

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STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

CERTIFICATE

Be it known that I took the foregoing South Carolina Workers' Compensation Commission Hearing of John R. Bowen, vs. Vinyl Services, Incorporated;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

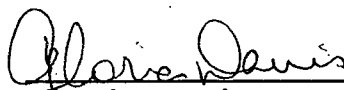
That by virtue thereof I was duly authorized to administer an oath;

That the witness was first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript of 61 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

Witness my hand and seal this 30th Day of July, 2010.



Gloria Davis
Notary Public for South Carolina
My Commission Expires 1/22/12

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SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
W.C.C. #0402800 & 0920040

JOHN BOWEN,

Claimant,

vs.

VINYL SERVICES, INC.,
SOUTH CAROLINA HOMEBUILDERS
SELF-INSURERS FUND, AND BRIDGEFIELD
CASUALTY INSURANCE COMPANY,

Employer-Insurer.

DEPOSITION OF JOHN RANDOLPH BOWEN

DATE TAKEN: April 8, 2010
TIME BEGAN: 3:10 p.m.
TIME ENDED: 4:30 p.m.
LOCATION: Kathryn Williams, PA
619 North Main Street
Greenville, South Carolina 29603
REPORTED BY: Kathleen M. Gula
Verbatim Reporter
Notary Public for South Carolina

COPY

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ALSO ATTENDING: Vickie Rita

STIPULATIONS: The within deposition was taken pursuant to the Federal Rules of Civil Procedure.

WAIVER: Examination and reading of the deposition are waived by the witness and by the parties.

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(No exhibits introduced)	

1 **JOHN RANDOLPH BOWEN**, being duly sworn, testified as
2 follows:

3 EXAMINATION BY **MR. SMITH**:

4 Q. Hello, Mr. Bowen. My name is Andrew Smith. I'm
5 here on behalf of South Carolina Homebuilders and
6 your employer in regard to the March 22nd, 2004,
7 claim. I know you've had your deposition taken
8 before, and I'm sure your attorney has already
9 explained to you why you're here today, but please
10 keep in mind a few things. One is to give all
11 your answers verbally as in yes or no instead of
12 head nods and/or uh-huh's so that our court
13 reporter can take down everything you say, okay?

14 A. Yes, sir.

15 Q. The second thing is, is to please stop me if you
16 don't understand a question that I ask or if I
17 haven't asked something clearly, and I'll be happy
18 to go back and rephrase it so that you understand
19 the question, okay?

20 A. Okay.

21 Q. Now, in the event that you answer a question, I
22 will assume that you understood the question and
23 answered truthfully, honestly, and to the best of
24 your ability. Fair enough?

25 A. Yes, sir, it is.

- 1 Q. And another thing that will make the court
2 reporter's life difficult is I'll certainly let
3 you finish your answer, but please let me finish
4 my question so that we don't talk over top of each
5 other, okay?
- 6 A. Uh-huh.
- 7 Q. Now, with that being said, can I have your date of
8 birth and current age?
- 9 A. Yes. It's March 16th, 1965. I'm 45.
- 10 Q. All right. And you had an injury while working
11 for Vinyl Services back on March 22nd, 2004; did
12 you not?
- 13 A. Yes, sir.
- 14 Q. And you had fallen approximately 20 feet?
- 15 A. Yes, sir.
- 16 Q. Okay. Then you went to a hearing back on March
17 7th of '06. Does that sound about right?
- 18 A. Yes, sir.
- 19 Q. Now, at the time of the hearing, you had actually
20 returned back to work in May of '05; had you not?
- 21 A. Yes, sir, I had.
- 22 Q. So you were working at the time of the hearing;
23 were you not?
- 24 A. Correct.
- 25 Q. And at the hearing they found that you had

1 sustained permanent disability to your neck and to
2 your right lower extremity. Are you aware of
3 that?

4 A. Yes, sir.

5 Q. And following that hearing on March 7th of '06,
6 about a year later you had called back up to the
7 Homebuilders and said you were having some
8 problems with your ankle?

9 A. Yes, sir.

10 Q. And they took care of that for you?

11 A. Right, correct.

12 Q. And the doctor released you to return back to work
13 on July 10th of '07. Does that sound about right?

14 A. That's about right; yes, sir.

15 Q. And they paid for all your medical treatment at
16 that time?

17 A. Yes, sir.

18 Q. Now, the next time you contacted them was
19 approximately in January of 2010?

20 A. That's correct.

21 Q. Between 2007 and 2010 did the Homebuilders pay any
22 kind of medical bills, make any payments to you
23 whatsoever?

24 A. No, sir.

25 Q. Now, I imagine your job is kind of strenuous?

- 1 A. Yes, sir, it is.
- 2 Q. And if you could, can you please tell me what is
3 entailed of your position?
- 4 A. Yes, sir. I'm a crew foreman. I'm a working crew
5 foreman, and I have to help build the scaffolding
6 and tote the ladders and tote the walk-boards up
7 the scaffold. We install windows, doors, vinyl
8 siding, Hardie board siding, and at times we do a
9 few like decks and a little bit of remodeling.
- 10 Q. So you would be loading stuff in and out of the
11 truck?
- 12 A. Yes, sir. Yes, sir.
- 13 Q. You would be on the roofs?
- 14 A. Yes, sir.
- 15 Q. So you would be on inclines and declines?
- 16 A. Yes, sir.
- 17 Q. You would be nailing overhead?
- 18 A. That's correct.
- 19 Q. You would be bending, stooping, squatting,
20 crawling?
- 21 A. Yes, sir.
- 22 Q. Now, you've also filed a claim against Summit for
23 November 11th, 2009, for repetitive work
24 activities, correct?
- 25 A. Yes, sir, that's correct.

1 Q. Now, when you returned back to work in May of '05
2 before your hearing -- let's actually just talk
3 about March 7th of '06. You had returned back to
4 work. Were you able to perform all the functions
5 of your position?

6 A. Yes. I had a little trouble with my back still
7 bothering me and my knees. And my ankle really
8 started bothering me; that's why I had to go back
9 and have it looked at.

10 Q. All right. And then when your ankle started
11 bothering you, I assume that's in June-July of
12 '07?

13 A. Yes, sir.

14 Q. Then after that was your ankle feeling better?

15 A. Yeah, it was. Yes, sir.

16 Q. And at that time were you able to perform the
17 functions of your position?

18 A. Yes, sir.

19 Q. At what point in time did the repetitive nature of
20 your job cause you to be incapacitated?

21 A. Well, I started noticing it probably around -- my
22 ankle started bothering me any time I got on the
23 roof. Any time I would get on a roof it would
24 bother me walking on any incline. I did good for
25 about six months after he operated on it. Then I

1 started having trouble with it again. I really
2 didn't see a significant change in my knees or my
3 back up to a couple of years ago. Then toting the
4 walk-boards, the heavy walk-boards and stuff, it
5 started bothering me again because we've got a
6 couple of big walk-boards we have to tote up
7 40-foot ladders and stuff, and I started really
8 noticing it again the more I did that and the more
9 I did my same job, the same more of the recurring
10 pains and stuff I got with it.

11 Q. And your pains are getting more severe?

12 A. Yes, sir.

13 Q. And are your pains more severe now than they were
14 at the time of the last hearing?

15 A. Definitely.

16 Q. Do you believe continuing to work following the
17 surgery on your right ankle in July of '07, that
18 after you continued to work climbing scaffolding,
19 building scaffolding, taking walk-boards, building
20 decks, remodeling, walking up and down inclines,
21 that those activities have aggravated, permanently
22 aggravated, accelerated, or exacerbated your
23 pre-existing condition in your neck and
24 specifically your cervical spine, your lumbar
25 spine, and your right knee?

- 1 A. Yes, sir. Yes, sir, I do.
- 2 Q. And because of that permanent aggravation from
- 3 your repetitive work activities, it's caused your
- 4 symptoms to worsen?
- 5 A. Yes, sir.
- 6 Q. And how have your symptoms worsened?
- 7 A. Real sharp, very sharp pains. I can't hardly --
- 8 I'm very immobile now. I can't walk hardly at all
- 9 any distance. Bending, I can't hardly bend. I
- 10 can't -- actually I can't do anything physical at
- 11 all.
- 12 Q. So tell me what sorts of things that you're not
- 13 able to do now that you were able to do back after
- 14 your knee surgery.
- 15 A. Work related or just in general?
- 16 Q. Let's start work related.
- 17 A. No walk-boards up ladders. I got to where I
- 18 couldn't do that. I couldn't get on roofs and
- 19 walk any roofs.
- 20 Q. When was that?
- 21 A. It started a couple -- it started about two years
- 22 ago when I pushed myself.
- 23 Q. Are we talking about '08?
- 24 A. Yes, sir.
- 25 Q. Oh, okay. In '08 what sort of -- I just want to

1 understand how you were feeling. You went back to
2 work after the arthroscopic surgery, and he didn't
3 provide you any additional impairment; is that
4 correct?

5 A. On what part?

6 Q. Your right knee following the arthroscopic
7 surgery.

8 A. I think he did an impairment, but I'm not sure
9 what it is. I read it in the court order, but I'm
10 not exactly sure what my impairment was.

11 Q. Okay. But at that time, as we discussed before,
12 you were able to return back to work in your
13 regular job duties?

14 A. Correct. Yes, sir, correct.

15 Q. And now what I'm trying to figure out is, is since
16 you were able to return back in your regular job
17 duties, what aren't you able to do now that you
18 were able to do after your surgery to your right
19 ankle? So in that sense, after you left the
20 doctor's office and you were done with your right
21 ankle, what aren't you able to do now because of
22 the repetitive lifting, toting, all this stuff
23 that you've been doing that you were able to do
24 way back three years ago?

25 A. As far as work related, probably getting on a

1 roof. I've had another guy under me that's been
2 doing all the roof work helping me out.

3 Q. What sort of roof work?

4 A. We do like vinyl siding over a roof and gables and
5 stuff, rakes and things like that on homes. We
6 have to get up there and work on a roof.
7 Chimneys.

8 Q. What about chimneys can't you do anymore?

9 A. Anything pertaining to because it's on a roof on
10 an incline. Like toting the walk-boards up the
11 ladders, I can't do that like what I was doing.
12 Now, as far as installing, the vinyl didn't bother
13 me that bad, but the Hardie board, it being
14 heavier, it hurt my back a whole lot more because
15 the trim on it, some of it's 16 inches wide and 16
16 foot long. We just had two men on that.

17 Q. That Hardie board, can you describe to the
18 Commission what that is? Is that essentially like
19 a vinyl siding?

20 A. Right. It's like a concrete-type siding. It
21 weighs probably I'd say five times what a piece of
22 vinyl siding does versus a Hardie board piece.
23 Now, the trim weighs -- it's up there. It's
24 pretty heavy.

25 Q. And what would be like the life expectancy of say

1 regular vinyl as opposed to Hardie board because
2 of its durability, weight, and quality?

3 A. Probably they're equal. Probably about the same.
4 You've got to paint Hardie board more. You've got
5 to paint it and keep it up versus vinyl is
6 lifetime.

7 Q. Hardie board is lifetime?

8 A. Yes, sir.

9 Q. And vinyl is?

10 A. It is also.

11 Q. Okay. And when did you get involved with the
12 installing of Hardie board?

13 A. I'm going to guess and say in '04. I've been
14 doing it at least five years. It may even be back
15 further than that.

16 Q. So you're not able to get on a roof anymore, and
17 you're not able to get around the chimneys, and
18 you're not able to toe the walking-boards up?

19 A. Right.

20 Q. What else can't you do?

21 A. It seems like most of the jobs we do are around
22 Lake Keowee and it's real steep inclines,
23 landscapes, and I can't get up and down them
24 landscapes good anymore.

25 Q. Are you able to use a nail gun overhead?

1 A. Yes. It don't bother me that bad. I can use it a
2 minimal. I can't use it, you know, like all day.
3 I could probably use it an hour and a half in an
4 eight-hour day because I do a lot of nailing
5 overhead on porch ceilings and that's what we
6 usually nail it with is a nail gun when we slide
7 them out.

8 Q. Are you able to use the nail gun less than you
9 were able to use it back in July of '07?

10 A. Yes.

11 Q. Do you believe that's true to the repetitive
12 nature of your work?

13 A. Yes, sir.

14 Q. And what other sorts of stuff can't you do as far
15 as loading equipment into the van, helping out
16 workers? I mean, you said you're a working
17 supervisor. Tell me what you were doing back in
18 '08 as far as working as opposed to what you would
19 be able to do when you left your employment in
20 November of '09.

21 A. Okay. Ask that question again now.

22 Q. I'm just wondering what your normal day would
23 consist of back in '08 as opposed to where you
24 were when you left your employment in 11 of '09?

25 A. Right. If I understand your question, and I

1 don't. Say that one more time. I'm kind of
2 following you, but I'm kind of --

3 Q. Okay. Let me ask it this way because you've done
4 a pretty good job of telling us what you were able
5 to do. You were able to tote the boards?

6 A. Yes, sir.

7 Q. You were able to do the scaffolding after your
8 hearing; is that correct?

9 A. Yes, sir, I could do some of that. Yeah, I still
10 couldn't do what I could before the fall exactly,
11 but yes, I could help them. I helped them for
12 probably a couple of years.

13 Q. And you weren't just a supervisor? You were a
14 working supervisor, correct?

15 A. Correct. Correct.

16 Q. So you felt like you were carrying your own weight
17 on the job?

18 A. Yes, sir. Up to about two years ago, I felt like
19 I wasn't carrying my own weight. And me and my
20 bossman had some discrepancy on that this past
21 year.

22 Q. And why did you leave your employment on 11/09?

23 A. The pain in my knees, my back, and my ankle. I
24 just couldn't do it. Me and him discussed that,
25 and I told him I was going to have to do

1 something.

2 Q. So essentially due to the progression of trying to
3 work, you were rendered, in your opinion, disabled
4 on 11/11/09?

5 A. Yes, sir.

6 Q. Again, back in '08, you were able to work, right?

7 A. Yes, sir.

8 Q. You went to see Dr. Lucas; did you not?

9 A. Yes, that's correct.

10 Q. And then Dr. Lucas did an MRI for you?

11 A. Yes, sir.

12 Q. Then did you ever go and get any injections?

13 A. I got one, and I canceled the second one.

14 Q. Have you been back and paid for them on your own?

15 A. No, but I'm fixing to pursue that.

16 Q. Outside of your employment with Vinyl Services,
17 have you had any other sources of employment?

18 A. No, sir.

19 Q. Have you had any on-the-job injuries other than
20 the repetitive trauma that you've described to us,
21 any specific, acute injuries that we don't know
22 about?

23 A. I've had one accident. I don't know if acquired
24 to this or not, but I was thinking about that the
25 other day and spoke with an employee of mine. I

1 fell again off a walk-board about eight foot, and
2 I didn't say anything. I didn't mention anything,
3 which other than that, nothing.

4 Q. When did you fall off that walk-board?

5 A. I'm going to say a year and a half ago maybe.

6 Q. Did you say anything to the supervisor about it?

7 A. No, I didn't.

8 Q. Just a fellow coworker?

9 A. Right. Well, we've had another supervisor there
10 on the job that is like me, a working foreman.
11 They both seen me, I mean, and my cut man.

12 Q. And you didn't ask for any medical treatment?

13 A. No. No. I walked it off.

14 Q. Any other accidents that you can think of besides
15 the repetitive trauma and this incident that
16 you've told us about?

17 A. No, sir.

18 Q. Have you had any accidents outside of your
19 employment, motor vehicle accidents,
20 slip-and-falls, broken bones, stitches, anything
21 you would have to go see a medical care provider
22 for?

23 A. No, sir. Well, other than pneumonia and high
24 blood pressure, no, and I don't think that would
25 relate to that.

- 1 Q. Okay. Who is your primary care physician?
- 2 A. It is Dr. Booker. I actually see Will Putman
- 3 there.
- 4 Q. And Dr. Booker is located where?
- 5 A. He's in Walhalla. And my heart specialist is Dr.
- 6 Lehr. He's in Seneca.
- 7 Q. And who is your heart doctor?
- 8 A. Dr. Lehr. It's spelled L-E-H-E-R. I believe
- 9 that's how you spell it.
- 10 Q. Why do you have a heart specialist?
- 11 A. High blood, hypertension.
- 12 Q. What medications are you on?
- 13 A. Diovan and Bystolic and pain meds. I'm on
- 14 Oxycodone; that's prescribed from Dr. Lucas.
- 15 Q. And when did you start being prescribed Oxycodone?
- 16 A. January this year, I believe.
- 17 Q. And how long had you been off any kind of pain
- 18 medications?
- 19 A. I've been on them since -- my doctor prescribed me
- 20 Ibuprofen 850 milligrams because it had an
- 21 inflammatory so that it could help me on my knees
- 22 and stuff. And I believe it's been the last two
- 23 years I've been on the Ibuprofen.
- 24 Q. And again, that's Dr. Booker putting you on that
- 25 medicine?

1 A. Yes, sir.

2 Q. Okay. I just have to ask a few questions.

3 They're certainly by no means meant to insult you.

4 I ask them of everyone I depose.

5 A. Right.

6 Q. Have you ever pled guilty or been convicted of a
7 crime?

8 A. No, sir.

9 Q. Have you ever been treated for drug or alcohol
10 abuse?

11 A. No, sir.

12 Q. Have you ever sought any kind of psychiatric
13 treatment?

14 A. No, sir.

15 Q. If you'll just give me one moment. I'm just going
16 to talk with my client.

17 A. Okay.

18 (Whereupon deposition went off the record.)

19 **EXAMINATION RESUMED BY MR. SMITH:**

20 Q. Thank you. That's all the questions that I have
21 for you. The other attorneys may have some
22 questions for you.

23 **EXAMINATION BY MR. BYRD:**

24 Q. Hi, Mr. Bowen. My name is Mitchell Byrd. I'm a
25 lawyer here in town at Willson, Jones, Carter &

1 Baxley. One of my clients is also Vinyl Services.
2 Our other client is Summit Holdings; that's a
3 different workers' compensation insurance company.
4 And as you know, there have been a couple
5 different claims filed, so there are a couple of
6 different parties involved. Mr. Bowen, all the
7 same basic rules are still applicable here.
8 You're still under oath. If you don't understand
9 one of my questions, please tell me you don't
10 understand it. Otherwise, we'll assume you did
11 understand it and that you answered truthfully,
12 okay?

13 A. Okay.

14 Q. You're doing great with speaking up nice and loud.
15 I appreciate that. Mr. Smith's clients are more
16 familiar with you and your history of this, but my
17 clients are not, so I'm actually going to just
18 sort of drop back a little bit and ask you a few
19 questions about yourself since we've never had an
20 opportunity to ask those questions yet.

21 A. Okay.

22 Q. Then I'm going to just try to organize my thoughts
23 here. I have a few follow-up questions and then
24 we can go on about our business. Your full name
25 is John Bowen; is that right?

- 1 A. Yes, sir, John Randolph Bowen.
- 2 Q. Do you go by John?
- 3 A. Yes, sir, I do.
- 4 Q. What is your address now?
- 5 A. It is [REDACTED]
- 6 Q. Where is that?
- 7 A. [REDACTED]
- 8 Q. What is your ZIP code there?
- 9 A. [REDACTED]
- 10 Q. Who lives with you there?
- 11 A. My wife.
- 12 Q. Your wife?
- 13 A. Yes, sir.
- 14 Q. What is your spouse's name?
- 15 A. Denise.
- 16 Q. Does she work anywhere?
- 17 A. Yes.
- 18 Q. Where does she work?
- 19 A. Covidien in Seneca.
- 20 Q. Can you spell that for me?
- 21 A. It is C-O-V-I-E-D-E-N.
- 22 Q. What does she do for them?
- 23 A. She makes pharmaceutical supplies.
- 24 Q. Do you all have any children?
- 25 A. Yes. I have one stepson.

1 Q. How old is that person?
2 A. He is 29.
3 Q. But he does not live with you?
4 A. No. No, sir.
5 Q. All right. How tall are you now?
6 A. I'm six one.
7 Q. And how much do you weigh?
8 A. I'm about 260 now.
9 Q. Do you know your Social Security number?
10 A. Yes, sir. It's [REDACTED]
11 Q. And you said your birth date was March 16th of
12 what year?
13 A. 1965.
14 Q. '65, okay. Sorry about that. How far did you go
15 in school?
16 A. Twelfth grade, high school.
17 Q. Do you have a diploma?
18 A. Yes, sir.
19 Q. Can you read and write okay?
20 A. Yes, sir.
21 Q. Now, I know that you have been involved in some
22 workers' compensation claims before, and I know
23 that the other parties in the room are a little
24 more familiar with those than we are. Can you
25 just tell me as best you can how many total

1 workers' comp claims, and not including these that
2 we're talking about right now, but how many comp
3 claims have you had?

4 A. Four.

5 Q. When was the first one?

6 A. In 2001. It was left knee.

7 Q. Who were you working for then?

8 A. Larry Bolt. Vinyl Services.

9 Q. Same place?

10 A. Yes, sir. I've been there 20 years.

11 Q. And you had some medical treatment for that?

12 A. Yes, sir.

13 Q. Did you have surgery?

14 A. Yes, sir.

15 Q. On your left knee?

16 A. Yes, sir. It was arthroscopic.

17 Q. And your doctor was who at that point?

18 A. It was Dr. McCallum.

19 Q. Did you have any permanent impairment to your left
20 knee?

21 A. Without not knowing, I can't remember.

22 Q. That's fine. Do you remember how that workers'
23 compensation case concluded? Did it settle, or
24 did you have a hearing?

25 A. It did settle. I had a hearing, and it did

1 settle.

2 Q. All right. And you got some kind of settlement

3 money?

4 A. Yes, sir.

5 Q. Do you remember how much that was?

6 A. \$2,900, I think. It was somewhere in that

7 ballpark.

8 Q. Now, when was the next workers' compensation

9 claim?

10 A. It was 2002, right knee.

11 Q. Your right knee?

12 A. Yes, sir.

13 Q. Did you have surgery?

14 A. Yes.

15 Q. Same type of surgery as on your left knee?

16 A. Yes, sir.

17 Q. Who did that one?

18 A. It was Dr. McGeorge.

19 Q. At Blue Ridge?

20 A. Yes, sir.

21 Q. And how did that workers' compensation case

22 conclude?

23 A. It was closed. It was \$8,000, I believe was

24 somewhere in the ballpark.

25 Q. And you went back to work doing your same job

1 after both of those?

2 A. Yes, sir.

3 Q. After the left and the right?

4 A. Yes, sir.

5 Q. No work restrictions or anything like that?

6 A. No, sir.

7 Q. To your knowledge, did you have any work

8 restrictions?

9 A. No, sir.

10 Q. You were free to go back and do whatever you

11 wanted?

12 A. Yes, sir.

13 Q. Did you have an attorney that was working for you

14 for either of those knee cases?

15 A. No, sir.

16 Q. Okay. When was the next workers' comp injury?

17 A. The fall.

18 Q. The fall?

19 A. Yes, sir.

20 Q. That's the big fall?

21 A. Right. Right.

22 Q. That was in 2004?

23 A. I believe it was; yes, sir.

24 Q. And did you hurt a number of body parts?

25 A. Yes, sir.

- 1 Q. Tell me as best you can what you hurt.
- 2 A. My upper, lower back, my right ankle is all that I
- 3 documented on that.
- 4 Q. Did you have an attorney to help you out on that
- 5 case?
- 6 A. Yes, sir.
- 7 Q. Who was that?
- 8 A. That was Kathryn.
- 9 Q. All right. And that case, did you have a hearing,
- 10 or did it settle in some way?
- 11 A. Yes, sir. It was \$49,000 total.
- 12 Q. And you all had a hearing with the Commissioner?
- 13 A. Yes, sir.
- 14 Q. And then after that \$49,000 was paid, was it your
- 15 understanding you had a one-year window to file
- 16 for a change of condition if it got worse?
- 17 A. Yes, sir.
- 18 Q. And if you needed to see a doctor, you could bring
- 19 that up to somebody?
- 20 A. Yes, sir.
- 21 Q. Okay. Do you remember when that hearing or when
- 22 you got paid?
- 23 A. August of '07, I think.
- 24 Q. You think somewhere right around then was when you
- 25 got paid?

- 1 A. Yes, sir, I believe it was.
- 2 Q. Now, after that hearing and you got paid, did you
3 go back to work for the same employer?
- 4 A. Yes, sir.
- 5 Q. You did?
- 6 A. Yes, sir.
- 7 Q. As a result of any -- well, let me drop back just
8 quickly one second. Did you have some surgery
9 after that fall?
- 10 A. Yes, sir.
- 11 Q. What surgeries did you have?
- 12 A. I had a spinal fusion.
- 13 Q. In your neck?
- 14 A. Yes, sir. And I had an ankle scoped in '07. Dr.
15 McCallum did my ankle surgery.
- 16 Q. And Dr. Lucas did your neck?
- 17 A. Yes, sir.
- 18 Q. And so the first operation that you had after the
19 fall was the neck surgery; is that right?
- 20 A. Yes, sir.
- 21 Q. And as you progressed from that, you later had an
22 ankle scoped?
- 23 A. Right. My ankle, I messed it up real bad. He
24 told me that I might have to have surgery down the
25 road, so he documented it for me, and I ended

1 having to.

2 Q. You did?

3 A. Yes, sir.

4 Q. And did you have that ankle surgery after the

5 hearing took place and after you got paid the

6 \$49,000, or was it all done before you had that

7 hearing?

8 A. I believe it was all done before that hearing. I

9 believe now.

10 Q. So at the hearing you got an award for your neck

11 and an award for your ankle?

12 A. Correct. Correct.

13 Q. We can look at the order. I'm just doing it the

14 best I can here.

15 A. Yeah. I don't believe I had any other awards

16 after that. I don't think so.

17 Q. Have you had another workers' comp injury since

18 then?

19 A. No, sir.

20 Q. Okay. But you have filed a couple of claims, and

21 that's what we're here talking now?

22 A. Exactly; yes, sir.

23 Q. But none other than those three?

24 A. Exactly. Right.

25 Q. I appreciate you going over that with me quickly.

1 A. No problem.

2 Q. You worked at Vinyl Services up until November of
3 2009?

4 A. Yes, sir.

5 Q. How much money were you making at that point when
6 you left?

7 A. Weekly was \$851, I believe.

8 Q. And were you working anywhere else? Did you have
9 a second job?

10 A. No, sir.

11 Q. Now, you have been working for Vinyl Services, or
12 you mentioned somebody's name?

13 A. Larry Bolt; yes, sir. I've been with him since
14 1989. I've been there 20 years. I was hired on
15 in August of '89.

16 Q. I wanted to get a little information about your
17 work history. Sometimes it's easiest just to kind
18 of quickly go backwards in order. Before you went
19 to work with Vinyl Services, were you working
20 somewhere else right before then?

21 A. Yes, sir. I worked with -- it was Day
22 Enterprises. They were out of Seneca.

23 Q. What did you do for them?

24 A. I was a framer. I was a carpenter. And before
25 them I worked for Deal's Custom Carpentry. I was

- 1 a carpenter's helper at that time.
- 2 Q. All right. How long were you at those two
- 3 different jobs before you went to Vinyl Services?
- 4 A. I've had four jobs since I've been out of high
- 5 school. Before the Deal's Custom Carpentry I
- 6 helped a guy roof houses, James Crumpton. I
- 7 worked a year and a half at the State Highway
- 8 Department when I graduated. That's it.
- 9 Q. So the State Highway Department when you graduated
- 10 for a year and a half?
- 11 A. Yes, sir.
- 12 Q. And then some period of time as a roofer?
- 13 A. Exactly.
- 14 Q. And then on to Deal's Carpentry as a helper?
- 15 A. Right.
- 16 Q. Full carpenter and framer working at Day
- 17 Enterprises?
- 18 A. Correct.
- 19 Q. Then you've been with Vinyl Services since '89?
- 20 A. Correct.
- 21 Q. Were you ever terminated from any of these
- 22 different jobs for any bad reason or anything like
- 23 that?
- 24 A. No, sir.
- 25 Q. And I know you were a supervisor of sorts at Vinyl

1 Services, correct?

2 A. Correct.

3 Q. Have you ever been self-employed or made any money
4 on your own?

5 A. One year I tried it. I was doing Three Start
6 Coating and Mechanical was what my business was.
7 It was working for Engelhard Manufacturing. What
8 I was doing was coating barrels and presses for
9 them. It didn't last long. I didn't get the
10 contract. It fell through.

11 Q. So you went back to working somewhere else?

12 A. Well, I was working with Vinyl Services as I was
13 doing that. I was trying to start it and branch
14 off. I just didn't get the contract.

15 Q. Okay. This is my favorite part of a deposition,
16 and I know you're probably in a little pain here,
17 but tell me a little bit about yourself. What do
18 you like to do outside of work as far as hobbies
19 or interests?

20 A. I love to hunt and fish, camp, hike. That's most
21 of my life. That's it in a nutshell.

22 Q. Hunting, fishing, camping?

23 A. Yes, sir.

24 Q. Okay. And I know your life has been very
25 different since these injuries.

- 1 A. Yes, sir.
- 2 Q. Are you still able to do some hunting and fishing?
- 3 A. I do. Actually a friend of mine has been taking
4 me on his four-wheeler now because I can't walk.
5 I've got some good friends that have been helping
6 me out.
- 7 Q. Did you get to hunt this past season?
- 8 A. Yes, sir, I did.
- 9 Q. How often do you get to hunt?
- 10 A. I try to go once or twice every week. Some days I
11 can go two or three times depending on who is
12 going to go with me and where we go. Now,
13 fishing, I've got a boat. I can sit in a boat for
14 probably two hours; that's about max. As far as
15 my fishing, it's worse than my deer hunting. I've
16 got a pretty good chair for my deer hunting.
- 17 Q. And your stand?
- 18 A. Yes.
- 19 Q. That's something to keep you comfortable?
- 20 A. Exactly, yes.
- 21 Q. Did you all get any deer this past season?
- 22 A. Yes, sir, four.
- 23 Q. Load your freezer?
- 24 A. Yes.
- 25 Q. There you go. You look like a big fellow. Are

- 1 you a member of a gym anywhere?
- 2 A. No. No.
- 3 Q. Ever been injured hunting, fishing, doing anything
- 4 like that?
- 5 A. No, sir.
- 6 Q. Ever playing sports or any recreational activities
- 7 where you got hurt?
- 8 A. No.
- 9 Q. Okay. Now, I know this sort of goes back a ways,
- 10 but at the time that you left Vinyl Services, were
- 11 you taking regular medication for any reason?
- 12 A. Just the Ibuprofen. It was just for my back and
- 13 knees. I had been to Dr. Booker off and on. I
- 14 think I went to a chiropractor a couple of times
- 15 on my back and tried to get him to help me. I
- 16 push myself. I'm the kind of guy, you know, I
- 17 won't quit. I'll push myself to the limit, and
- 18 that's exactly what I did.
- 19 Q. And at the time that you left Vinyl Services, all
- 20 you were taking regularly was the Ibuprofen?
- 21 A. Right. Correct.
- 22 Q. Who was paying for you to see Dr. Booker?
- 23 A. I was.
- 24 Q. You were?
- 25 A. Yes, sir.

- 1 Q. Just a health insurance policy or something like
2 that?
- 3 A. Yes, sir.
- 4 Q. What about right now? What are you taking right
5 now?
- 6 A. I'm taking Oxycodone and still the Ibuprofen. Let
7 me make sure I told you that right. Yes, sir.
8 And it is five 325 milligrams.
- 9 Q. That's the Oxycodone?
- 10 A. Yes, sir.
- 11 Q. And that is prescribed for you by Dr. Lucas?
- 12 A. Yes, sir.
- 13 Q. And the Ibuprofen is still coming from Dr. Booker?
- 14 A. Yes.
- 15 Q. All right. Has Dr. Booker been your family doctor
16 for a long time?
- 17 A. Yes, he has.
- 18 Q. Now, as far as past medical history, you've had
19 surgery on your neck, right?
- 20 A. Yes, sir.
- 21 Q. Surgery on both your knees?
- 22 A. Yes, sir.
- 23 Q. Any other surgeries?
- 24 A. Ankle.
- 25 Q. And which ankle was it?

- 1 A. It's the right.
- 2 Q. The right ankle?
- 3 A. Right. The only other thing I've ever had done is
- 4 eyes. I've had some trigems (ph) cut off my eyes
- 5 and that's it.
- 6 Q. And I think you answered this earlier, but no
- 7 psychiatric treatment?
- 8 A. No, sir.
- 9 Q. Never been in an inpatient psychiatric ward or
- 10 anything like that?
- 11 A. No.
- 12 Q. All right. Are you seeing anybody for psychiatric
- 13 reasons right now, depression, anxiety, anything
- 14 like that?
- 15 A. No, sir.
- 16 Q. Do you have a car or a truck that you drive?
- 17 A. Yes, sir, I do.
- 18 Q. What have you got?
- 19 A. I've got a '93 Jeep Cherokee.
- 20 Q. What color is it?
- 21 A. It is green.
- 22 Q. Did you drive here today?
- 23 A. No.
- 24 Q. Are you driving right now?
- 25 A. I can drive short distances, very short, and

- 1 probably within eight miles.
- 2 Q. So maybe just around the neighborhood or grocery
3 store or something like that?
- 4 A. Yes, sir.
- 5 Q. Who drove you here today?
- 6 A. My wife.
- 7 Q. Ever been in a car wreck in the past?
- 8 A. No, sir, nothing no more than a fender-bender,
9 just to bump somebody.
- 10 Q. Ever gotten any medical treatment because of a car
11 wreck?
- 12 A. No, sir.
- 13 Q. Never injured in a car wreck?
- 14 A. No, sir.
- 15 Q. Okay. This is a bit of an interesting situation
16 because we have a previous injury and then we have
17 allegations of sort of a continuing or a new
18 injury. I'm going to do my best just to kind of
19 ask you the best questions that I can, so if you
20 don't understand or if I don't ask a good
21 question, call me on it and just tell me. I'll do
22 the best I can.
- 23 A. Okay.
- 24 Q. Right now what parts of your body are injured?
- 25 A. Both knees and my entire spine and my ankle, right

1 ankle.

2 Q. And you had your fall in 2004 and some treatment?

3 A. Yes, sir.

4 Q. And after your surgeries and your award from the
5 Commission, you went back to work?

6 A. Yes, sir.

7 Q. Were you doing the same job you had been doing
8 before?

9 A. I was.

10 Q. You were?

11 A. Yes, sir.

12 Q. Anything specifically different?

13 A. No, sir.

14 Q. Still lifting the same weights and working hard?

15 A. Yeah. Uh-huh.

16 Q. Okay. After you went back to work and up until
17 you left, did you specifically injure yourself in
18 any way?

19 A. No.

20 Q. I know you mentioned one small fall, I think you
21 said?

22 A. Uh-huh. That's the only thing I can think of as
23 far as anything other than just repetitive stuff
24 that would cause me to get back in the shape I'm
25 in. It was like six foot. It wasn't nothing

1 major.

2 Q. When you had that little fall, did you hurt
3 anything specifically?

4 A. No. I was worried about my back and my knees and
5 stuff, but like I said, I got up and shook it off
6 and walked around.

7 Q. Did you finish your work that day?

8 A. Yeah. Now, I hurt. Whew, the next day I was
9 sore, but as far as injuries, no.

10 Q. And that was not reported as any kind of workers'
11 compensation claim?

12 A. No.

13 Q. Not seeking benefits for that fall?

14 A. Right. You know how people are. They're a little
15 bit crazy to do stuff like that. I'm one of them.
16 I'm one of them. I tough it out and go on.

17 Q. Now, who do you work for at Vinyl Services?

18 A. I work for Larry Bolt.

19 Q. Larry Bolt?

20 A. Yes, sir. He's the owner.

21 Q. And up until you left in November of '09, had you
22 had any problems with attendance or had any
23 problems with Mr. Bolt?

24 A. No, sir.

25 Q. So you had the fall; you got your award from the

- 1 Commission; you went back to work?
- 2 A. Right.
- 3 Q. Were you feeling pretty good or --
- 4 A. Yeah. I could tell I wasn't 100 percent, but I
- 5 felt pretty good, yeah.
- 6 Q. Okay. And after you went back to work, at some
- 7 point did you start having some problems again?
- 8 A. Yes, sir, I did.
- 9 Q. When did that first start?
- 10 A. Probably within actually the first year. Like my
- 11 back, you know, it was burning. Then I'd get over
- 12 it. My knee didn't bother me up to, you know,
- 13 this past year. Every once in a while I'd feel a
- 14 little, you know, something. But most of it's my
- 15 back that I could tell, you know, after the injury
- 16 every once in a while it would bother me.
- 17 Q. Are you talking about your lower back?
- 18 A. Yes, sir. Yes, sir.
- 19 Q. Were you having problems with your neck?
- 20 A. Yeah, bad headaches. I'm talking about bad
- 21 headaches. Now, I wasn't right after that. This
- 22 bad headache deal has been doing about two years.
- 23 Arms is going to sleep. Numbness in both arms.
- 24 Q. That's been within the last two years?
- 25 A. Yes, sir. It's progressively gotten worse and

1 worse. I tried to tough it out as long as I could
2 do it. I wanted to keep working, and I can't do
3 it no more. I can't take it.

4 Q. So when you had the fall, the body parts you
5 injured in the fall, am I correct that for the
6 most part it was your neck and your ankle, your
7 right ankle?

8 A. Correct. Correct.

9 Q. Okay. And after you went back, after that comp
10 case was kind of put to bed for a minute anyway,
11 sort of put to rest, how soon was it until you
12 asked somebody for medical treatment?

13 A. After the fall?

14 Q. Well, not after the fall. You had the fall. Then
15 you had your surgeries. Then you had your award.
16 The money came after the hearing. Then you went
17 back to doing your regular job. That would have
18 been sometime in about '07, right?

19 A. I probably went to a chiropractor, and that was
20 Ryan Calhoun in Clemson. Larry talked me into
21 speaking with him about it, and I let him adjust
22 me a few times. Then the doctor advised me not
23 to. I went back to my -- I've been going to
24 Booker about it off and on probably a whole turn
25 about back pain. He'd prescribed this, you know,

1 and I'd tough it out. I'd go back. It would get
2 to hurting worse, and then I'd go back and he'd
3 prescribe me something.

4 Q. After you had the fall in 2004, tell me a little
5 bit about how much work you missed and when you
6 finally went back to work. And it could have been
7 off and on, I don't know, but tell me about that
8 the best you can.

9 A. I think my surgery that I was out eight months on
10 my cervical. My ankle, two months I believe was
11 what I was out on my ankle.

12 Q. And after you had the neck surgery, did you go
13 back to work for a period of time, or did you then
14 have the ankle surgery?

15 A. Yes, sir, I went back to work for a period of
16 time. I went a year, I think.

17 Q. For about a year?

18 A. Yes, sir. I think it was close to a year.

19 Q. Then your ankle began to bother you?

20 A. Right. It was locking up and hurting me bad on
21 inclines and stuff.

22 Q. And then you had the ankle surgery?

23 A. Uh-huh.

24 Q. When was that?

25 A. '07, I believe.

- 1 Q. And I think maybe we mentioned before that it
2 might have been sometime around the middle of the
3 year, June or July?
- 4 A. Yes, sir, I think so. I think so.
- 5 Q. I understand. I mean, it's okay if you don't
6 remember that. And you were out of work for some
7 time after that?
- 8 A. Yes, sir.
- 9 Q. Okay. How long were you out of work?
- 10 A. I think it was like two months.
- 11 Q. And then you returned to work doing the same job?
- 12 A. Yes, sir.
- 13 Q. And that would have been sometime late in 2007; is
14 that right?
- 15 A. Yes, sir.
- 16 Q. Now, after you returned to work, after you had had
17 that ankle surgery and you returned to work, you
18 were doing the same job?
- 19 A. Yes, sir.
- 20 Q. And at that point, had you already been seeing Dr.
21 Booker for any reasons related to your lower back
22 or anything like that, or did it start after that?
- 23 A. It started after that, yeah. It started after. I
24 can't remember exactly. Probably in '08 is when I
25 really started seeing it progress, early of '08.

1 Q. That's when you started noticing more problems?

2 A. Right. Correct.

3 Q. In early '08, what was the first thing you noticed
4 that you were having a problem with?

5 A. A very sharp burning pain in my lower and mid back
6 and numbness in my arms and bad headaches.

7 Q. And at that point when you were back working doing
8 that same job, did you have any work restrictions
9 that you had to abide by, or had any doctor told
10 you not to do certain work movements or anything
11 like that?

12 A. No, sir. When they released me, they released me
13 with no restrictions at all.

14 Q. Full duty?

15 A. Yes, sir.

16 Q. Okay. So you're having some headaches, numbness
17 in your arms, sharp pains and burning in your low
18 back, I think you said?

19 A. Yes, sir.

20 Q. And even up to your mid back?

21 A. Yes..

22 Q. And that was pretty early in 2008?

23 A. Yes, sir.

24 Q. Had you ever had any lower back problems like that
25 before?

1 A. No, sir. No, sir, I hadn't.

2 Q. Never seen a doctor for lower back issues or
3 anything like that?

4 A. No, sir.

5 Q. And you had had neck problems, though, because you
6 had the surgery on it?

7 A. Correct.

8 Q. And was there anything specifically that you were
9 doing at your job that was aggravating or bringing
10 about lower back pain?

11 A. More or less just climbing ladders with the
12 walk-boards and stuff like that, bending over and
13 up and down. My job is strenuous on your body
14 because I've got to bend down, straight up,
15 straight down, straight up. You know, I'll start
16 like doing one job on my knees and have to work my
17 way up. Then we've got to raise the ladder. Then
18 I start back on my knees again. Then we work up
19 five or ten more feet, what we can reach. It's
20 very strenuous because you're up and down, up and
21 down. That's when I really started feeling my
22 back starting to get worse and worse and my knees.

23 Q. How long was it until your arms started having
24 some numbness or you were getting the headaches?

25 A. I would say the start of '08. Somewhere in the

1 start of '08. It just progressively got -- it
2 intensified as it went on. It just kept getting
3 worse and worse. It wasn't long ago that I
4 thought I was going to have to go to the emergency
5 room because of my headaches; that's how bad they
6 are. They're intense pretty good. I don't have
7 them all the time, but when I do I can tell it's
8 my neck. It seems like when I have the bad
9 headaches, my arms numb out on me.

10 That's like driving long distances. I can't
11 drive long distances because my arms go to sleep
12 on me. He said I have nerve damage, Dr. Lucas
13 did, in my left. I have no feeling in those two
14 fingers now. Even prior to the surgery I didn't,
15 you know, when he did that. He said I'd probably
16 never get that back. But he said I did have some
17 nerve damage in my neck.

18 Q. Okay. What about your knees and your ankle, when
19 did you start having problems with those?

20 A. Probably around the same time. I'd say '08, the
21 first of '08 I started really -- it started out
22 mild. There again it just got worse and worse and
23 worse.

24 Q. Was there something specifically that was making
25 it worse?

1 A. Climbing the ladders mostly. Climbing the
2 ladders. Roofs killed me. I mean, they
3 absolutely killed me. Lamar, he's another --
4 Lamar Barker is another supervisor, and he helped
5 me out on the roofs. We combined crews. Lamar
6 would actually get up there and do the roof work
7 for me when I got so bad that I just couldn't. I
8 would do what I could, and he would help me out on
9 that. I tried to get -- I tried to get help with
10 the ladders and all, too, to prolong me keeping
11 working. That's when me and my bossman had a
12 little issue about my performance.

13 Q. And that would have been when?

14 A. That was this year.

15 Q. This year?

16 A. Yeah. It was probably mid year.

17 Q. Do you mean '09?

18 A. Correct.

19 Q. Is that right?

20 A. Correct.

21 Q. Okay. When you left in November of '09, tell me
22 specifically the circumstances of your leaving the
23 company.

24 A. It was just -- I had worked in pain so long, and
25 it was getting so bad that I couldn't sleep at

1 night. I couldn't function at all. It was to the
2 point to where I had to make a decision to try to
3 live with that and keep working. That's what I
4 tried for the last two years when it was getting
5 worse and worse. I tried. I tried very hard to
6 keep working. I'm not one to lay around and not
7 pull my weight. That's probably why I'm in the
8 shape I'm in because I probably should have took
9 more time to get somebody to help me to do my job,
10 but I pull my weight. I tried my best to pull my
11 weight.

12 I just got to where I couldn't do it anymore.
13 I just told Larry, I said I might have to file for
14 disability; I don't know what I'm going to do yet;
15 I've got to weigh my odds, and I've got to get
16 into a doctor's office to try to see if I can get
17 better to see what I can or can't do.

18 And that's where I'm at right now. Actually
19 tomorrow I go see Dr. McCallum about my knee. I
20 went and did my MRI on my insurance because I
21 can't take it no more. I've got to get something
22 done quick.

23 Q. Which knee are you talking about?

24 A. That's my right.

25 Q. Is it worse than the left?

- 1 A. It is worse than the left right now. They were
2 the same. It's progressively got worse and worse.
3 It's about got to where I can't hardly stand it.
4 It's constantly shooting pains in it.
- 5 Q. How long have you been seeing Dr. McCallum about
6 it? Is he the one that sent you for the MRI?
- 7 A. Well, my family doctor, Booker, sent me for the
8 MRI, I'd say a month.
- 9 Q. And now you're going to see Dr. McCallum about the
10 MRI?
- 11 A. Correct. I've got my result, and I'll go tomorrow
12 at 10:30 to talk to him.
- 13 Q. Did you discuss the results with your doctor?
- 14 A. No.
- 15 Q. Has anybody told you what it says?
- 16 A. No, sir. No, sir. Dr. McCallum told me just by
17 looking at me and by what he heard me say that he
18 thought it could be a meniscus tear, but he
19 wouldn't know for sure until he --
- 20 Q. Saw the MRI?
- 21 A. Yes, sir.
- 22 Q. So at this point, you don't know what is wrong or
23 what you need for your knee?
- 24 A. No, sir.
- 25 Q. Okay. And you've seen Dr. Lucas again about your

1 lower back issues?

2 A. Yes, sir. Yes, sir.

3 Q. And I meant to ask you this a minute ago. You
4 told Larry Bolt that you were in a lot of pain and
5 that you didn't know really what you could do. I
6 mean, what was his response? How did you end up
7 leaving the company?

8 A. Oh, in good terms. Larry is a good man. We get
9 along. He even said the term we're like brothers.
10 He was very pleased with my work performance up to
11 that part. He knew there was something wrong. We
12 just had that talk. You know, we had a talk about
13 an hour one day. He said I've noticed a drop in
14 your work performance; what's going on. That's
15 when I told him. He said I've known you been in
16 pain because he could tell me walking. He said I
17 could tell you was walking a little funny. He
18 said just do what you need to do. So that's the
19 terms we left on. I told him, I said I'm not sure
20 what I'm going to get to do.

21 Q. In early '08 when you started noticing these
22 different pains coming on stronger and stronger in
23 your lower back or in your neck or in your knees
24 or your ankle, did you think that these pains were
25 being caused by something other than your work, or

1 were you sure that it was coming from your job
2 activities?

3 A. I was pretty sure it was my job activities. I'm
4 about positive because there again I've got a
5 four-wheeler I ride to where I hunt. I don't walk
6 much. As far as fishing, I sit in a boat seat. I
7 don't hike. I hadn't hiked in years. I hadn't
8 done any hiking since the fall. As a matter of
9 fact, I hadn't done any hiking since probably '01
10 on my knees. I just got to where I couldn't. I
11 give that up. Kayaking, I had to give kayaking
12 up. I used to like kayaking; that's history.
13 Certain activities I've had to give up. Certain
14 activities I can still do to a certain extent.

15 Q. Was November of '09, when you left the company,
16 was that when you had the conversation with Larry
17 about --

18 A. It was earlier than that. It was probably -- I
19 probably worked another two months. I would say
20 it was in October.

21 Q. And did you tell him that you were having a lot of
22 pain, or did you tell him that the job was causing
23 you the pain?

24 A. I just more or less told him I was having a lot of
25 pain because, you know, I didn't want -- I needed

1 my job. I tried. I wanted to keep doing my job.
2 You know how it is, bossman-employee relation, and
3 you really don't want him to know what kind of
4 pain you're in to where, you know. No, I didn't
5 tell him other than that I was in a lot of pain
6 and that it was my knees and back and stuff. And
7 we left it at that.

8 Q. Okay. I know that you've filed a claim. Let me
9 just read it to you so that I don't say it wrong.

10 A. Okay.

11 Q. And I can show you what I'm looking at. This is
12 called a Form 50. This is the Form 50 claim form
13 that your attorney filed on your behalf. It says
14 that you've been injured by repetitive motion at
15 work. That's the case that involves my client, so
16 that's kind of what I was going to ask you some
17 questions about. Tell me about the job that you
18 were doing. This is a job you had been doing
19 since 1989?

20 A. Uh-huh.

21 Q. What was it that was repetitive that was causing
22 you problems?

23 A. Just the walking up and down the ladders. I mean,
24 that's constantly all day. We get through with
25 one wall. We tear the scaffold down. We go to

1 the truck. We unload what we need, different
2 length walk-boards on different length walls,
3 different length ladders. Just the part of
4 climbing the ladders, tearing it down, moving it,
5 climbing the ladders, tearing it down, moving it.
6 And like I said, the inclines on most of the homes
7 were pretty steep, you know, and the up and down,
8 the up and down, up and down off the walk-boards,
9 do a little, get on back on my knees. You know,
10 it was constant. I mean, that's eight-hour days.
11 You reach as high as you can over your head, do
12 what you can do, and then you're to the up and
13 down part again.

14 Q. It sounds to me like you're describing a lot of
15 different job duties; is that right?

16 A. Yes, sir, it is.

17 Q. I mean, you've got a lot of different things that
18 you do?

19 A. Correct.

20 Q. You're not stuck in one place flipping pancakes
21 one after the next or anything like that?

22 A. Correct. Correct.

23 Q. I mean, you are actually -- you're out and about,
24 and you're doing a lot of different things during
25 the day; is that correct?

1 A. Correct. And he's pretty much got us on a
2 production schedule. I mean, we've got to turn so
3 much work. We get a printout sheet of how many
4 hours I'm supposed to do this job in, and we've
5 got to hustle to get it done. You know, we're
6 wide open. It's just go, go, go, go. So, yeah,
7 it's not an easy job.

8 Q. But was there anything specifically repetitive
9 that was causing your problems, or is it just the
10 act of certain activities that you did at work
11 became painful?

12 A. I'd have to say all of it contributed, you know.
13 I'd have to say all of it. Just for an example, I
14 think in October we went and did a -- we put a
15 paneling around a guy's garage, a concrete floor.
16 Of course you've got to get up and down. We
17 trimmed it and everything. It like to have killed
18 me. I couldn't get up and down. I couldn't bend,
19 you know, get up and down. I wasn't mobile. I
20 was stiff. That kind of stuff over the last
21 couple of years probably played into where I'm at
22 now, I feel like.

23 Q. Do you think the job was a little bit more
24 difficult of a job than you should have been
25 doing?

1 A. No, I don't. I don't think it was difficult. I
2 was under the impression when I come back to work
3 with Larry after the fall that I wouldn't be doing
4 what I did, exactly what I did before the fall.
5 But Larry again knows how I am. I'm going to push
6 myself. I'm not going to stand there and watch my
7 guys work, and he knows that, which he didn't
8 expect me to do that. But I was under the
9 impression it was going to be that I might get a
10 job bidding jobs and stuff, but we had so much
11 work to do that that kind of got pushed to the
12 side, and I never got a chance to do it. But I
13 was hoping I could do something like that, but it
14 just didn't work out.

15 Q. Okay. Now, you had the prior injury before the
16 fall, and you had some issues -- did you have any
17 issues held over with your neck or your ankle, or
18 did they completely heal?

19 A. As far as by the doctor's terms, they healed to --
20 his exact words were to his medical condition he
21 released me as far as I could progress is what he
22 stated. I wasn't ever 100 percent after that, no.
23 I mean, I could tell I wasn't. On all the things
24 I had done, I could tell I wasn't 100 percent
25 after it was done. My knees wasn't that bad. For

1 a little while they did pretty good. They held up
2 for a while. After they did the surgery on my
3 spine, and they had it documented in Oconee
4 Hospital when I went down there after the fall,
5 and I've got the documentation, that it messed up
6 my lower back and mid back. Well, that kind of
7 got blew off, all but my upper. It kind of got
8 set to the side, and I never had anything done. I
9 didn't complain about it because I wanted to keep
10 working, you know. Like I said, it just got -- in
11 the last year and a half, two years, it just
12 started getting worse and worse and worse. Like I
13 said, that's where I'm at now.

14 Q. Am I correct, Larry Bolt did not know that it was
15 -- and I don't know if this is right or not, but
16 you left your job in November of '09?

17 A. Uh-huh.

18 Q. Then I'm noting here that this claim was filed in
19 February of 2010. Was February of 2010 when Larry
20 Bolt was served a copy of this claim form? Was
21 that the first time he would have known that it
22 was the repetitive nature of your work that was
23 causing your problem?

24 A. That, I'm not sure of. I can't really -- I don't
25 know. To be honest, I do not know when.

1 Q. Did you specifically tell him that --

2 A. No.

3 Q. -- it was the repetitive nature of your work?

4 A. No, I didn't. I didn't tell him that, no.

5 Q. Okay. You mentioned earlier that you hadn't had
6 any psychiatric treatment or anything like that?

7 A. No.

8 Q. Is that something you're seeking right now?

9 A. No. Well, I'll just lay it out to you in a
10 nutshell. I hadn't had a dime coming in my
11 household since November 11th, and that's very
12 depressing. I've got insurance, thank goodness,
13 that covers my house payments, car payments, stuff
14 like that. Hadn't paid me a dime. Given me the
15 runaround. It's very depressing. It's very
16 depressing.

17 I mean, you think crazy things. I mean, I
18 can't tell you I hadn't thought crazy things. You
19 know, people say I need to go tell my doctor that.
20 I've got too much pride to tell my doctor crazy
21 things like that, you know. I'm not to that point
22 yet. And like I said, I'm happy go lucky. I try
23 to not let things bother me. This bothers me
24 because I don't know where I'm going in the
25 future. I have no clue where I'm going and where

1 my future is heading now. I'm 45, and it's very
2 depressing to me. I'm 45. Where am I going to go
3 from here? I mean, all I've done is construction
4 work. That's all I know. And that keeps playing
5 on my mind. You know, I keep -- I'm like, now
6 what? What are you going to do? And I have filed
7 for permanent disability. I filed in January.

8 Q. With the Social Security Administration?

9 A. Yes, sir. Yes, sir, you know, because I didn't
10 know where I was going to go and what I was going
11 to do, if I could keep doing any construction
12 work, even if I go get my back -- I'm probably
13 going to have my back fused. He said if I had it
14 fused, no bending at the waist or I'm done.
15 That's his exact words. I've got five discs
16 that's real bad in my lower. My MRI, I couldn't
17 believe how bad it was.

18 Q. And you hadn't had any back problems before?

19 A. Other than normal cramps and stuff, no. Huh-uh.

20 Q. You weren't seeing a doctor for back issues or
21 anything like that?

22 A. No.

23 Q. It just gradually started hurting as you did your
24 job?

25 A. Correct.

1 Q. But you didn't specifically injure your back in
2 any way?

3 A. Not that -- that's like that fall. When we fell
4 in that fall, they rolled me in the hospital, and
5 I couldn't feel my lower extremities. I thought I
6 was paralyzed. I really did. Well, they asked me
7 -- when the paramedics asked, they said what is
8 hurting. I couldn't really feel nothing but my
9 back. I told them, I said my foot is hurting, my
10 right foot.

11 I couldn't even feel my knees, so I don't
12 know if I injured my knees during that time or
13 not. I was worried. You know, I told them, I
14 said look, I've had both of my knees operated on;
15 and when we fell, I hit straight down. I was
16 worried about my knees, too. But as far as
17 anything before that, the fall, other than my
18 knees, no. Very minimal back trouble. I mean,
19 you're going to have -- if you get up there and
20 push yourself to a limit and load concrete block,
21 you know, 2,000 concrete block, your back is going
22 to bother you a little, but nothing -- nothing
23 like I experience now, no. Just, you know,
24 tiredness and maybe a muscle twinge. That's about
25 it. Nothing like now.

- 1 Q. So the repetitive part that has caused you these
2 problems, just to sort of narrow it down a little,
3 it's going up and down ladders. What else?
- 4 A. The bending and stooping and the up and down, the
5 up and down. You know, I'm constantly down on a
6 walk-board on my knees. Then I'm up. You know,
7 mid way I'll reach what I can. Then I've got to
8 stand up. Then we raise the ladders up, raise the
9 walk-board up on ladder jacks. Then I'm back
10 there again on my knees. Then I'm up mid way.
11 It's that constant.
- 12 Q. Is there any one or two repetitive things that you
13 do that specifically have been the worse, or is it
14 as you said earlier, it's a little bit of
15 everything?
- 16 A. It's probably a little bit of everything, I would
17 say. Now, as far as my knees and back, they tend
18 to -- I've noticed I've paid more attention to it
19 because it got my attention this last year, and
20 climbing the ladders got my knees and back more
21 than anything. Once I got on the walk-board, I
22 was kind of oh, you know, I could bend, but I was
23 in pain. But I could function once I got up there
24 to a certain extent.
- 25 Q. Okay. Right now you've got an appointment set up

1 with Dr. McCallum?

2 A. Yes, sir, tomorrow at 10:30.

3 Q. Do you have any other doctor appointments set up

4 right now?

5 A. Not right now, no.

6 Q. None at all?

7 A. No.

8 Q. Has your attorney sent you to see any doctor?

9 A. No.

10 Q. Nothing is set up at the moment?

11 A. Huh-uh.

12 Q. You've been out of work since November of '09?

13 A. Yes, sir.

14 Q. Hadn't worked anywhere else?

15 A. No, sir.

16 Q. Made any money any other way?

17 A. No, sir.

18 Q. And you did apply for some Social Security?

19 A. Yes, sir.

20 Q. Did you hear anything about that?

21 A. Yeah. I've been denied.

22 Q. Denied?

23 A. Yes, sir.

24 Q. Are you planning on appealing that?

25 A. Done have.

1 Q. You already have?

2 A. Yes, sir.

3 Q. Are you waiting for that to come up?

4 A. Yes, sir.

5 Q. Who is your lawyer, if you have one?

6 A. Right here.

7 Q. Kathryn is?

8 A. Yes, sir.

9 Q. Okay. Did you apply for any kind of unemployment

10 benefits?

11 A. No. Well, let me back up. I did prior to

12 November 11th, yes. But I hadn't had anything

13 after November the 11th. From the day I cut it

14 off, it's been cut off.

15 Q. So you left in November?

16 A. Right. Correct.

17 Q. But you were already receiving unemployment by

18 then?

19 A. We worked -- our workload dropped, and we did get

20 some unemployment; yes, sir.

21 Q. Did you get sort of laid off in a sense?

22 A. Yes, sir.

23 Q. When did you get laid off?

24 A. It was off and on.. We'd work like three days one

25 week, draw a partial check. We might work two

1 days the next week and draw a check. We might
2 work four or five days for two weeks and not have
3 to worry. It was kind of off and on.

4 Q. Were you in the middle of a temporary layoff when
5 you went and talked to Larry Bolt?

6 A. No.

7 Q. You were working when you talked to him?

8 A. I take that back. Yes, we was in a temporary
9 layoff, more or less. We was working when we got
10 work in. When we had work, we was working.

11 Q. But since November the 11th, you have neither
12 worked nor drawn any unemployment?

13 A. That's correct.

14 Q. You don't have a workers' comp check coming in at
15 the moment?

16 A. No, sir.

17 Q. Did you apply for work and receive any short-term
18 or long-term disability insurance?

19 A. I did get some short-term through Sun Life with
20 Larry. Larry had a short-term disability
21 insurance policy on me. And he's got a long-term.
22 I'm trying to get that started. Hadn't got
23 anything there started yet. And on the
24 short-term, they maxed it out. It was \$2,900.

25 Q. Does your wife have any income?

- 1 A. Yes, sir.
- 2 Q. What does she bring in?
- 3 A. Right at \$400 a week.
- 4 Q. Do you all have any other income coming in?
- 5 A. No, sir.
- 6 Q. Okay. Where you live, do you make a mortgage
- 7 payment or a rent payment?
- 8 A. Mortgage.
- 9 Q. How much is that?
- 10 A. \$998.
- 11 Q. Do you all make any car payments?
- 12 A. Yes.
- 13 Q. How many?
- 14 A. One.
- 15 Q. How much is that?
- 16 A. \$414. I take that back. We make two. The other
- 17 one is \$168.
- 18 Q. What about any other loans or outstanding debts
- 19 that you pay on?
- 20 A. Let's see. I've got a line of credit I pay on.
- 21 It's just a minimum. You can pay a minimum
- 22 balance if you want to. It's no set fee.
- 23 Q. And you just pay the minimum payment?
- 24 A. Yes, sir, right now I do.
- 25 Q. Is that on your house?

1 A. Yes, sir.

2 Q. A home equity loan or something?

3 A. Yes. Yes.

4 Q. Any credit card debts or other loans or debts that
5 you pay on monthly?

6 A. No, sir.

7 Q. I may be just about done. If you'll just give me
8 one second.

9 A. Okay.

10 (Whereupon there was a pause in the proceedings.)

11 **EXAMINATION RESUMED BY MR. BYRD:**

12 Q. At some point, I think in January, you had been
13 out of work for a couple of months at that point.
14 Have you been offered any opportunities to come
15 back to work?

16 A. Oh, yeah. I mean, if I could, he'd let me come
17 back now.

18 Q. And before the claim was filed, did you have any
19 other conversations with Larry where you told him
20 my repetitive activities at work are what has
21 injured me?

22 A. No, I didn't use those exact words about the
23 repetitive motion is what is injured me. No, I
24 didn't. I just told him that I had got to hurting
25 so bad that I didn't know if I could do my job

1 anymore. That's the way I put it because there
2 again my pride level is a little high.

3 Q. I understand. In your opinion, the problems that
4 you're having right now, are any of those problems
5 just a continuation of problems that you had had
6 ever since the fall? Are some of them like that,
7 or are all of them new problems since then? I ask
8 because I know that you had the neck surgery, so
9 I'm wondering if there are parts of it that are
10 just that you feel are just ongoing continuations
11 of problems you've had all along, or is it some of
12 it or all of it new?

13 A. I'd have to say it would probably have to be all
14 of it. No, I ain't going to say all of it is new.
15 I'd say 90 percent of it definitely. I've had
16 trouble since my surgery on certain things, on
17 doing certain things. But as far as it hurting
18 bad after my surgery like it does now, no. It's
19 kind of come on in the last two years.. Like I
20 said, it's progressively worse and worse. It
21 started out just mild. Now it's progressed to
22 severe. But, yeah, I would have to say -- I would
23 have to say 10 percent of it was probably since my
24 surgery that I've had trouble.

25 Q. What part specifically, if you know?

1 A. Probably my neck would be the worse thing. I've
2 mentioned that to Dr. Lucas, and he don't think
3 there is anything still wrong with my neck. And I
4 tell him, you know, why is my arm going numb.

5 Q. Okay. Your job was a pretty heavy, physical job?

6 A. Yes.

7 Q. Would you agree with that?

8 A. Yes.

9 Q. I mean, is that fair to say?

10 A. Yes, sir.

11 Q. Would you describe your job more as a repetitive
12 job, or would you describe your job as a heavy,
13 physical job?

14 A. Actually I'd have to say both. It is a heavy
15 physical. I mean, you could compare it to a mill,
16 but you're at a different place. I mean, it's the
17 same thing every day pretty much. It's the same.
18 We set up the scaffold the same way. I mean, it's
19 pretty much -- I'd say it's each. I'd say it's a
20 heavy and --

21 Q. And you do a lot of the same activities?

22 A. Yes, correct.

23 Q. But you would agree with me that you do have a
24 pretty wide array of activities that you do during
25 the day?

1 A. Correct, yes.

2 Q. Okay. Do you have a return appointment set up to
3 see Dr. Lucas?

4 A. No, but I'm going to make one. What I wanted to
5 do, I was pursuing my back. Then my knees, oh,
6 they got just so bad. I run into a heart
7 condition in between my knees and my back, so I
8 wanted my ticker first. I said I'll pursue my
9 heart first and then go back to the back. During
10 that time workman's comp had my epidural shots
11 approved, two of them. I went and actually had
12 one done and was going to go back and get the
13 other one done, and they canceled it on me. So
14 what I'm going to do probably this next week after
15 he tells me on my knees, which I know what is he
16 doing to do on my knees, I'm fixing to get them
17 scoped again, both of them.

18 Q. That's what you think?

19 A. Yeah. I'm about positive. So I'm going to set me
20 an appointment with Lucas, but I'll probably get
21 one of my knees done before I really get anything
22 down on my back because I don't want to be down on
23 both.

24 Q. With your health insurance right now, are you
25 carrying a COBRA policy or something?

1 A. It is -- oh, if you wouldn't have asked me. It's
2 through Covidien where my wife works.
3 Q. Okay. That's fine. I just --
4 A. Cigna.
5 Q. Cigna?
6 A. Yeah, Cigna Health Care.
7 Q. Mr. Bowen, I think that's all the questions I have
8 right now. Some of the other attorneys may have
9 some questions. If you would just please answer
10 those.
11 A. Okay.
12 **MR. KAMB:**
13 No questions.
14 **MR. SMITH:**
15 We're done.
16 (DEPOSITION CONCLUDED AT 4:30 P.M.)
17
18
19
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25

C E R T I F I C A T E

I, the undersigned, Kathleen M. Gula, Notary Public in and for the State of South Carolina, do hereby certify that the foregoing deposition of John Randolph Bowen was taken on the 8th day of April, 2010;

That the within deponent was sworn to tell the truth, and that the foregoing is an accurate transcription of the testimony taken under oath;

That all exhibits entered herein are attached hereto (if requested by counsel) and made a part of this statement under oath.

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal on April 11, 2010.

COPY

Kathleen M. Gula
Notary Public for South Carolina
My Commission Expires: 1/10/20

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0920040



COPY

EMPLOYEE/CLAIMANT: JOHN R. BOWEN

EMPLOYER: VINYL SERVICES, INC.

INSURER: BRIDGEFIELD CASUALTY
INSURANCE COMPANY

DR. S. EMMETT LUCAS, III

PURSUANT TO NOTICE, THE WITHIN DEPOSITION OF
DR. S. EMMETT LUCAS, III, WAS TAKEN BY THE
EMPLOYER/INSURER ON THE 12TH DAY OF MAY, 2010, COMMENCING
AT THE HOUR OF 7:35 A.M., AT PIEDMONT ORTHOPAEDIC
ASSOCIATES, P.A., 1050 GROVE ROAD, GREENVILLE, SOUTH
CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

SHEILA ROBISON
VERBATIM REPORTER

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

APPEARANCES

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ATTORNEY FOR THE HOMEBUILDER'S
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GREENVILLE, SOUTH CAROLINA 29607

ATTORNEY FOR THE EMPLOYER/INSURER.

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EXHIBITS:

DEFENDANT'S EXHIBIT NUMBER ONE, 21 PAGES, MARKED, ATTACHED, MEDICAL RECORDS.....	5
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* DIGITAL RECORDING RETAINED FOR SIX (6) MONTHS FROM
DATE OF CERTIFICATION.

1 PURSUANT TO NOTICE AND/OR AGREEMENT TO TAKE
2 DEPOSITIONS, THE WITHIN DEPOSITION WAS TAKEN BY THE
3 ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE
4 OF SOUTH CAROLINA, BY CONSENT OF ALL PARTIES AT PIEDMONT
5 ORTHOPAEDIC ASSOCIATES, GREENVILLE, SOUTH CAROLINA.

6 * * * * * * * * * * * * * * * *

7 **STIPULATIONS:**

8 IT IS AGREED BY AND BETWEEN COUNSEL FOR THE PARTIES
9 AS FOLLOWS:

- 10 1. THE DEPOSITION IS BEING TAKEN PURSUANT TO THE
11 SOUTH CAROLINA RULES OF CIVIL PROCEDURE.
12 2. THE READING AND SIGNING OF THE DEPOSITION
13 TRANSCRIPT ARE **WAIVED** BY THE WITNESS AND THE
14 PARTIES.

15 * * * * * * * * * * * * * * * *

16 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
17 WHOLE TRUTH AND NOTHING BUT THE TRUTH CONCERNING THE
18 MATTER HEREIN:

19 **DR. S. EMMETT LUCAS, III**

20 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

21 **EXAMINATION BY MR. LEWIS:**

22 Q. GOOD MORNING, DOCTOR LUCAS. WE MET BEFORE THE
23 DEPOSITION, BUT WHILE WE'RE ON THE RECORD, MY NAME'S
24 SOUTH LEWIS; I'M AN ATTORNEY HERE IN GREENVILLE WITH
25 WILLSON, JONES, CARTER, AND BAXLEY. AND I'M

1 REPRESENTING VINYL SERVICES AND ITS PRESENT INSURANCE
2 CARRIER IN A WORKERS' COMPENSATION CLAIM INVOLVING A
3 PATIENT OF YOURS, JOHN BOWEN; ARE YOU FAMILIAR WITH
4 MR. BOWEN?

5 A. YES.

6 Q. OKAY. AND MR. BOWEN'S ATTORNEY, DON KAMB, FROM
7 KATHRYN WILLIAMS' OFFICE IS HERE. AND ANDREW SMITH
8 IS AN ATTORNEY REPRESENTING THE PRIOR INSURANCE
9 CARRIER IN THIS CASE. AND I'M JUST GOING TO ASK YOU
10 A FEW QUESTIONS TODAY ABOUT YOUR TREATMENT OF MR.
11 BOWEN AND HIS CONDITION. NOW, IF I UNDERSTAND, HE'S
12 BEEN A PATIENT OF YOURS FOR SEVERAL YEARS; IS THAT
13 RIGHT?

14 A. YES.

15 Q. OKAY. AND IT LOOKS LIKE YOU INITIALLY STARTED SEEING
16 HIM IN -- FIRST NOTE I HAVE IS SEPTEMBER 15TH, 2004;
17 DOES THAT SOUND -- DOES THAT APPEAR TO BE THE FIRST
18 TIME YOU SAW HIM?

19 A. YES, I BELIEVE SO.

20 Q. OKAY. AND I'M NOT GOING TO HAVE YOU LOOK AT ALL
21 THESE RECORDS. I'M JUST GOING TO INTRODUCE RECORDS
22 AS DEFENDANTS' EXHIBIT NUMBER ONE, AND ALL I'VE DONE
23 IS MARK RECORDS FROM 2004 AND 2005 AS DEFENDANTS'
24 EXHIBIT NUMBER ONE JUST IN CASE WE REFER TO THEM.

25 (COURT REPORTER MARKS MEDICAL RECORDS DEFENDANTS'

EXHIBIT NUMBER ONE, ATTACHED)

BY MR. LEWIS:

DON, THAT'S YOUR COPY.

EXAMINATION RESUMED BY MR. LEWIS:

Q. NOW, WHEN YOU FIRST SAW HIM DOCTOR, AND I'M NOT GOING TO GO THROUGH EACH AND EVERY ONE OF YOUR OLD RECORDS, BUT WHEN YOU FIRST SAW HIM ON SEPTEMBER 15TH, '04, HIS PRIMARY COMPLAINTS WERE WHAT?

A. HIS PRIMARY COMPLAINTS WERE NECK PAIN AND UPPER BACK PAIN.

Q. AND WHEN YOU SAY "UPPER BACK," YOU'RE TALKING LIKE THE THORACIC AREA?

A. YES.

Q. OKAY. AND IT LOOKS LIKE HE ALSO COMPLAINED OF SOME LOW BACK PAIN AT THAT TIME, DIDN'T HE?

A. YES. LET'S SEE. I THINK THAT HE HAD HAD LOWER BACK PAIN INITIALLY WHEN HE HAD THE INJURY, BUT I THINK FOR THE MOST PART THE LOWER BACK PAIN HAD RESOLVED.

Q. OKAY. YEAH, AND I'M -- THIS NOTE THAT I'M LOOKING AT HERE, DOCTOR, THAT'S JUST BEEN PART OF DEFENDANTS' ONE, IS THAT SOMETHING THAT A NURSE OR SOMEBODY WOULD FILL OUT IN HERE?

A. I FILL THAT OUT.

Q. YOU FILL THAT OUT, OKAY. AND IT DOES INDICATE THAT HE HAD HAD SOME SEVERE LOW BACK PAIN AT ONE POINT IN

1 TIME, BUT IT HAD BEGIN TO RESOLVE?

2 A. YES.

3 Q. OKAY. SO, REALLY, THE PRIMARY PROBLEM AT THAT POINT
4 WAS IN HIS NECK; IS THAT RIGHT?

5 A. CORRECT.

6 Q. OKAY. AND DID YOU DETERMINE AN M.R.I. WAS NEEDED, OR
7 DID YOU ALREADY HAVE ONE ONCE HE GOT HERE?

8 A. I BELIEVE HE ALREADY HAD ONE, BUT WAIT A MINUTE AND
9 LET ME SEE. (WITNESS REVIEWS DOCUMENTS) NO, WE -- HE
10 DID NOT HAVE ONE; WE ORDERED ONE.

11 Q. OKAY. AND IT LOOKS LIKE HE HAD ALSO HAD SOME -- SOME
12 STUDIES OF HIS LUMBAR SPINE DONE EVEN THOUGH HIS
13 PRIMARY PROBLEMS WEREN'T HIS NECK. DID YOU -- WERE
14 YOU AWARE OF THAT? LOOKS LIKE HE MIGHT HAVE HAD A
15 C.T.; I'M JUST LOOKING AT SOMETHING FROM OCONEE
16 MEMORIAL, A C.T. SCAN FROM MARCH OF '04 OF THE
17 LUMBAR.

18 A. OKAY. I -- I MAY NOT BE AWARE OF THAT.

19 Q. OKAY. AND THEN ULTIMATELY AFTER YOU TOOK THE M.R.I.
20 OF HIS NECK, WHAT DID -- WHAT DID YOU DETERMINE WAS
21 THE DIAGNOSIS?

22 A. I BELIEVE HE HAD A -- A LEFT-SIDED C5-6 DISC
23 HERNIATION.

24 Q. AND DID YOU TRY TO TREAT THAT CONSERVATIVELY AT
25 FIRST, OR DID YOU JUST GO AHEAD AND DO THE SURGERY?

1 LOOKS LIKE HE HAD SURGERY IN JANUARY OF '05 TO HIS
2 NECK.

3 A. WE TALKED ABOUT CONSERVATIVE TREATMENT, AND -- AND HE
4 TRIED ONE -- OR HE WAS GOING TO TRY ONE EPIDURAL
5 BLOCK AT LEAST, AND I DO NOT KNOW IF HE ACTUALLY GOT
6 THAT OR NOT.

7 Q. OKAY.

8 A. WELL, WAIT A MINUTE. HERE'S A LITTLE NOTE THAT'S IN
9 HERE. IT SAYS, "HE'S DECIDED HE'D RATHER GO AHEAD
10 WITH SURGERY AS OPPOSED TO TRYING THE BLOCK." SO NO,
11 HE REALLY DIDN'T...

12 Q. AND I THINK YOU WERE REFERENCING -- THERE'S A
13 DICTATED NOTE FROM DECEMBER 7TH, '04, AND THERE'S A
14 HANDWRITTEN NOTE ON THERE ---

15 A. YES.

16 Q. --- FROM DECEMBER 22ND, '04?

17 A. CORRECT.

18 Q. OKAY. SO HE, INSTEAD OF DOING THE INJECTION, HE JUST
19 WENT AHEAD AND OPTED FOR THE SURGERY?

20 A. YES.

21 Q. OKAY. AND THAT SURGERY CONSISTED OF WHAT; WHAT WAS
22 IT, FUSION?

23 A. A DISCECTOMY AND FUSION.

24 Q. OKAY. AND AT WHICH LEVELS?

25 A. C5-6.

1 Q. AND YOU PERFORMED THAT SURGERY?

2 A. YES.

3 Q. AND TYPICALLY, THE COURSE OF TREATMENT AFTER THAT IS
4 WHAT; SEVERAL -- SEVERAL WEEKS OR MONTHS OF PHYSICAL
5 THERAPY?

6 A. WELL, USUALLY IT'S A COLLAR FOR ABOUT SIX WEEKS AND
7 RESTRICTED ACTIVITY. AND THEN SOMEWHERE BETWEEN SIX
8 WEEKS AND THREE MONTHS, WE TRY TO GET BACK -- PEOPLE
9 BACK TO WORK. AND THEY MAY OR MAY NOT GO TO THERAPY
10 JUST DEPENDANT ON HOW THEY'RE DOING IN THAT INTERIM
11 PERIOD.

12 Q. OKAY. AND I KNOW THAT HE -- I KNOW THAT EVENTUALLY
13 YOU DID RELEASE HIM. HOW WOULD YOU CHARACTERIZE HIS
14 RECOVERY FROM HIS NECK SURGERY. I MEAN, WAS IT
15 REALLY GOOD; WAS IT FAIR; WAS IT AVERAGE?

16 A. I THOUGHT IT WAS VERY GOOD.

17 Q. AND WAS APRIL 13TH, 2005, THE DATE THAT YOU RELEASED
18 HIM?

19 A. YES.

20 Q. AND THE RECORDS I'VE INTRODUCED ENCOMPASS YOUR '04
21 AND '05 RECORDS, AND I, YOU KNOW, FOR LACK OF A
22 BETTER TERM, THAT WAS THE FIRST TIME YOU SAW HIM?

23 A. CORRECT.

24 Q. NOW, AFTER YOU RELEASED HIM IN '05, DID YOU CONTINUE
25 TO SEE HIM ON A REGULAR BASIS, OR DID YOU NOT SEE HIM

1 AGAIN UNTIL HE CAME BACK TO YOU IN JANUARY OF 2010?

2 A. I DID NOT SEE HIM.

3 Q. OKAY. NOW, AT THE TIME THAT YOU RELEASED HIM, I
4 BELIEVE YOU ASSIGNED HIM AN IMPAIRMENT RATING IN
5 APRIL OF 2005?

6 A. WELL, LET'S SEE. I DID SEE HIM ONE MORE TIME IN
7 NOVEMBER.

8 Q. OKAY. WAS HE JUST HAVING SOME ONGOING PAIN IN HIS
9 NECK OR?

10 A. YEAH -- YES.

11 Q. AND DID HE ATTRIBUTE IT TO ANY KIND OF SPECIFIC
12 ACTIVITY?

13 A. TO HIS WORK. HE SAID HE WAS DOING VERY VIGOROUS
14 WORK; ---

15 Q. OKAY.

16 A. --- HAVING TO DO A LOT OF LOOKING UP AND NAIL-
17 GUNNING. THAT'S WHAT HE REPORTED TO ME.

18 Q. WHEN YOU RELEASED HIM IN APRIL OF '05, LOOKS LIKE YOU
19 RELEASED HIM WITH NO PERMANENT RESTRICTIONS; IS THAT
20 RIGHT?

21 A. THAT'S CORRECT.

22 Q. IS THAT PRETTY STANDARD AFTER -- AFTER A FUSION, OR
23 IS IT JUST KIND OF DEPENDANT ON HOW THE PERSON'S
24 DOING AFTERWARDS?

25 A. FOR A CERVICAL FUSION, USUALLY THAT WOULD BE THE

1 CASE.

2 Q. YOU MEAN RELEASE HIM WITH NO RESTRICTION?

3 A. YES.

4 Q. OKAY. DID YOU REALIZE WHAT TYPE OF WORK HE WAS DOING
5 OR HOW PHYSICAL IT WAS WHEN YOU DID RELEASE HIM, OR
6 DID YOU HAVE ANY DISCUSSIONS WITH HIM ABOUT THAT FROM
7 WHAT YOUR NOTES REFLECT?

8 A. I DON'T HAVE ANY INDEPENDENT RECOLLECTION, AND I
9 DON'T THINK MY NOTES REALLY DISCUSS ANYTHING OTHER
10 THAN WE AT ONE POINT KNEW HE WAS GOING TO DO VIGOROUS
11 WORK. SO WE DIDN'T FEEL LIKE HE WAS READY TO GET
12 BACK AT ONE POINT, AND SO WE ---

13 Q. AND THAT WAS STILL DURING THE ---

14 A. YEAH.

15 Q. --- MIDDLE OF HIS TREATMENT?

16 A. CORRECT.

17 Q. AND IT LOOKS LIKE WHEN HE CAME BACK TO YOU IN
18 NOVEMBER, ON NOVEMBER 9TH OF '05, YOU BASICALLY SAID
19 THAT EVERYTHING LOOKED FINE IN TERMS OF, YOU KNOW,
20 HOW THE HARDWARE WAS SITTING. AND YOU TALKED ABOUT,
21 LOOKS LIKE FROM YOUR NOTES, SOME THERAPY OR MAYBE
22 SOME ANTI-INFLAMMATORIES BUT NOTHING IN TERMS OF ANY
23 FORMAL ADDITIONAL TREATMENT; IS THAT RIGHT?

24 A. CORRECT.

25 Q. OKAY. AND I DON'T SEE THE IMPAIRMENT RATING IN YOUR

1 NOTE, BUT THERE WAS A LETTER THAT WAS SENT TO YOU BY
2 THE HOMEBUILDERS FUND, WHICH IS MR. SMITH'S CLIENT,
3 AND IT LOOKS LIKE YOU ASSIGNED A 15-PERCENT RATING;
4 IS THAT -- DOES THAT -- DO YOU RECOGNIZE THAT AS YOUR
5 HANDWRITING?

6 A. YES.

7 Q. OKAY. AND IS THAT PRETTY STANDARD IN TERMS OF THE
8 RANGE OF IMPAIRMENT AFTER THAT DISCECTOMY AND FUSION?

9 A. YES.

10 Q. OKAY. NOW, I ASKED YOU A LITTLE BIT ABOUT HIS LUMBAR
11 SPINE EARLIER, AND YOU -- THE NOTES HAD INDICATED
12 THAT HE HAD SOME LUMBAR PAIN, BUT THAT IT HAD
13 SOMEWHAT RESOLVED. I REALIZE THESE AREN'T THE FILMS,
14 BUT I'M JUST GOING TO SHOW YOU THIS C.T. OF THE
15 LUMBAR THAT WAS TAKEN IN MARCH OF '04, WHICH WOULD
16 HAVE BEEN RIGHT AFTER HIS ACCIDENT DATE, AND JUST ASK
17 YOU IF YOU COULD GIVE ME YOUR BEST CHARACTERIZATION
18 OF THE STATUS OF HIS LOW BACK?

19 BY MR. LEWIS:

20 AND I'M GOING TO ENTER THAT REPORT FROM OCONEE
21 MEMORIAL, MARCH 22ND, '04, AS DEFENDANTS' NUMBER TWO.
22 (COURT REPORTER MARKS C.T. SCAN DEFENDANT'S EXHIBIT NUMBER
23 TWO, ATTACHED)

24 BY THE WITNESS:

25 OKAY. SO, IT SOUNDS LIKE HE HAS BULGING DISCS

1 AT SEVERAL LEVELS; THE MOST PROMINENT OF WHICH IS THE
2 L4-5.

3 EXAMINATION RESUMED BY MR. LEWIS:

4 Q. OKAY. AND IS THAT -- IS THAT COMMON WITH SOMEBODY
5 HIS AGE, OR WOULD THAT BE REPRESENTATIVE OF, YOU
6 KNOW, A LIFETIME OF PHYSICAL WORK, OR COULD YOU SAY?

7 A. WELL, I THINK THAT THIS CAN BE NORMAL FOR SOME
8 PEOPLE, BUT IT MAY BE EVEN MORE REPRESENTATIVE OF
9 SOMEBODY WHO DOES THIS KIND OF WORK.

10 Q. OKAY. 'CAUSE I THINK AT THE TIME -- I KNOW HE WAS
11 BORN IN MARCH OF '65. SO WHEN THIS C.T. WAS TAKEN IN
12 MARCH OF 2004, HE WOULD HAVE BEEN JUST RIGHT AT 40
13 YEARS OLD OR SO. AND SO, IS THAT PRETTY COMMON THAT
14 WHAT -- THOSE FINDINGS ON THAT C.T. FOR SOMEBODY
15 THAT'S 40, OR IS THAT REALLY -- DOES HE HAVE MORE
16 ADVANCED FINDINGS THAN MOST 40 YEAR OLDS PROBABLY
17 WOULD HAVE DO?

18 A. IT'S HARD TO SAY BECAUSE I DON'T GET A FAIR
19 REPRESENTATION OF THE AVERAGE -- PEOPLE DON'T COME IN
20 TO SEE ME JUST SO I CAN GET AN M.R.I. SCAN AND LOOK
21 AND SEE WHAT THEIR BACK IS.

22 Q. YOU ONLY SEE THEM IF THEY HAVE PROBLEMS IN OTHER
23 WORDS?

24 A. RIGHT. SO, I -- I DON'T KNOW IF THAT...

25 Q. OKAY. NOW, IF SOMEONE WHO'S -- WHO'S HAD AN INJURY

1 TO THEIR BACK -- TO THEIR, YOU KNOW, LOW MIDDLE BACK
2 AND NECK AND THEN HAD A FUSION, ARE THEY GOING TO BE
3 MORE PRONE IN THE FUTURE TO REINJURY IF THEY, YOU
4 KNOW, ARE BACK AT WORK DOING PHYSICAL TYPE THINGS?

5 A. REPEAT THE QUESTION.

6 Q. SOMEONE THAT'S HAD AN INJURY LIKE MR. BOWEN, MR.
7 BOWEN HAD AN INJURY IN MARCH, 2004, AND I BELIEVE HE
8 FELL FROM ---

9 A. THE HEIGHT.

10 Q. --- AN ELEVATED HEIGHT. AND AFTER THEY'VE HAD THEIR
11 BACK WORKED ON AND THE SURGERY IN THE NECK, IS
12 SOMEONE LIKE THAT GOING TO BE MORE PRONE TO HAVING A
13 REINJURY IN THE FUTURE OR NOT NECESSARILY?

14 A. WELL, YES AND NO. I MEAN, THE REASON I'M GOING TO
15 ANSWER THE QUESTION THE WAY I'M GOING TO DO IS 'CAUSE
16 YOU SAID, "HAD INJURY AND SURGERY." WELL, THE
17 SURGERY WAS ON THE NECK, AND TYPICALLY THE NECK HEALS
18 UP PRETTY WELL. ALTHOUGH WHEN YOU'VE HAD A SURGERY
19 ON AN AREA, IT DOES TEND TO BE KIND OF A -- A CHRONIC
20 SOURCE OF COMPLAINTS. SO YES, I THINK THAT IT COULD
21 BE A SOURCE OF COMPLAINT FOR NECK PAIN, BUT I'M NOT
22 SURE THAT WE -- THAT HE WAS REALLY HAVING A BACK
23 PROBLEM WHEN HE CAME TO SEE ME. SO IT'S HARD FOR ME
24 TO KNOW HOW MUCH THIS FALL -- WHETHER IT HAD ANY
25 AFFECT ON HIS BACK WHATSOEVER.

1 Q. WHEN YOU SAY "BACK," YOU'RE TALKING ABOUT LOWER BACK?

2 A. LOWER BACK.

3 Q. OKAY. AND NOW, THE RECORDS INDICATE THAT HE
4 INITIALLY HAD SOME SEVERE LOW BACK PAIN AFTER THIS
5 FALL; IS THAT INDICATIVE OF ---

6 A. FALLING 20 FEET AND LANDING ON, YOU KNOW, LANDING ON
7 YOUR FEET, YEAH, I THINK YOU HURT ALL OVER. HE MAY
8 BE LUCKY HE DIDN'T BREAK A BONE SOMEWHERE.

9 Q. SO, IF I UNDERSTAND WHAT YOU'RE SAYING IS IT WOULD
10 NOT BE UNCOMMON FOR SOMEONE TO KIND OF HAVE -- THAT'S
11 HAD THAT NECK INJURY -- THEN YOU HAVE ---

12 A. TO HAVE SOME COMPLAINTS.

13 Q. --- TO HAVE SOME ONGOING TYPE PAIN OVER THE --
14 AFTERWARDS OVER THE YEARS?

15 A. YES.

16 Q. OKAY. NOW, MR. BOWEN THEN CAME BACK TO SEE YOU.
17 AFTER YOU SAW HIM IN NOVEMBER, 2005, WHICH WAS THE
18 LAST RECORD IN DEFENDANTS' EXHIBIT NUMBER ONE, I
19 THINK HE CAME BACK TO SEE YOU IN JANUARY -- JANUARY
20 OF 2010; IS THAT YOUR RECORDS REFLECT, DR. LUCAS?

21 A. YES.

22 Q. OKAY. AND I'M JUST GOING TO GET YOUR 2010 AND GOING
23 FORWARD RECORDS MARKED AS DEFENDANTS' NUMBER THREE,
24 PLEASE.

25 (COURT REPORTER MARKS MEDICAL NOTES DEFENDANTS' EXHIBIT

1 NUMBER THREE, ATTACHED)

2 EXAMINATION RESUMED BY MR. LEWIS:

3 Q. AND YOU HAVE HIS FILE IN FRONT OF YOU, DON'T YOU,
4 DOCTOR?

5 A. YES.

6 Q. ALL RIGHT, DR. LUCAS, IN LOOKING AT YOUR -- AT THE
7 NOTES BEGINNING ON JANUARY 20TH, 2010, MR. BOWEN CAME
8 TO YOU, AND YOUR NOTES INDICATE THAT HIS PRIMARY
9 COMPLAINTS WERE LOW BACK AND NECK PAIN; IS THAT
10 CORRECT?

11 A. YES.

12 Q. AND WHEN THEY COME IN HERE, THEY FILL OUT -- THERE'S
13 -- THERE'S A PATIENT HISTORY FORM IT LOOKS LIKE --
14 THAT'S MARKED -- DATED JANUARY 20TH; IS THAT
15 SOMETHING THAT THE PATIENT FILLS OUT THEMSELVES?

16 A. YES.

17 Q. AND IT LOOKS LIKE IN HIS CASE HE FILLED OUT THREE
18 PAGES THAT ARE MARKED?

19 A. YES.

20 Q. OKAY. AND HIS COMPLAINTS, ACCORDING TO HIS FORM,
21 WERE PAIN IN HIS LOW MIDDLE AND HIS UPPER BACK; IS
22 THAT RIGHT?

23 A. WELL, HIS CHIEF COMPLAINT TO ME WERE PRIMARILY LOW
24 BACK PAIN. HE WAS HAVING SOME NECK PAIN, BUT THE
25 BACK PAIN WAS WORSE AND ALSO HAD SOME LEG PAIN.

1 Q. OKAY. AND ON HIS PATIENT HISTORY FORM, DOCTOR, WHICH
2 SAYS, "DESCRIPTION OR PROBLEM," AND HE INDICATES LOW
3 BACK, MID BACK, UPPER BACK, BUT YOU'RE SAYING THE LOW
4 BACK WAS WHAT HE WAS SAYING WAS THE WORST?

5 A. CORRECT.

6 Q. OKAY. AND OUT HERE IT SAYS, "WAS THIS A RESULT FROM
7 AN ON-THE-JOB INJURY," AND HE CHECKS "YES," DOESN'T
8 HE?

9 A. YES.

10 Q. OKAY. AND WHAT DATE DOES HE PUT OUT HERE AS THE
11 INJURY?

12 A. "3/22/04."

13 Q. OKAY. AND HE INDICATES THAT THAT WAS A FALL?

14 A. YES.

15 Q. OKAY. DID YOU UNDERSTAND THAT HE WAS RELATING HIS
16 PRESENT PAIN TO THE FALL IN 2004?

17 A. NO.

18 Q. OKAY. WHAT DID -- WHAT DID HE TELL YOU?

19 A. HE TOLD ME HE HAD ALWAYS HAD SOME CHRONIC BACK PAIN,
20 AND THAT IT HAD GOTTEN WORSE OVER TIME.

21 Q. MEANING, WHEN YOU SAY, "CHRONIC BACK," LOW BACK?

22 A. YES, CHRONIC LOWER BACK PAIN, AND THAT PAIN HAD JUST
23 GOTTEN WORSE OVER TIME AND WAS BASICALLY EXACERBATED
24 BY THE TYPE OF WORK HE DID.

25 Q. NOW, HE DIDN'T REPORT ANY SPECIFIC LIKE ACUTE INJURY

1 TO YOU WHEN HE CAME; IS THAT RIGHT?

2 A. CORRECT.

3 Q. OKAY. DID HE RELATE ANY -- I MEAN, LOOKING AT YOUR
4 NOTES, DID HE RELATE ANY SPECIFIC ACTIVITY ON THE JOB
5 THAT CAUSED THE EXACERBATION OF THE PAIN, OR WAS JUST
6 -- HE JUST SAYING, "IN GENERAL, DOING HEAVY WORK HAS
7 CAUSED ME PROBLEMS"?

8 A. MY -- MY NOTES DO NOT REFLECT ANY CONVERSATION ABOUT
9 SPECIFIC ACTIVITIES ON THE JOB.

10 Q. YOU KNOW, IN OTHER WORDS, "I BEND DOWN 200 TIMES A
11 DAY, AND THAT'S PRECISELY WHAT'S CAUSING IT," ---

12 A. RIGHT.

13 Q. --- AS OPPOSED TO JUST "I'M SORE ON THE JOB"?

14 A. HE DID NOT SAY. AT LEAST TO THE BEST OF MY
15 KNOWLEDGE, I DO NOT RECALL DISCUSSING WITH HIM
16 SPECIFIC THINGS ON THE JOB THAT MADE HIM HURT OR
17 EXACERBATED HIS PAIN. HE JUST RELATED IT TO JOB
18 ACTIVITIES IN GENERAL.

19 Q. AND DID YOU -- DID YOU HAVE A DISCUSSION WITH HIM
20 ABOUT WHAT HIS JOB ENTAILED OR NO?

21 A. NO, NOT THAT I RECALL.

22 Q. IF HE HAD RELAYED A PARTICULAR ACTIVITY THAT CAUSED
23 THE PAIN, WOULD IT MORE THAN LIKELY BE IN YOUR NOTES?

24 A. IF HE HAD MADE A SIGNIFICANT EFFORT TO DESCRIBE AN
25 ACTIVITY, IT MIGHT MAKE IT INTO THE NOTES. BUT IN

1 GENERAL, YOU KNOW, IF HE JUST SAID IN PASSING THAT
2 THIS AND THIS AND THIS HURT, THEN I WOULDN'T HAVE PUT
3 THAT IN.

4 Q. ALL RIGHT. AND FROM YOUR NOTE, LOOKING LIKE AT THE
5 FIFTH LINE, AS YOU INDICATED HE HAD SOME CHRONIC BACK
6 PAIN, AND HE SAID IT GOT WORSE OVER THE LAST TWO
7 YEARS; IS THAT RIGHT?

8 A. CORRECT.

9 Q. NOW, WAS IT YOUR OPINION THAT HIS -- ANY OF HIS PAIN
10 WAS A RESIDUAL FROM THIS FALL IN 2004, OR DID YOU
11 THINK NONE OF IT HAD ANYTHING TO DO WITH THAT FALL?

12 A. I THOUGHT NONE OF IT HAD TO DO WITH THE FALL.

13 Q. NOW, WHEN HE CAME TO SEE YOU IN JANUARY, HE TOLD YOU
14 HE HAD BEEN OUT OF WORK SINCE NOVEMBER; IS THAT
15 ACCURATE?

16 A. YES.

17 Q. AND DID HE TELL YOU WHY HE WAS OUT OF WORK? I MEAN,
18 DID HE SAY IT WAS 'CAUSE OF HIS PAIN, OR DID HE SAY
19 THERE WAS A LAYOFF, OR WHAT DID HE TELL YOU?

20 A. I DON'T KNOW THAT HE RELAYED THAT TO ME,
21 SPECIFICALLY. I'M ASSUMING -- NO, I TAKE THAT BACK.
22 HE'S BEEN OUT OF WORK BECAUSE OF HIS PAIN.

23 Q. OKAY. SO, HE SPECIFICALLY TOLD YOU THAT THE REASON
24 HE WAS OUT OF WORK WAS DUE TO HIS PAIN?

25 A. YES.

1 Q. OKAY. HE DIDN'T MENTION TO YOU ANYTHING ABOUT ANY
2 KIND OF LAYOFF SITUATION OR?

3 A. NO.

4 Q. NOW, DID HE RELATE ANY OTHER ACTIVITY THAT HE ENGAGED
5 IN? I KNOW HE TALKED ABOUT HIS JOB. DID HE TELL YOU
6 THAT -- FOR INSTANCE, I MEAN, HE HAD TESTIFIED AT HIS
7 DEPOSITION THAT HE WAS AN AVID HUNTER, THAT HE HUNTED
8 A COUPLE TIMES A WEEK; DID HE TELL YOU ABOUT ANY
9 OTHER ACTIVITY?

10 A. NO.

11 Q. HE DIDN'T TELL YOU THAT HE WAS A -- THAT HE DID BOAT
12 FISHING EITHER?

13 A. NOT THAT I RECALL.

14 Q. AND I DIDN'T SEE IT IN YOUR NOTES, AND THAT'S WHY I
15 WAS -- I DIDN'T SEE ANY REFERENCE TO IT. IF HE HAD
16 TOLD YOU THAT HE HAD BEEN DOING THESE OTHER THINGS,
17 WOULD IT HAVE PROBABLY BEEN IN YOUR NOTES OR?

18 A. ARE YOU ASKING ME IF HE SAID HE GOES BOATING THAT I
19 WOULD PUT IT IN MY NOTES?

20 Q. YEAH, I MEAN, IF HE SAID THAT, "HEY, YOU KNOW, I'M --
21 I'M AN AVID HUNTER. I'M HUNTING A COUPLE TIMES A
22 WEEK," YOU KNOW, WOULD THAT HAVE BEEN IN YOUR NOTES
23 IN TERMS OF, YOU KNOW, WHAT HIS PHYSICAL ACTIVITY
24 CONSISTED OF?

25 A. IT MIGHT, BUT I ALMOST CONSIDER THAT, KIND OF, LIKE

1 "I GO TO THE GROCERY STORE A COUPLE OF TIMES A WEEK;"
2 THERE'S A GOOD CHANCE IT WOULDN'T MAKE IT IN MY NOTES
3 ---

4 Q. OKAY.

5 A. --- UNLESS HE SAID, YOU KNOW, "I GO TO CANADA AND
6 CLIMB MOUNTAINS, AND ---

7 Q. OKAY.

8 A. --- CHASE GOATS."

9 Q. NOW, YOU WENT AHEAD AND ORDERED AN M.R.I.; IS THAT
10 RIGHT?

11 A. YES.

12 Q. AND IT LOOKS LIKE -- LOOKS LIKE HIS M.R.I. WAS ON
13 FEBRUARY THE 2ND OF 2010?

14 A. YES.

15 Q. OKAY. AND IS THAT THE ONE THAT WAS TAKEN AT SENECA
16 DIAGNOSTIC?

17 A. YES.

18 Q. ALL RIGHT. AND THE HISTORY THAT'S THERE, IS THAT
19 SOMETHING THAT'S PROVIDED BY YOUR OFFICE, OR IS THAT
20 SOMETHING THAT THE -- THAT THE PATIENT, MR. BOWEN,
21 WOULD HAVE TOLD THE IMAGING CENTER WHEN HE WAS THERE?

22 A. I WOULD ASSUME THAT THIS IS SOMETHING THAT HE RELATES
23 TO THEM, BUT I CAN'T BE SURE.

24 Q. CAN'T BE SURE, OKAY. AND WHAT IS -- THE HISTORY
25 THERE IT GIVES, WHAT DOES IT SAY THERE, DR. LUCAS?

1 A. "WORK INJURY FIVE YEARS AGO. PATIENT STATES THAT HE
2 FELL, INJURED THE BACK AND NECK AT THAT TIME. HE'S
3 HAD NECK SURGERY SINCE THAT TIME. SEVERE BI-LATERAL
4 LEG WITH BI-LATERAL ARM PAIN AS WELL."

5 Q. AND THE FINDINGS ON THE M.R.I., HOW WOULD YOU
6 CHARACTERIZE THOSE?

7 A. MOST OF THIS IS DEGENERATIVE. HE DOES HAVE BULGING
8 DISCS, BUT A LOT OF WHAT IS DESCRIBED HERE IS
9 DEGENERATIVE IN NATURE.

10 Q. OKAY. AND THE BULGING DISCS, ARE THEY -- ARE THEY AT
11 THE L5-S1 LEVEL, OR ARE THEY AT OTHER LEVELS AS WELL?

12 A. WELL, THEY COMMENT MAINLY ABOUT L5-S1 AND L4-5.

13 Q. OKAY. IF YOU -- IF YOU'RE LOOKING AT THIS M.R.I.
14 FROM FEBRUARY 2010 AND THEN YOU LOOKED AT THE C.T.
15 FROM SIX YEARS BEFORE IN 2004, ARE THOSE -- I REALIZE
16 THEY'RE DIFFERENT STUDIES, BUT ARE THOSE FAIRLY
17 SIMILAR IN TERMS OF THE FINDINGS; DEGENERATIVE
18 CHANGES AND L5-S1 ISSUES?

19 A. YES, THEY'RE -- THEY'RE SIMILAR. THEY'RE NOT EXACT,
20 BUT THEY'RE SIMILAR.

21 Q. ALL RIGHT. WOULD THE DIFFERENCE BETWEEN THE C.T.
22 THAT YOU SAW IN '04 AND THE M.R.I. THAT'S IN 2010,
23 WOULD THAT BE CONSISTENT WITH THE PROGRESSION OF
24 DEGENERATIVE TYPE CHANGES OVER TIME?

25 A. YES.

1 Q. SOMEONE THAT HAS DEGENERATIVE DISC DISEASE LIKE MR.
2 BOWEN DID ON HIS C.T. IN 2004, DO YOU EXPECT THAT --
3 YOU EXPECT SOME PROGRESSION IN THOSE AS ONE AGES?

4 A. YES.

5 Q. NOW, DID YOU SEE ANY TYPE OF SURGICAL ISSUE WITH HIS
6 LUMBAR?

7 A. IT'S NOT ABSOLUTELY CLEARLY SURGICAL, POTENTIALLY,
8 BUT I THINK HE NEEDS TO BE WORKED UP.

9 Q. AND WHAT WOULD YOU RECOMMEND IN TERMS OF -- HOW WOULD
10 YOU DESCRIBE TO US WHAT TREATMENT YOU WOULD RECOMMEND
11 FOR MR. BOWEN?

12 A. WELL, WE WERE GOING TO TRY EPIDURAL BLOCKS, STEROID
13 INJECTIONS IN THE BACK.

14 Q. IS THAT LIKE IN A SERIES OF THREE OR?

15 A. YES.

16 Q. AND HOW -- HOW OFTEN DO YOU DO THOSE?

17 A. TYPICALLY EVERY TWO OR THREE WEEKS APART BUT SOME OF
18 IT DEPENDS ON HOW YOU RESPOND. IF YOU RESPOND VERY
19 WELL TO AN INJECTION, YOUR PAIN GOES AWAY, THERE --
20 YOU WOULDN'T DO ANOTHER INJECTION UNLESS IT RETURNED.

21 Q. AND YOU DO THE INJECTIONS HERE IN THE OFFICE?

22 A. I DON'T DO THE INJECTION, BUT THEY -- WE HAVE PEOPLE
23 IN THE OFFICE THAT DO THE INJECTIONS, AND THERE ARE
24 OTHER PLACES THAT HAVE -- YOU CAN GET INJECTIONS
25 DONE.

1 Q. DID YOU ENVISION ANY TYPE OF THERAPY GOING ALONG WITH
2 THESE INJECTIONS, OR DID YOU JUST WANT TO FIRST TRY
3 THE INJECTIONS, AND THAT WAS IT?

4 A. I THINK AT FIRST I WANTED TO TRY THE INJECTIONS AND
5 SEE.

6 Q. OKAY. AND WHEN IS THE LAST DATE THAT HE SAW YOU, DR.
7 LUCAS?

8 A. 2/3/10.

9 Q. AND IT LOOKS LIKE -- AND I JUST NOTICED, IT LOOKS
10 LIKE HE DID ALREADY HAVE ONE INJECTION WITH DR.
11 MARTIN?

12 A. YES.

13 Q. OKAY. AND THAT WAS FROM FEBRUARY 19TH. HAVE THERE
14 BEEN ANY OTHER ONES, OR IS THAT THE ONLY ONE?

15 A. THAT'S THE ONLY ONE THAT I'M AWARE OF.

16 Q. OKAY. NOW, IN -- HE ALSO BROUGHT YOU SOME PAPERWORK,
17 I THINK, FROM SUN LIFE ASSURANCE COMPANY IN CANADA,
18 OR TO YOUR PRACTICE, AND I'M GOING TO SHOW YOU THE
19 PHYSICIAN'S STATEMENT PORTION.

20 **BY MR. LEWIS:**

21 HAVE THAT MARKED AS -- WILL THAT BE NUMBER FOUR?

22 **(COURT REPORTER MARKS PHYSICIAN'S STATEMENT DEFENDANTS'**
23 **EXHIBIT NUMBER FOUR, ATTACHED)**

24 **EXAMINATION RESUMED BY MR. LEWIS:**

25 Q. I GUESS THIS IS PRETTY COMMON FOR YOU GUYS TO GET

1 THESE TYPES OF DISABILITY PAPERWORK TO FILL OUT ON
2 BEHALF OF PATIENTS?

3 A. YES.

4 Q. AND HE WOULD HAVE ASKED YOU TO COMPLETE THAT; IS THAT
5 RIGHT?

6 A. YES.

7 Q. AND ON -- ON PAGE TWO THERE -- I GUESS THE -- DID YOU
8 INDICATE -- YOU INDICATED THAT HE WAS HAVING BACK AND
9 NECK PAIN?

10 A. ACTUALLY I THINK THIS WAS SOMEBODY IN OUR INSURANCE
11 DEPARTMENT THAT FILLED THIS OUT.

12 Q. OKAY. IS THAT PRETTY COMMON, SOMEBODY FILLS IT OUT?

13 A. YES.

14 Q. ALL RIGHT. AND THEN DO YOU SIGN IT, OR DOES SOMEBODY
15 SIGN IT ON YOUR BEHALF?

16 A. I'LL BE HONEST WITH YOU, I'M NOT SURE 'CAUSE THIS ONE
17 IS NOT SIGNED. SO I'M NOT HONESTLY SURE WHETHER I
18 REGULARLY SIGN THESE OR WHETHER THEY'RE REQUIRED TO
19 BE SIGNED OR NOT.

20 Q. OKAY. THERE'S AN INDICATION ON THERE THAT HIS
21 SYMPTOMS BEGAN IN MARCH OF 2004, WHICH WOULD DATE
22 BACK TO THE -- TO THE INITIAL ACCIDENT.

23 A. RIGHT.

24 Q. WOULD THAT BE SOME INFORMATION THAT YOU GOT FROM MR.
25 BOWEN OR THAT YOUR OFFICE DID; DO YOU KNOW?

1 A. I THINK THAT THAT COMES FROM THAT INTAKE FORM THAT
2 YOU SHOWED ME EARLIER WHERE HE HAD WRITTEN DOWN...

3 Q. THAT HIS SYMPTOMS BEGAN THEN?

4 A. YES.

5 Q. OKAY. ALL RIGHT. NOW, YOU ALREADY TOLD US THAT
6 Y'ALL DIDN'T REALLY DISCUSS IN DETAIL THE -- HIS JOB
7 DUTIES WORKING FOR VINYL SERVICES; IS THAT RIGHT?

8 A. YES.

9 Q. OKAY. AND I ASKED YOU A LITTLE BIT ABOUT HIS
10 HUNTING, AND YOU DON'T KNOW IF Y'ALL WOULD HAVE
11 TALKED ABOUT THAT. HE'S ALSO INDICATED THAT HE'S A,
12 YOU KNOW, A KAYAKER, DOES SOME HIKING, DOES SOME
13 CAMPING; DO YOU AGREE THAT THESE THINGS WOULD ALSO
14 CONTRIBUTE TO THE PAIN IN HIS BACK?

15 A. YES.

16 BY MR. KAMB:

17 OBJECTION TO THE FORM OF THE QUESTION. IT'S NOT
18 CONSISTENT WITH THE TESTIMONY.

19 EXAMINATION RESUMED BY MR. LEWIS:

20 Q. ALL RIGHT, DOCTOR, DID -- I'LL REPEAT THE QUESTION.
21 THERE WAS AN OBJECTION; YOU CAN ANSWER IT. IF HE --
22 IF THE EVIDENCE SHOWS THAT HE HUNTS -- HUNTS A COUPLE
23 TIMES A WEEK, THAT HE'S AN AVID FISHER, KAYAK, HIKER;
24 DO YOU THINK THESE OTHER THINGS WOULD ALSO CONTRIBUTE
25 TO THE -- HIS BACK CONDITION?

1 BY MR. KAMB:

2 OBJECT TO THE QUESTION 'CAUSE HE'S -- WHAT HE
3 TESTIFIED WAS THAT HE USED TO SOME OF THOSE THINGS.

4 EXAMINATION RESUMED BY MR. LEWIS:

5 Q. YOU CAN ANSWER THE QUESTION.

6 A. YES.

7 Q. DID HE TELL YOU THAT HE HAD -- THAT HE HAD A FALL
8 ABOUT A YEAR AND A HALF AGO OFF AN EIGHT-FOOT WALKWAY
9 AS WELL?

10 A. NO.

11 Q. DO YOU AGREE THAT IT'S LIKELY THAT IF HE'S TOLD YOU
12 THAT HIS PAIN STARTED TO INCREASE WITHIN THE LAST TWO
13 YEARS, THAT THAT COULD HAVE BEEN THE PRECIPITATOR OF
14 HIS BACK PAIN?

15 A. IT COULD, YES.

16 Q. AND FOLKS THAT HAVE DEGENERATIVE DISC DISEASE, WHICH
17 I KNOW THAT THAT'S WHAT HIS FILMS FROM BACK TO AT
18 LEAST 2004 SHOW, IS IT COMMON FOR THOSE FOLKS TO JUST
19 KIND OF DEVELOP PAIN FOR NO REASON AT ALL JUST
20 IDIOPATHICALLY?

21 A. YES.

22 Q. AND I DON'T MEAN THIS TO BE FLIPPANT OR ANYTHING, BUT
23 DID -- I'M ASSUMING YOU DIDN'T REVIEW THE TAPE OF HIS
24 JOB OR REVIEW ANY KIND OF ANALYSIS OF EXACTLY WHAT HE
25 DOES EVERY DAY?

1 A. NO.

2 Q. WOULD YOU AGREE THAT HIS BACK CONDITION, THE THINGS
3 THAT CONTRIBUTE TO IT, COULD BE MULTIFACTORIAL?

4 A. YES.

5 Q. IS IT POSSIBLE TO QUANTIFY HOW MUCH ONE ACTIVITY
6 VERSES ANOTHER ONE, YOU KNOW, PERCENTAGE WISE OR
7 WHATEVER, IS CONTRIBUTING TO HIS OVERALL BACK
8 CONDITION?

9 A. NO.

10 Q. MR. BOWEN'S ATTORNEY ---

11 BY MR. LEWIS:

12 STRIKE THAT.

13 EXAMINATION RESUMED BY MR. LEWIS:

14 Q. I'M GOING TO SHOW YOU A STATEMENT. ACTUALLY IT'S
15 THREE STATEMENTS, AND IT HAS YOUR NAME SIGNED FROM
16 APRIL THE -- ONE'S APRIL 21ST AND TWO OF THEM ARE
17 APRIL THE 22ND, AND THOSE HAVE BEEN SUBMITTED IN THE
18 APAs SO I'M NOT GOING TO HAVE THEM MARKED. DO YOU
19 RECOGNIZE THOSE STATEMENTS, AND DID YOU COMPLETE
20 THOSE?

21 A. YES.

22 Q. OKAY. WERE THOSE STATEMENTS SENT TO YOU PREPARED BY
23 MR. BOWEN'S ATTORNEY?

24 A. YES.

25 Q. OKAY. ALL RIGHT. NOW, ON THE STATEMENTS, DOCTOR, IT

1 TALKS ABOUT SOME OF THE JOB ACTIVITIES THAT HE DOES,
2 AND IT USES THE WORD "REPETITIVE TRAUMA." AND ONE OF
3 THE STATEMENT'S USES THE PHRASE "SUFFICIENTLY
4 REPETITIVE -- SUFFICIENTLY REPETITIVE WORK
5 ACTIVITIES." AND JUST TO CLARIFY, YOU DON'T REALLY
6 KNOW WHAT HE DOES AT HIS JOB IN TERMS OF HOW MANY
7 TIMES A DAY HE DOES EACH PARTICULAR ACTIVITY; IS THAT
8 ACCURATE?

9 A. NO, BUT I DID READ THE DEPOSITION THEY TOOK ABOUT HIS
10 WORK.

11 Q. OKAY.

12 A. SO I DID GET SOME IDEA BEFORE I FILLED THAT OUT.

13 Q. YOU MEAN THE DEPOSITION THAT MR. BOWEN GAVE ABOUT --
14 DESCRIBING WHAT HE DID AT WORK?

15 A. YES.

16 Q. IF HE WENT OUT OF WORK IN NOVEMBER, '09, AS HE TOLD
17 YOU THAT HE DID, AND HE CONTINUED DOING OTHER
18 PHYSICAL ACTIVITIES IN THE INTERIM, THOSE COULD ALSO
19 BE CONTRIBUTING TO HIS BACK CONDITION; ISN'T THAT
20 RIGHT?

21 A. YES.

22 Q. IS YOUR KNOWLEDGE OF HIS JOB BASED ON YOUR REVIEW OF
23 HIS DEPOSITION?

24 A. YES.

25 Q. AND YOUR NOTES DON'T HAVE ANY INDICATION OF WHAT

1 VARIOUS THINGS HE DOES, AND I THINK YOU TESTIFIED
2 EARLIER THAT'S BECAUSE HE DIDN'T REALLY DETAIL THOSE
3 TO YOU. DID YOU EVER CALL HIM BACK IN HERE AND TALK
4 TO HIM MORE ABOUT THE JOB WHEN YOU COMPLETED THIS --
5 THESE STATEMENTS?

6 A. NO.

7 Q. DO YOU THINK IT WOULD BE HELPFUL TO KNOW HOW MANY
8 TIMES A DAY HE DOES THESE PARTICULAR THINGS TO SAY
9 THAT THEY'RE THE AGGRAVATING CAUSE IN HIS BACK
10 CONDITION?

11 A. IF YOU'RE ASKING IS THERE A NUMBER OF TIMES HE DOES
12 ANY PARTICULAR ACTIVITIES SUCH AS LIFT SOMETHING,
13 TWISTS, BENDS, THERE'S NOT A PARTICULAR NUMBER. IF
14 HE DOES IT ONCE A DAY, WELL, THAT'S NOT LIKELY TO BE
15 A CONTRIBUTING -- A SIGNIFICANT CONTRIBUTING FACTOR.
16 IF THAT'S SOMETHING HE DOES REPETITIVELY THROUGHOUT
17 THE DAY, IT IS MORE LIKELY. BUT THERE'S NOT A
18 PARTICULAR NUMBER THAT I CAN TELL YOU ---

19 Q. OKAY.

20 A. --- "YES, HE CROSSED THE THRESHOLD."

21 Q. AND LIKEWISE, THERE'S NOT ONE SPECIFIC, PARTICULAR
22 ACTIVITY THAT YOU COULD SAY, "MR. BOWEN, AVOID DOING
23 THIS ONE PARTICULAR THING, AND IT'S GOING TO
24 ELIMINATE YOUR PROBLEM," IS THERE?

25 A. CORRECT.

1 Q. NOW, -- AND WHEN WE TALK ABOUT THESE STATEMENTS THAT
2 TALK ABOUT "SUFFICIENTLY REPETITIVE," WERE YOU
3 TALKING -- IT SOUNDS LIKE -- TELL ME IF I'M -- IF I'M
4 INTERPRETING THIS CORRECTLY. DO YOU MEAN IN A SENSE
5 THAT HE'S DOING A HEAVY JOB AND HE'S DONE IT OVER A
6 NUMBER OF YEARS; IN THAT SENSE IT'S REPETITIVE?

7 A. THAT'S PART OF THE REPETITIVE. AND THAT, LIKE I
8 SAID, I MEAN, IF HE'S JUST LIFTING ONE PIECE OF VINYL
9 A DAY, WELL, THAT'S NOT PARTICULARLY REPETITIVE, BUT
10 IF HE DOES THAT OVER AND OVER, THAT ALSO WOULD BE
11 INCLUDED IN THE REPETITIVE. I MEAN, IT'S LENGTH OF
12 TIME AND HOW MANY TIMES A DAY.

13 Q. BUT OTHER THAN REVIEWING HIS DEPOSITION, I THINK
14 YOU'VE SAID YOU DON'T REALLY KNOW EXACTLY HOW MANY
15 TIMES OR A BALLPARK HOW MANY TIMES A DAY HE DOES DO
16 EACH ONE OF THESE ACTIVITIES; IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. OKAY. NOW, IF HE WASN'T DOING THIS JOB, NECESSARILY
19 VINYL INSTALLATION, BUT JUST ANY TYPE OF PHYSICAL
20 JOB, CONSTRUCTION, WAREHOUSE WORKER, YOU KNOW,
21 LIFTING THINGS, IS REALLY ANY PHYSICAL ACTIVITY GOING
22 TO PROGRESS HIS, YOU KNOW, DEGENERATIVE BACK
23 CONDITION?

24 A. YES.

25 Q. WILL ACTIVITIES OF DAILY LIVING ALSO, YOU KNOW,

1 PROGRESS SOMEONE'S DEGENERATIVE BACK CONDITION?

2 A. YES.

3 Q. IF HE'S -- IF HE'S DONE THESE OTHER -- IF HE'S
4 ENGAGED IN OTHER THINGS, THE HUNTING, THE FISHING,
5 THE FALL A YEAR AND A HALF BEFORE THAT WE REFERENCED,
6 CAN YOU STATE TO A REASONABLE DEGREE OF MEDICAL
7 CERTAINTY THAT THE JOB ACTIVITIES HE'S DOING AT VINYL
8 SERVICES IS THE PRIMARY AGGRAVATING CAUSE OF HIS BACK
9 PROBLEMS?

10 A. I CAN SAY THAT PER HIS REPORT, ACTIVITIES THAT HE
11 DOES ON THE JOB MAKES HIM HURT WHEN HE DOES THEM.

12 Q. BASED ON HIS SUBJECTIVE REPORT TO YOU?

13 A. RIGHT. THERE'S CERTAIN THINGS THAT HE DOES ON THE
14 JOB THAT HE CAN POINT OUT THAT MAKES HIM HAVE PAIN AT
15 THAT TIME. AND I HAVE -- I FEEL COMFORTABLE SAYING
16 THAT THOSE ACTIVITIES CONTRIBUTE TO THE WORSENING OF
17 HIS PAIN THAT HE'S HAD OVER TIME. BUT I ALSO THINK
18 THAT BASICALLY ANY TYPE OF VIGOROUS ACTIVITY OR
19 ACTIVITY THAT REQUIRES YOU TO BEND AND LIFT, YOU
20 KNOW, WHETHER IT'S PICKING LAUNDRY OFF THE FLOOR,
21 WILL CONTRIBUTE TO THAT AS WELL.

22 Q. SO, EVEN WHAT WE WOULD CONSIDER LESS STRENUOUS TYPE
23 ACTIVITY CAN CONTRIBUTE TO HIS SYMPTOMS; IS THAT
24 RIGHT?

25 A. RIGHT.

1 Q. OR ANY INCREASE HIS SYMPTOMS, I GUESS; IS THAT RIGHT?

2 A. YES.

3 Q. OKAY. NOW, WHAT -- WHAT'S YOUR PROGNOSIS FOR MR.
4 BOWEN IN TERMS OF IF THIS TREATMENT FOR HIS LOW BACK
5 THAT YOU HAVE PROPOSED IS SUCCESSFUL, WHAT ARE WE
6 LOOKING AT IN TERMS OF, YOU KNOW, RETURNING TO WORK,
7 WHAT TYPE OF WORK YOU WOULD RECOMMEND HE RETURN TO?

8 A. I THINK HE IS GOING TO HAVE PROBLEMS FOR THE REST OF
9 HIS LIFE NO MATTER WHAT ANYBODY DOES TO HIM.

10 Q. ALL RIGHT. ARE WE TALKING ABOUT HIS LOW BACK OR HIS
11 ENTIRE SPINE, HIS NECK AND EVERYTHING?

12 A. ESPECIALLY HIS LOWER BACK 'CAUSE THAT'S WHAT HE'S
13 MAINLY COMPLAINING ABOUT. SO, YEAH, I THINK HE'S
14 GOTTEN TO THE AGE AND HE DOES THE KIND OF JOB THAT'S
15 NOT SUITED FOR SOMEBODY WHO HAS UNDERLYING
16 DEGENERATIVE CHANGES AT HIS AGE, AND I THINK HE'S
17 GOING TO HAVE A PROBLEM WITH THAT. AND, YOU KNOW,
18 WOULD IT BE BETTER -- HE WOULD BE BETTER OFF IF HE
19 COULD FIND SOME LOWER PHYSICAL DEMAND JOB. AND I
20 DON'T THINK THAT -- JUST LIKE HIS HISTORY OR, YOU
21 KNOW, THE THINGS THAT CONTRIBUTE TO HIS PAIN ARE
22 MULTIFACTORIAL, THE SAME GOES WITH THERE'S NOT ONE
23 PARTICULAR THING GOING ON IN HIS BACK THAT CAN BE
24 CORRECTED THAT'S GOING TO MAKE HIM NOT HAVE PAIN.

25 Q. NOT LIKE YOU CAN DO SURGERY AT ONE LEVEL AND YOU'RE,

1 VIOLA, THE PAIN'S GONE?

2 A. HE'S GOT UNDERLYING DEGENERATIVE PROBLEMS AND HE WILL
3 ALWAYS HAVE THAT, AND IT WILL PROGRESS AND HE WILL
4 ALWAYS HAVE PAIN.

5 Q. AND CAN -- DO DEGENERATIVE PROBLEMS, CAN THEY
6 PROGRESS TO THE POINT WHERE, YOU KNOW, YOU HAVE A
7 FULL HERNIATION AND NEED SURGERY AND THAT SORT OF
8 THING?

9 A. YES.

10 Q. AND CAN THAT JUST HAPPEN ON IT'S OWN OVER TIME?

11 A. YES.

12 **BY MR. LEWIS:**

13 OKAY, DR. LUCAS, I APPRECIATE IT. THAT'S ALL
14 THE QUESTIONS I HAVE FOR YOU. THANK YOU. PLEASE
15 ANSWER ANY THAT THE OTHER ATTORNEYS HAVE.

16 **BY MR. SMITH:**

17 I JUST HAVE ONE QUESTION FOR YOU.

18 **EXAMINATION BY MR. SMITH:**

19 Q. IT'S -- IS IT -- MY UNDERSTANDING FROM YOUR
20 TESTIMONY, HIS CURRENT BACK CONDITION IS NOT RELATED
21 BACK TO HIS MARCH 22ND, 2004, INJURY?

22 A. THAT IS MY OPINION.

23 Q. AND IS THAT WITHIN A REASONABLE DEGREE OF MEDICAL
24 CERTAINTY?

25 A. YES.

1 BY MR. SMITH:

2 THANK YOU. THAT'S ALL THE QUESTIONS I HAVE FOR
3 YOU.

4 BY MR. KAMB:

5 DOCTOR, I'VE GOT JUST A FEW.

6 EXAMINATION BY MR. KAMB:

7 Q. AS WE NOTED, WHEN HE LAST SAW YOU IN -- BEFORE THE
8 CURRENT STINT IN NOVEMBER OF 2005, WHICH I THINK IS
9 NOVEMBER 9TH OF 2005, HE INDICATED TO YOU THEN THAT
10 HE WAS DOING VIGOROUS WORK; IS THAT TRUE?

11 A. YES.

12 Q. SO, YOU KNEW A LITTLE BIT ABOUT HIS WORK ACTIVITIES;
13 HE'S A VINYL SIDER, YOU KNEW THAT. YOU KNEW HE WAS
14 DOING VIGOROUS WORK ACTIVITIES?

15 A. YEAH, I KNEW HE WAS DOING VIGOROUS WORK, AND I KNEW
16 THAT HE DID NAIL GUNNING, BUT I'M NOT SURE THAT I
17 KNEW WHAT HIS OCCUPATION WAS OTHER THAN MANUAL LABOR.

18 Q. OKAY. AND I THINK I SAW IT ON HIS INTAKE FORM THAT
19 HE INDICATED HE WAS WORKING FOR VINYL SIDING,
20 INSTALLING. AND THAT'S THE ONLY REASON I SAY THAT.

21 A. YEAH, BUT I WOULDN'T NECESSARILY READ THAT. I
22 USUALLY -- LET ME JUST LOOK AT THE FIRST TIME I SAW
23 HIM. I USUALLY TRY TO FIND OUT WHAT THEY DO AT THAT
24 TIME. HE WORKS CONSTRUCTION, ALL RIGHT, SO THAT'S MY
25 KNOWLEDGE, I MEAN, IS THAT HE DOES SOME TYPE OF

1 CONSTRUCTIONAL WORK.

2 Q. AND THEN FROM NOVEMBER '05 NOTE THAT IT WAS
3 STRENUOUS?

4 A. YES.

5 Q. AND YOU WOULD EXPECT THAT FROM CONSTRUCTION WORK IN
6 THOSE CASES?

7 A. CORRECT.

8 Q. WE TALKED ABOUT HIS DEPOSITION. LET ME GO AHEAD AND
9 GIVE THAT TO YOU IN CASE YOU WANT TO LOOK AT IT. AND
10 IN THAT DEPOSITION WHERE IT TALKED ABOUT -- HE
11 DESCRIBED HIS WORK ACTIVITIES. AND IF YOU WANT TO
12 LOOK ON PAGE SEVEN, HE TALKS ABOUT -- ABOUT BUILDING,
13 SCAFFOLDING, TOTOING LADDERS, WALK BOARDS, BUILDING
14 SCAFFOLDING, WORK WALKING ON INCLINES, AND DOING A
15 LOT OF BENDING; IS THAT CORRECT?

16 A. YES.

17 Q. AND IF YOU LOOK ON PAGE 12 HE TALKS ABOUT THE FACT
18 THAT PROBLEMS HAVE CONTINUED; HE CAN NO LONGER GET ON
19 THE ROOF, CAN'T CARRY WALK BOARDS LIKE HE DID BEFORE,
20 TROUBLE WITH INCLINES.

21 A. YES.

22 Q. ON PAGE 37 ---

23 A. YES.

24 Q. --- HE INDICATED HE WAS DOING THE SAME JOB AFTER HIS
25 INITIAL WORK INJURY IN 2004; WHEN HE RETURNED TO WORK

1 HE WAS DOING THE SAME JOB.

2 A. YES.

3 Q. AND THEN ON PAGE 44, HE TALKS ABOUT THE FACT THAT, IN
4 HIS OPINION, THE JOB WAS AGGRAVATING HIS LOW BACK
5 PAIN, CLIMBING LADDERS WITH THE BOARDS, DOING A LOT
6 OF BENDING.

7 A. YES.

8 Q. IF YOU'LL LOOK AT PAGE 51 DOWN AT THE BOTTOM, HE WAS
9 ASKED IF THERE WAS SOME REPETITIVE ASPECT OF HIS JOB
10 THAT WAS CAUSING PROBLEMS.

11 A. YES.

12 Q. AND HE GOES ON AT THE BOTTOM OF THAT PAGE NUMBER 52
13 TO DESCRIBE WHAT HE WAS DOING AT WORK.

14 A. YES.

15 Q. AND THEN ON PAGE 59 AT THE TOP THERE, THEY ASKED
16 AGAIN "WHAT REPETITIVE PART, NARROW IT DOWN; WHAT'S
17 REALLY CAUSING YOU THE PROBLEM?" AND HE'S TALKING
18 ABOUT THE BENDING, STOOPING, LIFTING, AND THAT THEY
19 WERE RAISING LADDERS UP, RAISING UP WALK BOARDS, ALL
20 THAT SORT OF THING; THE SAME SORT OF THING YOU WERE
21 TALKING ABOUT EARLIER AS FAR AS THE LIFTING AND
22 BENDING BEING THE PROBLEM FOR THIS PARTICULAR
23 CONDITION.

24 A. YES.

25 Q. THE -- AND LET'S LOOK REAL QUICK AT -- SOUTH

1 MENTIONED A COUPLE OF ACTIVITIES. HE'S MENTIONED
2 THAT THIS GUY TALKED ABOUT THE FACT THAT HE WAS
3 HUNTING AND FISHING. IF YOU COULD LOOK AT PAGES 31
4 AND 32 -- AND I THINK I DON'T HAVE A COPY OF THAT.
5 DO YOU THINK THEY'RE ASKING ABOUT WHAT HE DOES
6 OUTSIDE OF WORK THERE AT THE BOTTOM?

7 A. UM-UM, YES, I SEE THAT.

8 Q. IT SAYS HE USED TO DO A LOT OF HUNTING AND FISHING,
9 AND HE STILL DOES SOME.

10 A. YES.

11 Q. BUT HE HAS A FOUR-WHEELER AND A FRIEND THAT HELPS HIM
12 OUT WHEN HE GOES AND DOES THAT. HE DOESN'T DO IT AS
13 MUCH AS HE USED TO; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. IF YOU'LL LOOK AT THE NEXT PAGE, IT SPECIFICALLY
16 ASKS, "HAVE YOU EVER BEEN INJURED WHILE YOU'RE
17 HUNTING, FISHING, DOING ANYTHING LIKE THAT," AND HE
18 INDICATES THAT HE HAS NOT EVER BEEN INJURED DOING
19 THAT; IS THAT CORRECT?

20 A. CORRECT, YES.

21 Q. NEVER -- NEVER INJURED WHEN PLAYING SPORTS OR ANY
22 RECREATIONAL ACTIVITIES; IS THAT TRUE? THAT ONE IS
23 THE NEXT...

24 A. YES, YOU'RE CORRECT.

25 Q. AND IF YOU'D LOOK AT PAGE 38 -- ACTUALLY, LET'S LOOK

1 AT PAGE 37, I THINK IS WHERE THAT STARTS. DOWN AT
2 THE BOTTOM IT TALKS ABOUT -- SOUTH HAD MENTIONED A
3 FALL; HE FELL ABOUT EIGHT FEET OFF OF A SCAFFOLD.

4 A. YES.

5 Q. IN FACT, MR. -- MR. BOWEN INDICATED THAT HE WAS SORE
6 AFTER THAT THE NEXT DAY, BUT THEREAFTER HE WAS FINE;
7 IS THAT TRUE?

8 A. YES.

9 Q. AND I THINK THERE'S ONE MORE -- IF YOU'LL LOOK AT
10 PAGE 50. IN THERE HE'S TALKING -- HE WAS
11 SPECIFICALLY ASKED -- AND I THINK THAT THE QUESTION
12 STARTS ON PAGE 49, I'M SORRY. BUT IT SPECIFICALLY
13 ASKED, YOU KNOW, "WHAT -- WHAT DO YOU THINK IS
14 CAUSING THIS; ARE YOU SURE IT'S COMING FORM YOUR JOB
15 ACTIVITIES?" AND HE GOES THROUGH A BUNCH OF THE
16 ACTIVITIES THAT HE DOES. HE SAYS THAT HE FEELS THAT
17 IT'S FROM HIS JOB ACTIVITIES BECAUSE THAT'S REALLY
18 PRETTY MUCH THE ONLY THING THAT HE DOES ANYMORE. AND
19 HE MENTIONS THE KAYAKING AND SAYS HE DOESN'T REALLY
20 DO THAT ANYMORE AND SOME OF THINGS OTHER THINGS; IS
21 THAT CORRECT?

22 A. YES.

23 Q. SO, FROM THAT DESCRIPTION OR THE FACT THAT HE DOESN'T
24 DO THE KAYAKING AND ALL THAT SORT OF THING ANYMORE,
25 AND WHEN HE GOES HUNTING SOMEONE TAKES HIM IN ON A

1 FOUR-WHEELER, AND -- WHAT WAS THE OTHER THING...? I
2 DON'T REMEMBER, BUT WOULD YOU REALLY EXPECT -- LET ME
3 -- LET ME GO BACK. YOU MENTIONED THAT -- THE JOB
4 ACTIVITIES. FIRST, THE -- WE WENT OVER IN THE
5 DEPOSITION SOME OF THE JOB ACTIVITIES THAT HE DOES.
6 AND AT ONE POINT YOU FILLED OUT SOME QUESTIONNAIRES
7 AND INDICATED THAT THAT IS A REPETITIVE TYPE OF
8 ACTIVITY THAT YOU WOULD EXPECT WOULD CAUSE AN
9 AGGRAVATION OF A LOW BACK CONDITION SUCH AS WHAT THIS
10 GENTLEMAN HAS; IS THAT CORRECT?

11 A. YES.

12 Q. AND IS THAT STILL YOUR OPINION, JUST THAT THOSE
13 ACTIVITIES THAT HE DESCRIBED COULD AGGRAVATE THAT
14 REPETITIVE -- NO, I'M SORRY, THOSE REPETITIVE
15 ACTIVITIES COULD AGGRAVATE THAT DEGENERATIVE
16 CONDITION?

17 A. YES.

18 Q. AND THEN YOU ALSO INDICATED THAT -- THAT HIS BACK
19 CONDITION WAS CAUSED -- I THINK THAT REALLY
20 AGGRAVATED BY REPETITIVE TRAUMA THAT WE ALREADY
21 TALKED ABOUT WHEN HE'S DOING THAT SORT OF WORK.
22 CONSIDERING EVERYTHING THAT YOU KNOW ABOUT THIS
23 GENTLEMAN, I UNDERSTAND WHAT SOUTH IS QUESTIONING
24 ABOUT, YOU KNOW, A LOT OF DIFFERENT THINGS COULD --
25 COULD AGGRAVATE THIS CONDITION, BUT, IN FACT, WE

1 DON'T KNOW ABOUT -- CORRECT ME IF I'M WRONG, WE DON'T
2 HAVE ANY REPORT FROM HIM THAT HE'S DOING ANY SORT OF
3 ACTIVITIES AT HOME, LAUNDRY, THAT SORT OF THING, THAT
4 ARE CAUSING HIM ANY DIFFICULTY; IS THAT CORRECT?

5 A. CORRECT.

6 Q. AND HE HAS INDICATED THAT HUNTING HAS NOT CAUSED HIM
7 A PROBLEM, AND KAYAKING HAS NOT CAUSED HIM A PROBLEM.
8 HE DOESN'T EVEN DO THE KAYAKING ANYMORE; IS THAT
9 CORRECT?

10 A. WELL, I THINK HE DOES -- MY INTERPRETATION WOULD BE,
11 HE DOESN'T DO THOSE THINGS OR DO THEM AS MUCH BECAUSE
12 THEY HURT, AND HE CAN -- HE HAS CONTROL OVER THAT SO
13 HE CAN SELF-LIMIT, BUT ON THE JOB HE DOESN'T HAVE
14 CONTROL. HE'S GOT TO DO IT. SO THAT'S NATURALLY
15 WHAT EVERYBODY'S GOING TO DO; THEY'RE GOING TO AVOID
16 THOSE ACTIVITIES THAT HURT IF YOU HAVE CONTROL OVER
17 THEM.

18 Q. RIGHT. AND SO, THE ACTIVITY THAT HE WAS CONTINUING
19 TO DO UNDER THOSE CIRCUMSTANCES WAS HIS WORK ACTIVITY
20 ACCORDING TO HIM.

21 A. CORRECT.

22 Q. AND HE WAS SAYING THAT THAT WORK ACTIVITY WAS CAUSING
23 HIM INCREASED LOW BACK PROBLEMS ---

24 A. CORRECT.

25 Q. --- TO THE POINT WHERE HE COULDN'T WORK ANYMORE?

1 A. YES.

2 Q. SO, BASED ON THAT -- BASED ON EVERYTHING WE KNOW
3 ABOUT THIS CLAIM, IS IT MORE LIKELY THAT HIS JOB IS
4 CAUSING THE AGGRAVATION THAN ANY OTHER SOURCE THAT WE
5 MAY KNOW ABOUT?

6 A. I -- IF YOU'RE -- I BELIEVE THAT HIS JOB CURRENTLY IS
7 THE THING THAT IS AGGRAVATING HIS BACK MORE THAN
8 ANYTHING 'CAUSE THAT'S WHAT HE'S DOING. YES, I WOULD
9 SAY THAT, BUT -- ALL RIGHT, NEVER MIND, THAT -- I
10 WOULD JUST SAY "YES." I WOULD SAY CURRENTLY WITH
11 WHAT HE IS DOING, HIS JOB IS THE THING THAT'S CAUSING
12 HIM PAIN MORE THAN ANYTHING ELSE AT THE PRESENT TIME.

13 Q. AND WHEN IT'S CAUSING HIM PAIN LIKE THAT, IS IT IN
14 FACT WORSENING HIS UNDERLYING CONDITION?

15 A. I DON'T KNOW. I KNOW THAT IT CAUSES HIM PAIN. HE'S
16 GOT SIMILAR FINDINGS ON HIS MORE RECENT M.R.I. SCAN
17 COMPARED TO HIS PREVIOUS C.T. SCAN, BUT THOSE
18 FINDINGS COULD BE ACCOUNTED JUST SIMPLY BY
19 DEGENERATION -- PROGRESSIVE -- PROGRESSION OF THE
20 DISEASE THAT HE HAS JUST FROM AGING. SO I DON'T KNOW
21 THAT IT'S ACTUALLY DOING ANYTHING BAD TO HIM. I
22 THINK IT MAKES HIM HURT, BUT I CANNOT SAY WITH ANY
23 ASSURITY THAT IT IS DOING ANYTHING BAD TO HIM OTHER
24 THAN CAUSING HIM PAIN.

25 Q. BUT IT'S GOTTEN TO THE POINT WHERE IT'S ACTUALLY

1 CAUSING HIM DISABILITY; IS THAT CORRECT? I MEAN,
2 HE'S NOT ABLE TO WORK ANYMORE?

3 A. YEAH, PER HIS REPORT.

4 Q. SO, FROM THAT STANDPOINT, THE CONDITION HAS WORSENERD
5 WHERE HE USED TO BE ABLE TO WORK WITH THE CONDITION,
6 BUT THOSE ACTIVITIES HAVE WORSENERD HIS PAIN, WORSENERD
7 HIS CONDITION TO A POINT THAT HE CAN'T WORK ANYMORE.
8 SO FROM THAT STANDPOINT, IT HAS WORSENERD HIS
9 CONDITION?

10 A. YES.

11 Q. WOULD YOU GENERALLY EXPECT THAT BENDING AND LIFTING
12 WOULD CAUSE A DEGENERATIVE CONDITION LIKE THIS TO
13 WORSEN OVER TIME?

14 A. YES.

15 Q. AND HE WAS, IN FACT -- HE DESCRIBED DOING BENDING AND
16 LIFTING IN HIS JOB; IS THAT CORRECT?

17 A. YES.

18 Q. THESE FORMS THAT YOU FILLED OUT, ARE THESE STILL YOUR
19 OPINION TODAY?

20 **BY MR. LEWIS:**

21 YOU'RE REFERENCING -- FOR THE RECORD, YOU'RE
22 REFERENCING THE QUESTIONNAIRES?

23 **BY MR. KAMB:**

24 YEAH, PAGE 41, A, B, AND C, I THINK IT IS ON THE
25 A.P.A.

1 BY THE WITNESS:

2 AND I WOULD SAY THAT ESSENTIALLY IT'S -- THE
3 BEST TERM IS "AGGRAVATED BY" AS OPPOSED TO "DIRECTLY
4 CAUSE." BUT YES, I THINK THIS AGGRAVATES HIS ONGOING
5 BACK PROBLEM.

6 EXAMINATION RESUMED BY MR. KAMB:

7 Q. SO, THOSE THREE FORMS ARE STILL YOUR OPINION TODAY?

8 A. WELL, ON MY FIRST FORM, THE LAST THING IT SAYS,
9 "THESE REPETITIVE WORK ACTIVITIES CAUSE INJURY FROM
10 AN ORTHOPAEDIC STANDPOINT," PROBABLY SHOULD SAY,
11 "EXACERBATE INJURY."

12 Q. OTHER THAN THAT CHANGE?

13 A. YEAH, AND "AGGRAVATE" IS PROBABLY THE BEST TERM FOR
14 THIS, AND THEN YOU ALREADY HAVE "AGGRAVATE" FOR HERE
15 (INDICATING).

16 BY MR. KAMB:

17 THANK YOU, SIR, I DON'T HAVE ANYMORE QUESTIONS.

18 BY MR. LEWIS:

19 I JUST HAVE A COUPLE FOLLOW-UPS, DOCTOR.

20 RE-EXAMINATION BY MR. LEWIS:

21 Q. I UNDERSTAND YOUR -- YOUR OPINION, BUT NONETHELESS,
22 YOUR OPINION STILL THAT HIS BACK CONDITION -- IT IS
23 MULTIFACTORIAL, A NUMBER OF THINGS CAN CONTRIBUTE,
24 CORRECT?

25 A. ABSOLUTELY.

1 Q. OKAY. AND HE HAD BEEN -- HE TOLD YOU THAT HE HAD NOT
2 BEEN WORKING SINCE NOVEMBER OF 2009. IN FACT, I
3 THINK THAT'S FACTUALLY ACCURATE, YET HE'S STILL
4 HAVING THIS PAIN IN JANUARY AND FEBRUARY. I MEAN,
5 THE FACT THAT HE'D BEEN AWAY FROM THIS WORK ACTIVITY,
6 STILL HAVING THIS PAIN, COULDN'T THAT INDICATE THAT
7 OTHER THINGS ARE EQUALLY PLAYING INTO HIS BACK
8 CONDITION?

9 A. WHAT IT TENDS TO TELL ME IS THAT HIS BACK CONDITION
10 HAS REACHED A POINT -- AND HE'S KIND OF SAID -- HE --
11 HE HAD SAID THAT HE'S HAD SOME CHRONIC BACK PAIN.
12 NOW, I DON'T HAVE THE DETAILS OF THAT; WAS IT EVERY
13 DAY; WAS IT ALL DAY LONG; BUT IT HAS PROGRESSED TO
14 THE POINT TO -- TO THE POINT WHERE HE HURTS ALL THE
15 TIME AND LIMITS HIS ACTIVITIES. AND THE FACT THAT
16 HE'S NOT WORKING INDICATES THAT HE'S HAD A
17 PROGRESSION OF HIS DISEASE SUCH THAT HE'S GOING TO
18 HURT ALL THE TIME WHETHER HE'S WORKING OR NOT
19 WORKING. NOW, ACTUALLY DOING SOMETHING AT WORK MAY
20 MAKE IT HURT MORE AT THE TIME WHILE HE'S DOING IT,
21 BUT THE FACT THAT HE'S NOT DOING THOSE ACTIVITIES AND
22 HE STILL HURTS MEANS THAT HIS -- HIS CONDITION HAS
23 PROGRESSED SO THAT HE'S ALWAYS GOING TO HURT.

24 Q. OKAY. BUT YOU DO AGREE THAT THE ACTIVITIES HE DID
25 EVEN WHEN HE WENT OUT OF WORK AFTER NOVEMBER OF '09,

1 TO THE EXTENT THAT HE WAS HUNTING OR DOING OTHER
2 PHYSICAL ACTIVITIES, THEY CERTAINLY CAN CONTRIBUTE AS
3 WELL?

4 A. YES.

5 Q. AND FINALLY, YOU HAD MENTIONED SOMETHING ABOUT HIS
6 CHRONIC BACK PAIN, AND I WAS -- THERE WAS A WORKERS'
7 COMP HEARING IN MARCH 2006, AND MR. BOWEN HAD
8 TESTIFIED THAT HE HAD LOW BACK PAIN. IN THIS ORDER
9 IS SAYS, QUOTE, "LOW BACK PAIN CONSISTENTLY, BUT THAT
10 IS WORSE ON SOME DAYS THAN OTHERS. HE STATED HE HAS
11 BAD DAYS WITH HIS LOW BACK ABOUT THREE TIMES PER
12 WEEK, AND HE CANNOT FUNCTION MUCH WHEN THAT HAPPENS.
13 THE PAIN IS VERY SHARP AND BURNING, AND EXTENDS DOWN
14 HIS LEFT LEG. HE HAS TO AVOID ANY HEAVY LIFTING, AND
15 HE CANNOT BEND OR STOOP TO WORK ON THINGS ON THE
16 GROUND," END QUOTE. NOW, THIS IS IN 2006, AND HE'S
17 TALKING ABOUT HIS BACK PAIN. SO, I MEAN, WOULD YOU
18 AGREE THAT APPARENTLY HE HAS HAD A FAIRLY SIGNIFICANT
19 DEGREE OF ONGOING CHRONIC PAIN IN HIS LOW BACK AS
20 WELL DATING BACK TO THAT INJURY IN '04?

21 A. YES.

22 BY MR. LEWIS:

23 OKAY, NO FURTHER QUESTIONS. THANK YOU.

24 RE-EXAMINATION BY MR. KAMB:

25 Q. IN YOUR NOTE FROM JANUARY 20TH OF 2010, AND I'M

1 SPECIFICALLY REFERENCING JUST WHAT SOUTH REFERRED YOU
2 -- TO YOU IN THE ORDER ABOUT THE PROBLEMS HE WAS BACK
3 -- AND HAVING BACK IN 2006 WHEN THIS HEARING
4 OCCURRED. IF YOU LOOK ABOUT HALFWAY DOWN IN THAT
5 FIRST PARAGRAPH.

6 A. OKAY.

7 Q. HE INDICATES THAT HE WAS WORKING FROM 2005 UP UNTIL
8 NOVEMBER 11TH OF 2009; IS THAT CORRECT?

9 A. YES.

10 Q. AND SO, WHATEVER PROBLEMS HE MAY HAVE DESCRIBED AT
11 THE HEARING IN THIS THING, AS YOU SAID, HE CONTINUED
12 TO FUNCTION UNTIL HIS CONDITION WORSENER TO THE POINT
13 THAT HE WAS NO LONGER ABLE TO FUNCTION IN NOVEMBER OF
14 2009; IS THAT CORRECT?

15 A. YES, CORRECT.

16 BY MR. KAMB:

17 THANK YOU.

18 BY MR. SMITH:

19 NO FURTHER QUESTIONS.

20 BY MR. LEWIS:

21 NOTHING FURTHER HERE. ALL RIGHT, THANK YOU VERY
22 MUCH FOR YOUR TIME.

23 (THERE BEING NO FURTHER QUESTIONS, THIS DEPOSITION WAS
24 CONCLUDED AT THE HOUR OF 8:34 A.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 0920040

EMPLOYEE/CLAIMANT: JOHN R. BOWEN

EMPLOYER: VINYL SERVICES, INC.

INSURER: BRIDGEFIELD CASUALTY INSURANCE COMPANY

I, SHEILA M. ROBISON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 47 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING DEPOSITION OF **DR. S. EMMETT LUCAS, III** TAKEN ON THE 12TH DAY OF MAY, 2010.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL DEPOSITION WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 12TH DAY OF MAY, 2010.

SHEILA M. ROBISON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 4/20/2019

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION FULL
COMMISSION
WCC No. 0920040

John R. Bowen,)
)
Claimant,)
)
v.)
)
Vinyl Services, Inc.,)
)
Employer,)
)
and)
)
South Carolina Home Builders)
and Bridgefield Casualty,)
)
Carriers.)
-----)

COPY

FULL COMMISSION HEARING

Monday, April 18, 2011

1:30 p.m. - 1:57 p.m.

The Full Commission hearing before Commissioner Susan S. Barden, Chair; Commissioner T. Scott Beck; and Commissioner G. Bryan Lyndon, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 18th day of April, 2011 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Kathryn Williams, Esquire
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 Greenville, South Carolina 29601
 Attorney for the Appellant/Claimant

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 Attorney for Respondent Bridgefield

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1 THE COURT REPORTER: Today is April 18, 2011. This
2 is South Carolina Workers' Compensation Case
3 Number 0920040. This is the case of John
4 Bowen, Claimant, versus Vinyl Services,
5 Employer, and South Carolina Home Builders and
6 Bridgefield Casualty, Carrier.

7 This is a cross appeal. The First Appellant is
8 the Defendant represented by J. South Lewis for
9 Bridgefield and Andy Smith for Home Builders.
10 The Second Appellant is the Claimant
11 represented by Kathryn Williams.

12 Each side is allowed eight minutes for oral
13 argument and three minutes in reply. You are
14 requested to argue the grounds of exception and
15 stay within the record.

16 COMMISSIONER BARDEN: Let's go off the record for
17 one second.

18 (Off the Record)

19 COMMISSIONER BARDEN: All right. We're back on the
20 record. Mr. Lewis.

21 ARGUMENT BY MR. LEWIS:

22 MR. LEWIS: Thank you. May it please the
23 Commission. I'm South Lewis. I'm here today
24 on behalf of Bridgefield Casualty, is the
25 Carrier for Vinyl Services, Incorporated. A

1 little background on this case first before we
2 talk about the issues here.

3 Mr. Bowen worked for Vinyl Services for roughly
4 20 years or so and he's had three claims prior
5 to the one that he's alleged the repetitive
6 claim presently, the '09 claim. He had a March
7 2004 injury where he fell, injured his back and
8 his right leg and he had surgery with Dr. Lucas
9 to his neck. There was a hearing in 2006 and
10 the Commissioner at that time found that he
11 sustained injury to his neck, his low back and
12 his right lower extremity. He was awarded
13 35 percent permanent partial disability to his
14 back and ten to his leg.

15 **COMMISSIONER BARDEN:** Now, he had had the fusion
16 surgery to his neck by then, correct?

17 **MR. LEWIS:** That's correct.

18 **COMMISSIONER BARDEN:** Okay. For the Fundérburk
19 hearing, okay.

20 **MR. LEWIS:** That's correct.

21 And in that order, which is in the record, he's
22 not only talking about problems with his neck,
23 he's talking about significant problems with
24 his low back, as well. And there was a Dodge
25 medical finding that he was entitled to ongoing

1 treatment under Dodge for his neck, back and
2 his lower extremity.

3 Now, the records indicate that have been
4 submitted in the APA submissions that Mr. Bowen
5 continued to go seek medical treatment with his
6 family doctor when he was complaining of back
7 problems over the course of time subsequent to
8 the hearing that he had for the 2004 hearing.

9 And he then in late 2009 contacted Home
10 Builders, which was the Carrier on the '04
11 claim, and asked to go back to the doctor and
12 they sent him back the doctor and he started
13 seeing Dr. Lucas. Dr. Lucas is the same doctor
14 that had done the surgery previously.

15 When he began seeing Dr. Lucas, initially that
16 treatment was authorized by Home Builders and
17 then at some point during the process it was
18 denied by Home Builders. And after that, the
19 Form 50's came forward alleging, number one, a
20 change in condition against Home Builders and,
21 number two, then a new repetitive claim and my
22 clients had the coverage at the time.

23 So at the hearing, Commissioner Wilkerson has
24 signed an order which has indicated it's a
25 repetitive injury and that my clients are

1 responsible for additional medical treatment.
2 And we've got several grounds on appeal here.
3 Now, the first one is, it's our contention that
4 Mr. Bowen did not have a repetitive job.
5 Granted, it was a physical job, but it was not
6 repetitive. He acknowledged at his deposition
7 that he did a number of different things
8 throughout the day. He wasn't doing the same
9 thing over and over again.

10 Page 52, at the hearing he talks about they did
11 vinyl, they did windows, they did remodels.
12 He's in the contract business but he's not
13 specifically doing the same things every day
14 all day long.

15 And Dr. Lucas even testified at his deposition
16 that he couldn't pinpoint any one specific
17 activity that this guy did at his job that
18 caused his problems or that he could have
19 avoided so that he didn't have these problems.
20 So it's our contention that while he had a
21 heavy job, he didn't have a repetitive job.

22 Secondly, I think it's clear from the records
23 that Mr. Bowen's low back's related to his 2004
24 claim and here's why. In the first injury, he
25 injured his neck and his low back. Now, he

1 only had surgery to his neck but he had
2 degenerative findings in his low back. And
3 he's had significant records of having low back
4 pain during the time that he treated with
5 Dr. Lucas and then he continued seeing his
6 family doctor, Dr. Booker, even after the
7 initial hearing complaining of back pains.
8 APA 36 says he had chronic back pain. The
9 Claimant's own IME for the first hearing even
10 gave an award -- I mean, an impairment rating
11 to the lumbar spine specifically.
12 It's my understanding the Claimant's contention
13 is, "Well, my first injury was really just a
14 neck injury and now this is more of a low back
15 thing." But Mr. Bowen testified even at the
16 hearing that he had significant low back
17 problems after his original injury and even
18 subsequent to the hearing that he had in this
19 case.
20 Now, remember, there was a Dodge medical
21 finding in there if he needed ongoing medical
22 treatment for his neck, his low back and his
23 leg.
24 He kept seeing his family doctor between '06
25 and up to the time that these claims came

1 about. My tab APA 13 show multiple visits
2 where he went to see his family doctor and in
3 all of them he related that his problems with
4 his low back were related to this 2004 work
5 injury that he had that Home Builders was
6 involved in.

7 He also testified at the hearing that from the
8 day he went back to work, he continued having
9 low back problems. They never went away. They
10 just progressed over time. And Dr. Lucas even
11 testified at his deposition that he couldn't
12 say that the Claimant's underlying low back
13 condition actually worsened; just that he was
14 having some increase in symptoms, which is
15 consistent with somebody with degenerative disc
16 disease..

17 Dr. Lucas further testified that his low back
18 films from 2010 when compared from the prior
19 injury were essentially the same. And, again,
20 it's important to remember that Home Builders
21 initially authorized treatment for his low back
22 because there's a Dodge finding in there from
23 the old order that he gets treatment for his
24 back. And then after it was -- only after it
25 was denied was a new repetitive allegation

1 filed against us.

2 All right. Thirdly, Mr. Bowen didn't sustain
3 an injury by accident. He admitted that he
4 knew that his continuing to work for Vinyl
5 Services was causing problems in his low back.
6 He said it a couple times at the hearing, page
7 36 and page 40. He said he knew for years that
8 his back was -- the back problems he had were
9 caused by his job. He said he knew that ever
10 since he returned to work that his back was
11 going to get worse and got worse because of the
12 things he was doing on his job. And if the
13 Claimant knows he's got the problem from doing
14 that particular job and yet continues to do it
15 for three or four more years and then later
16 files a repetitive claim alleging a date of
17 injury of November 2009, he hasn't sustained an
18 accident, an unexpected result. He knew
19 exactly what was going on with his back.
20 The appropriate remedy would have been for him
21 to continue getting Dodge medical treatment as
22 it related to the '04 claim, which is what he
23 tried to do until it was denied and then the
24 new repetitive allegation came forward along
25 with the change in condition against the old

1 Carrier.

2 Fourth, Mr. Bowen did not give notice within 90

3 days as required by 42-15-20 section (C) for

4 repetitive notice. Again, he admitted that he

5 knew from day one going back to work that his

6 work activities were causing his ongoing

7 problems with his low back. It's

8 understandable. It's a heavy job. He had a

9 significant injury, got 35 percent to his back.

10 This wasn't an easy job.

11 And he even said at the hearing, page 40 -- my

12 understanding is the Claimant's saying, well,

13 until Dr. Lucas told him that he had a

14 repetitive injury that he couldn't have given

15 notice. But at page 40 at the hearing, he said

16 he didn't need Dr. Lucas to tell him his back

17 problems were from work. He said of course he

18 knew they were from work. So Dr. Lucas telling

19 him that they were from work was of no

20 consequence in terms of time to trigger a

21 notice.

22 He went out of work in November of 2009 and

23 it's undisputed that until they filed a Form 50

24 in February of 2010, more than 90 days after he

25 last worked, that he never gave any notice to

1 his Employer.

2 At the hearing, page 36, he acknowledges that
3 he never told Larry Bolt, who's the owner of
4 Vinyl Services, went to him and said, "Hey, I'm
5 having ongoing problems that are related to my
6 job." He acknowledges and admits that he
7 doesn't give notice.

8 And the Claimants crafted this order to get
9 around the notice issue. But the fact of the
10 matter is, is that he didn't give notice until
11 February 2010 and he admits he knew when he
12 went back to work throughout '06, '07, '08 that
13 he was having problems with his back and that
14 they were related to work, so he knew or should
15 have known that his case was compensable.

16 Fifth, the Claimant's condition, he's failed to
17 prove that his ongoing -- that there's a
18 proximate causation between that and the job
19 that he did. Dr. Lewis has given deposition
20 testimony and said, yeah; that his ongoing
21 activities -- repetitive activities have
22 aggravated his condition --

23 **COMMISSIONER BARDEN:** Finish that thought.

24 **MR. LEWIS:** I'm sorry?

25 **COMMISSIONER BARDEN:** Finish that thought.

1 **MR. LEWIS:** Okay. Thank you.

2 **COMMISSIONER BARDEN:** And then --

3 **MR. LEWIS:** But that he had multiple other things.
4 Activities of daily living. He hunted twice a
5 week even after he left our Employer. He
6 acknowledged that. And that all these things
7 would be -- contribute to his back condition.
8 And Dr. Lucas testified at page 44 that it was
9 absolutely multifactoral in terms of his back
10 condition.

11 **COMMISSIONER BARDEN:** All right. Thank you.

12 **MR. LEWIS:** Thank you.

13 **COMMISSIONER BARDEN:** Ms. Williams.

14 **MS. WILLIAMS:** Am I next?

15 **ARGUMENT BY MS. WILLIAMS:**

16 **MS. WILLIAMS:** May it please the Commission. The
17 Claimant -- hand these up to you. These are
18 just some excerpts from the APA's.
19 The Claimant in this case is 42 years old. He
20 has a high school education. His entire work
21 history has been in construction work and he's
22 been with Vinyl Siding -- excuse me, Vinyl
23 Services for 20 years.
24 He installs siding that requires -- and he
25 testified. that that requires repetitive

1 bending, stooping and lifting. He did have
2 this prior accident in 2004, where he injured
3 his neck and his ankle. He had a fusion of his
4 neck and after which Dr. Lucas, who is the same
5 doctor that's treating him for the low back
6 problems now, but Dr. Lucas released him to
7 return back to work full duty.

8 **COMMISSIONER BARDEN:** Can I interrupt you?

9 **MS. WILLIAMS:** Uh-huh (affirmatively responds).

10 **COMMISSIONER BARDEN:** I want to ask something that
11 Mr. Lewis raised and I'm interested in your
12 interpretation of this.

13 **MS. WILLIAMS:** Uh-huh (affirmatively responds).

14 **COMMISSIONER BARDEN:** He said something to us. He
15 said the films for the low back from the 2004
16 accident are no different or, I guess, the
17 later films are not any -- there's no
18 appreciable difference between the later film
19 and the earlier film. Do you agree with that?
20 I mean, there's objective evidence and it shows
21 no difference.

22 **MS. WILLIAMS:** Well, the -- I do think that the
23 films show a worsening of the condition.

24 **COMMISSIONER BARDEN:** Okay.

25 **MS. WILLIAMS:** And what's proof of the worsening of

1 the condition is that back when he had these
2 films before, Dr. Lucas wasn't recommending any
3 particular treatment for the low back. He is
4 now recommending surgery as a result of what he
5 sees on these films with this Claimant's low
6 back. So I think he clearly sustained a change
7 of condition for the worse.

8 Dr. Lucas -- and to go back to sort of giving
9 you the overview. After he returned to work
10 from the neck surgery full duty per Dr. Lewis,
11 his job got heavier. He said they stopped
12 using vinyl, said they started using more hardy
13 board, which is a lot heavier and doing the
14 bending and lifting with that.

15 He told his boss during 2009 that he was having
16 problems with his back and in November told
17 them that he was going to have to seek medical
18 attention. And they didn't present anybody
19 that disputed any of that, that about the time
20 this guy was going out of work, he told the
21 boss that he -- and, in fact, the boss had
22 called him in to talk to him because he had
23 noticed that his work performance was not what
24 it had been before.

25 At the time he thought it was related to the

1 '04 injury. He's not a lawyer. He'd never
2 read the case law about repetitive trauma,
3 didn't know there was such a thing.

4 He goes back to Dr. Lucas, who was the same
5 doctor that treated him for the neck problem,
6 the same doctor that treated him for the '04
7 injury, and Dr. Lucas said that his injury now,
8 that the problems he's having now is due to
9 repetitive trauma. He took him out of work and
10 he's now recommending surgery.

11 I think the Hearing Commissioner was clearly
12 correct in finding compensable injury here by
13 repetitive trauma primarily because that's what
14 Dr. Lucas said. I handed you up statements
15 where he said that -- and he reviewed the
16 Claimant's deposition testimony about what his
17 job entailed. That was never disputed by
18 anybody on the -- they never called a witness
19 to dispute what the Claimant said and he said
20 that that work was sufficiently repetitive to
21 cause the problems that he's having now. And,
22 also, that the surgery that he is recommending
23 now is due to the repetitive trauma that he
24 sustained.

25 They want to argue the *Haboard* (ph) case about

1 that he knew that he was having back problems
2 and this injury was not a surprise to him.
3 Haboard doesn't apply here. Haboard had been
4 specifically told by a doctor not to go back to
5 that same work and he did it anyway.
6 This Claimant was told to return back to his
7 prior employment full duty. And he had no idea
8 that by doing that that he was going to wind up
9 having to have surgery on his low back.
10 They also talk about the fact that his problems
11 were multifactoral, that he engaged in other
12 activities, too. Well, Dr. Lucas addressed
13 that. Dr. Lucas said, "Yeah, I know he's done
14 these other things, but the main thing that's
15 causing his problem right now is the repetitive
16 work that he's doing or that he was doing at
17 the time at Vinyl Services."
18 Now, on the notice issue, the statute requires
19 that two things have to happen before the
20 90-day notice period even begins to run.
21 Number one, the Claimant has to have an injury,
22 obviously, but number two, he's got to know
23 it's compensable before the statute begins to
24 run.
25 At the time, he did not know that this was

1 compensable as a repetitive trauma injury
2 because he didn't know anything about
3 repetitive trauma. And it was not diagnosed.
4 Nobody had -- no doctor had opined that this
5 was the result of repetitive trauma until
6 Dr. Lucas said that in April of 2010.

7 So, clearly, the Claimant gave notice within 90
8 days and was never -- the Employer was never in
9 the dark about what was going on with this guy.
10 He was very up front about the fact that he was
11 having problems with his back and was going to
12 have to have medical treatment. So it's not
13 like anybody was kept in the dark about what
14 was going on with this fellow in terms from a
15 medical standpoint or from a legal standpoint,
16 for that matter.

17 Now, with regard to the average weekly wage and
18 comp rate, I'm going to rely on my brief for
19 that. I do want to talk a minute, though,
20 about the entitlement to temporary total.

21 Dr. Lucas -- he didn't get in to see Dr. Lucas
22 until January of 2010. At that time he'd been
23 out of work since November 11th of 2010.
24 Dr. Lucas wrote an excuse then saying he has
25 not been able to work since November 11th,

1 2010, because of the problems that he's got.
2 So I think temporary total should start on
3 November 11th. The Commissioner -- in the
4 meantime, until the Claimant got in to
5 Dr. Lucas and was specifically taken out of
6 work, he did draw unemployment, but that's
7 really not relevant to whether he's entitled to
8 temporary total disability benefits. I think
9 it should have been awarded from November 11th.
10 Otherwise, I think the Commissioner is correct
11 and should be affirmed.

12 **COMMISSIONER BARDEN:** And you'll have three minutes
13 in reply.

14 All right. Mr. Smith.

15 **ARGUMENT BY MR. SMITH:**

16 **MR. SMITH:** May it please the Commission. I'm
17 obviously here on behalf of South Carolina Home
18 Builders since the '04 and '09 claim have been
19 consolidated by the Commission.
20 I think it's extremely important to know that
21 although the '04 claim has been talked about
22 during oral argument and briefed extensively,
23 neither party appealed on their Form 30
24 anything to do with the '04 claim. And this
25 precludes jurisdiction in front of the Full

1 Commission over anything having to do with the
2 '04 claim. And I would ask the Commission to
3 review the Form 30's because I -- and I would
4 be happy to entertain any questions you have in
5 regard to that.

6 COMMISSIONER BARDEN: Any questions?

7 COMMISSIONER LYNDON: No.

8 COMMISSIONER BARDEN: Thank you.

9 MR. SMITH: Thank you.

10 COMMISSIONER BARDEN: All right. Mr. Lewis.

11 REPLY BY MR. LEWIS:

12 MR. LEWIS: Thank you. I think it's important that
13 when you -- when Ms. Williams was speaking, you
14 asked her about the films and she said, "Well,
15 I think it shows a change of condition." Well,
16 we're not here for a change of condition with
17 respect to my client's claim. This is a brand
18 new repetitive injury claim. She used the word
19 "change of condition" and that's my point is
20 that over time, he might have gotten worse, but
21 there's a Dodge medical finding and if he needs
22 to get medicals, he can get it under his '04
23 claim under the Dodge finding and that's what
24 should happen. That's the purpose of the Dodge
25 medicals. What this is is simply a chance

1 for -- frankly, they're out of time on the
2 change in condition claim for the old -- for
3 the 2004, either. They could have got the
4 Dodge medicals but they were out of time on the
5 change of condition.

6 So you can't get additional indemnity if you're
7 just going for the Dodge medicals. This new
8 claim is a way to get additional indemnity out
9 of this case and try to get more permanent
10 disability benefits.

11 Mr. Bowen did leave work in November 2009, but
12 if you look at the hearing testimony, he was
13 already on partial unemployment before he went
14 out of work. They had had a reduction in hours
15 and business was bad in this industry. And in
16 November 2009 -- and I questioned him on it at
17 the hearing -- he and Mr. Bolt, the owner,
18 decided that he would leave -- go out of work
19 because they had had a reduction in business,
20 there was very little business to be had and he
21 went and drew his unemployment. And, of
22 course, he was representing that he was able to
23 work. It wasn't until February of 2010 that
24 Dr. Lucas took him out of work and he took him
25 out of work retroactive and then completed the

1 questionnaires that the Claimant's attorney had
2 drafted up for him.

3 So, in terms of the notice, the statute uses
4 the word "compensable". But if you read that
5 to mean that the only time somebody gives
6 notice is after a claim's compensable, that
7 means they can only do it after a claim's gone
8 to a hearing and been deemed compensable by the
9 Commission if you look at it that way.

10 I think it's clear that the Legislature had an
11 intent for when the Claimant knew that his work
12 was causing his problems that he provided
13 notice. And he didn't need Dr. Lucas to tell
14 him that his work was causing problems. He
15 admitted in the hearing that he didn't need
16 Dr. Lucas to tell him that. He knew it all
17 along, that his continuing to work had caused
18 his back problems.

19 And with respect to Mr. Smith's argument about
20 the Form 30, we're only parties to the 2009
21 case, so we appealed the award of
22 compensability on the 2009 claim. I don't have
23 any standing to appeal Mr. Smith's 2004 case.
24 But it doesn't affect our position that we can
25 say that the proper remedy for Mr. Bowen would

1 have been to seek Dodge medical under his 2004
2 claim or for this Commission to deny his claim
3 based on the notice and the other
4 compensability grounds that we set forth.

5 **COMMISSIONER BARDEN:** Thank you, sir.

6 **MR. LEWIS:** Any questions? Thanks.

7 **REPLY BY MS. WILLIAMS:**

8 **MS. WILLIAMS:** May it please the Commission. He
9 knew he was having back pain. He did not know
10 that he had a condition that warranted surgery
11 until he got in to see Dr. Lucas.

12 Now, we were not out of time on the '04 claim.
13 There was a change in condition filed on the
14 '04 claim and that was admitted and he had
15 additional surgery on the ankle as a result of
16 that '04 claim and that case --

17 **COMMISSIONER BARDEN:** That's open right now, right?

18 **MS. WILLIAMS:** And that case still remains open.

19 Now, he talks about that I used the term "a
20 change of condition." Yeah, I did and what I
21 meant by that is that his -- and Dr. Lucas said
22 that his condition has changed for the worse
23 since the last time he saw him because of the
24 repetitive work that he's doing and not because
25 of what happened in the '04 claim.

1 And Dr. Lucas is the authorized treating
2 physician from the first injury; obviously
3 wasn't authorized for this one because it was
4 denied. But he was the physician for these
5 people in the first injury and said
6 definitively in statements and reiterated it in
7 his deposition that his -- the problems that
8 he's treating him for now are the result of the
9 repetitive work that he did after he returned
10 to work and not the '04 claim.

11 **COMMISSIONER BARDEN:** Okay. Thank you. That
12 concludes this proceeding.

13 **(The hearing concluded at 1:57 p.m.)**
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CERTIFICATE

This is to certify that the within hearing consisting of Twenty-Three (23) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenowriter with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on August 16, 2011.



Cassandra E. Vance
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 26, 2018

OCONEE MEMORIAL HOSPITAL

298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101

EMERGENCY DEPARTMENT RECORD

PATIENT NAME: BOWEN, JOHN RA
MEDICAL RECORD NUM: [REDACTED]

DATE & TIME OF ED REG: 03/22/2004 10:26AM
CHART NUM: 0408200156

DATE & TIME OF EP EXAM: 03/22/2004

AGE: 39y

RACE:

SEX: M

PATIENT DOB: 03/16/1965

HISTORY:

CHIEF COMPLAINT(S): Fall from height.

HISTORY OF PRESENT ILLNESS:

Patient was a 39-year-old male that was a construction worker who had a scaffolding fall down and he fell straight down a distance of approximately 20 feet landing on both feet. The patient complains of pain at both ankles, his right foot, and his lumbar spine. He did not strike his head or suffer loss of consciousness. He has no focal neurological symptoms. No abrasions or lacerations.

REVIEW OF SYSTEMS:

Musculoskeletal: Joint pains and lumbar pain as described in the history. The patient denies any neck pain or upper back pain.

Neurological: No head injury. No loss of consciousness.
All other system reviews were negative.

PAST MEDICAL, FAMILY, AND/OR SOCIAL HISTORY:

Local physician was Dr. Booker.

Major illnesses: None.

Current meds: None.

Allergies: No known allergies.

EXAMINATION OF ORGAN SYSTEMS / BODY AREAS:

Constitutional: A well-developed male in severe distress secondary to pain. The patient was in full spinal immobilization.

Vital signs were a blood pressure of 188/102. Respirations were 28. Pulse 101. Pulse oximetry 100% on room air. The patient rates his pain level as a 9/10 on the pain scale.

Psychiatric: The patient was oriented to time, place and person. Mood and affect were appropriate to situation.

Eyes: The pupils were equal and reactive. Extraocular movements were intact.

Ears, nose, mouth and throat: No facial or oral trauma. Tongue and palate move symmetrically. Facial muscle function was symmetric.

Respiratory: Respirations were nonlabored and the lungs were clear to auscultation. Bony thorax nontender.

Cardiovascular: Auscultation reveals regular rate and rhythm without murmur, rub or gallop.

Gastrointestinal: The abdomen was completely soft and nontender. Bowel sounds were

OCONEE MEMORIAL HOSPITAL

298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101

EMERGENCY DEPARTMENT RECORD

PATIENT NAME: BOWEN, JOHN RA

MEDICAL RECORD NUM: [REDACTED]

DATE & TIME OF ED REG: 03/22/2004 10:26AM

CHART NUM: 0408200156

active.

Genitourinary: No costovertebral angle tenderness.

Musculoskeletal: The patient does have pain in both ankles with lateral soft tissue swelling. Feet and calcanei are nontender. The patient does have some pain at the right mid-foot. Knees were unremarkable. The pelvis was stable and nontender. The patient does have lumbosacral tenderness. No thoracic or cervical spine tenderness.

Skin: No abrasions. No lacerations.

Neurological: Cranial nerves were grossly intact as discussed in the facial exam. The patient exhibits no focal weakness or numbness.

MEDICAL DECISION MAKING:

COURSE IN THE ED WITH INTERPRETATION / REVIEW OF DIAGNOSTIC STUDIES:

The patient was brought to the resuscitation room. IV was established. The patient was given repeated doses of IV morphine for pain control.

X-rays were ordered based on the patient's mechanism of injury and areas of pain to include bilateral ankles, right foot, T-spine, C-spine, and CT scan of the lumbosacral spine. Per radiologist plain films were normal. There is a possible tiny avulsion off the medial malleolus of the left ankle.

Lumbar spine was clear on plain films but because of the patient's degree of pain, I elected to perform CT scan of this area which also shows DJD but no acute fractures.

At this time the patient's most symptomatic joint is his right ankle. He will be given crutches for non-weightbearing of the right foot. He will be given Lortab 5 for pain. He will be given followup at Blue Ridge Orthopedics for recheck later this week.

IMPRESSION(S)/DIAGNOSES:

1. A 20 foot fall.
2. Sprain of both ankles.
3. Lumbar strain.

DISPOSITION:

My impressions and recommendations as described above were discussed with the patient and his family. The patient was discharged home with a family member to drive.

DICTATED BY: MCGUFF, M.D., MILES D.

AUTHENTICATED BY: MCGUFF, M.D. MILES D.

TRANSCRIBED BY: AIRINGTONJ

03/22/2004 14:39:25

03/23/2004 15:04:25

03/23/2004 10:09:58

ED CHART

page 2

MCUNE MEMORIAL EMERGENCY DEPARTMENT
RECORD OF WORK RELATED INJURY

DATE: _____

NAME: BOWEN, JOHN RANDOLPH M
A0408200156 39Y 03/16/65
MCGUFF, MILES D

COMPANY NAME: Vinyl Services

AGE: _____

MEDICAL RECORD NUMBER: 0408200156

DATE OF INJURY: 3/22/04 TIME OF INJURY: 10:15

DIAGNOSIS: Bilat Ankle Sprains, Lumbar Strain

TREATMENT: ACE wraps

Non weight bearing @ ankle-crutches

Recheck orthopedist in 3-5 days

☐ RELEASED TO RETURN TO WORK IMMEDIATELY (*) WITH THE
RESTRICTION(S) NOTED BELOW: (If none, state "none")

☒ NOT TO RETURN TO WORK TODAY. REFERRED TO: Dr. Redmond - BROA

*) IF EMPLOYEE IS NOT RELEASED TO RETURN TO WORK IMMEDIATELY, OR EMPLOYEE IS
RELEASED TO RETURN TO WORK WITH RESTRICTIONS, THE FINAL RELEASE TO UNRESTRICTED
WORK MUST BE MADE BY COMPANY'S PHYSICIAN. THESE ARRANGEMENTS ARE TO BE MADE
BY THE COMPANY.

COMPANY REQUESTED URINE DRUG SCREEN? YES _____ NO _____

X(s) GIVEN? YES ☒ NO _____ List: Lorfab 10

PHYSICIAN'S SIGNATURE: 

IF A SUPERVISOR DID NOT ACCOMPANY PATIENT, FAX A COPY TO THE COMPANY AT TIME OF
DISCHARGE.

11437

267

Medical Record (white)

Patient (yellow)

OCONEE MEMORIAL HOSPITAL
RADIOLOGY DEPARTMENT
298 MEMORIAL DR
Seneca, SC 29672
(864)885-7198

Page :1

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone [REDACTED]

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Chck-In Dt/Tm 03/22/04 1158

ORD: MCGUFF, MILES D
298 MEMORIAL DRIVE
SENECA, SC 29672
(864)885-6100

ADM: BOOKER, TED

Chk-in #	Order	Exam
562883	0002	7231 CT LUMBAR SPINE WO CONT
		Ord Diag: ;FALL

CT LUMBAR SPINE WITHOUT CONTRAST ENHANCEMENT:

CLINICAL HISTORY: Fell with back and leg pain.

The study will be numbered based on the inferior most lumbar vertebra being labeled as L5.

At T12-L1, Schmorl's node formation involving the endplates. There is rudimentary rib at the L1 level.

L1-L2: Minimal Schmorl's node formation involving the endplates. Perhaps mild broad-based bulging, without focal herniation appreciated.

L2-L3: Irregular ossification involving the superior and inferior margins of the facets on the right at this level, likely secondary to degenerative changes.

There is mild broad-based disc bulging at this level, without evidence of grossly significant stenosis. No lateralizing findings seen. Schmorl's node formation involving the superior endplate of L3.

L3-L4: Broad-based disc bulging, bilateral facet and flaval hypertrophy. AP diameter of the central canal at this level is as low as 7 mm, consistent with a central stenosis.

No obvious lateralizing findings are seen. However,

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(864)885-7198

Page :2

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone [REDACTED]

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Check-In-De/Tm 03/22/04 1158

ORD:MCGUFF, MILES D
298 MEMORIAL DRIVE
SENECA, SC 29672
(864)885-6100

ADM: BOOKER, TED

Checkin-Exam code Summary

562883-7231

technique is performed without contrast, which limits assessment of soft tissues.

Again, there is some irregular ossifications posteriorly arising from the facets at this level, with good cortication of these ossifications, most likely related to old accessory ossifications or old trauma. No obvious acute fractures observed.

L4-L5: There is suggestion of central disc protrusion. Thecal sac is hard to assess. No acute fractures or dislocations are seen. There is central stenosis secondary to disc herniation. AP diameter of the thecal sac is less than 5 mm at this level.

Similar ossifications are seen projecting from the superior facets at this level, with no obvious acute fractures or dislocations seen.

L5-S1: Vacuum disc phenomenon, with some mild anterior effacement of the central canal at this level. No obvious focal abnormalities appreciated. No fractures or dislocation seen.

IMPRESSION:

1. THERE IS DISC SPACE BULGING AT SEVERAL LEVELS. MOST PROMINENT FINDING IS CENTRAL DISC HERNIATION AT L4-L5, WHICH CAUSES SIGNIFICANT ANTERIOR EFFACEMENT OF

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(864)885-7198

Page :3

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone (864)885-7198

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Chck-In Dt/Tm 03/22/04 1158

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298 MEMORIAL DRIVE
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ADM: BOOKER, TED

Checkin-Exam code Summary

562883-7231

- THE THECAL SAC. BROAD-BASED DISC BULGING, PERHAPS
WITH MILD CENTRAL DISC HERNIATION AT L3-L4.
2. ALIGNMENT IS NORMAL GENERALLY. SOFT TISSUE FINDINGS
MAY BE BETTER ASSESSED UTILIZING MRI, IF PATIENT IS
ABLE. THIS MAY ALSO BETTER ASSESS THE EXTENT OF ANY
FORAMINAL STENOSES THAT MAY BE PRESENT.

NOTE: A PRELIMINARY REPORT REPORTING NO FRACTURE WAS
CALLED TO THE EMERGENCY ROOM TO DR. MCGUFF UPON
INTERPRETATION OF THE EXAMINATION AT APPROXIMATELY 1400
HOURS ON 03/22/04, UPON RECEIPT OF IMAGES. ADDITIONAL
INFORMATION ABOUT DISC HERNIATIONS RELAYED AT
APPROXIMATELY 1545 HOURS 03/22/04, PRIOR TO DICTATION.

/Read By/ TODD RUSHE M.D.

SC
03/23/04 1111

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298 MEMORIAL DR
Seneca, SC 29672
(864) 885-7198

Page :1

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone ()

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Chck-In Dt/Tm 03/22/04 1031

ORD:MCGUFF, MILES D
298 MEMORIAL DRIVE
SENECA, SC 29672
(864) 885-6100

ADM: BOOKER, TED

Chk-in #	Order	Exam
562846	0001	7240 XR SPINE CERVICAL 2-3 VIEWS Ord Diag: ;FALL

562846

CERVICAL SPINE, THREE VIEWS:

INDICATION: Fell off scaffolding. Back pain. Leg pain.
Injury. Neck pain.

FINDINGS: Odontoid intact. No widening of the pre-dental space. No pre-vertebral soft tissue swelling. Somewhat limited resolution along the lower half of the cervical spine due to the patient's large dense shoulders creating overlying density and diminished resolution there, but on the swimmer's view, no gross subluxation or anterior wedge compression fractures are demonstrated. If further study of this area is clinically indicated, then consider correlation with CT scan with MPR. Small osteophyte formation at C5 and C6. Slight disc narrowing degeneratively at C5-C6.

IMPRESSION:

1. SOMEWHAT LIMITED RESOLUTION DUE TO PATIENT'S LARGE DENSE SHOULDERS. SEE DISCUSSION.
2. DEGENERATIVE CHANGES OF C5-C6.

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Released 03/23/04 1320

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Page :2

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone (864)885-7198

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Check-In Dt/Tm 03/22/04 1031

ORD:MCGUFF, MILES D
298 MEMORIAL DRIVE
SENECA, SC 29672
(864)885-6100

ADM: BOOKER, TED

Checkin-Exam code Summary

562846-7240, 562847-7272, 562848-7200

NOTE: Results of this examination were sent immediately in written form to the emergency room doctor.

#562847

THORACIC SPINE, THREE VIEWS:

INDICATION: Fell off scaffolding. Back pain. Leg pain.
Injury. Neck pain.

FINDINGS: Small osteophyte formation at some levels of the thoracic spine. Area of sclerosis at the inferior aspect of T11 vertebra appears chronic. A slight anterior wedge deformity of T12, best seen on the lateral lumbar spine radiograph could be remottling deformity, however, if the patient is point tender here, then consider correlation with either radionuclide bone scan or CT scan to rule out acute injury. No subluxation of the thoracic spine. No paravertebral soft tissue swelling. Small osteophytes are present at some levels.

#582848

LUMBOSACRAL SPINE, THREE VIEWS:

INDICATION: Fell off scaffolding. Back pain. Leg pain.
Injury. Neck pain.

FINDINGS: Slight anterior wedge deformity of T12 of uncertain chronicity. If further study of this area is clinically desired, then consider correlation with CT scan

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Released 03/23/04 1320

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Page :3

BOWEN, JOHN RANDOLPH
DOB 03/16/65
Age 39Y Sex M
Phone [REDACTED]

Unit Number 000114980
P/T ER Rm No. DIS
Acct. # A0408200156
Chck-In Dt/Tm 03/22/04 1031

ORD:MCGUFF, MILES D
298 MEMORIAL DRIVE
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(864)885-6100

ADM: BOOKER, TED

Checkin-Exam code Summary

562846-7240, 562847-7272, 562848-7200

with MPR, and/or radionuclide bone scan. There is approximately 2mm retrolisthesis of L4 on L5 of uncertain chronicity. Degenerative disc narrowing and vacuum disc phenomenon at L5-S1. Small osteophytes along the entire lumbar spine. No apparent fracture lines at the lumbar spine. There appears to be some facet joint degenerative change at L5-S1. No diastasis of the sacroiliac joints. Chronic appearing small Schmorl's node at the inferior endplate of L3. Small sclerotic density along the inferior endplate of T11.

IMPRESSION:

1. SLIGHT ANTERIOR WEDGE DEFORMITY OF T12.
2. DEGENERATIVE DISC NARROWING AT L5-S1.
3. MILD RETROLISTHESIS OF L4 ON L5 OF UNCERTAIN CHRONICITY.

NOTE: Results of this examination were sent immediately in written form to the emergency room doctor.

/Read By/ BONNIE ANDERSON M.D.

CA
03/23/04 0940

FINAL DUPLICATE
Released 03/23/04 1320

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JAN 23 2006

Acct No.: 51774

Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD

Visit Date: 3/24/2004

HISTORY: Mr. Bowen is a 39-year-old gentleman who works for Vinyl Services. He was involved in an accident at work on 03/22/2004 when the scaffolding failed and he fell per his report 20 feet on concrete landing on to his right side. He was wearing a tool belt at that time. He was taken to Oconee Hospital Emergency Room where workup including CT scan of his thoracolumbar spine and plain x-rays of the cervical spine and right ankle were obtained. There was no evidence of fracture. However, he has continued to have significant discomfort in the right foot and ankle, discomfort about the right chest wall as well. He has been unable to bear weight on the right foot and ankle since then. He comes today for evaluation. ROS is otherwise, noncontributory.

PAST MEDICAL HISTORY: Significant for left knee arthroscopy in 2002, right knee arthroscopy in 2003.

MEDICATIONS: He is taking Lortab that is given to him through the emergency room.

ALLERGIES: He has no allergies to medications.

SOCIAL HISTORY: He notes no tobacco or alcohol use. He is married and works as a vinyl sliding installer for Vinyl Services.

PHYSICAL EXAMINATION: He has point tenderness over the right 7th, 8th, and 9th ribs. There is no significant ecchymosis laterally at the chest wall. He has full range of motion of the right hip. No effusion and no erythema about the right knee. He is alert and oriented with no skin rashes or lesions. He has moderate swelling about the right foot and ankle. No erythema and palpable dorsalis pedis and posterior tibial pulses and active ankle dorsi and plantar flexion.

RADIOGRAPHS: X-rays including rib films of the right chest wall, AP and lateral views of the right knee, AP and lateral mortise views of the right ankle, and AP and lateral oblique views of the right foot show no evidence of fracture.

ASSESSMENT: Contusion right chest wall. Right ankle sprain. Right midfoot sprain.

PLAN: He is placed in a ROM walker. He may begin to weight-bear to his tolerance. He is to continue on his oral anti-inflammatories medication. He will begin physical therapy for range of motion and strengthening. He is out off work until followup in three weeks.

dictated but not read
cc Dr. Ted Booker



51774

WORK STATEMENT

PATIENT'S NAME: John A. Bollen

OUT OF WORK FROM: 3-24-01 TO: 4-16-01

RETURN TO WORK: _____

WORK RESTRICTIONS:

no walking _____	no stooping _____
no standing _____	no lifting _____
no climbing _____	light duty _____
no bending _____	

COMMENTS: 3-24-01 _____

Physician's Signature

Today's Date

If a disability form will be required, it is the policy of Blue Ridge Orthopaedics to have such a form completed in 7 working day

BLUE RIDGE ORTHOPAEDIC ASSOCIATION, P.A.

Larry S. Bowman, M.D.
DEA # AB 1046514 LIC # 8208 (SC)
James C. McGeorge, M.D.
DEA # AM 9304041 LIC # 14266 (SC)
Steven L. Martin, M.D.
DEA # BM 3998068 LIC # 17186 (SC)
P. Sean McCallum, M.D.
DEA # BM 3283708 LIC # 17876 (SC)
Brian J. Hammond, M.D.
DEA # BR 1655333 LIC # 23202 (SC)
Michael W. Mendes, M.D.
DEA # BM 1930420 LIC # 16206 (SC)

10630 CLEMSON BOULEVARD, SUITE 100

SENECA, SC 29678

(864) 482-6000

NAME

ADDRESS

DATE

Rx ILLEGAL IF NOT SAFETY GRAY BACKGROUND

R

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED



WORK STATEMENT

INPATIENT'S NAME:

DATE OF WORK FROM:

TO:

RETURN TO WORK:

WORK RESTRICTIONS:

walking _____
standing _____
climbing _____
bending _____

no stooping _____
no lifting _____
light duty _____

COMMENTS:

Today's Date

Physician's Signature

If a disability form will be required, it is the policy of Blue Ridge Orthopaedics to have such a form completed in 7 working day.

Acct No.: 51774

Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD

Visit Date: 4/16/2004

HISTORY: John returns in followup for his right ankle and foot injury. This has improved well with physical therapy, however, he has had increasing lower back and left lateral hip discomfort over the past several weeks. His hip discomfort is localized over the greater trochanteric region.

PHYSICAL EXAMINATION: He has full range of motion of the hip with only mild discomfort and exquisite point tenderness over the bursa. Straight leg raising is negative.

RADIOGRAPHS: X-rays of the hip today show no osseous abnormalities.

ASSESSMENT: Lower back strain after his fall and trochanteric bursitis of left hip. We will incorporate modalities to these areas with his physical therapy. He is also given a script for Medrol Dosepak. He is kept out of work until followup in three weeks.

dictated but not read

cc Dr. Ted Booker



51774

WORK STATEMENT

PATIENT'S NAME: John R. Bower

OUT OF WORK FROM: 4-16-04 TO: 5-16-04

RETURN TO WORK:

WORK RESTRICTIONS:

no walking

no stooping

no standing

no lifting

no climbing

light duty

no bending

COMMENTS:

4-16-04

Today's Date

[Signature]

Physician's Signature

If a disability form will be required, it is the policy of Blue Ridge Orthopaedics to have such a form completed in 7 working days.

BROA-EP002

Acct No.: 51774

Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD

Visit Date: 5/28/2004

John returns in followup for evaluation of his ankle injury. He has been back to work with mild intermittent swelling and discomfort with significant activity that is slowly improving.

He does have a 30-degree deficit in his range of motion of the right as compared to the left. This translates as per the AMA Guides to the Evaluation of Permanent Impairment, 5th edition, to a 5% impairment of the lower extremity. He may in the future require an arthroscopic debridement, should he have continued mechanical symptoms and significant difficulty with ambulating on uneven ground. Otherwise, he may return to work without restrictions.

dictated but not read

cc Dr. Ted Booker

Acct No.: 51774 Patient...: John Bowen
Date Of Birth: 3/16/1965
Doctor...: P. Sean McCallum, MD Visit Date: 4/23/2007

HISTORY: John returns today with significant complaints of discomfort and mechanical symptoms in both ankles, much worse on the right. He states intermittently he gets locking and catching with significant pain interfering with his ability to work. He has undergone a full workup through rheumatologist, which did not show any evidence of inflammatory arthropathy. He has no recent history of trauma other than his injury in 2004 where he fell.

PHYSICAL EXAMINATION: On exam today, he has limited range of motion. Continued pain and swelling.

RADIOGRAPHS: X-rays of the ankle show no obvious osseous abnormalities.

ASSESSMENT: Internal derangement, right ankle and continued mechanical complaints. We will proceed with an MRI scan. He will be seen back after the scan for further evaluation.

dictated but not read

Acct No.: 51774

Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD Visit Date: 5/23/2007

John returns in followup after MRI scan of his ankle has been completed. It did show significant increased fluid within the peroneal tendon sheath. There is significant posttraumatic ossification in the talofibular ligament. He had an old avulsion fracture from the distal fibula as well. His mechanical symptoms remain unabated. We discussed options at length including operative arthroscopy. Risk and benefits were described in detail, and we will schedule this at his convenience.

dictated but not read

HISTORY AND PHYSICAL EXAMINATION

Patient Name: John Bowen
Date of Surgery: 07-10-07
Date of Examination: 07-03-07
Date of Dictation: 07-03-07
Surgeon: P. Sean McCallum, M.D.
Family Doctor: Edward H. Booker, M.D.
PreOp Diagnosis: Internal derangement, right ankle.

Scheduled Surgery: A&A, right ankle.

HPI: Mr. Bowen is a very pleasant 42-year-old white male who presents in clinic today for a recheck of right ankle pain. He states that he had a fall while at work in 2005. He states that he has never fully recovered from this injury. He has continued to have pain in his ankle. The type of injury that he had at work was an inversion-type right ankle sprain. He states the longer he stands or ambulates the more the pain increases in his ankle and states that the pain gets worse as the week goes on. It does get somewhat better over the weekend when he is able to stay off of his ankle. He has tried conservative treatment such as a 12-day steroid pack, which he states did help somewhat. Celebrex gave him significant GI upset, though, he does state he was placed on Daypro and that helped somewhat. He also underwent physical therapy for approximately two months, but his symptoms continued to return despite conservative efforts. He is now ready to proceed with surgery. The patient had an MRI done on 04/30/07 that showed increased fluid within the tendon sheath surrounding the distal peroneus brevis and longus tendons distal to the lateral malleolus suspicious for tenosynovitis. Possible posttraumatic ossification within talofibular ligament versus accessory ossicle, but old avulsion fracture from distal fibula. It would be difficult to completely exclude even this appearance. The patient had a prior history of surgery to this ankle. Denies numbness or tingling in the right lower extremity.

Past Medical History: Hypertension.

Past Surgical History: Cervical fusion and bilateral knee arthroscopies.

Family History: Significant for hypertension and CAD.

Medications: None.

Drug Allergies: NKDA.

Social History: The patient is married and employed by Vital Services. Denies tobacco, alcohol, or illegal drug use.

REVIEW OF SYSTEMS: GENERAL: Has good appetite without recent weight gain or weight loss. Denies any fever, chills, or night sweats. SKIN: Denies any skin rashes or cutaneous lesions. HEAD: Denies head injuries or frequent headaches. EYES: Denies blurred vision, cataracts, or glaucoma. EARS: Denies hearing loss, tinnitus, vertigo, or frequent ear infections.

NOSE/SINUSES: Denies hay fever or frequent sinus infections or epistaxis.

MOUTH/THROAT: Denies frequent sore throat, bleeding gums, or oral lesions. NECK: Denies any pain, lump, or goiter.

PULMONARY: Denies any chronic cough, wheezing, asthma, frequent bronchitis, or pneumonia. CARDIAC: Hypertension. Denies chest pain, dyspnea, orthopnea, PND, DOE, and palpitations. GI: Denies any unexplained abdominal pain or vomiting. Denies difficulty with diarrhea or constipation. Denies any history of liver or ulcer disease. Denies any specific food intolerance. Denies hematemesis, melena, and hematochezia. GU: Denies dysuria, frequency, urgency, incontinence, frequent UTIs, or nephrolithiasis. MALE: The patient denies prostate or testicular disease. METABOLIC: Denies symptoms consistent with diabetes or thyroid disease. NEUROLOGICAL: Denies seizure disorder, loss of consciousness, peripheral deficits of the extremity, or memory deficit. MUSCULOSKELETAL: With the exception of the HPI, he has no current complaints of a musculoskeletal nature.

PHYSICAL EXAMINATION: BP 158/92, P 80, R 20, WT 240 lb.

GENERAL: WDOWN 42-year-old white male who is A&O x 3 and in no acute distress.

SKIN: Warm and moist with a good texture and good turgor.

HEENT: Normocephalic without lesions to the scalp or the skull. PERRLA. EOMs are intact to 6 cardinal positions of gaze without nystagmus. The fundus is benign bilaterally. The pinna and external auditory canals are normal, and the TMs are clear bilaterally. The nose has patent nares bilaterally. Mouth has adequate dentition without lesions to the gums or mucosa. Throat is without erythema or exudates.

NECK: Supple without adenopathy. The trachea is midline and the thyroid is not palpable. No carotid bruits heard.

LUNGS: Clear to auscultation throughout.

CARDIAC: RRR without murmur, rubs, or gallops. Normal S1 and S2. No S3 or S4. Pulses were 2+ and equal at the radius, dorsalis pedis, and posterior tibial arteries.

ABDOMEN: Soft and benign. Nontender and nondistended without masses or organomegaly. Bowel sounds are present in all 4 quadrants.

NEUROLOGICAL: Cranial nerves II-XII are grossly intact. Reflexes are 2+ and equal in upper and lower extremities. Peripheral sensory is intact to light touch in all 4 extremities distally.

ORTHOPEDIC EXAM: No redness, warmth, edema, or ecchymosis was noted in his right ankle. Mild tenderness to palpation along his ATF. He had pain with inversion movement. No pain with dorsiflexion and plantarflexion. No ligamentous instability was noted. Neurovascularly intact in his right lower extremity.

IMPRESSION:

1. Internal derangement of the right ankle.
2. Hypertension (non-medicated at this time).

PLAN:

1. The risks, benefits, options, and anticipated outcomes were thoroughly and completely explained to the patient. Patient understands and accepts and elects to proceed with surgery. Mr. Bowen will be taken to the OR on 07/10/07 to undergo a right ankle arthroscopy to be performed by Dr. McCallum.
2. Patient is to remain NPO after midnight the night before surgery.
3. Patient has been given instructions regarding medication use the day of surgery.
4. Patient will contact our office if they have any change in health status prior to surgery.
5. Patient will follow-up with Dr. McCallum in our office following surgery for a recheck.

Emmit Carter, PA-C

cc: Edward H. Booker, M.D.
Golden Corner Family Practice, LLC
1205 N Hwy 11
W Union, SC 29696

Name: Bowen, John
Chart: 51774
DOB: 3-16-1965
Date: 7/2/2007



Vital Sheet

DOS/DOE/DOD: 7/10/07

Surgeon: PSM

Family Dr.: Ed Booker

PREOP DX: Internal Derangement Right Ankle

Scheduled Surgery: A+A Right Ankle

HPI:

Fell @ work '05. nerves has improved cont. pain
inv.

longer stand/amb w pain PT - 2 mo.

12-Day helped Celecox - GI upset Naprox helped

(MRI)

Q5x QNT

PAST MED. HX: HTN

SURG HX: Fusion cervical; B Knees

FAMILY HX: HTN, CAD

Meds:

NONE

Allergies: NKDA

Social HX: Tobacco: Q

ROS: smokes

ETOH: Q

Vinyl services
married

PE:

BP 158/92

P 80

R 20

WT 240

Acct No.: 51774 Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD Visit Date: 7/18/2007

John returns in followup after his ankle arthroscopy. His portal sites have healed nicely. Stitches are removed. He has no erythema or effusion. His neurovascular exam is intact to the foot. He may return to work to his tolerance next week, and we will see him back in four to six weeks for further evaluation.

dictated but not read

Acct No.: 51774 Patient...: John Bowen
Date Of Birth: 3/16/1965
Doctor...: P. Sean McCallum, MD Visit Date: 3/19/2010

HISTORY: Mr. Bowen returns in followup today. He has had slowly progressive pain in both knees and swelling associated especially with the pain in the right knee over the last year. No history of trauma. He has had arthroscopy to both knees in the past, and he has had relief for several years after. He also has had significant low back pain. He has been treated for at this time as well.

PHYSICAL EXAMINATION: On exam today, he has minimal effusion to either knee. Marked joint line tenderness reproduced with McMurray's testing bilaterally. No ligamentous instability. His neurovascular exam is intact to both knees.

RADIOGRAPHS: Weightbearing AP and lateral knee film show minimal degenerative changes to either knee.

ASSESSMENT AND PLAN: Internal derangement with bilateral knee problems with recurrent meniscal tears. Because of his significant pain and discomfort, we will proceed with a MRI scan as he has had previous arthroscopy, previous trials of oral antiinflammatory and physical therapy, also previous intraarticular injections. We will see him back after scans are completed.

P. Sean McCallum, MD
cc: Ted Booker, M.D.

BLUE RIDGE ORTHOPAEDICS

10630 Clarkson Blvd., Ste 100

SENECA, SC 29678

(864) 482-6000 PHONE

(864) 482-7196 FAX

PATIENT: JOHN BOWEN
DOB: 03/16/1965
FILE #: 51774
PHYSICIAN: DR. P. S. MCCALLUM
EXAM: MRI OF THE LEFT KNEE
DATE: 04/01/2010

CLINICAL INDICATION

Knee pain along the medial aspect of the patellofemoral area. History of prior arthroscopic surgery in 2001 for partial medial meniscectomy and debridement of loose cartilaginous fragments.

TECHNIQUE

Coronal T1-weighted images were performed, followed by coronal inversion recovery sequences. This was followed by sagittal T1 and fast spin-echo T2-weighted sequences and axial fast spin-echo T2-weighted sequences. In addition, sagittal 3D volume gradient-echo sequences were carried out.

FINDINGS

Ligaments: The cruciate and collateral ligaments appear intact.

Meniscus: There is moderate smooth attenuation of the body of the posterior horn of the medial meniscus, without distinct MRI evidence of a re-tear. There is a small amount of horizontal intermediate signal extending to the undersurface of the posterior horn remnant (series 3 images 4 through 6) and a minimal amount of intermediate signal along the free edge of the body (series 5 image 11). No evidence of a fluid signal intensity meniscal re-tear is seen and no displaced meniscal fragments are identified. The lateral meniscus appears intact.

Ossaceous structures and articular surfaces: Tiny tricompartmental osteophyte formation is present. There is extensive grade-III chondral loss along the weight-bearing surface of the medial femoral condyle. A small amount of focal near-full-thickness-to-full-thickness chondral loss is seen along the periphery of the medial tibial plateau (series 4 image 4). The articular cartilage in the lateral compartment appears intact. The patellar cartilage shows diffuse signal heterogeneity with high-grade chondral fissuring and irregularity along the medial facet and intermediate-grade chondral surface irregularity along the lateral facet (series 8 images 4 through 7). There is a tiny amount of probable full-thickness chondral loss along the medial patellar facet (series 8 image 5). The trochlear cartilage shows signal heterogeneity centrally with probable minimal chondral surface fibrillation in the area. No loose intra-articular bodies are identified.

Extensor mechanism: The quadriceps tendon appears intact. Minimal proximal patellar tendinosis is present. A mild degree of post-surgical scarring is seen in Hoffa's fat pad. The patella appears normally located.

Miscellaneous: There is a small suprapatellar effusion. There is no evidence of a popliteal cyst.

IMPRESSION

1. Evidence of prior partial medial meniscectomy with attenuation and blunting of the body and posterior horn of the medial meniscus. There is a mild amount of intermediate signal intensity along the surface of the posterior horn and body remnants, which may be due to post-surgical change versus subtle meniscal tearing. No distinct fluid signal intensity re-tear is seen, and no displaced meniscal fragments are identified.

2. High-grade chondral loss along the weight-bearing surface of the medial femoral condyle. A small amount of

near-full-thickness-to-full-thickness chondral loss is also seen along the periphery of the medial tibial plateau.

3. High-grade chondral surface irregularity and fissuring along the medial patellar facet and more intermediate-grade chondral change along the lateral patellar facet.

4. Grade I-to-II chondral change in the central trochlea.

5. Small suprapatellar effusion.

THIS REPORT WAS ELECTRONICALLY SIGNED ON 04/01/2010

Anita Rich, M.D.

Board Certified Radiologist

AR/s

BLUE RIDGE ORTHOPAEDICS

10630 Clanton Blvd. Ste 100

SENECA, SC 29678

(864) 482-6000 PHONE

(864) 482-7196 FAX

PATIENT: JOHN BOWEN
DOB: 03/16/1965
FILE #: 51774
PHYSICIAN: P. S. MCCALLUM, MD
EXAM: MRI SCAN OF THE RIGHT KNEE
DATE: 04/01/2010

CLINICAL INDICATION

Knee pain. History of prior arthroscopic surgery in 2002 for partial medial meniscectomy and synovial debridement.

TECHNIQUE

Coronal T1-weighted images were performed, followed by coronal inversion recovery sequences. This was followed by sagittal T1 and fast spin-echo T2-weighted sequences and axial fast spin-echo T2-weighted sequences. In addition, sagittal 3D volume gradient-echo sequences were carried out.

FINDINGS

Ligaments: The cruciate and collateral ligaments appear intact.

Menisci: There is a small amount of horizontal intermediate-signal intensity seen extending to the undersurface of the posterior horn of the medial meniscus (series 3 images 18 through 20). There is mild attenuation of the body of the medial meniscus. The lateral meniscus appears intact.

Osseous structures and articular surfaces: Early tricompartmental osteophyte formation is present. There is grade-II-to-III smooth chondral thinning along the weight-bearing surface of the medial femoral condyle. The articular cartilage in the lateral compartment appears intact. The patellar cartilage shows high-grade thinning and surface irregularity along the medial facet and mild chondral surface fibrillation along the lateral facet (series 8 images 7 through 10). Cartilage signal heterogeneity and mild chondral surface fibrillation are seen along the central to medial trochlea. No loose bodies are seen.

Extensor mechanism: The quadriceps and patellar tendons appear intact. The patella appears normally located and there is no MRI evidence of a synovial plica. Mild post-surgical scarring is seen in Hoffa's fat pad. Moderate prepatellar subcutaneous edema is present.

Miscellaneous: There is a small suprapatellar effusion. There is no evidence of a popliteal cyst.

IMPRESSION

1. Mild amount of horizontal intermediate-signal intensity extending to the undersurface of the posterior horn of the medial meniscus. This may be due to an area of meniscal tearing versus post-surgical change such as granulation tissue or signal conversion of intrasubstance degenerative signal to a post-surgical meniscal surface. No displaced meniscal fragments are seen.
2. Smooth grade-II-to-III chondral thinning along the weight-bearing surface of the medial femoral condyle.
3. High-grade chondral loss and chondral surface irregularity along the medial patellar facet. Low-grade chondral change along the lateral patellar facet and central to medial aspect of the trochlea.

4. Small suprapatellar effusion.

5. Moderate non-specific prepatellar subcutaneous edema, possibly representing a degree of prepatellar bursitis.

THIS REPORT WAS ELECTRONICALLY SIGNED ON 04/01/2010.

Anita Rich, M.D.

Board Certified Radiologist

AR/wa

Acct No.: 51774 Patient...: John Bowen
Date Of Birth: 3/16/1965
Doctor...: P. Sean McCallum, MD Visit Date: 4/9/2010

HISTORY: John returns in followup after MRI scan of his right knee demonstrates significant meniscal pathology and early osteoarthritis. His symptoms remain unabated.

PLAN: He wishes to proceed with operative arthroscopy and we will schedule this at his convenience.

P. Sean McCallum, MD
cc: Ted Booker, M.D.

Patient Name: Bowen, John
Chart #: 51774
Date: 4/9/2010

DR. Sean P. McCallum



WORK STATEMENT

PATIENT'S NAME: Bowen, John

OUT OF WORK FROM: 4/9/2010 TO: pending post op
appointment after surgery.

RETURN TO WORK: _____

WORK RESTRICTIONS:

☐ no walking _____	☐ no stooping _____
☐ no standing _____	☐ no lifting _____
☐ no climbing _____	☐ light duty _____
☐ no bending _____	

COMMENTS: _____

4/9/2010

Today's Date

Physician's Signature

If a disability form will be required, it is the policy of Blue Ridge Orthopaedics to have such a form completed in 7 working days.

HISTORY AND PHYSICAL EXAMINATION

Patient Name: John Bowen
Date of Birth: 03-16-65
Date of Surgery: 04-20-10
Date of Examination: 04-14-10
Date of Dictation: 04-14-10
Surgeon: P. Sean McCallum, M.D.
Family Doctor: Dr. Booker.
Chief Complaint: Bilateral knee pain.
PreOp Diagnosis: Bilateral knee internal derangement.

Scheduled Surgery: Right knee A&A.

HPI: This is a 45-year-old gentleman with a long history of bilateral knee problems in both knees. It started back almost 10 years ago. He underwent two A&As back at that time, back in 2001 and 2002, and then he had an ankle A&A in 2004. He has continued to have knee pain and progressively getting worse. Seen recently again by Dr. McCallum and an MRI was performed, which was consistent with internal derangement and surgery is scheduled. He was originally scheduled for bilateral knee A&A, but at this point we are just going to do the right now and the left down the road. He is also being treated for chronic back problems. He is followed by pain clinic in Greenville.

Past Medical History: Significant for hypertension. Recently, he had an abnormal EKG. Cardiology workup was negative including a cardiac catheterization. Denies any history of hepatitis, HIV, or blood clots.

Past Surgical History: Knee A&A and spine surgery. The patient denies prior problems with anesthesia.

Family History: Hypertension and heart disease.

Medications: Includes Diovan HCT 320/25 mg by mouth q.a.m., Bystolic 10 mg by mouth q.a.m., Percocet p.r.n. along with glucosamine and chondroitin and aspirin.

Drug Allergies: None.

Social History: Negative for smoking or alcohol use. He works in construction.

REVIEW OF SYSTEMS: GENERAL: Has good appetite without recent weight gain or weight loss. Denies any fever, chills, or night sweats. SKIN: Denies any skin rashes or cutaneous lesions. HEAD: Denies head injuries or frequent headaches. EYES: Denies blurred vision, cataracts, or glaucoma. EARS: Denies hearing loss, tinnitus, vertigo, or frequent ear infections. NOSE/SINUSES: Denies hay fever or frequent sinus infections or epistaxis. MOUTH/THROAT: Denies frequent sore throat, bleeding gums, or oral lesions. NECK: Denies any pain, lump, or goiter. PULMONARY: Denies any chronic cough, wheezing,

asthma, frequent bronchitis, or pneumonia. CARDIAC: Hypertension. Denies chest pain, dyspnea, orthopnea, PND, DOE, and palpitations. VASCULAR: Bleeding tendency. GI: Denies any unexplained abdominal pain or vomiting. Denies difficulty with diarrhea or constipation. Denies any history of liver or ulcer disease. Denies any specific food intolerance. Denies hematemesis, melena, and hematochezia. GU: Renal calculi. Denies dysuria, frequency, urgency, incontinence, frequent UTIs, or nephrolithiasis. MALE: The patient denies prostate or testicular disease. METABOLIC: Denies symptoms consistent with diabetes or thyroid disease. NEUROLOGIC: Migraines and depression. PSYCHOLOGICAL: Negative. HEMATOLOGICAL: Negative. MUSCULOSKELETAL: Negative other than above.

PHYSICAL EXAMINATION: Today, BP 120/78, P 80, R 18, WT 165 lb.

GENERAL: WDNW white male in no acute distress, oriented x3.

SKIN: Warm and moist with a good texture and good turgor.

HEENT: Normocephalic without lesions to the scalp or the skull. PERRLA. EOMs are intact to 6 cardinal positions of gaze without nystagmus. The fundus is benign bilaterally. The pinna and external auditory canals are normal, and the TMs are clear bilaterally. The nose has patent nares bilaterally. Mouth has adequate dentition without lesions to the gums or mucosa. Throat is without erythema or exudates.

NECK: Supple without adenopathy. The trachea is midline and the thyroid is not palpable. No carotid bruits heard.

LUNGS: Clear to auscultation throughout.

CARDIAC: RRR without murmur, rubs, or gallops. Normal S1 and S2. No S3 or S4. Pulses were 2+ and equal at the radius, dorsalis pedis, and posterior tibial arteries.

ABDOMEN: Soft and benign. Nontender and nondistended without masses or organomegaly. Bowel sounds are present in all 4 quadrants.

EXTERNAL GENITALIA: Deferred.

NEUROLOGICAL: Cranial nerves II-XII are grossly intact. Reflexes are 2+ and equal in upper and lower extremities. Peripheral sensory is intact to light touch in all 4 extremities distally.

ORTHOPEDIC EXAM: Shows gross crepitus with motion of both knees. No effusion is noted. No gross ligamentary laxity. No pain with varus or valgus stressing. Just generalized tenderness over the anterior femoral condyles. Neurologically intact.

IMPRESSION:

1. Bilateral knee internal derangement.
2. Hypertension.
3. Chronic back pain.

PLAN:

1. The risks, benefits, options, and anticipated outcomes were thoroughly and completely explained to the patient. Patient understands and accepts and elects to proceed with surgery. Mr. Bowen will be taken to the OR on 04/20/10 to undergo an A&A of his right knee by Dr. McCallum.
2. Patient is to remain NPO after midnight the night before surgery.
3. Patient has been given instructions regarding medication use the day of surgery.
4. Patient will contact our office if they have any change in health status prior to surgery.
5. Patient will follow-up with Dr. McCallum in our office following surgery for a recheck.

Frank Mlinar, PA-C



Blue Ridge Orthopaedics

SPECIALIZING IN SPORTS MEDICINE, GENERAL ORTHOPAEDICS, TRAUMA, FOOT & HAND SURGERY AND TOTAL JOINT REPLACEMENT

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C. Stephen Jackson, PA-C
Wallace S. Liggett, PA-C
G. Emmitt Carter, PA-C
Frank M. Milnar, PA-C
Blythe J. Watson, PA-C
Kristen L. Myers, PA-C
Anthony L. Alexander, PA-C

1. You are scheduled for Knee Arthroscopies to both knees
on Tues. 4-20-10 at Blue Ridge Ortho Surg. Center

If EKG was ordered, take your order form to Oconee
Outpatient Diagnostic Center (105 B Omni Dr, Suite B)
between 7:00am and 5:00pm Monday thru Thursday or
7:00am to 2:30pm on Friday.

Have EKG done between today and 4-13-10.

2. You will have a pre-operative history and physical examination on
Wed. 4-14-10 @ 2⁰⁰pm at Blue Ridge Ortho Office
with Frank Milnar

For this appointment we need for you to:

- Bring ALL of your medications (NOT a list)
- Please be on time. This reduces excess waiting times and stress for other patients that follow you.

3. If your surgery is at Blue Ridge Surgery Center, please call 482-5100 the day before your surgery for your arrival time.
4. If your surgery is at Oconee Memorial Hospital, please call 885-7822 between 3:00pm and 5:00pm the afternoon prior to your surgery for your arrival time.
5. If you have any questions regarding your surgery, or any of your appointments, please call Tami Hightower at 482-6307.

BOWEN, JOHN RANDOLPH

THE SPINE CLINIC
S. Emmett Lucas, III, M.D.
54 Bear Drive
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864-467-0079
Fax# 864-467-0647 &
864-331-0432

15 SEPTEMBER 04

HISTORY & PHYSICAL

REFERRING PHYS

WC Carrier

HPI

Chief complaint: neck pain and thoracic pain. He is referred by his WC carrier for evaluation of these complaints. He works construction, is still working. No records are sent. He is a 39-year-old white male who denies any history of problems until a fall that occurred 3-22-04. He was walking about 23 feet off the ground on a walk board, it gave way and he landed on his feet. He said initially he hurt all over. He was numb in his legs and he had severe back pain and was taken to the emergency room. They did x-rays and I don't think they found any broken bones and he says for three weeks he had to get around in a wheelchair. He was out of work until 5-17-04 because of this and he had a lot of lower extremity complaints, but he says that eventually the lower back pain mostly for the most part has resolved, but about a month after the fall, he really started noticing more the neck pain and the back pain in the thoracic area and it's progressively worsened. He says that he really doesn't have any radiating arm pain. He does get pain that kind of goes in his triceps, but it never goes past the elbow. He does get numbness and tingling in the left first and second fingers, it comes and goes, but it can be quite numb. He also has pain going out into his shoulders bilaterally. He says he has good and bad days. He is currently working, but it's difficult and it causes him a lot of pain. Coughing and sneezing doesn't change the pain. It awakens him pretty much every night with pain. It limits his walking. He describes it as aching and sharp. On a scale of 1-10, his bad pain he said gets to a 8 and currently it's a 9, so this makes no sense, but he does say this is a bad day. His pain is as bad as it usually gets. He has it daily, but it comes and goes. It's made worse by sitting, walking, lifting and better laying down. Treatment - he has been to a chiropractor. He originally had some treatment for his lower back and lower extremities with therapy, but nothing for his middle back or neck. The chiropractor seemed to help a lot.

ROS

Significant for headaches, joint pain and stiffness.

PMH

00.

No real medical problems. Surgeries - he's had a left knee scope in July of 2001, right knee scope 3-17-02 and some type of surgery on his eyes 5-10-

ALLERGIES

NKDA.

MEDICATIONS

No medications currently.

FAMILY HISTORY

Significant for cancer, heart disease.

SOCIAL HISTORY

He doesn't smoke, drink or use drugs. He is married.

PHYSICAL EXAM

Height - 6'1". Weight - 246 lbs. BP: 152/88. Appearance is normal. He is very stocky, well built and well muscled. **Mental status:** alert and oriented. Normal affect. He does seem to be uncomfortable. He has a normal gait. He is able to toe and heel walk, but it does cause him pain. He is tender really in the interscapular region and down in the mid thoracic to lower thoracic region to palpation. His lumbosacral ROM is normal. It really doesn't seem to

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15 SEPTEMBER 04

Page 2

PHYSICAL EXAM, cont.

cause him much pain. His neck motion is limited. He is a finger breadth from touching his chin to his chest. He has good extension, but right and left turning is limited to about 45-50 degrees both ways. DTR's were +2 in the biceps, triceps, brachioradialis, patella and Achilles'. SLR test was negative. No clonus. Toes were equivocal on Babinski test. Hoffman's test is negative. Motor testing showed maybe some slight weakness in the left triceps, otherwise it was normal in the upper and lower extremities. Sensory testing was decreased in the left first and second finger. Shoulder/elbow ROM was normal. There was no atrophy, abnormal tone or defect. When I say normal, it was a little bit limited on the left side. Skin is normal in the neck, back, arms and legs. +2 peripheral pulses. No cyanosis, clubbing or edema.

XRAYS

Patient has some x-rays of the cervical and thoracic spine and even lumbar spine and I reviewed those and it's really difficult to see the areas well. The cervical spine I don't see any obvious fractures. Disc spaces are well maintained in height, but it's hard to see the lower cervical spine and the thoracic spine. I really don't see any compression fractures. At L1 it looks like there might be a fracture of the transverse process, but it's not very well seen. I don't see any fracture of the vertebral bodies. He is noted to have degenerative changes at L5-S1, otherwise unremarkable.

ASSESSMENT & PLAN

I talked with the patient. I've told him he's been hurting long enough and he does have symptoms of some left arm pain, although it's not radicular, but he's got numbness and tingling in the first and second finger. I think we need to do an MRI scan to rule out a disc herniation. I also think we need to do some x-rays of the thoracic spine and make sure we are not missing some type of compression fracture that's causing him to have persistent pain in this area. I did give him a prescription for Celebrex 200 mg. #60 tablets one b.i.d. and Tylenol #3 #60 tablets one b.i.d. pm pain.

S. E. Lucas

S. Emmett Lucas, III, M.D.
pm

c: WC Carrier

Anderson Radiology 231-6738



S. Emmett Lucas, III, M.D.
DEA# BL2398596

Amy Strickland Hunt
DEA# MS0725397

S.C. License #18085

S.C. License # 935
S.C. Rx Auth. A9350RS

Name: John Bowen
Date: 10/7/04

54 Bear Drive
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AP + Lateral Thoracic X Rays

Dispense
as written

M.D.

Substitution
Permitted

S. Emmett Lucas III M.D.



S. Emmett Lucas, III, M.D.
DEA# BL2398596

Amy Strickland Hunt
DEA# MS0725397

S.C. License #18085

S.C. License # 935
S.C. Rx Auth. A9350RS

Name: John Bowen
Date: 10/7/04

54 Bear Drive
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Cervical MRI Scan
without contrast

Dispense
as written

M.D.

Substitution
Permitted

S. Emmett Lucas III M.D.

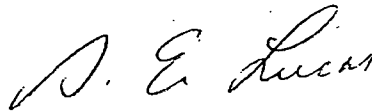
BOWEN, JOHN RANDOLPH
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7 DECEMBER 04

Recheck on John Bowen, a gentleman whose having neck, interscapular pain and left arm pain. He is having a lot of headaches as well. His work injury was back in March of '04. He has not done well with conservative treatment so we got a cervical MRI scan and it shows a C5-6 left-sided disc herniation. This would account for the pain he has and numbness in the first and second finger of the left hand. I told him that I felt like this was causing his pain. I told him that his options were just to live with what he had, to try some cervical epidural blocks or surgery. I really thought that he had had it long enough that surgery was a reasonable option, but he was very concerned. He asked lots of questions about motion, post-op, out of work. I went through all the risks of surgery including the risk of death, paralysis, infection, bleeding, transfusion, heart attack, stroke, clot in leg, clot in lung, dural tear, failure of fusion, failure of the instrumentation, injury to the recurrent laryngeal nerve and esophagus and the fact I cannot guarantee pain relief. He understands that. I went through the surgery in detail and showed him on his neck where we would make an incision. I told him how we would dissect down between the breathing, swallowing tube and the big blood vessel to the head and go down the spine, put a marker on it, take an x-ray to determine our location, then take the disc out and then put a piece of Cadaver bone in with his own bone graft in the center of it and then put a plate on it. He had multiple other questions, which I answered and at this point he basically is just concerned about having the surgery. He says some days he does okay and I think given that, that he should go ahead and at least try one epidural block, if not a whole series and he was relieved it seemed, so he wants to pursue that. We will have to get it okayed by WC and we will see him back after he's had his injections.

S. Emmett Lucas, III, M.D.
pm



BOWEN, JOHN RANDOLPH
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18 JANUARY 05

Pre-op

Pre-op on John Bowen. He comes in today for a preoperative evaluation for his cervical C5-6 ACDF which is scheduled for Monday. This gentleman had been having neck; interscapular and left arm pain as well as a lot of headaches. He had an injury in March of '04. He had a cervical MRI scan showing a large C5-6 left-sided disc herniation, which accounts for the numbness that he is having in his first finger and second finger of his left hand and pain radiating down his left arm. We had discussed cervical epidural blocks versus surgery and he wanted to proceed with surgery. Today I have discussed the surgery in detail with him. I went through the risks and benefits of this surgery, talked about making an incision in the anterior part of his neck. We would dissect down between his breathing and swallowing tube in the big blood vessel and get down to the spine, put a marker on the spine, take an x-ray to determine our location to make sure we are at the C5-6 disc space and then we would remove the disc that's herniated, free up the foramens where the nerves are exiting and put in a piece of Cadaver bone with his own bone graft which would come from the iliac crest and then we would put a plate on it. We would close him up, wake him up, he would go to the recovery room and probably be in the hospital for a couple of days or three days, then he would have some restriction postoperatively. We would also get him fitted for an Aspen collar and he would need to wear the collar for several weeks after the surgery. I discussed the risks of surgery which include risk of death, paralysis, infection, bleeding, transfusion, heart attack, stroke, clot in legs, clot in lungs, dural tear, fusion failure and failure of the instrumentation as well as injury to the recurrent laryngeal nerve and the esophagus and the large blood vessels. Also we feel like this will give him a good bit of pain relief, but cannot guarantee that and he understands this. We answered all of his questions as far as restrictions that he would be having postoperatively.

PMH

I reviewed his past medical history with him today. He has been a pretty healthy gentleman, has not had any past medical problems. His past surgical history – he had a left knee scoped in July 2001, right knee scope in March of 2002.

ALLERGIES

None known.

MEDICATIONS

He is not taking any medications other than Tylenol.

FAMILY HISTORY

Significant for cancer and heart disease.

SOCIAL HISTORY

He doesn't smoke, drink or use drugs. He is married.

PHYSICAL EXAM

This is a very stocky gentleman **Mental status:** alert and oriented x3. He is in no acute distress. His mood and affect are appropriate. HEENT - head is normal cephalic, atraumatic. Pupils equal, round and reactive to light and accommodation. Extra ocular movements are intact. Sclera is anicteric. Oropharynx is without erythema or exudate. He has some pretty large tonsils, but they are not injected. Neck is supple. No thyromegaly palpated. No adenopathy palpated. Carotids auscultated without bruits. Chest is clear to auscultation anterior and posterior bilaterally. No wheezing or rales. Cardiovascular S1-S1 regular rate and rhythm. No murmur, gallop or rub. Abdomen – bowel sounds are present, normal, active,

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18 JANUARY 05 – Pre-op, continued

PHYSICAL EXAM, cont.

nontender to palpation. He has 2+ radial pulses. Motor and reflex testing is unchanged from his previous examination.

XRAYS

His x-rays are reviewed again today with Dr. Lucas. MRI scan shows a left-sided C5-6 disc herniation.

ASSESSMENT & PLAN

The C5-6 cervical disc herniation. Plan is to proceed with surgery on Monday. All questions were answered. We also discussed that he probably needs to shave his facial hair prior to the surgery. We will see him on Monday. I also gave him a prescription for Ambien 10 mg. one po qhs #10 and no refills to take this week. We will go ahead and put him out of work at this point, approximately eight weeks and I did give him a note for that. Patient was seen in consultation with Dr. Lucas.

Amy Hunt, P.A. dictating for
S. Emmett Lucas, III, M.D.
pm



2 FEBRUARY 05

Recheck on John Bowen. He is a week and a half out now from a C5-6 ACDF with plating and doing very well. No pain in any of the arms. He still has some numbness and tingling in his left first and second fingers, but they don't feel swollen like they had previously. His incisions are healing well. I got x-rays and it shows the graft in good position, the plate in good position, good alignment of his spine, so overall he is pleased. He is really taking very little medication. He's got plenty left so I don't need to refill anything. He is still wearing the cervical collar. I told him to wear it for another week and then he can get rid of it. I am going to see him back in four weeks. We will get new x-rays at that time.

S. Emmett Lucas, III, M.D.
pm





S. Emmett Lucas, III, M.D.

Date: 1/18/05

To whom it may concern:

This to advise that John Bowen will be
unable to work for approx 8 weeks due to
having cervical surgery.

S. Emmett Lucas III

S Emmett Lucas, III, MD



BOWEN, JOHN RANDOLPH
[REDACTED]

THE SPINE CLINIC
S. Emmett Lucas, III, M.D.
54 Bear Drive
Greenville, SC 29605
864-467-0079
Fax# 864-467-0647 &
864-331-0432

2 MARCH 05

Recheck on John Bowen. He is now about six weeks out from his C5-6 ACDF plating and he's doing very well. He has had excellent resolution of his preoperative symptoms. Incisions have healed well. He is very pleased, but he does a very strenuous job, so we are not going to let him get back to work at this point. We have instructed him on neck stretching exercises we want him to do and I will see him back in six weeks with a new x-ray and he will call if he has any problem prior to that time.

S. Emmett Lucas, III, M.D.
pm

S. E. Lucas



S. Emmett Lucas, III, M.D.

Date: 3/2/05

To whom it may concern:

This to advise that John Bowen will be
unable to work for 6 wks due to
post-op recovery.

S. Emmett Lucas III

S Emmett Lucas, III, MD

POA COPY
JAN 23 2006



Bowen, John

40 year old Male (DOB: 03/16/1965)

Chief Complaint: Neck & left shoulder pain
Onset Date: not entered

He is S/P his C5-6 ACDF and plating at the end of January of '05. He did well. The last time I had seen him was April, doing fine. The fusion looked like it was healing. He comes in today because he has been doing some vigorous work. He is having to look up and do nail gunning. He says he's getting a little stiffness and discomfort in the neck that radiates out to the left shoulder, but it's really not going down the arm. No numbness or tingling. No weakness. He was concerned that there may be an impending problem.

X-RAYS: We obtained AP and lateral cervical spine x-rays dated 11/9/05. On the AP x-ray, it shows good alignment of the spine. Plate is in good position. On the lateral view, plate is in good position. No evidence of loosening or failure. The graft is well incorporated at the inferior aspect. At the superior aspect anteriorly, there may be a little area where it's not incorporated, but I think overall it looks well healed. I don't see any degenerative changes above this, and the level below we do not see very well.

X-RAY IMPRESSION: Healing C5-6 fusion w/hardware.

I told the patient I really didn't think anything bad was going on. We talked about doing possibly some therapy or PO steroids and anti-inflammatories. He would rather try the steroids and anti-inflammatories. He has Celebrex at home. He will start taking that once he has completed the Sterapred DP. I will see him on a prn basis.

SEL/cwr

Assessment:

Diagnosis Type	Description
Definitive	723.1 - CERVICALGIA

Prescriptions:

Description	Action
Sterapred DS, 10 mg, 1 tablet, per package instructions/as directed, oral, 12 day	New
Sterapred DS, 10 mg, 1 tablet, per package instructions/as directed, oral, 12 day	Refill

Procedures Performed:

Description	Related Diagnosis	Units
XY - 72040 C-Spine 2 views	723.1	1

Followup:

Visit Code: *99212 EST Problem Focused

Followup visit requested: as currently scheduled

[Reviewed and signed off electronically by S. Emmett Lucas III MD on Nov 16 2005, 5:12 pm]

POA COPY
JAN 23 2006

Encounter Note by S. Emmett Lucas III MD (DOS: 01/20/2010)

Bowen, John

44 year old Male (DOB: 03/16/1965)

Chief Complaint:

Low back pain

Onset Date:

03/22/2004

CC: Back pain and neck pain.

HPI: Mr. Bowen is an old patient of mine I have not seen since 2005. We had done a C5-6 ACDF and plating and he had done well. He was having left arm pain at that time. He said that he had done fine. His original work comp injury was from a fall from 20 feet in March 2004 and it was apparently for his back and his neck. He says he has always had some chronic back pain, but it has been worsening in the last 2 years with no specific injury. He has also had neck pain as well. He had worked from 2005 up until 11/11/09 and has been out of work since that time because of his pain. The back pain goes into the posterior legs, left more than the right. It goes down to the knee and occasionally in the left leg he will get some anteriorly down to his ankle. He gets numbness and tingling in the left anterior and posterior thighs and posterior calf. No real right leg numbness and tingling. No focal weakness, bowel or bladder incontinence. He also says he has bilateral knee pain and he has had bilateral arthroscopies and has some knee problems.

He has neck and interscapular pain. The low back pain is worse than this. The interscapular neck pain will go into the left arm and it goes into all the fingers with numbness and tingling. He has longstanding numbness and tingling in the 1st and 2nd fingers from his original injury. He is not having any right arm pain.

TREATMENT: He was on Lortab and then they moved him to Oxycodone and he has been taking Ibuprofen 800 mgs tid.

PMH/SH/ROS/MEDS/ALLERGIES: This form has been filled out reviewed and is included in the chart.

PE: Patient looks like he is in pain and when he gets up to walk, he kind of struggles to get up and he walks with a little bit of a limp on the left side and it is very slow. He is forward flexed. When I palpate his back, he has some tenderness. On forward flexion, he gets about half way down his calf. Extension: He can't even get to neutral because of pain and he has a positive Gower maneuver. DTRs are +1 in the patella and Achilles. Hip and knee ROM was normal, but this cause knee pain. He was tender to palpation of his knees. There was no clonus and toes were downgoing on Babinski test. Sensory testing was normal BLE and motor testing was essentially normal BLE.

His neck ROM was pretty good, but caused him pain. He had minimal upper extremity reflex in the biceps, triceps, and brachioradialis. Hoffmann's test was negative. Motor testing was normal in all muscle groups except a little bit with wrist extension on the left; it might have been a little bit weak. Sensory testing shows decreased sensation in the left 1st and 2nd fingers. He had palpable pulses in the wrists and ankles. Skin was normal except for the scar on his neck.

X-RAYS: We got AP & lateral cervical and lumbar spine films 1/20/10 and he is straight on the

lumbar AP view. SI joints look okay. What I can see of the hips, they are unremarkable. On the lateral view, he has good lordosis. I don't see any listhesis, but he has a very degenerative 5-1 level. It is almost totally collapsed. I don't see any destructive lesions or other problems.

On the cervical spine, he is straight on the AP view. He has some degenerative changes. It looks like his fusion at C5-6 has healed. The disc spaces above and below look pretty good. Maybe he has lost some of the cervical lordosis. No other acute problems are noted.

IMPRESSION:

- 1) Normal lumbar spine with degenerative L5-S1 level.
- 2) Degenerative cervical spine with C5-6 cervical fusion and plating. No acute problems noted.

ASSESSMENT/PLAN: We will cover his being out of work from November and we will refill his Percocet t.i.d. He was taking it b.i.d., but we will give him enough in case he has to take it t.i.d. I think we need to get cervical and lumbar MRI scans to evaluate. I will see him back after this has been done.

SEL/jnb

Assessment:

Diagnosis Type	Description
Definitive	723.1 - CERVICALGIA
Definitive	724.2 - LUMBAGO
Definitive	729.5 - PAIN IN LIMB

Prescriptions:

Description	Action
Percocet-5/325, 325 mg-5 mg, 1 tablet, tid, oral, #:90	New

Procedures Performed:

Description	Related Diagnosis	Units
<i>XY - 72040 C-Spine 2 views</i>	723.1, 724.2, 729.5	1
<i>XY - 72100 L-spine 2views</i>	723.1, 724.2, 729.5	1

Followup:

Visit Code: *99203 NEW Detailed

Followup visit requested: after MRI

[Pending sign off by S. Emmett Lucas III MD]

Piedmont Orthopaedic Associates
(864) 234-7654 Fax: (864) 675-1657

Return to Work

Patient Name John Bowen

Date 1/20/2010

WORK STATUS

- ☐ Return to regular work with no work limitations
Date: _____
- ☐ Unable to return to work for: _____ days _____ weeks
Dates: _____ From _____ To: _____
- ☐ Return to limited duty on _____
Through _____
- ☐ Return to school:
Date: _____

*If employer has no work available according to these restrictions, it is up to the employer to release them from work.

Doctor's Comments:

John Bowen is out of work from 11/11/2009 until he is seen back after his MRI. Waiting on authorization from wc before scheduling MRI.

Diagnosis: 723.1 CERVICALGIA 724.2 LUMBAGO
Follow-up Appointment after MRI

ELECTRONICALLY SIGNED BY *Silas Emmett Lucas III MD* on 1/20/2010 at 10:19 AM.

Att: Tracy

Bowen, John

44 year old Male (DOB: 03/16/1965)

Chief Complaint: Low back pain
Onset Date: 03/22/2004

POA COPY
APR 19 2010

Mr. Bowen is a 44 year old gentleman who is an old patient of mine. I did a C5-6 ACDF back in 2005. I believe his original work comp injury was a fall from 20 feet in March 2004. He said that we had helped him with his arm pain after surgery, but he always had some chronic neck pain. He always had some chronic back pain as well. The pain has been worsening. He had worked from 2005 up until 11/11/09 and had been out of work since that time because of pain. The back pain is worse, but he does get leg pain; left more so than right. It seems to go into the posterior aspect. Occasionally into his ankles, but mainly just down to the knees. He gets some numbness and tingling in the left anterior and posterior thighs and posterior calf. No right leg numbness and tingling. No focal weakness. The neck pain, interscapular pain and some pain in the left arm, but it goes into all the fingers with numbness and tingling. He is not having any right arm pain. He is on pretty strong medication, Oxycodone at this point. He had been moved up from Lortab to this. He says while he was in the MRI scan the other day he has this new pain in the left arm that was kind of on the inside of his arm and it was strange and he has never had that before. He says when he is driving, his hands get numb and tingly. I tried a Tinel test and Phalen test and these were both negative in the wrist. He is neurologically intact in the upper extremities on motor testing.

We had gotten cervical and lumbar MRI scans and the lumbar MRI scan is kind of difficult to read and it looks like they did not do any sagittal images the best I can tell on this scan. All I have are axial cuts, and it looks like at 5-1 he has some degree of central disc herniation. I think it always looked a little more on the left and he also has a central disc protrusion at L4-5. I don't have a dictated report, but either one of these could be causing pain, but 5-1 would fit better with posterior leg pain so I think this may be the source of his pain.

I did not see a lot on his cervical MRI scan. He has some narrowing generalized throughout the cervical spine, but I don't see any obvious disc herniation. I will wait for the report to come back. In his lumbar spine, he had some degree of generalized congenital stenosis to go along with his small disc herniation.

PLAN: Since the back pain is worse, I would like to get an ESI at L5-S1 and then the second time do it at L4-5 and see which one of these gives him the best relief and then repeat it with the third block. I will see him back and will keep him out of work during this time. He is complaining of a lot of pain in the medial aspect of his knees bilaterally and he says this may be the worse pain he has and that would not be coming from what I see in his lumbar spine either level, 4-5 or 5-1 so this may be a primary knee problem. We will refill a Percocet prescription for him.

SEL/jnb

Assessment:

Diagnosis Type	Description
Definitive	722.10 - DISPLACEMENT OF LUMBAR INTERVERTEBRAL DISC WITHOUT MYELOPATHY

Followup:

Visit Code: *99213 EST Expanded Problem Focused

Followup visit requested: after injections

[Reviewed and signed off electronically by S. Emmett Lucas III MD on Feb 9 2010, 9:18 am]

Return to Work

Patient Name John Bowen

Date 2/3/2010

WORK STATUS

- ☐ Return to regular work with no work limitations
- ☐ Date:
- ☐ Unable to return to work for:
Days: From To: weeks
- ☐ Return to limited duty on
Through
- ☐ Return to school:
Date:

*If employer has no work available according to these restrictions, it is up to the employer to release them from work.

Doctor's Comments: **John Bowen is out of work until he completes his series of epidural injections of his lumbar spine**

Diagnosis: 722.10 DISPLACEMENT OF LUMBAR INTERVERTEBRAL DISC WITHOUT MYELOPATHY
Follow-up Appointment after injections

ELECTRONICALLY SIGNED BY *Silas Emmett Lucas III MD* on 2/3/2010 at 11:28 AM.

Encounter Note by Jennifer P Martin MD (DOS: 02/19/2010)

Bowen, John

44 year old Male (DOB: 03/16/1965)

Chief Complaint: Back pain
Onset Date: 03/22/2004

PROCEDURE: Interlaminar L5-S1 Lumbosacral Epidural Steroid Injection (ESI) #1

Precautions: None

The patient denies any prior sensitivity to steroid, local anesthetic, iodine or shellfish.

The procedure was discussed at length with the patient and informed consent was signed and placed in the chart.

The patient was placed in a prone position on the fluoroscopy table and the skin was prepped with Hibiclens and draped in a routine sterile fashion. The area to be injected was anesthetized with 1 mL of 1% Lidocaine. A 22-gauge 3.5 inch-spinal needle was carefully advanced under fluoroscopic guidance to the L5-S1 epidural space, using a glass syringe with loss of resistance technique. 1 mL of 70% Omnipaque was injected to confirm proper needle placement and absence of subdural or vascular flow. Once proper placement was confirmed, 3 mL of sterile water and 80 mg of Depo-Medrol were injected through the spinal needle.

Fluoroscopic guidance was used intermittently over a 5-minute period to insure proper needle placement and patient safety.

A hard copy of the fluoroscopic image has been placed in the patient's chart and is saved on the C-arm hard drive.

The patient was monitored for 30 minutes after the procedure and discharged home in a stable fashion with a routine follow up.

The next ESI will likely be Interlaminar L4-5 ESI. The third ESI may be either L4-5 ESI versus L5-S1 ESI, pending the results of injections #1 and #2.

JPM

Assessment:

Diagnosis Type	Description
Definitive	722.10 - DISPLACEMENT OF LUMBAR INTERVERTEBRAL DISC WITHOUT MYELOPATHY

Procedures Performed:

Description	Related Diagnosis	Units
ESI - 77003 Fluoroguide for spine inj	722.10	1
ESI - 62311 L. Epidural Steroid Inf	722.10	1
MED - J1040 Depomedrol 80mg	722.10	1

Followup:

Followup visit requested: L4-5 ESI #2/3

[Reviewed and signed off electronically by Jennifer P Martin MD on Feb 24 2010, 8:55 am]

POA COPY
APR 19 2010

STATEMENT OF
S. EMMETT LUCAS, M.D.

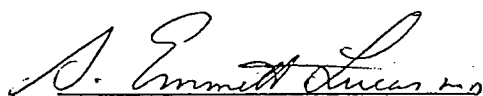
Re: John Bowen

Based on my review of the medical records, notes, and other information related to this patient, it is my opinion to a reasonable degree of medical certainty that

✓
John Bowen's work activities such as lifting and carrying walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines, and uneven ground are sufficiently repetitive work activities to cause injury from an orthopaedic standpoint.

— or —

John Bowen's work activities such as lifting walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines, and uneven ground are not sufficiently repetitive work activities to cause injury from an orthopaedic standpoint.


S. Emmett Lucas, M.D.

4/21/10
Date

04/21/2010

09:08

KATHRYN WILLIAMS, P.A. → 6751657

NO.159 0002

STATEMENT OF
S. EMMETT LUCAS, M.D.

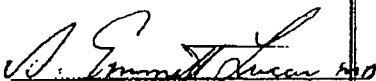
Re: **John Bowen**

Based on my review of the medical records, notes, and other information related to this patient, and barring any information that there is another source of injury, it is my opinion to a reasonable degree of medical certainty that

✓
John Bowen's low back condition was directly caused or aggravated by repetitive trauma he sustained to his low back as a result of his regular work duties including but not limited to lifting and carrying walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines, and uneven ground.

— or —

—
John Bowen's low back condition was neither directly caused nor aggravated by repetitive trauma he sustained to his low back as a result of his regular work duties including but not limited to lifting and carrying walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines, and uneven ground.


S. Emmett Lucas, M.D.

4/22/10
Date

STATEMENT OF
S. EMMETT LUCAS, M.D.

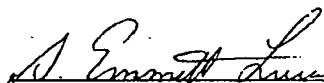
Re: **John Bowen**

Based on my review of the medical records, notes, and other information related to this patient, it is my opinion to a reasonable degree of medical certainty that

✓
The medical treatment that I am recommending for John Bowen's low back condition is necessary as a result of the aggravation of his low back condition by repetitive trauma he sustained from his regular work duties including but not limited to lifting and carrying walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines, and uneven ground.

- or -

_____ The medical treatment that I am recommending for John Bowen's low back condition is not necessary as a result of the aggravation of his low back condition by repetitive trauma he sustained from his regular work duties including but not limited to lifting and carrying walkboards and other materials, climbing ladders and scaffolding, carrying walkboards and materials while climbing ladders and scaffolding, and walking on roofs, other inclines and uneven ground.


S. Emmett Lucas, M.D.

4/22/10
Date

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME: Bowen, John R
PATIENT MR#: 000-970-40-4839
PATIENT SS#: [REDACTED]

Billing NO: 080006492389

DATE OF PROCEDURE: 01/24/2005

ATTENDING SURGEON: Silas E. Lucas, MD

ASSISTANT: Amy Hunt, PA

PREOPERATIVE DIAGNOSIS: C5-6 cervical disk herniation with left arm radiculopathy.

POSTOPERATIVE DIAGNOSIS: C5-6 cervical disk herniation with left arm radiculopathy.

PROCEDURE:

1. C5-6 anterior cervical disectomy.
2. C5-6 anterior interbody fusion.
3. Placement of interbody device at C5-6.
4. Anterior cervical plating at C5-6 using the Danek Atlantis plate.
5. Right anterior iliac crest bone graft harvesting.

ANESTHESIA: GETA.

ESTIMATED BLOOD LOSS: Less than 100 cc.

FLUIDS: 2 L crystalloid.

DRAINS: None.

SPECIMENS: None.

PROCEDURE: The patient was brought to the operating room and after administration of anesthesia, IV antibiotics, and placement of monitoring lines, he was positioned supine on the operating room table with a roll under his shoulders with his neck extended. We then prepped out the right side of his neck and his right iliac crest and sterilely draped it. We anesthetized the skin overlying the incision at C5-6 with 0.5% lidocaine with epinephrine as well as the area for his hip incision. Once we had done this, we made an incision in his neck starting at the cricoid cartilage in the midline extending laterally in a skin crease out to the sternocleidomastoid muscle. We undermined the skin off of the platysma muscle with sharp and blunt dissection. We then incised the platysma muscle with electrocautery in line with its fibers just on the medial border of the sternocleidomastoid muscle.

We then were able to bluntly dissect down between the strap muscles medially, sternocleidomastoid laterally, and we were able to identify the carotid sheath, which was retracted laterally and we were able to dissect down

GMH-OPERATIVE REPORT

Page 1 of 3

COPY FOR: Silas E. Lucas, MD

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME: Bowen, John R

PATIENT MR#: 000-970-40-4839

Billing NO: 080006492389

PATIENT SS#: [REDACTED]

between clamps to the anterior cervical spine. The overlying cervical fascia was incised with a bipolar and Kitner's were then used to strip the soft tissue off the anterior cervical spine. We placed a needle into the disk space and took a lateral x-ray, which showed that we were at C5-6. Having done this, we elevated the longus coli muscle bilaterally using the bipolar and then placing self-retaining retractor. Once we had done this, we incised the disk annulus with the scalpel and removed disk material with pituitary rongeurs. We used disk space spreaders to distract the disk space and remove disk material all the way back to the posterior longitudinal ligament. Initially we worked on the right foramen and removed all the disk and made sure the nerve root was free. Then we worked out into the left foramen. There was a significant amount of disk in this area that was removed. We also used an angled nerve hook to reach out in this foramen to remove some disk material.

After we had done this, we could identify the nerve root exiting out the foramen and it was free. We checked out both foramen and appeared wide open and all the disk was removed down to the posterior longitudinal ligament. We thoroughly irrigated the wound. We then used a burr to burr off the anterior lip of C5 and then burred the endplates down to bleeding bone. Once we had done this, we used the cornerstone trials and were able to trial up to a size 8 mm. Once we had done this and fashioned the bone with the burr to fit the cornerstone device, we turned our attention to harvesting a bone graft.

Incision was made over the right anterior iliac crest with a scalpel. We dissected down through the subcutaneous tissue with the electrocautery was done down the deep fascia and the fascia was incised with electrocautery and the inner and outer cortex was identified and cleaned using a Cobb elevator. A burr was used to make a hole in the superior surface of the iliac crest and then curets were inserted into this hole to remove the iliac crest, cancellous autograft bone. Once we had harvested enough bone, we placed Gelfoam over this hole in the iliac crest and no bleeding was identified. We then sutured the fascia back over the crest with running stitch of #1 Vicryl, the subcutaneous tissue was reapproximated with 2-0 Vicryl and the skin was closed with a running subcuticular stitch of 3-0 Vicryl.

We turned our attention back to the neck wound, thoroughly irrigated it, packed the iliac crest autograft into the 8 mm cornerstone device and then inserted the device with traction on the neck and then recessed it beyond the anterior cortical margins. We took AP and lateral C-arm views, which showed it to be in good position. There was some spurring and lipping on the anterior aspects of both vertebral bodies and this was removed with a rongeur. We then took Danek Atlantis plates and fitted over the anterior disk space choosing the appropriate size. After we had done this, we used the drill guide to make our drill holes and inserted 16 mm screws at all four spots. We checked on AP and lateral C-arm views, which showed good position of the plate and position of the screws with no penetration of the posterior cortex. Also, the graft was noted to be in good position. We firmly

GMH -OPERATIVE REPORT

Page 2 of 3

COPY FOR: Silas E. Lucas, MD

GREENVILLE HOSPITAL SYSTEM
MEDICAL RECORD

NAME: Bowen, John R
PATIENT MR#: 000-970-40-4839
PATIENT SS#: [REDACTED]

Billing NO: 080006492389

tightened the screws and then tightened the lock nut over the cephalad and caudad screws to secure the screws in place.

Once we had done this, we thoroughly irrigated the wound, removed our self-retaining retractor and inspected the wound. There was no bleeding found. We thoroughly irrigated this and suctioned it dry. Once we were convinced there was no bleeding, we closed the platysma muscle with interrupted stitches of 2-0 Vicryl, the subcutaneous tissue was reapproximated with 2-0 Vicryl and the neck skin incision was closed with running subcuticular stitch of 3-0 Vicryl. Steri-Strips and dry sterile dressings were applied to both incisions. The patient's collar was applied. He was then awakened, extubated, having tolerated the procedure well with no apparent complications.

Silas E. Lucas, MD

cc: Silas E. Lucas, MD

D: 01/24/2005

T: 01/27/2005 6:16 P

y01

1644640

Robert A. Dameron, Jr. M.D.

130 Longview Drive
Anderson, South Carolina 29621
Phone 864-225-4610

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

DOB: 03/16/1965

DOI: 03/22/2004

DOE: 02/15/2006

Purpose of Examination

John Bowen is seen in the office for independent medical evaluation on 2/15/06 for determination of any possible permanent impairment to the back, right lower extremity, right foot, neck, and left upper extremity related to his injury while working with Vinyl Services on 3/22/04.

Description of Injury

Mr. Bowen was working as a vinyl installer for Vinyl Services on 3/22/04 when the scaffolding fell. He fell approximately 20 feet vertically and landed on both feet. He was taken to Oconee Memorial Hospital by ambulance for evaluation.

Course of Medical Treatment

Mr. Bowen was seen in the Oconee Memorial Hospital emergency room by Dr. Miles McGuff. X-rays were taken of both ankles, the right foot, the thoracic spine, cervical spine, lumbar spine, and a CT scan of the lumbar spine was done. X-rays revealed a slight anterior wedged deformity of T12, degenerative disc narrowing at L5-S1, mild retrolisthesis of L4 on L5, degenerative changes at C5-6, and the CT scan showed broad based disc bulging with mild central disc herniation at L3-L4.

It was the impression of Dr. McGuff that Mr. Bowen had sustained a 20 foot fall with sprain to both ankles with the right being worse and that he had a lumbar strain. He treated him with crutches and with Lortabs and advised that he be followed up by his family physician.

Mr. Bowen was seen for evaluation by Dr. Sean McCallum on 3/24/04. X-rays of the right ribs, the right knee, the right ankle and right foot revealed no evidence of fracture. It was his impression that Mr. Bowen had sustained a contusion to the right chest wall and a right mid foot sprain. He was treated with a ROM walker and was advised to bear weight as tolerated and was referred to physical therapy.

On 4/16/04 Dr. McCallum did an x-ray of the left hip and that was negative. It was his impression
(Continued)

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

Page 2

that Mr. Bowen had a low back strain along with bursitis of the left hip. When he was seen on 5/07/04 he was improving with rehab and on 5/28/04 Mr. Bowen was discharged from the care of Dr. McCallum and a 5% impairment rating to the right lower extremity was rendered by Dr. McCallum.

Mr. Bowen then returned to work and worked about three weeks and noticed that his arms and hands started giving him more of a problem and he went to see a chiropractor Dr. Ryan Calhoun. He was seen approximately four or five times by the chiropractor and then was referred to Dr. Emmett Lucas for further evaluation. An MRI ordered by Dr. Lucas was done of the cervical area on 10/09/04 and that revealed a large herniated disc at the C5-6 level. Surgery was recommended and Mr. Bowen underwent surgical procedure on 1/24/05. A C5-6 disc fusion with placement of an intrabody device at C5-6 along with anterior cervical plating and bone grafting from the anterior iliac crest was done. Mr. Bowen was then followed at intervals postoperatively by Dr. Lucas and was discharged to return to work in May 2005. A copy of his impairment rating was not available to me at the time of examination.

Current Condition

Mr. Bowen states that at the present time that his low back is still giving him problems. He still has pain radiating from the low back and tingling sensation radiating down both legs posteriorly mainly in the left leg. This problem is improved somewhat by rest but he notices the problem to be worse when he gets up in the morning and it usually gets a little better as he goes along throughout the day. He has had no GI or GU symptoms.

His right foot and ankle still give him some aching sensation and sporadically this pain appears to be moderately severe. He does not know of any specific aggravating factors that causes this pain.

He continues to have numbness in the left thumb and index finger. He continues to have problems with both arms going to sleep especially at night and occasionally he has some temporary loss of sensation in the right arm.

He also states that he has rather severe headaches with pain radiating down from the center of his spine into the upper part of his back. He has some pinching sensation in his neck on rotation of the neck and this problem is worse more on some days than others.

His activities of daily living have been impaired. His hands go numb on him while he is riding in a car. Looking upward aggravates the pain in the neck with some radiation into the arms. He is unable to put in heavy work on his farm because heavy work aggravates his low back pain. At work he states that he can do reasonably well for about two and half hours before he starts

(Continued)

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

Page 3

having pain. His recreational activities have also been somewhat impaired. He notices difficulty casting when he is fishing. Prolonged sitting aggravates his low back pain. Climbing ladders aggravates pain in the right foot and ankle and walking uphill also causes some aggravation of pain in the foot and ankle and that occurs about 50% of the time that he does these activities. He still has difficulty sleeping because of pain in his back, neck, shoulders, and arms.

Physical Examination

Mr. Bowen is 6'1" tall and weighs 258 pounds. He is alert and cooperative. He is able to ambulate without assistance. He is able to walk on his toes and heels without any obvious difficulty. On examination of the neck the patient does have limitation of extension of the neck. He lacks approximately 20 to 30 degrees of extension ability in the neck. His rotary motions are good in the cervical spine and lateral bending to the right/left is also normal. Flexion ability in the neck is also apparently normal. The deep tendon reflexes are normal at the biceps, triceps, and brachioradialis. He has good strength in the upper extremities and good grip strength in both hands. He has significantly diminished sensation in the left thumb and left index finger which according to table 16-10 page 482 of the 5th Edition of the AMA Guides represents a grade 3 sensory impairment.

His range of motion in the lumbar spine is good. His deep tendon reflexes are normal at the knees and ankles. He has 1 cm of atrophy in the right calf compared to his left calf.

Determination of Impairment

- 1) Using table 15-3 on page 384 the 5th Edition of the AMA Guides the low back problem is best represented by the DRE lumbar category II. He has clinical history and examination findings that are compatible with a specific injury but does not have persistent radiculopathy. The 8% whole person impairment divided by the conversion factor of 0.75 as described on page 427 gives a 11% impairment of the lumbar spine.
- 2) Using table 15-5 on page 392 Mr. Bowen's problem is best described by the DRE cervical IV. He has had a cervical fusion. The 28% whole person impairment divided by the conversion factor of 0.35 as described on page 427 gives a 80% impairment of the cervical spine.
- 3) Using table 16-10 on page 482 the numbness in the thumb and index finger represent a grade 3 sensory deficit and using table 16-13 on page 489 the cervical root C5 8% is multiplied by the 60% sensory deficit which gives a 5% impairment of the left upper extremity.
- 4) The 5% impairment of the right lower extremity as determined by the range of motion table 17-11 on page 537 is combined with the 4% impairment related to the 1 cm atrophy of the right calf as described on table 17-6 on page 530. Using the combined tables on page 604: 5% + 4% equals 9% impairment of the right lower extremity.

(Continued)

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

Page 4

In summary it is my opinion that Mr. Bowen has sustained permanent impairment in four body parts. It is my opinion that within a reasonable degree of medical certainty that these impairments resulted from his injury of 3/22/04 while working with Vinyl Services. It is my opinion that he has the following permanent impairment ratings : 1) 11% lumbar spine, 2) 80% cervical spine, 3) 5% left upper extremity, and 4) 9% of the right lower extremity.


Robert A. Dameron Jr., M.D.

RAD:cc

Robert A. Dameron, Jr. M.D.

130 Longview Drive
Anderson, South Carolina 29621
Phone 864-225-4610

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

DOB: 03/16/1965

DOI: 03/22/2004

DOE: 03/05/2008

Purpose of Examination

Mr. John Bowen is seen in the office on 3/05/08 for independent medical evaluation for an opinion regarding the amount of additional impairment he sustained to his right lower extremity from his change of condition which required surgery on 7/10/07.

Medical Records Reviewed

Mr. Bowen's medical records from Oconee Memorial Hospital, Clemson Sports Medicine Rehabilitation and Physical Therapy, Dr. Calhoun, American Radiological Services—Chiropractic Radiologist, P. Shaun McCallum M.D., Greenville Radiology, Greenville Hospital System, Anderson Radiology, and S Emmett Lucas III M.D. were reviewed in conjunction

Description of Injury

Mr. Bowen fell approximately 20 feet on concrete when a scaffolding fell on 3/22/04. He initially complained of pain in both ankles, right foot, lumbar spine, and right chest wall.

Course of Medical Treatment

On 3/22/04 Mr. Bowen was seen initially at the Oconee Memorial Hospital at the Oconee Memorial Hospital with injuries to his ankles, right foot, lumbar spine, and right chest wall. He was seen by Dr. P. Shaun McCollum and followed for his orthopedic problems. He underwent physical therapy for his low back, left hip, and right ankle and foot. He was discharged by Dr. McCollum on 5/28/04 with 5% impairment to the right lower extremity and told that he may require arthroscopic debridement of the right ankle. Mr. Bowen was also followed by chiropractor, Dr. Calhoun, from 8/17/04 through 8/28/04. He was first seen by Dr. S. Emmett Lucas III on 9/15/04 for cervical disc problem and underwent a C5-6 anterior cervical discectomy and interbody fusion on 1/24/05. He was

(Continued)

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

Page 2

rated at 15% impairment by Dr. Lucas on 5/06/05.

On 4/23/07 Mr. Bowen returned to see Dr. McCollum with discomfort and mechanical symptoms in both ankles and worse on the right. He had intermittent locking and pain in the ankle interfering with his ability to work.

An MRI of the right ankle was done on 4/20/07 which revealed increased fluid around the peroneus longus and brevis tendons and post traumatic ossification distal to the lateral malleolus.

Mr. Bowen underwent a surgical procedure by Dr. McCollum on 7/10/07 which included right ankle arthroscopy with chondroplasty of a grade 2 lesion of the distal tibia and excision of impinging synovial scars. On 10/22/07 Dr. McCollum stated that Mr. Bowen had received no additional impairment to the right lower extremity since 6/25/04.

From May 2005 through April of 2007 the right ankle gradually became more symptomatic with pain and locking. He began to have difficulty walking up inclines and on slanted ground or roads. He also began having swelling and discoloration especially on the lateral side. The symptoms became so severe that he was having a lot of difficulty working. He underwent surgery on 7/10/07 and since that time he is better than he was before surgery.

Current Condition

At the present time Mr. Bowen is continuing to have pain in the ankle and states that the pain is gradually increasing since his surgery particularly if he works on an incline surface. He still has some sharp pain laterally and some intermittent swelling. He is taking Glucosamine and shark cartilage and other over-the-counter medications for the ankle pain. He is unable to tolerate non-steroidal anti-inflammatory drugs because of gastrointestinal distress.

Physical Examination

On examination today Mr. Bowen is alert and active. He is 6'1" tall and weighs 260 pounds. He walks with a noticeable mild limp on the right leg. On examination of the right lower extremity he has a slight amount of swelling laterally under the lateral malleolus and is also tender under the lateral malleolus. Eversion of the right foot causes

(Continued)

PATIENT'S NAME: John Bowen

PATIENT'S ADDRESS: [REDACTED]

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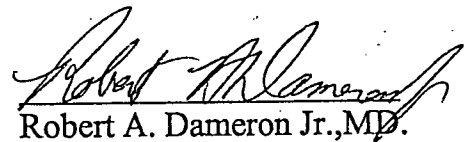
pain along the anteriolateral right ankle. He has 15 degrees of inversion and 15 degrees of eversion and has 40 degrees of flexion, extension, motion in the right ankle. He has 2.5 inch of atrophy of the right thigh compared to the right which was recorded earlier.

Mr. Bowen is also having problems with pain in the trochanteric bursa of the left hip and he is very exquisitely tender over the trochanteric bursa of the left side very consistent with trochanteric bursitis. He has a good range of motion in the hip joint itself.

When I evaluated Mr. Bowen on 2/25/06, it was my impression that he had a 9% impairment of the right lower extremity related to the 5% impairment in the ankle that Dr. McCollum had rated him and also had 4% related to the atrophy in the right calf.

Determination of Impairment

It is my opinion that Mr. Bowen now has an 18% impairment of the right lower extremity. Using the 5th Edition of the AMA Guides for the Determination of Permanent Impairment and using table 17-3 on page 527 Mr. Bowen has a 7% whole person impairment related to his limp on the right extremity and this limp in my opinion is directly related to the ankle problem. A 7% impairment equals an 18% impairment of the right lower extremity. If we subtract the previous 9% from the 18% at this time, then that leaves a 9% additional impairment related to his change of condition and recent surgery on the right ankle.


Robert A. Dameron Jr., MD.

RAD:cc



864-815-0611
864-815-1822 - fax

1855 By-Pass (23rd St) Seneca SC 29674

James Hardy, M.D.
O. Alex Hicklin, III, M.D.
Thomas M. Deval, M.D.

NAME: BOWEN, JOHN
DOB: 01/16/1965
Physician: MCCALLUM, SEAN

DATE OF EXAM: 04/30/2007
SSN: [REDACTED]
Chart No: 48030

CORRECTION: SEE COMMENTS BELOW

RIGHT ANKLE MRI:

INDICATION: 42 year-old-male with history of previous remote trauma to right ankle. Persistent right lateral ankle pain. Evaluate for MR abnormality.

High-field MRI of the right ankle is performed and multiple coronal T1 and proton density fat sat, sagittal T1 and STIR weighted sequences, and axial T1-weighted proton density, T2, and proton density fat sat sequences are evaluated.

There does appear to be increased fluid within the tendon sheath adjacent to the peroneus longus and brevis tendons distal to the level of the lateral malleolus suspicious for tenosynovitis. No significant abnormal signal within the peroneus longus or brevis tendon themselves is otherwise currently confirmed and no disruption of the tendons is appreciated. Best seen on axial and coronal views there appears to be ossification medial to the distal tip of the lateral malleolus of the fibula with a somewhat elongated horizontally oriented configuration. This may represent posttraumatic ossification with talofibular ligament or possible accessory ossicle. Ankle mortise appears intact and no abnormal widening of the distal tibiofibular joint is suspected. Ligaments and tendons about the ankle joint appear otherwise essentially unremarkable. No significant joint effusion is seen. No other more significant appearing abnormal signal about bones or surrounding soft tissues in the region is noted.

IMPRESSION:

INCREASED FLUID WITHIN TENDON SHEATH SURROUNDING DISTAL PERONEUS BREVIS AND LONGUS TENDONS DISTAL TO THE LATERAL MALLEOLUS SUSPICIOUS FOR TENOSYNOVITIS. POSSIBLE POSTTRAUMATIC OSSIFICATION WITHIN TALOFIBULAR LIGAMENT VERSUS ACCESSORY OSSICLE, BUT OLD AVULSION FRACTURE FROM DISTAL FIBULA WOULD BE DIFFICULT TO COMPLETELY EXCLUDE ALSO GIVEN THIS APPEARANCE. PLAIN FILM OR CT CORRELATION MAY BE HELPFUL IF FELT WARRANTED.

O. Alex Hicklin, III, M.D.

Thank you for using Mountainview Medical Imaging

OAH/lb
BOWEN, JOHN

CORRECTION 05/02/2007: On further review I believe I overcalled ossification within the talofibular ligament above. This is most likely within normal limits for signal in this area and the talofibular ligament is most likely normal, although correlation with plain films may still be helpful to exclude calcification/ossification in this area.

Blue Ridge Surgery Center

10630 Clemson Blvd, Ste 200

Seneca, SC 29678

864-482-5100, 864-482-9100 fax

Patient Name: Bowen, John
MR#: 06260
DOB: 3/16/1965
Date of Procedure: 7/10/2007

Preoperative Diagnosis: Internal derangement, right ankle.

Postoperative Diagnoses: Grade 2 chondromalacia of distal right tibia with impinging synovial scar.

Operative Procedure: Right ankle arthroscopy with chondroplasty of grade 2 lesion distal tibia, and excision of impinging synovial scars.

Surgeon: P. Sean McCallum, M.D.

Assistant: Frank Mlinar, PA-C.

Anesthesia: General endotracheal anesthesia.

Complications: None.

Procedure in detail: The patient was brought to the operating room suite. After adequate anesthesia was obtained, the patient was placed in the supine position on the operating room table. A right thigh tourniquet was placed. A 1 g of IV Ancef was administered 30 minutes prior to tourniquet inflation. The patient's right lower extremity was then prepped and draped in usual sterile fashion with 10 minutes of sterile Betadine prep. General external distraction was applied to the right ankle. Attention was then turned anteriorly to the right ankle where anteromedial and anterolateral portals were then made in usual fashion with a #11 blade scalpel through skin only. Cannula and blunt obturator was then inserted.

Diagnostic arthroscopy revealed fairly well preserved articular surface of the talus. There was, however, grade 2 changes on the distal portion of the articular portion of the tibia with loose articular cartilage fragments anteriorly and in the tibiotalar joint. These were debrided to a stable margin with a small blunt shaver and the articular portion of the distal tibia was debrided to a stable margin. There was also significant impinging synovial scar tissue which was excised as well with the shaver. The medial and lateral gutters were inspected and found to be intact. After this has been accomplished, all arthroscopic instruments were removed. All incisions were closed using interrupted 4-0 Surpigo suture. The joint was then injected with 2 mL of Celestone. A sterile compression dressing was applied. Tourniquet was deflated and good perfusion was noted to the foot. The patient was then extubated without difficulty and taken to the postanesthesia recovery room in a stable condition.

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Bowen, John
MR#: 06260

P. Sean McCallum, M.D.

dom: DD: 07-10-07

DT: 07-11-07

Blue Ridge Surgery Center

10630 Clemson Blvd, Ste 200

Seneca, SC 29678

864-482-5100, 864-482-9100 fax

Patient Name: Bowen, John
MR#: 06260
DOB: 3/16/1965
Date of Procedure: 4/20/2010

Preoperative Diagnosis: Right knee medial meniscal tear.

Postoperative Diagnoses: Complex tear posterior horn right knee medial meniscus with grade 3 chondromalacia of the medial femoral condyle.

Operative Procedures: Right knee arthroscopy with partial medial meniscectomy and chondroplasty of grade 3 lesion of the medial femoral condyle.

Surgeon: P. Sean McCallum, M.D.

Assistant: Frank Mlinar, PA-C.

Anesthesia: LMA general anesthesia per Dr. Salzarulo.

Complications: None.

Procedure in Detail: The patient was brought to the operating room suite and after adequate anesthesia was obtained, the patient was placed in the supine position. A right thigh tourniquet was placed. A 1 g of IV Ancef was administered 30 minutes prior to tourniquet inflation. The patient's right lower extremity was then prepped and draped in the usual sterile fashion with 10 minutes of sterile Hibiclens prep. Attention was then turned anteriorly to the knee where medial and lateral parapatellar arthroscopy portals were made in the usual fashion with #11 blade scalpel. Arthroscope and blunt operator were then inserted through the lateral portal with the Stryker arthroscopic pump attached and set at 35 mmHg pressure.

Diagnostic arthroscopy was then begun. Inspection of the patellofemoral joint revealed concentric patellofemoral tracking. No articular cartilage abnormalities. Inspection of the medial gutter was normal. Inspection of the medial compartment revealed a complex tear of the posterior horn of the medial meniscus and area of grade 3 changes in the medial femoral condyle. Using basket forceps and a 3.5-mm full-radius synovial resector, partial medial meniscectomy was performed to a stable margin. The areas of grade 3 changes in medial femoral condyle were also débrided to a stable margin with a full-radius synovial resector. Inspection of the intercondylar notch revealed intact anterior and posterior cruciate ligaments. Inspection of the lateral compartment revealed no articular cartilage abnormalities. Lateral meniscus was intact. Inspection of the lateral gutter was normal. After this had been accomplished, all arthroscopic instruments were removed. The knee was then thoroughly flushed with sterile saline. Portal sites were then stitched closed using interrupted 4-0 Surgipro suture. The knee was then injected with 12 mL of Naropin and 3 mL of Duramorph solution. Sterile compression dressing was applied. Tourniquet was deflated and good perfusion was noted to the foot. The patient was then taken to the postanesthesia recovery room in a stable condition.



P. Sean McCallum, MD

HISTORY AND PHYSICAL EXAMINATION

Patient Name: John Bowen
Date of Birth: 03-16-65
Date of Surgery: 04-20-10
Date of Examination: 04-14-10
Date of Dictation: 04-14-10
Surgeon: P. Sean McCallum, M.D.
Family Doctor: Dr. Booker.
Chief Complaint: Bilateral knee pain.
PreOp Diagnosis: Bilateral knee internal derangement.

Scheduled Surgery: Right knee A&A.

HPI: This is a 45-year-old gentleman with a long history of bilateral knee problems in both knees. It started back almost 10 years ago. He underwent two A&As back at that time, back in 2001 and 2002, and then he had an ankle A&A in 2004. He has continued to have knee pain and progressively getting worse. Seen recently again by Dr. McCallum and an MRI was performed, which was consistent with internal derangement and surgery is scheduled. He was originally scheduled for bilateral knee A&A, but at this point we are just going to do the right now and the left down the road. He is also being treated for chronic back problems. He is followed by pain clinic in Greenville.

Past Medical History: Significant for hypertension. Recently, he had an abnormal EKG. Cardiology workup was negative including a cardiac catheterization. Denies any history of hepatitis, HIV, or blood clots.

Past Surgical History: Knee A&A and spine surgery. The patient denies prior problems with anesthesia.

Family History: Hypertension and heart disease.

Medications: Includes Diovan HCT 320/25 mg by mouth q.a.m., Bystolic 10 mg by mouth q.a.m., Percocet p.r.n. along with glucosamine and chondroitin and aspirin.

Drug Allergies: None.

Social History: Negative for smoking or alcohol use. He works in construction.

REVIEW OF SYSTEMS: GENERAL: Has good appetite without recent weight gain or weight loss. Denies any fever, chills, or night sweats. SKIN: Denies any skin rashes or cutaneous lesions. HEAD: Denies head injuries or frequent headaches. EYES: Denies blurred vision, cataracts, or glaucoma. EARS: Denies hearing loss, tinnitus, vertigo, or frequent ear infections. NOSE/SINUSES: Denies hay fever or frequent sinus infections or epistaxis. MOUTH/THROAT: Denies frequent sore throat, bleeding gums, or oral lesions. NECK: Denies any pain, lump, or goiter. PULMONARY: Denies any chronic cough, wheezing,

Page 2
Bowen, John
Chart#: 51774

asthma, frequent bronchitis, or pneumonia. CARDIAC: Hypertension. Denies chest pain, dyspnea, orthopnea, PND, DOE, and palpitations. VASCULAR: Bleeding tendency. GI: Denies any unexplained abdominal pain or vomiting. Denies difficulty with diarrhea or constipation. Denies any history of liver or ulcer disease. Denies any specific food intolerance. Denies hematemesis, melena, and hematochezia. GU: Renal calculi. Denies dysuria, frequency, urgency, incontinence, frequent UTIs, or nephrolithiasis. MALE: The patient denies prostate or testicular disease. METABOLIC: Denies symptoms consistent with diabetes or thyroid disease. NEUROLOGIC: Migraines and depression. PSYCHOLOGICAL: Negative. HEMATOLOGICAL: Negative. MUSCULOSKELETAL: Negative other than above.

PHYSICAL EXAMINATION: Today, BP 120/78, P 80, R 18, WT 165 lb.

GENERAL: WDNW white male in no acute distress, oriented x3.

SKIN: Warm and moist with a good texture and good turgor.

HEENT: Normocephalic without lesions to the scalp or the skull. PERRLA. EOMs are intact to 6 cardinal positions of gaze without nystagmus. The fundus is benign bilaterally. The pinna and external auditory canals are normal, and the TMs are clear bilaterally. The nose has patent nares bilaterally. Mouth has adequate dentition without lesions to the gums or mucosa. Throat is without erythema or exudates.

NECK: Supple without adenopathy. The trachea is midline and the thyroid is not palpable. No carotid bruits heard.

LUNGS: Clear to auscultation throughout.

CARDIAC: RRR without murmur, rubs, or gallops. Normal S1 and S2. No S3 or S4. Pulses were 2+ and equal at the radius, dorsalis pedis, and posterior tibial arteries.

ABDOMEN: Soft and benign. Nontender and nondistended without masses or organomegaly. Bowel sounds are present in all 4 quadrants.

EXTERNAL GENITALIA: Deferred.

NEUROLOGICAL: Cranial nerves II-XII are grossly intact. Reflexes are 2+ and equal in upper and lower extremities. Peripheral sensory is intact to light touch in all 4 extremities distally.

ORTHOPEDIC EXAM: Shows gross crepitus with motion of both knees. No effusion is noted. No gross ligamentary laxity. No pain with varus or valgus stressing. Just generalized tenderness over the anterior femoral condyles. Neurologically intact.

IMPRESSION:

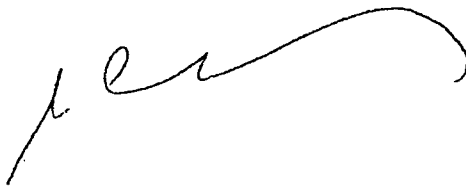
1. Bilateral knee internal derangement.
2. Hypertension.
3. Chronic back pain.

Page 1
Bowen, John
Chart#: 51774

PLAN:

1. The risks, benefits, options, and anticipated outcomes were thoroughly and completely explained to the patient. Patient understands and accepts and elects to proceed with surgery. Mr. Bowen will be taken to the OR on 04/20/10 to undergo an A&A of his right knee by Dr. McCallum.
2. Patient is to remain NPO after midnight the night before surgery.
3. Patient has been given instructions regarding medication use the day of surgery.
4. Patient will contact our office if they have any change in health status prior to surgery.
5. Patient will follow-up with Dr. McCallum in our office following surgery for a recheck.

Frank Mlinar, PA-C

A handwritten signature in black ink, appearing to be 'F. Mlinar', with a long, sweeping horizontal stroke extending to the right.

Blue Ridge Surgery Center

10630 Clemson Blvd, Ste 200

Seneca, SC 29678

864-482-5100, 864-482-9100 fax

Patient Name: Bowen, John
MR#: 06260
DOB: 3/16/1965
Date of Procedure: 5/18/2010

Preoperative Diagnosis: Left knee recurrent medial meniscal tear.

Postoperative Diagnoses: Left knee recurrent medial meniscal tear with grade II-III chondromalacia of the medial femoral condyle and patellofemoral joint.

Operative Procedures: Left knee arthroscopy with partial medial meniscectomy and chondroplasty of grade 2-3 lesion of the medial femoral condyle and patellofemoral joint.

Surgeon: P. Sean McCallum, M.D.

Assistant: Frank Mlinar, PA-C.

Anesthesia: LMA general endotracheal anesthesia per Dr. Salzarulo.

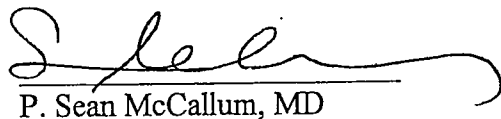
Complications: None.

Description of the Procedure: The patient was brought to the operating room suite and after adequate anesthesia was obtained, the patient was placed in the supine position on the operating room table. The left thigh tourniquet was placed. A 1 g of IV Ancef was administered 30 minutes prior to tourniquet inflation. The patient's left lower extremity was then prepped and draped in the usual sterile fashion with 10 minutes of sterile Hibiclens prep. The left leg was then exsanguinated with an Esmarch bandage and the tourniquet was inflated to 300-mmHg pressure. Attention was then turned anteriorly to the knee where medial and lateral parapatellar arthroscopy portals were made in the usual fashion with #11 blade scalpel. The arthroscope and blunt obturator were then inserted through the lateral portal with a Stryker arthroscopic pump attached and set at 35-mmHg pressure.

Diagnostic arthroscopy was then begun. Inspection of the patellofemoral joint did reveal concentric patellofemoral tracking with diffuse grade II changes in the lateral patellar facet. These were débrided to a stable margin with a full-radius synovial resector. Inspection of the lateral gutter was normal. Inspection of the medial gutter was normal as well. Inspection of the medial compartment revealed a recurrent medial meniscal tear in the body of the posterior horn, complex in nature. There was also area of grade II-III changes in the medial femoral condyle. Using a full-radius synovial resector, a partial medial meniscectomy was performed to a stable margin and the area of grade II-III changes were also debrided to a stable margin as well in the medial femoral condyle. Inspection of the intercondylar notch revealed intact anterior and posterior cruciate ligaments. Inspection of the lateral compartment revealed normal lateral meniscus. No articular cartilage damage. All arthroscopic instruments were then removed. The knee was then thoroughly flushed with sterile saline. All portal incisions were then stitch closed using interrupted 4-0 Surgipro suture. A sterile compression dressing was applied after the knee was then injected with 12 mL of Naropin and 3 mL of Duramorph solution. The tourniquet was deflated and good

Page 2
Bowen, John
MR#: 06260

perfusion was noted to the foot. The patient was then extubated without difficulty and taken to the postanesthesia recovery room in a stable condition.


P. Sean McCallum, MD

nam: dd: 05-18-2010

dt: 05-19-2010

HISTORY AND PHYSICAL EXAMINATION

Patient Name: John Bowen
Date of Birth: 03-16-65
Date of Surgery: 05-18-10
Date of Examination: 05-12-10
Date of Dictation: 05-12-10
Surgeon: P. Sean McCallum, M.D.
Family Doctor: Dr. Booker.
Chief Complaint: Left knee pain.
PreOp Diagnosis: Left knee internal derangement.

Scheduled Surgery: A&A, left knee.

HPI: This is a 45-year-old gentleman with a long history of bilateral knee problems in both knees going back almost over 10 years. He has had two A&As in the past along with an ankle A&A in 2004. He has continued to have bilateral knee pain, followed by Dr. McCallum, and MRI was performed, which was consistent with internal derangement and surgery was contemplated and scheduled. He underwent a right knee A&A on 04/14/10 without sequelae and he is now scheduled for the left.

Past Medical History: Significant for hypertension. No history of hepatitis, HIV, or blood clots.

Past Surgical History: Knee A&A and spine surgery. The patient denies prior problems with anesthesia.

Family History: Hypertension and heart disease.

Medications: Includes Diovan HCT 320/25 mg by mouth q.a.m., Bystolic 10 mg by mouth q.a.m., Percocet p.r.n. along with glucosamine and chondroitin and aspirin.

Drug Allergies: None.

Social History: Negative for smoking or alcohol use.

REVIEW OF SYSTEMS: GENERAL: Has good appetite without recent weight gain or weight loss. Denies any fever, chills, or night sweats. SKIN: Denies any skin rashes or cutaneous lesions. HEAD: Denies head injuries or frequent headaches. EYES: Denies blurred vision, cataracts, or glaucoma. EARS: Denies hearing loss, tinnitus, vertigo, or frequent ear infections. NOSE/SINUSES: Denies hay fever or frequent sinus infections or epistaxis. MOUTH/THROAT: Denies frequent sore throat, bleeding gums, or oral lesions. NECK: Denies any pain, lump, or goiter. PULMONARY: Denies any chronic cough, wheezing, asthma, frequent bronchitis, or pneumonia. CARDIAC: Chest pain and high blood pressure. Denies dyspnea, orthopnea, PND, DOE, and palpitations. VASCULAR: Bleeding. GI: Denies any unexplained abdominal pain or vomiting. Denies difficulty with diarrhea or constipation. Denies any history of liver or ulcer disease. Denies any specific food intolerance. Denies hematemesis, melena, and hematochezia. GU: History of renal calculi. Denies dysuria, frequency, urgency, incontinence, frequent UTIs, or nephrolithiasis. MALE: The patient denies prostate or testicular disease. METABOLIC: Denies symptoms consistent with diabetes or

Page 2
Bowen, John
Chart#: 51774

thyroid disease. NEUROMUSCULAR: Migraines and depression. PSYCHOLOGICAL: Negative. HEMATOLOGICAL: Negative. MUSCULOSKELETAL: Arthritis and back problems.

PHYSICAL EXAMINATION: Today, BP 142/86, P 60, R 18, WT 255 lb.

GENERAL: WDNW white male in no acute distress, oriented x3.

SKIN: Warm and moist with a good texture and good turgor.

HEENT: Normocephalic without lesions to the scalp or the skull. PERRLA. EOMs are intact to 6 cardinal positions of gaze without nystagmus. The fundus is benign bilaterally. The pinna and external auditory canals are normal, and the TMs are clear bilaterally. The nose has patent nares bilaterally. Mouth has adequate dentition without lesions to the gums or mucosa. Throat is without erythema or exudates.

NECK: Supple without adenopathy. The trachea is midline and the thyroid is not palpable. No carotid bruits heard.

LUNGS: Clear to auscultation throughout.

CARDIAC: RRR without murmur, rubs, or gallops. Normal S1 and S2. No S3 or S4. Pulses were 2+ and equal at the radius, dorsalis pedis, and posterior tibial arteries.

ABDOMEN: Soft and benign. Nontender and nondistended without masses or organomegaly. Bowel sounds are present in all 4 quadrants.

EXTERNAL GENITALIA: Deferred.

NEUROLOGICAL: Cranial nerves II-XII are grossly intact. Reflexes are 2+ and equal in upper and lower extremities. Peripheral sensory is intact to light touch in all 4 extremities distally.

ORTHOPEDIC EXAM: Shows tenderness over the medial joint line along with the medial femoral condyle. No gross ligamentary laxity. No pain with varus or valgus stressing. Neurologically intact.

IMPRESSION:

1. Internal derangement, left knee.
2. Hypertension.

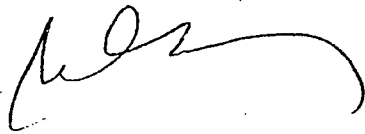
PLAN:

1. The risks, benefits, options, and anticipated outcomes were thoroughly and completely explained to the patient. Patient understands and accepts and elects to proceed with surgery. Mr. Bowen will be taken to the OR on 05/18/10 to undergo an A&A of his left knee by Dr. McCallum.
2. Patient is to remain NPO after midnight the night before surgery.
3. Patient has been given instructions regarding medication use the day of surgery.
4. Patient will contact our office if they have any change in health status prior to surgery.

Page 3
Bowen, John
Chart#: 51774

5. Patient will follow-up with Dr. McCallum in our office following surgery for a recheck.

Frank Mlinar, PA-C

A handwritten signature in black ink, appearing to read 'F. Mlinar', with a long horizontal flourish extending to the right.



SENECA DIAGNOSTIC IMAGING

111 Carter Park Drive
Seneca, SC 29678
864-882-4565 p
864-882-4614 f

PATIENT: Bowen, John
DOB: 3/16/1965
MRN: 318985
PHYSICIAN: Silas Lucas, MD
DATE: 2/2/2010

EXAM: MRI LUMBAR SPINE WITHOUT CONTRAST

HISTORY: Work injury five years ago. Patient states that he fell. Injured the back and neck at that time. Has had neck surgery since that time. Severe bilateral leg pain with bilateral arm pain as well.

TECHNIQUE: SAG/AX T1 and sagittal STIR.

FINDINGS:

L5-S1: Severe degeneration of the disc. Mild retrolisthesis of L5 on S1. Moderate caliber circumferential disc bulge which is more pronounced in the midline. Moderate circumferential endplate osteophytosis. One may describe a small superimposed midline disc-osteophyte complex. There are moderate facet arthritic changes at this level. Moderate bilateral L-5 neural foraminal narrowings. Mild facet and ligamentous changes.

L4-L5: Mild degeneration of the disc. Moderate caliber posterior disc bulge and with accompanying endplate osteophytes. This is more pronounced in the midline. Mild bilateral L-4 neural foraminal narrowings. Mild facet and ligamentous changes.

L3-L4: Mild disc desiccation and posterior annular bulge with annular tear.

L1-L2 and L2-L3: Essentially negative disc levels.

The spinal canal is developmentally small secondary to short pedicle syndrome. Mild increased epidural fat. There is also increased dermal fat and retroperitoneal fat.

On STIR imaging, there is no acute bone marrow edema. Mild increased facet joint fluid at L3-L4 through L5-S1.

IMPRESSION: Developmentally small spinal canal secondary to short pedicle syndrome. Mild lumbar facet arthropathy. Severe L5-S1 disc degeneration. Mild degrees of L4-L5 and L3-L4 disc degeneration. Moderate posterior spondylotic disc displacement at L5-S1 which is more pronounced in the midline. Posterior disc bulge and osteophytes at L4-L5 which are also more pronounced the midline.

Thank you for this consultation.

Jeff Shramek, MD
JS / fl

DD: 2/3/2010
DT: 2/3/2010
Job: 9833701

This document has been electronically reviewed and signed.



SENECA DIAGNOSTIC IMAGING

111 Carter Park Drive
Seneca, SC 29678
864-882-4565 p
864-882-4614 f

PATIENT: Bowen, John
DOB: 3/16/1965
MRN: 318985
PHYSICIAN: Silas Lucas, MD
DATE: 2/2/2010

EXAM: MRI CERVICAL SPINE

HISTORY: Sciatica and degenerative disc disease. Patient fell. Injury five years ago. Injured the back and neck at that time. Previous neck surgery. Severe bilateral leg pain with bilateral arm pain.

TECHNIQUE: Sagittal T1 and T2. Axial T2 and T2 GRE.

FINDINGS: Benign fatty changes within the second and fourth cervical vertebral bodies. Mild C2-C3 through C4-C5 disc degeneration and disc bulges. Annular tear posteriorly in the midline of the C3-C4 disc.

Status post C5-C6 ACD&F and with a normal post-fusion appearance.

C6-C7: Slight decreased T2 signal of the C6-C7 disc but without disc displacement.

C7-T1 through T3-T4: Normal disc levels.

The cervical canal is of decreased caliber from C3 through C6. This is on a developmental basis. Unremarkable signal within the cervical cord.

IMPRESSION:

1. Status post C5-C6 ACD&F.
2. Mild C2-C3 through C4-C5 disc bulges. Notable posterior annular tear at C3-C4. Small bilateral C3-C4 and C4-C5 uncovertebral joint osteophytes.
3. Developmentally small caliber of the spinal canal. Straightening of the cervical spine.

Thank you for this consultation.

Jeff Shramek, MD
JS / fl

DD: 2/3/2010
DT: 2/3/2010
Job: 9834747

This document has been electronically reviewed and signed.

Jeffrey K. Shramek, MD.
Neuroradiologist



OCONEE Medical Center

298 Memorial Drive • Seneca, SC 29671 • 864/882-3351
www.oconee-med.org

Physician Order Form

Physician's Name: SEAN MCANULTY

Physician's Signature: [Signature]

Date: 4-9-10

Time: _____

Patient Name John Bowen DOB 3-16-65
SSN _____ Telephone _____
Circle Race & Sex Below:
RACE: Caucasian Black Am. Indian Hispanic Asian Other _____
SEX: Female Male

Patient Information:
FASTING/NPO Required ☐ Yes ☐ No
☐ Have patient wait at hospital & call report
☐ Have patient return to office after test
Patient Report/Disposition:
STAT Reading Required ☐ Yes ☐ No
FAX Report to _____
CALL Report to _____

First Floor Oconee Medical Center • 864/885-7011 or 864/885-7014

***Lab Referrals: (Document Collection Date, Time & Collector's Name) _____

☐ BILL DOCTOR'S OFFICE

STANDARD PANELS	Dx/ICD-9	TESTS	Dx	TESTS	Dx/ICD-9	TESTS	Dx/ICD-9
☐ BMP	_____	☐ Amylase	_____	☐ Potassium	_____	☐ 2 Hr GTT	_____
☐ CMP	_____	☐ ANA	_____	☐ PSA (Diagnostic)	_____	☐ 3 Hr Gest. GTT	_____
☐ Lipid (fasting)	_____	☐ ALT	_____	☐ PSA (Screening)	_____	MICROBIOLOGY	_____
☐ Liver	_____	☐ AST	_____	☐ PSA (Free & Total)	_____	Specimen Source	_____
☐ Hepatitis	_____	☐ BUN	_____	☐ PT/INR	_____	(Must be listed)	_____
☐ Renal	_____	☐ Creatinine	_____	☐ PTT	_____	☐ Aerobic C & S	_____
☐ OB (w/CBC)	_____	☐ Digoxin	_____	☐ Rheumatoid Factor	_____	☐ Anaerobic C & S	_____
CUSTOM PANELS	_____	☐ Glucose	_____	☐ Sed rate (ESR)	_____	☐ Urine C & S	_____
☐ Anemia	_____	☐ hCG, Quant	_____	☐ T4, Free	_____	☐ Stool C & S	_____
☐ Thyroid	_____	☐ Hematocrit	_____	☐ TSH	_____	☐ Stool O & P	_____
TESTS	_____	☐ Hemoglobin	_____	☐ Vitamin B12	_____	☐ Fecal Occult Blood	_____
☐ CBC (w/Auto Diff)	_____	☐ HgbA1c	_____	☐ Uric Acid	_____	☐ GC/Chlam Probe	_____
☐ CBC (w/Man Diff)	_____	☐ Iron/Transferrin/TIBC	_____	☐ Urinalysis	_____	☐ GBS (Strep) Screen	_____
☐ CBC (w/o Diff)	_____	☐ Lipase	_____				

Diagnosis must accompany order & copy of ABN if signed in office
Please provide diagnosis for each test. If a test is not medically necessary, Medicare may deny payment. Medicare generally does not cover routine screening tests.

☐ Additional tests:
(please specify & give ICD-9 code) _____

OMC OUTPATIENT DIAGNOSTIC CENTER 105-B Omni Place, Seneca • 864/885-7924

PROCEDURES	DX / ICD-9	APPT DATE/TIME
☐ Screening Mammogram	_____	_____
☐ Diagnostic Mammogram	_____	_____
☐ If indicated, additional views / breast ultrasound may be done	_____	_____
☐ Needle Localization	_____	_____
☐ Chest PA and LAT	_____	_____
☐ KUB	_____	_____
☐ ECG	_____	_____
☐ Bone Density	_____	_____
☐ X-RAY	_____	_____
☐ Ultrasound	_____	_____
☐ Other	_____	_____

OMC RADIOLOGY First Floor Oconee Medical Center • 864/885-7189

PROCEDURES	OTHER RAD PROC	DX / ICD-9 / CLINICAL INFO	APPT DATE/TIME
☐ Chest PA & LAT	_____	_____	_____
☐ UGI	_____	_____	_____
☐ ACBE	_____	_____	_____
☐ Esophagram	_____	_____	_____
☐ Spine (C,T,L)	_____	_____	_____
☐ CT Angio	_____	_____	_____
☐ CT Head	_____	_____	_____
☐ CT Abdomen	_____	_____	_____
☐ CT Pelvis	_____	_____	_____
☐ CT Sinus	_____	_____	_____
☐ US Carotid	_____	_____	_____
☐ US Abdomen	_____	_____	_____
☐ US OB	_____	_____	_____
☐ US Pelvic	_____	_____	_____
☐ MR Brain	_____	_____	_____
☐ MRA Carotids/Cerebral	_____	_____	_____
☐ MR Spine (C,T,L)	_____	_____	_____
☐ MR Extremity Joint (upper/lower)	_____	_____	_____
☐ NM Bone	_____	_____	_____
☐ NM Hepatobiliary	_____	_____	_____
☐ NM Thyroid	_____	_____	_____

OMC HEART CARE CENTER First Floor Oconee Medical Center • 864/885-7134

PROCEDURES	DX / ICD-9 / CLINICAL INFORMATION	APPT DATE/TIME AND LOCATION
☐ CATH _____ Left Heart _____ Right Heart _____ Both	MEDICARE REQUIRES PRIMARY AND SECONDARY DIAGNOSIS.	_____
☐ EEG Sleep Deprived? _____ Yes _____ No _____ Child _____ Adult	PRIMARY: <u>✓ 72.81</u>	_____
☐ Arteriogram	SECONDARY: _____	_____
☐ Echo ☐ TEE		_____
☐ Cardioversion ☐ Tilt Table		_____
☐ Pacemaker		_____
☐ Holter Monitor _____ 24 hr. _____ 48 hr. ☒ EKG		_____
☐ Std Stress Test ☐ Stress Echo ☐ Dobutamine Stress Echo		_____
☐ Nuclear Stress _____ CardioliTe _____ Thallium		_____
☐ Pharmacological Stress _____ Adenosine CardioliTe _____ Adenosine Thallium _____ Dobutamine CardioliTe _____ Dobutamine Thallium		_____

OMC ENDOSCOPY UNIT First Floor Oconee Medical Center • 864/885-7495

PROCEDURES	DX / ICD-9 / CLINICAL INFORMATION	APPT DATE/TIME
☐ Ph	_____	_____
☐ EGD	_____	_____
☐ Manometry	_____	_____
☐ Colonoscopy	_____	_____
☐ PEG	_____	_____
☐ Dilation	_____	_____
☐ Flex Sigm	_____	_____
☐ Cysto	_____	_____
☐ Banding	_____	_____
☐ Bronch	_____	_____
☐ CMG	_____	_____

Sun Life Assurance Company of Canada

Short Term Disability Claim Packet



Instructions for the Plan Administrator

An initial claim for Short Term Disability benefits should be submitted when a disability absence has actually begun, and it first appears that the eligible employee's disability will extend beyond the required elimination period. To file a Short Term Disability Claim, prefill Section A, Employer's Statement. Then, provide the entire claim packet to the employee. The employee should make sure all of the sections are complete including the Physician Statement. Then, he or she should mail or fax the completed claim form to:

Sun Life Assurance Company of Canada
Group Short Term Disability Claims
P.O. Box 81915
Wellesley Hills, MA 02481
Tel. 1-800-247-6875
Fax: (781) 504-5599

Failure to provide complete and accurate information could result in the need for additional claims investigation which could delay the initial benefit payment.

Section A: Employer's Statement

1 General Information

Please print clearly.

Name of employer	Group policy number	Class
VINYL SERVICES, INC.	028083	
Name of employee (first, middle initial, last)	☒ M Social Security number	Date of birth
JOHN R BOWEN	☐ F [REDACTED]	3/16/65
Name and address of Division where employee works	Employee phone no.	
VINYL SERVICES, INC. 175 OLD PLANTATION DR. WILMINGTON, SC 29691	[REDACTED]	

2 Employment and Claim Information

Be sure to include all salary information.

Date hired (m/d/y)	Effective date of insurance	Date last worked	Hours worked last day
8/28/89	1/1/05	11/13/09	8.5
Job title / Major job duties (Or, attach employee's formal job description)			
FOREMAN / INSTALLER VINYL SIDING, WINDOWS			
Regularly scheduled work week:		How long had employee been in occupation?	
Days per week: 5	Hours per day: 8	Years: 20	Months: 4
Has the employee's employment been terminated? if yes, provide termination date			
☐ Yes ☒ No			
Why did employee cease working?			
BACK PAIN, KNEE PAIN			

CLAIM # 02021002487

Sun Life Assurance Company of Canada

Short Term Disability Claim Packet



Section C: Attending Physician's Statement

1 Information About the Patient

Please print clearly

The patient is responsible for any costs associated with the completion of this form.

Name of Patient (first, middle initial, last)	☒ M ☐ F	Social Security number	Date of birth (m/d/y)
John Bowen		[REDACTED]	03-16-55
Name of Employer	Group Policy number		Employee phone no.
Vinyl Services			

2 Diagnosis and History

Provide general information about diagnosis and history in this section. Then, please elaborate in section(s) 3 - 6 as appropriate.

Diagnosis including any complications and ICD-9 Codes(s)	
723.1 - Cervicalgia 724.2 - Lumbago - 729.5 - Pain in limb	
Objective findings (i.e. x-rays, EKGs, MRIs, laboratory data and any other clinical findings)	
Normal lumbosacral spine w/ degenerative C5-S1 level. Degenerative cervical spine w/ C5-C6 cervical fusion + plating	
Subjective Symptoms	
Back + neck pain	
Date symptoms first appeared or date of accident	Date Disability Commenced
03-22-09	11-11-09
Has patient ever had same or similar condition? ☒ Yes ☐ No If Yes, when: 2004	
Is condition due to injury/sickness arising out of patient's employment? ☒ Yes ☐ No ☐ Unknown	
Names and telephone numbers of Other Treating Physicians (if applicable)	
If pregnancy, please provide the following information:	
• Expected delivery date:	• Actual delivery date: • C-Section? ☐ Yes ☐ No
Describe any complications that would extend this disability longer than a normal pregnancy	
N/A	

3 Treatment

Include in description any surgery, therapeutic modalities, psychological intervention and medications prescribed.

Date of first visit	Date of last visit	Date of last examination
01-20-10	01-20-10	01-20-10
Frequency of treatment ☐ Weekly ☐ Monthly ☐ Other (please specify:)		
Description of Treatment		
MRI ordered - F/U for results will be on 02-03-10		

4 Progress

Has patient: ☐ Recovered ☒ Unchanged ☐ Improved ☐ Retrogressed
Is patient: ☐ Ambulatory ☐ Bed confined ☐ House confined ☐ Hospital confined
If unchanged or retrogressed, please explain:
on 02-03-10 pending MRI results
Has patient been hospital confined? ☐ Yes ☒ No From: To:
If yes, provide name and address of hospital

Continued on next page

2 Employment and Claim Information continued

How would you classify this employee's occupation?

☐ Sedentary (1-10 lbs) ☐ Light (11-20 lbs) ☐ Medium (21-50 lbs) ☒ Heavy (51+ lbs)

Is the condition due to an injury or sickness arising out of employee's job? ☒ Yes ☐ No ☐ Disputed

Has a Workers' Compensation claim been filed? 3-22-2004 ☒ Yes ☐ No

If "yes," please include the initial report of illness/injury and award/denial notice with this claim.

Name of your Workers' Compensation carrier:

S.C. Home Builders

Phone number

803-771-0566

Has employee returned to work?

☒ Yes ☐ No If yes: ☐ With restrictions ☐ Full capacity

Date returned

5-16-04

3 Salary and Benefits Information

Indicate whether or not the employee contributes to the STD premium on a pre- or post-tax basis.

How was the employee paid? (check one)

☒ Hourly ☐ Salaried

Hourly rate: 20.00 Salaried amount: _____

Provide information about other income:

Commissions	Bonuses	Overtime

Does employee contribute toward the STD premium?

☐ Yes ☒ No

• If "yes," attach a copy of employee's enrollment form to this claim and indicate percentage contribution

Employee %	Employer %

• Are employee contributions made with pre-tax dollars?

☐ Yes ☐ No

4 Information About Other Income

Is employee currently receiving, or entitled to receive, benefits from any of the following sources?

Check all that apply and provide details for each source of income.

Source of income

☐ Vacation pay

☐ Sick pay

☐ State Disability

☐ Other: _____

Amount of each payment

\$
\$
\$
\$

Weekly or monthly?

☐ Wkly ☐ Mthly
☐ Wkly ☐ Mthly
☐ Wkly ☐ Mthly
☐ Wkly ☐ Mthly

Period/date(s) covered by payment

5 Certification and Signature

Tip: To certify eligibility, mail or fax the employee's enrollment form with the claim.

I certify that the above statements are true and complete. I have read and understand the Fraud Warning on page 6 of this packet.

Name of person completing this form

Luan Cealain

Telephone number

864-638-1900

E-mail address

info@vinylservice

Signature

Luan B. Cealain

Title

Office Manager

Date signed

1-21-10

For more information about Short Term Disability, the claim process and the status of your employees' claims, log onto CustomerLink at <https://customerlink.sunlife-usa.com>

6 Restrictions and Limitations

Restrictions and Limitations should be associated with the Objective and Subjective Findings/symptoms noted in section 2.

Restrictions (what the patient should not do)

Limitations (what the patient cannot do)

Is the patient capable of working within these restrictions/limitations? ☒ Yes ☒ NoCan the patient work an eight-hour day with these restrictions/limitations? ☒ Yes ☒ NoIf no, how many hours could he/she work? ☒ hoursIs patient capable of working in another occupation? ☒ Yes - Full-time ☒ Yes - Part-time ☒ No**Physical Impairment**☐ Class 1 - No limitation of functional capacity; capable of heavy work* No restrictions (0-10%)☐ Class 2 - Medium manual activity* (15-30%)☐ Class 3 - Slight limitation; capable of light work* (35-55%)☐ Class 4 - Moderate limitation; capable of clerical/administrative (sedentary) activity (60-70%)☒ Class 5 - Severe limitation; incapable of minimum (sedentary) activity (75-100%)**Mental Impairment (if applicable)**☐ Class 1 - No limitation☐ Class 2 - Slight limitation☐ Class 3 - Moderate limitation☐ Class 4 - Marked limitation☐ Class 5 - Severe limitation

Indicate class of physical impairment.

* As defined in Federal dictionary of occupation titles

Indicate class of mental impairment.

What is the patient's current DSM-IV-R diagnosis?

Axis I

Axis II

Axis III

Axis IV

Axis V

Do you believe this patient is competent to endorse checks/direct the use of proceeds? ☒ Yes ☐ No**8 Return-to-Work**

1. When will patient recover sufficiently to perform duties? (Specify date or check recovery period)

a. Patient's occupation part-time:

-or- ☐ < 3 wks ☐ 3-4 wks ☒ 5-6 wks ☐ 7-8 wks ☐ 2 months or more ☐ Never

b. Patient's occupation full-time:

-or- ☐ < 3 wks ☐ 3-4 wks ☒ 5-6 wks ☐ 7-8 wks ☐ 2 months or more ☐ Never2. After reviewing the material and substantial duties of the patient's occupation, would you recommend vocational counseling and/or rehabilitation or job modification? ☐ Yes ☒ No**7 Certification and Signature**

Remember to provide your full address and Tax ID number.

A stamp or signature of a person other than the examining physician is not acceptable.

I certify that the above statements are true and complete. I have read and understand the Fraud Warning on page 6 of this packet.

Name of Attending Physician Silas Emmett Lucas MD		Degree/Specialty Orthopaedic	
Street address International Dr		City Crumville	State Zip Code NC 27605
Tax ID number 13-4290141		Telephone number 864-234-7654	Fax number 864-675-1657
Attending Physician Signature x Silas Emmett Lucas MD		Date 02-01-10	

ATTENDING PHYSICIAN'S STATEMENT OF DISABILITY

The patient is responsible for the completion of this form without expense to the Company.

NAME OF PATIENT John Bowers		DATE OF BIRTH 3-16-65	
1. HISTORY			
(a) Date symptoms first appear or accident happened?		MO. 03	DAY 22 YEAR 04
(b) Date patient ceased work because of disability?		MO. 11	DAY 11 YEAR 09
(c) Has patient ever had same or similar condition?		YES ☒ NO ☐ If yes, state when and describe: SIP C5-6 ACDF + Plating in March 2004	
(d) Name and address of referring physician			
(e) What other physicians have treated the patient?			
2. PRESENT CONDITION			
Is Patient Ambulatory? ☒ Bed Confined? ☐ House Confined? ☐ Hospital Confined? ☐			
Subjective Symptoms Back pain + neck pain			
Objective Findings Very degenerative S-1 level			
Include results of current X-rays, EKG's or any other special tests:			
3. DIAGNOSIS (Please include the ICD Code)			
L2-L5 displacement of lumbar intervertebral disc w/o myelopathy.			
ICD CODE			
4. TREATMENT			
(a) Date of first visit for this condition		MO. 01	DAY 20 YEAR 10
(b) Date of last visit		MO. 02	DAY 19 YEAR 10
(c) Frequency of visits		WEEKLY ☐ MONTHLY ☒ OTHER ☒ 12 visits every 2-6 weeks scheduled	
(d) Next appointment date		MO. 04 DAY 10 YEAR 10	
5. PROGRESS			
RECOVERED ☐ IMPROVED ☐ UNIMPROVED ☒ RETROGRESSED ☐			
6. EXTENT OF DISABILITY			
FOR ANY OCCUPATION		FOR REGULAR OCCUPATION	
YES ☒ NO ☐		YES ☒ NO ☐	
(a) Is Patient now totally disabled?			
(b) If no, when was patient able to go to work?		MO. 01 DAY 10 YEAR 10	
(c) If yes, give approximate date you think Patient will be able to resume work?		MO. 04 DAY 10 YEAR 10	
(d) If yes, is Patient suitable candidate for a rehabilitation program?		YES ☐ NO ☒	
(e) Are there any complications which would prolong disability?		YES ☐ NO ☒	
Describe			
7. CARDIAC (If appropriate)			
(a) Functional Capacity (American Heart Association)		CLASS 1 (No Limitation) ☐ CLASS 2 (Slight Limitation) ☐	
(b) Blood Pressure		CLASS 3 (Marked Limitation) ☐ CLASS 4 (Complete Limitation) ☐	
8. Is condition due to injury or sickness arising out of patient's employment?			
YES ☒ NO ☐		Pregnancy? YES ☐ NO ☒	
Date 3-24-04		If yes, approximate date pregnancy commenced: Date 04 E.D.C. 10	
DATE	SIGNATURE (ATTENDING PHYSICIAN)	NAME (Please Print)	TELEPHONE
03-12-10	S. Emmett Lucas MD	S. Emmett Lucas MD	864-234-7654
STREET ADDRESS		CITY OR TOWN	STATE ZIP
35 International Dr.		Greenville SC	29615

1. Employee's Name John B. Bowers		Job title and duties Foreman / Installer vinyl siding		Hours Worked Weekly 40
2. Date Employed 8-28-89	Date last worked 11-13-09	Last week employee worked 20 or more hours? 11-8 to 11-14	Is this claim one that may be covered by Worker's Compensation? ☐ YES ☒ NO	
3. Is employee? ☒ Yes ☐ No	Was laid off? ☐ Yes ☒ No	Was leave of absence granted? ☒ Yes ☐ No	When did leave start or layoff start or employment terminate? Date N/A	
4. Date employee became totally disabled to work 11-13-09		Date employee return to full time work N/A		
Date employee return to light work N/A		Date you expect employee to return to work 2		
5. Employer's name and mailing address (If self employed, give name and address of place of business) Vinyl Services, Inc 175 Old Plantation Dr SC 29615		In the best of my knowledge and belief all of the answers given by the employee and by me are true and complete. Signed on behalf of employer by Shawn B Carter Title or Position Office Manager		
6. Telephone Number 864-638-1900		Date 2-12-10		

CAR INSURANCE form
(ALL CLAIMS SHOULD BE FILED THROUGH THE CREDITOR)

AMERICAN Republic Insurance Company
100 West Bay Street
JACKSONVILLE, Florida, 3220

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient....: JB -JOHN R. BOWEN
Visit Date: 04/16/01

L: SODV

HISTORY: John is a very pleasant 36 yr old gentleman who works for Vinyl Services in Walhalla. He was climbing up a ladder on 4-5-01 when he twisted his lt knee and had significant pain and swelling and a clicking sensation subsequently. He was evaluated by Dr. Jordan at Clemson Urgent Care Center where x-rays were obtained which did not show any osseous abnormalities. His pain continued and he underwent an MRI scan of the lt knee which showed a significant tear of the body of the medial meniscus. His symptoms have continued and he comes today for evaluation.

PAST MEDICAL HISTORY: Significant for no chronic medical problems.

PAST SURGICAL HISTORY: None.

CURRENT MEDICATIONS: Vioxx and Lortab as needed.

ALLERGIES: NKDA.

REVIEW OF SYSTEMS: Review of systems is otherwise non-contributory.

PHYSICAL EXAMINATION: He has a 1+ effusion and a firm end point with Lachman's testing. There is no laxity to varus or valgus stress at 30 degrees of flexion. His tibial step-off is normal. He does have rather diffuse medial and lateral joint line tenderness. His NV exam is intact to the foot.

MRI SCAN: His MRI scan is reviewed which did show Grade II to III signal on the medial meniscus and significant effusion.

PLAN: We have discussed options at length. In light of his continue pain and difficulty working and his MRI findings, we have suggested operative arthroscopy. He wishes to proceed and we will schedule this at his convenience.

dictated but not read/vpw
cc Dr. Edmond Jordan

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient....: JB -JOHN R. BOWEN
Visit Date: 05/23/01

John returns in FU after his knee arthroscopy and partial medial meniscectomy. His portal sites are clean and dry. We will begin his rehab per protocol. FU in 2 weeks. He is OOW until then.

dictated but not read/jc

2644 ~~7-23~~

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient...: JB -JOHN R. BOWEN

Visit Date: 06/06/01

John returns in FU for his left knee arthroscopy. He is making progress with his rehab. He still has a mild effusion after significant standing and some medial joint line tenderness with squatting that would make it difficult for him to climb ladders or work on scaffolds as yet. He is to continue his rehab. We will see him back in 2-3 weeks. He is OOW until that time.

dictated but not read/jc

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient...: JB -JOHN R. BOWEN

Visit Date: 06/26/01

Mr. Bowen returns in FU after his left knee arthroscopy. His effusion has improved. He still has some mild patellofemoral pain especially with kneeling with some discomfort along the medial joint line with squatting but no other discomfort. No erythema and no increased warmth.

PLAN: He may return to full duty at work next Monday. We will see him back in our office in 3-4 weeks. At that point he will have reached MMI and we will determine any permanent impairment at that time.

dictated but not read/sgb

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient...: JB -JOHN R. BOWEN

Visit Date: 07/17/01

John returns in FU for his left knee. He still has some mild patellofemoral pain but otherwise is back to full activity. He has reached MMI. Today there is no effusion and no increased warmth around the knee. Thigh girth measured 10 cm above the superior pole of the patella. On the left is 52 cm and on the right 53 cm. ROM is from 0 to 117 degrees of the left knee and 0 to 120 to 125 degrees on the right knee. He has minimal joint line tenderness but no ligamentous instability.

PLAN: I would estimate his percentage of permanent impairment at 2% of the lower extremity as per the Guides to the Evaluation of Permanent Impairment in the American Medical Association Fifth Edition. We will see him back on a prn basis.

dictated but not read/sgb
cc Mr. John Bowen

Acct No.: 51774

Doctor...: P. SEAN MCCALLUM, MD

Patient...: JB -JOHN R. BOWEN

Visit Date: 09/17/01

John returns in FU for his 1t knee today. He states at work Friday he was doing a lot of squatting and going up and down scaffolds and had a fair amount of swelling to his knee and some achiness really centered around the patellofemoral joint with some sharp pains intermittently. On exam today, h has no effusion at all and no erythema or increased warmth. He has minimal joint line tenderness and no tenderness with McMurray's testing at all. His ligamentous exam is intact. He does have some patellofemoral crepitus but otherwise his knee looks fairly well maintained today. I do not see any indication for further intervention at this time but he is told to call immediately so we can examine him if he does have another episode of significant swelling. Otherwise, we'll see him back on a prn basis.

dictated but not read/dg

Acct No.: null
Doctor..:

Patient...: FL -John Burn
Visit Date: 08/13/2002

HISTORY: John is a 37-year-old who injured his right knee on July 23, 2002. He sells vinyl siding as a foreman for that company. He turned, his knee popped. He had swelling later on. There is no prior history of injury to this right knee. Has previously had a meniscectomy on his left knee. He has no history of rheumatoid arthritis or gout, and no prior history of injury to this knee.

ALLERGIES: No allergies.

SOCIAL HISTORY: No cigarette or ethanol use.

CURRENT MEDICATIONS: No medicines.

PHYSICAL EXAMINATION: Reveals well-developed, well-nourished male who has equal extension to his opposite knee. I thought I felt a loose body along the lateral gutter, but is unable to find that again. He has had some intermittent locking and giving away symptoms. His knee has mild effusion without any increased warmth. He has no medial or lateral laxity. Negative Lachman. Negative pivot shift and pain along the posteromedial aspect of his knee. Does not have any pain along the medial collateral ligament area. Sensation is intact. His pulses are normal. Hips have a good range of motion.

X-RAYS: His x-rays and MRI are not here.

PLAN: The MRI from Anderson radiology states that he has a torn medial meniscus. His symptoms are consistent with that, and we will go ahead and review those studies. We will go ahead and request authorization to do an operative arthroscopy on his right knee for a probable torn medial meniscus and possible loose body. He will be seen back for his history and physical. He understands the surgery and the anesthesia.

dictated but not read
cc: Dr. Booker

51714

**OCONEE MEMORIAL HOSPITAL
SENECA, SC 29678**

HISTORY AND PHYSICAL REPORT

BOWEN, JOHN

031665

DOS: 9/4/02

DATE OF EXAM: 8/27/02

DATE OF DICTATION: 8/27/02

SURGEON: Dr. Jim McGeorge

FAMILY DOCTOR: Dr. Booker

PREOP DIAGNOSIS: Medial meniscal tear right knee.

CC: Right knee pain.

HPI: Mr. Bowen is a 37 year old male who is here today for preop H&P. He was evaluated in our office by Dr. McGeorge for right knee pain. He admitted to symptoms after sustaining a twisting type injury that he did admit to hearing an audible pop but not feeling a pop with no significant swelling approximately one month ago. Symptoms have progressed and continued to cause some feeling of catching with giving way but no definite locking in his knee. On exam he was found to have medial joint line tenderness with an effusion. No cruciate or collateral ligament deficits were noted. MRI study was obtained that did demonstrate a degenerative medial meniscus with small radial tear in the body of the meniscus as well as suprapatellar joint effusion. In light of these radiological findings, his physical findings and his continued symptoms that are decreasing his ability to do his normal activities and he is very active, he would like to go forward with surgery at this time for knee arthroscopy. Today on preop visit symptoms are the same. There are no new problems or complaints of any kind. The risks versus benefits and expected outcomes of surgery have been thoroughly discussed with the patient. He understands these and elects to proceed with surgery. He denies any hx of problems with anesthesia or otherwise problems with previous surgery. Preop instructions were given to the patient. He does understand the procedure. Mr. Bowen will go to the OR on 9/4/02 for an A&A of his right knee.

CURRENT MEDS: None.

ALLERGIES: NKDA.

PMH: Negative.

OCONEE MEMORIAL HOSPITAL
SENECA, SC 29678

HISTORY AND PHYSICAL REPORT

BOWEN, JOHN

PAST SURGICAL HISTORY:

1. A&A left knee.
2. Arthrotomy to left shoulder for calcium deposit excision.
3. Eye surgery to remove lesion from eyelid.

FH: Father is living in his 60s and mother is living her 60s, both in good health. There is a family hx of HTN in the mother's side of the family and CA on the father's side of the family. No other noted family hx. No family hx of anesthetic complications.

SH: The patient does not smoke or drink alcohol. He is married and works in vinyl services.

ROS: Pt denies any hx of WT change or appetite change. The pt denies any hx of insomnia, fatigue, fever, or chills. **SKIN** - Pt denies any hx of skin rashes, lumps, or sores that will not heal. Pt also denies any hx of chronic urticaria. **HEAD** - Pt denies any hx of head injury. Pt denies any hx of frequent or severe headaches. **EYES** - Pt denies hx of blurred vision or floaters. Pt denies any hx of cataracts or glaucoma. **EARS** - Pt denies any hearing loss, tinnitus, episodes of dizziness or frequent ear infections. **NOSE** - Pt denies any hx of nose bleeds, chronic drainage, or sinus problems. **MOUTH** - Pt denies any hx of frequent sore throat or frequent hoarseness. He also denies any hx of dental problems. **NECK** - He has some hx of lymphadenopathy with illness but none currently and some mild neck pain. **RESPIRATORY** - Pt denies any hx of chronic cough, SOB, wheezing, or asthma. Pt also denies any hx of hemoptysis, frequent bronchitis, or other respiratory illnesses. **CARDIAC** - Pt denies any hx of chest pain, palpitations, or SOB at rest. Pt denies any hx of foot or ankle edema, PND, or orthopnea. **GI** - Pt denies any hx of nausea, vomiting, diarrhea, unexplained abdominal pain or dysphagia. Pt also denies any hx of hematemesis or hematochezia. Pt denies any significant pyrosis or thick black tarry stools with melena. The pt admits to normal bowel movements. **GU** - Pt denies any dysuria or polyuria. Pt denies any trouble controlling their urine. Pt denies any hx of frank hematuria or hx of hernia and other urinary problems. Pt denies any hx of prostate problems or testicular troubles. **ENDOCRINE** - Pt denies any hx of polyphagia or polydipsia. Pt denies any heat or cold intolerances, hx of thyroid or diabetes problems. **NEUROLOGICAL** - Pt denies any hx of seizures or epilepsy. Denies any hx of being knocked unconscious. Pt also denies any hx of generalized weakness, paresthesias, or recent change in memory. **PSYCHOLOGICAL** - Pt denies any hx of mood swings with anxiety or depression. Pt also denies any hx of trouble

OCONEE MEMORIAL HOSPITAL
SENECA, SC 29678

HISTORY AND PHYSICAL REPORT

BOWEN, JOHN

concentrating, irritability or nervousness. MS - Pt denies any hx of gout, arthritis, or other musculoskeletal type problems other than those mentioned above.

PHYSICAL:

GENERAL: Pt is A&O x3. Pt is in NAD and appears to be stated age. Pt is WDN.

VS: BP 120/80, P 84, R 16, WT 240.

HEENT: Head is normocephalic and atraumatic. PERRLA. EOML. Fundi appear to be wnl. ENT clear without erythema or exudate and nares are patent. Neck is supple. No nodes and no bruits are noted. No thyromegaly and no JVD.

CHEST: Symmetrical with respiration.

LUNGS: Clear to auscultation bilaterally. No rhonchi or rales are noted.

HEART: RRR without MRG. S1, S2 are noted.

ABDOMEN: Soft, nontender. Normal bowel sounds in all 4 quadrants. No masses, organomegaly, or bruits are noted.

GENITALIA/RECTAL: Deferred at this time.

EXTREMITIES: There is no cyanosis, clubbing or edema noted. Pulses are equal and symmetrical bilaterally at 2/4.

NEUROLOGICAL: Cranial nerves II through XII grossly intact. Reflexes are equal and symmetrical bilaterally at 2+.

MS:

Upper extremities show FROM that is unrestricted. There is no deformity. There is no crepitus. Motor strength is equal and symmetrical bilaterally at 5/5. Neurovascular is within normal limits. Lower extremities show FROM that is unrestricted. No deformity or crepitus is noted. Motor strength is equal and symmetrical bilaterally at 5/5. Neurovascular exam again was within

**OCONEE MEMORIAL HOSPITAL
SENECA, SC 29678**

HISTORY AND PHYSICAL REPORT

BOWEN, JOHN

normal limits. RIGHT KNEE: Demonstrates some tenderness to palpation over the medial aspect of the joint line. No lateral joint line tenderness is noted. No effusion, warmth or erythema noted. The patient has FROM and no pain with varus or valgus stressing. No varus or valgus instability. Cruciate and collateral ligaments appear to be intact to stress testing. Negative Lachman's and negative pivot shift. No paresthesias or crepitus. Hips show good ROM and negative SLR.

ASSESSMENT:

1. Medial meniscal tear right knee.

PLAN:

1. The patient will go to the OR on 9/4/02 for an A&A of his right knee.
2. No labs will be obtained at this time due to the patient's age and good state of health.
3. The patient was instructed to be NPO after midnight the night before surgery and not to take any medications the morning of surgery. He is also instructed not to take any ASA or anti-inflammatory medications within three days of his surgery.
4. The patient was instructed to contact our office with any changes in his health status prior to surgery.

MICHAEL GREEN, PA-C FOR JIM MCGEORGE, MD

cc Dr. Booker

D 8/27/02 1410 294677

T 8/27/02 1529 HIM1

51774

**OCONEE MEMORIAL HOSPITAL
SENECA, SC 29672**

OPERATIVE NOTE

**BOWEN, JOHN RANDOLPH
0224400321**

DATE OF PROCEDURE: 9/04/02

PREOP DIAGNOSIS:

Possible torn medial meniscus.

POSTOP DIAGNOSIS:
meniscus.

Synovial plica, displaced lap tear of medial

OPERATION PERFORMED:
and partial medial meniscectomy.

Operative arthroscopy, debridement of synovium,

SURGEON:
ASSISTANT:

McGeorge, M.D.
Michael Greene.

DESCRIPTION OF OPERATION: The patient was brought to the OR where the Department of Anesthesia administered a continuous epidural anesthetic. The patient was placed in the supine position on the OR table. A well-padded tourniquet was applied to the right upper thigh, but the tourniquet was left uninflated. The entire leg was prepped with Betadine and draped in usual sterile fashion. The arthroscopic portal areas were infiltrated with 0.5% Marcaine with epinephrine and the arthroscope was introduced through an inferolateral portal. The inferomedial portal was localized with a spinal needle. Suprapatellar pouch area revealed normal articular cartilage of the femur and patella and a large wad of synovium with a plica like band in it on the medial patellofemoral area. This was later debrided with a shaver. The medial compartment revealed a displaced meniscus that appeared to be delamination of the undersurface of the meniscus and it was detached from its posterior horn and was flap free in the joint. It was still attached at about the middle third of the medial meniscus. The articular cartilage of the tibia appeared to be normal. There was one area of grade II chondromalacia of the medial femoral condyle as it slipped up into the intracondylar notch area. The meniscus was truncated and removed as one piece. The meniscus was debrided back. The delaminated portion of the posterior horn was debrided back to about the outer one third leaving a good rim and the middle third was balanced. The ACL had distinct bands in it. There appeared to be several of the bands that were loose laterally, but his Lachman was negative, and the ACL went in its normal anatomical direction. The lateral compartment revealed normal articular cartilage of the femur and tibia and normal lateral meniscus. After the medial meniscus was removed, the plica like

OCONEE MEMORIAL HOSPITAL
SENECA, SC 29672

OPERATIVE NOTE

BOWEN, JOHN RANDOLPH
0224400321

structure and medial patellofemoral area was debrided. The knee was thoroughly irrigated until the effluent was clear. 1 mg of Duramorph and 10cc of saline was then injected into the joint. Steri-Strips were applied to the wound and sterile dressing was applied. The patient received 1 gram of cefazolin intraoperatively.

J.C. McGeorge, M.D.

D 9/04/02 #296913 1230
T 9/07/02 0513 blj

Acct No.: null

Patient...: John Brown

Doctor...:

Visit Date: 09/05/2002

John is one day since his surgery. He had a displacing flap tear of his medial meniscus and a large plica. He has a mild effusion and has not gotten complete relief with Lortab 7.5 mg. He is given prescription for Mepergan and will be placed on Glucosamine Sulfate and Chondroitin Sulfate. He does have a chondral softening of the medial femoral condyle where the meniscus is rubbing. We will see him back in a week.

dictated but not read

cc Dr. Booker

Acct No.: 51774

Patient...: John Bowen

Doctor...:

Visit Date: 09/10/2002

John is having less pain and less swelling. We will begin him on physical therapy and see him back in three weeks for re-examination or sooner should he have any problem.

dictated but not read

cc Dr. Booker

Acct No.: 51774

Patient...: John Bowen

Doctor...:

Visit Date: 10/11/2002

John is improving. His physical therapy is going well. His job entails a lot of squatting and climbing ladders with loads, and I am going to keep him out of work probably for a month. I will see him back in three weeks to see that he is continuing to improve on physical therapy. He is not having any other symptoms.

dictated but not read

cc Dr. Booker

Acct No.: null

Patient...: John Brown

Doctor..:

Visit Date: 11/04/2002

John is continuing to have pain in his knee. He still has some mild effusion, no increased warmth. He is unable to squat down because he gets pain along the medial collateral ligament area, and he is improving on physical therapy but is slow. His job entails squatting down a good portion of the day to install vinyl siding and I will try him on a Medrol Dosepak. He understands how to take it. He will discontinue its use immediately if he has any problems, and we will see him back in two weeks for reexamination, tentatively for return to work at that point. Request authorization for physical therapy.

dictated but not read

cc Dr. Booker

Acct No.: 51774

Patient...: John Bowen

Doctor...:

Visit Date: 11/18/2002

John is improving. The Medrol Dosepaks helped him, but he is still having trouble squatting down to work, and physical therapy to get strength improved for the type of job he does. I would like to request authorization for a Functional Capacity Evaluation at Magnolia Physical Therapy to see whether he meets the demands of his job. We will see him back after that in roughly two weeks.

dictated but not read

cc Dr. Booker

Acct No.: 51774

Patient...: John Bowen

Doctor...: James C. McGeorge, MD

Visit Date: 12/31/2002

John was seen today. His functional capacity evaluation was reviewed and his disability rating was dictated. He will be seen back on a p.r.n. basis.

dictated but not read.

cc Dr. Booker

NAME
DATE

John Bowen
9/15/04 NKE UBP

Occupation
Work Status

Construction
SW

Referring Phys: Carrier

Records reviewed YES/NO

HPI: 3/22/04 no prob till fall 2011 fall off walk board onto tree
Initially pain all over & legs numb then severe LBP but over the
LBP resolved. 2 months NKE & UBP worsened. Only see pain in 1 triceps
but NIT in 1 12 finger. Also pain into shoulder. Initially taken to ER
+ OOW on 5/17/04. In wheelchair for 3 wks. Good & bad days - able to work but
severe pain

2 C/S

Awakenings ghs

Swath

Pain aching & sharp

Treatment to date

helped

Timing

Rest PT

Chiro ESI

Scale 1 to 10

8
9

Duration Only but ctg
Worsened by sit/walk/lift
Improved by laying down

SNRB

Facet block

Exercise

Narcotics

NSAIDs

PO Steroids

MR

pain mgmt

SOCIAL HX:

Smoke

ETOH

Drugs

MYS/W/D

PE: Ht 6'1" Wt 246

BP 152/88

Appearance

S

Mental status/affect

A & O x 3/N

Gait N

Spine Latent, mid T7

N

NL LS

C 10, Good Ext, 45-50° turn

DTR

SLR

Clonus

Babinski

Hoffman

+2 UE

UE

2

Equiv

2

Motor 8/1 ↓ 10/1

Sensory ↓ 10/1 2

Joint ROM (1-6)

Stability, tone, atrophy, defects, tenderness

Skin (1-6) N

Pulses/edema +2, 2

RADIOGRAPHS

Plain films

Myelo/CT

MRI

Bone Scan

EMG/NCS

POA COPY

PIEDMONT ORTHOPAEDIC ASSOCIATES
PATIENT INFORMATION FORM
(Please Print)

SEL

DATE: 1-20-10

PATIENT

NAME: John Bowen BIRTHDATE: 3/16/1965 SEX: M SS# [REDACTED] DB
ADDRESS: [REDACTED] CITY: [REDACTED] STATE: [REDACTED] ZIP: [REDACTED]
HOME PHONE: [REDACTED] CELL PHONE: [REDACTED] EMail: [REDACTED]
MARITAL STATUS: married
EMPLOYER NAME: VINYL SERVICES
ADDRESS: CITY: ST: ZIP: 175 016 plantation RD waltham 114 SE 29691
EMPLOYER PHONE: 864-638-1910 OCCUPATION: Foreman on crew. (Siding crew)
EMERGENCY CONTACT: NAME Denise Bowen PHONE: [REDACTED]

IF PATIENT IS A MINOR:

Father's Name: _____ Address: _____ Phone: _____ DOB: _____
Employer: _____ SS#: _____
Mother's Name: _____ Address: _____ Phone: _____ DOB: _____
Employer: _____ SS#: _____

REFERRING DOCTOR:

ADDRESS: _____

FAMILY DOCTOR:

DO YOU LIVE IN A SKILLED NURSING FACILITY? ☐ YES ☒ NO

NAME OF FACILITY: _____

WAS THIS AN ON THE JOB INJURY? ☒ YES ☐ NO

DESCRIPTION OF PROBLEM: lower back pain Date of injury: 3/22/2004

How did injury happen? fall

Employer at time of Accident: VINYL SERVICES Phone: 864-638-1910

Claim #: _____ Worker's Compensation Insurance: _____

INSURANCE:

PRIMARY: S C Home Builders NAME OF INSURED: John Bowen
INSURED'S DOB: 3/16/1965 ID #: 247455418

SECONDARY: _____ NAME OF INSURED: _____

INSURED'S DOB: _____ ID #: _____

PAYMENT IS REQUIRED AT TIME OF SERVICE

Payment for medical care is solely the responsibility of the patient or his/her legal guardian.

By signing below I give Piedmont Orthopaedic Associates, PA authorization to treat my medical condition. I also allow them to release my medical information as is necessary for treatment, payment and operation of Piedmont Orthopaedic Associates, PA.

Patients or Legal guardian Signature: [Signature] Date: 1-20-2010

ACKNOWLEDGEMENT OF RECEIPT OF PATIENT FINANCIAL POLICY.

I have read and understand Piedmont Orthopaedic Associates, PA Patient Financial Policy and I agree to all terms listed in the policy.

Patient or Legal guardian Signature: [Signature] Date: 1-20-2010

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF PRIVACY PRACTICE.

I understand that the purpose of this notice is to inform me of my rights in regards to my Protected Health Information and also the ways in which Piedmont Orthopaedics may use my Protected Health Information. I also understand that Piedmont Orthopaedic Associates has my permission to use my Protected Health Information as necessary for treatment, payment and/or operation.

Patient or Legal Guardian Signature: [Signature] Date: 1-20-2010

S. Emmett Lucas III, M.D.

1/20/10

Patient History Form

Name: JOHN R BOWEN Birth Date: 3-16-65 Today's Date: 1-20-201

CIRCLE ANY OF THE FOLLOWING YOU HAVE OR HAVE HAD:

Heart Attack/Angina High Cholesterol Cancer Diabetes Seizure Stroke Liver Disease Asthma
COPD Emphysema Stomach Ulcers High Blood Pressure Gout Hepatitis Kidney Stones
Blood Clot(s) Thyroid Disease Circulation Problems Aspirin Use AIDS/HIV Arthritis

Other: _____

Review of Systems (circle any of the following symptoms or problems you presently have):

Constitutional: Fever Weight loss Fatigue Nausea/Vomiting Headaches

Eyes: Double Vision Blurred Vision Glasses Contact Lenses Implants

ENT & Mouth: Hearing Problems Sinus Trouble Dental Problems Hoarseness

Cardiovascular: Chest Pain Palpitations Irregular Heartbeat Varicose Veins High Blood Pressure

Respiratory: Shortness of Breath Trouble Breathing at Night Coughing Wheezing

GI: Loss of Appetite Diarrhea Constipation Abdominal Pain Heartburn Jaundice

GU: Loss of Bladder Control Painful Urination Trouble Urinating

MS: Pain in Joints or Bones Swelling of Joints Arthritis Stiffness

Skin-Breast: Rashes Lesions Scars Masses/Lumps Skin Ulcers

Neuro: Memory Loss Weakness Balance Problems

Psych: Depression Hallucinations Sleep Disturbances Anxiety

Endocrine: Frequent Urination Frequent Thirst Hyperactivity/Hypoactivity Hair or Growth Change

Hematologic/Lymphatic: Bleeding Tendency Lymph Node Pain or Enlargement Anemia

Allergic/Immunologic: Dermatitis Exzema Latex or Other Allergy

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LIST ALL ALLERGIES TO MEDICATIONS AND THE REACTION

1. NKDA
2. _____
3. _____
4. _____

S. Emmett Lucas III, M.D.

1/20/10

Patient History Form

Name: JOHN R BOWEN

Birth Date: 3-16-65

Today's Date: 1-20-2010

PAST MEDICAL HISTORY

List all medical conditions for which you see a physician:

1. BACK PAIN	7.
2. ANKLE PAIN	8.
3. KNEE PAIN	9.
4. HIGH BLOOD PRESSURE	10.
5.	11.
6.	12.

List all prior surgeries with dates if possible:

1. LEFT KNEE	3-10-2001	7.
2. RIGHT KNEE	5-12-2002	8.
3. RIGHT ANKLE	5-20-2006?	9.
4. UPPER BACK (NECIC)	1-20-06	10.
5.		11.
6.		12.

FAMILY HISTORY

(Circle all conditions that affect a family member)

Cancer

Arthritis

Diabetes

Liver/Kidney disease

Heart disease

Lung disease

List all medications and dosages currently taking:

1. DIOVAN 160 MG	10.
2. IBUPROFEN 800 MG	11.
3. HYDROCODONE - 10/50	12. POA COPY
4. OXYCODONE 650 MG	13.
5.	14.
6.	15.
7.	16.
8.	17.
9.	18.

Piedmont Orthopaedic

1050 Grove Rd

Greenville, SC, 29605

Phone: (864) 234-7654, FAX: (864) 675-1657

Fax

To: Vickie Rita
Fax: 1-803-771-1598
Date: 1/21/2010 4:12 PM

From: Cyndi D Whitlock
Fax: (864) 675-1657
Pages: 4

Comments:

RE: John Bowen

SS#: [REDACTED]

Request authorization for cervical and lumbar MRI scans. This patient has been to Innervision, 1 Cannon Dr, Greenville, SC in the past. Please review notes and advise. Thanks! Cyndi

1 Attachment:

Bowen, John - Encounter Note (01/20/2010)

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JAN 21 2010
SCHBSIF



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P O Box 7727
Columbia, SC 29202
Telephone: 803-771-0566
Fax: 803-771-1598

Fax

To:	Pauletta with Piedmont Orthopedics	From:	Vickie Rita, Sr. Claims Adjuster
Fax:	864-675-1657	Date:	1-5-10
Phone:		# Pages:	1
RE:	John Bowen	CC:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments: Per your request, I am sending this fax which will authorize Mr. Bowen's January 20th appointment with Dr. Lucas. Any additional services and treatment will also need to be authorized by me until instructed otherwise.

Thanks for all your help.

POA COPY



P O Box 7727
Columbia, SC 29202
Telephone: 803-771-0566
Fax: 803-771-1598

Fax

To: Cyndi D. Whitlock w/ Piedmont Orthopaedic From: Vickie Rita, Sr. Claims Adjuster

Fax: 864-675-1657 Date: 1-25-10

Phone: # Pages: 2

RE: John Bowen CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments: Just wanted to let you know that we are in the process of scheduling the recommended MRI's. One Call Medical will be in touch to obtain a copy of the orders.

Thanks.

POA COPY



P O Box 7727
Columbia, SC 29202
Telephone: 803-771-0566
Fax: 803-771-1598

Fax

To: Cyndi D. Whitlock w/Piedmont Orthopaedic From: Vickie Rita, Sr. Claims Adjuster

Fax: 864-675-1657

Date: 2-16-10

Phone:

Pages: 1

RE: John Bowen

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments: This will serve as authorization for two of the recommended lumbar ESI's. The approval of the third injection will depend on the results Mr. Bowen has with the first two.

Please make sure that all medical bills and records are forwarded to me at the address listed above.

Thanks.

POA COPY

Piedmont Orthopaedic

1050 Grove Rd
Greenville, SC, 29605
Phone: (864) 234-7654, FAX: (864) 675-1657

Fax

To: Vickie Rita
Fax: 1-803-771-1598
Date: 2/8/2010 11:47 AM
From: Cyndi D Whitlock
Fax: (864) 675-1657
Pages: 3

Comments:

Re: John Bowen

SS#: [REDACTED]

Request authorization for a series of 3 ESI's. Dr Lucas would like for the first one to be L5-S1, the second to be L4-5 and then the third would be at whichever level was the most helpful. Please review notes and advise. Thanks! Cyndi

1 Attachment:

Bowen, John - Encounter Note (02/03/2010)

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FEB 08 2010
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P O Box 7727
Columbia, SC 29202
Telephone: 803-771-0566
Fax: 803-771-1598

Fax

To: Cyndi D. Whitlock w/Piedmont Orthopaedic
From: Vickie Rita, Sr. Claims Adjuster

Fax: 864-675-1657
Date: 2-26-10

Phone:
Pages: 1

RE: John Bowen
CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments: Per the voicemail message that I just left for you. Due to a new development with Mr. Bowen, I can not authorize any further medical treatment on this claim. I will still pay for the services rendered on February 19th. I will let you know if the status of this claim changes.

Thanks and sorry for the inconvenience.

CC: Attorney Andy Smith

POA COPY



February 14, 2010

14

JOHN BOWEN
[REDACTED]

Sun Life Assurance
Company of Canada
Short Term Disability Claims - SC 3212
One Sun Life Executive Park
PO Box 81915
Wellesley Hills, MA 02481
1-800-247-6875
fax: (781) 304-5599

Plan Member: John Bowen
Contract Number: 028083
Control Number: 020210-02487-00

You are approaching the maximum benefit period of your Short Term Disability claim on 19/February/2010. However, your employer also has a Long Term Disability policy with Sun Life Financial. We must now thoroughly assess your eligibility for LTD benefits and we require further medical information to determine whether or not you are eligible. If you are unable to return to work by the above date, please complete the enclosed LTD claim form and mail it to our address above.

There are several sections to the claim form.

You are responsible for completing:

- 1) Section B Employee's Statement
- 2) Section C Authorization
- 3) Section D Reimbursement Agreement
- 4) Please also provide us with a copy of a photo ID, (i.e. a driver's license)
- 5) Please also complete the enclosed Training, Education and Experience form

Your EMPLOYER is responsible for completing the following:

- 1) Section A Employer's Statement
- 2) Your Employer must submit a job description, payroll records and any additional information required as proof of loss

Please arrange for your PHYSICIAN to complete:

- 1) Section E Attending Physician's Statement
- 2) Your physician must enclose treatment notes and results from diagnostic tests, such as x-rays and lab work. If you have more than one treating physician, please send a separate form to each

Please see Special Instructions for Employees on the front page of the claim form for more information.

NOTE: Although there are several parties involved in completing the paperwork, please be advised that the burden of proof of claim is the sole responsibility of the Employee.

Sun Life Assurance Company of Canada
is a member of the Sun Life Financial
group of companies. Check on the status of
your disability claim online at www.sunlife-usa.com

Enc: 300

After we receive your claim, we may also need additional information to determine your eligibility for benefits. You may need to:

- 1) Provide additional treatment notes and results from diagnostic tests, should the records we receive from your physicians be insufficient
- 2) Participate in phone and/or face-to-face interviews with our benefits administrators and vocational specialists about your medical condition
- 3) Have your physicians participate in phone and/or face-to-face interviews with our benefits administrators and vocational specialists
- 4) Assist us with information to perform an occupational analysis and/or a transferable skills analysis
- 5) Participate in a rehabilitation program, if appropriate

If you have any questions regarding your LTD claim in the meantime, please call us at 1-800-247-6875.

POA COPY

Sun Life Assurance Company of Canada
is a member of the Sun Life Financial
group of companies. Check on the status of
your disability claim online at www.sunlife-usa.com

Enc: 300

ATTENDING PHYSICIAN'S STATEMENT OF DISABILITY The patient is responsible for the completion of this form without expense to the Company.

NAME OF PATIENT John Bowen		DATE OF BIRTH 3-16-65	
1. HISTORY			
(a) Date symptoms first appear or accident happen?		MO. 03	DAY 22 YEAR 04
(b) Date patient ceased work because of disability?		MO. 11	DAY 11 YEAR 09
(c) Has patient ever had same or similar condition?		YES ☒ NO ☐ If yes, state when and describe.	
		SIP C5-6 acdf + plating in March 2004	
(d) Name and address of referring physician			
(e) What other physicians have treated the patient?			
2. PRESENT CONDITION			
Is Patient Ambulatory? ☒ Bed Confined? ☐ House Confined? ☐ Hospital Confined? ☐			
Subjective Symptoms Back pain + neck pain			
Objective Findings Very degenerative S-1 level			
Include results of current X-rays, EKG's or any other special tests.			
3. DIAGNOSIS (Please include the ICD Code)			
L2-L5 - displacement of lumbar intervertebral disc w/o myelopathy.			
ICD CODE			
4. TREATMENT			
(a) Date of first visit for this condition		MO. 01	DAY 20 YEAR 10
(b) Date of last visit		MO. 02	DAY 19 YEAR 10
(c) Frequency of visits		WEEKLY ☐ MONTHLY ☒ OTHER ☐ every 2 weeks	
(d) Next appointment date		MO. 04 DAY 10 YEAR 10	
5. PROGRESS			
RECOVERED ☐ IMPROVED ☐ UNIMPROVED ☒ RETROGRESSED ☐			
6. EXTENT OF DISABILITY			
FOR ANY OCCUPATION		FOR REGULAR OCCUPATION	
(a) Is Patient now totally disabled?		YES ☒ NO ☐	
(b) If no, when was patient able to go to work?		MO. 01 DAY 19 YEAR 10	
(c) If yes, give approximate date you think Patient will be able to resume work?		MO. 04 DAY 10 YEAR 10	
(d) If yes, is Patient suitable candidate for a rehabilitation program?		YES ☐ NO ☒	
(e) Are there any complications which would prolong disability?		YES ☐ NO ☒	
Describe			
7. CARDIAC (If appropriate)			
(a) Functional Capacity (American Heart Association)		CLASS 1 (No Limitation) ☐ CLASS 2 (Slight Limitation) ☐	
(b) Blood Pressure		CLASS 3 (Marked Limitation) ☐ CLASS 4 (Complete Limitation) ☐	
8. Is condition due to injury or sickness arising out of patient's employment?			
YES ☒ NO ☐ 3-24-04		Pregnancy? YES ☐ NO ☒ If yes, approximate date pregnancy commenced.	
DATE 03-24-04		SIGNATURE (ATTENDING PHYSICIAN) S. Emmett Lucas MD	
STREET ADDRESS 35 International Dr. Greenville SC 29615		CITY OR TOWN Greenville SC STATE SC ZIP 29615	

1. Employee's Name John B. Bowens		Job title and duties Foreman/Installer vinyl siding		Hours Worked Weekly 40
2. Date Employed 8-28-89	Date last worked 11-13-09	Last week employee worked 30 or more hours? 11-8 to 11-14	Is this claim one that may be covered by Worker's Compensation? ☐ YES ☒ NO	
3. Is self-employed? ☒ Yes ☐ No	Was laid off? ☐ Yes ☒ No	Was leave of absence granted? ☒ Yes ☐ No	When did leave start or layoff start or employment terminate? Date	
4. Date employee became totally disabled to work 11-13-09		Date employee return to full time work N/A		
Date employee return to light work N/A		Date you expect employee to return to work 3		
5. Employer's name and mailing address (if self employed, give name and address of place of business) Vinyl Services, Inc 175 Old Plantation Dr Walhalla, SC 29687		To the best of my knowledge and belief all of the answers given by the employee and by me are true and complete. Signed on behalf of employer by Shawn B Carter		
6. Telephone Number 864-638-1900		Title or Position 2-12-10 Office Manager		

(ALL CLAIMS SHOULD BE FILED THROUGH THE CREDITOR)

CREDIT DISABILITY CLAIM

Credit Insurance Processing Center
100 West Bay Street / P.O. Box 45204
Jacksonville, FL 32232-5204
1-800-888-2738, extension 8391

CREDIT INSURANCE COMPANY

- ☐ American Guaranty Insurance Company
☒ American Republic Insurance Company
☐ Life of the South Insurance Company
☐ Southern Financial Life Insurance Company
☐ Triangle Life Insurance Company

This form must be completed in full and FAXED to 904-359-2041

1. Claimant's Name John Randolph Bowen		Loan Number 333045872		Certificate Number 2808	
2. Issue Date 8/29/07	Amount 30,705.33	First Payment Due 10-4-07	# of Payments Made 29	Waiting Period 14	☐ Elimination ☒ Retroactive 14 Days
63 months @ 414.94		Is this a renewal loan? If yes, how many loans?		☐ Yes ☒ No	
4. Name of Dealer Lake Keowee CO LLC		Address 10815 Clemson Blvd		City SCENCA	State SC Zip 29678 Phone Number 84-882-445
5. Creditor/Payer FIRST CITIZENS Bank		Address PO Box 29		City Columbia	State SC Zip 29202 Phone Number 800-922-379
6. Mail check to the Attn. of Barbara Shaffer		Is a copy of the insurance certificate attached? If No, explain:		☒ Yes ☐ No	
7. I hereby certify that the above answers are true and complete to the best of my knowledge and belief. Signed on behalf of Creditor by: Barbara J Shaffer ARP Date: 2-19-10					

SEE FRAUD WARNING STATEMENTS ATTACHED.

Full Name of Claimant John Randolph Bowen		Telephone Number [REDACTED]		Social Security Number [REDACTED]		Date of Birth 3/6/1965	
Street Address [REDACTED]		City [REDACTED]		State [REDACTED]		Zip Code [REDACTED]	
Email Address [REDACTED]		Name and Address of Your Employer VINYL SERVICES INC 175 Old Plantation DR WYOMING					
Describe the activities required to perform your job. carry w/ ladders and 2x4 work boards, install vinyl siding & Hardie Board siding & windows		Average hours worked per week 40		Base Pay \$800.00		☐ Hour ☒ Week ☐ Month ☐ Year	
When did you become totally disabled (unable to do any work)? 11-13-09		When did you or do you expect to return to light work? UNKNOWN		When did you or do you expect to return to full time work? UNKNOWN		Have you ever had this or a similar condition before? ☒ Yes ☐ No When? 2004 when fell	
Accident Claims Only	Date & Time Injury Occurred? 3-24-2009	Were you injured at work? ☒ Yes ☐ No	Briefly describe how, when, where and why this injury occurred in the space below: SCAFFOLD fell 20' landing on ground				
Were you hospitalized? ☒ Yes ☐ No		Name and Address of the Hospital: GREENVILLE Hospital system		Date Admitted: 1-22-05			
Have you performed any work other than your usual occupation? ☐ Yes ☒ No If "yes," give nature of work and dates worked.		Are you receiving or entitled to receive any other disability benefits? ☒ Yes ☐ No Short term (MAY-10)		Source and amount 383.00 weekly			
Give names and addresses of all doctors treating your present disability. (864) 234-2654 DR (LUCAS) Piedmont orthopedics 1050 Grove Rd GREENVILLE SC 29605							
Give names and addresses of all doctors you have seen in the 2 years prior to this loan. See Attached Paper for Drs							
Give name and address of your family physician. (864) 638-5402 DR ED Booker 1205 North Hill weston SC 29686							

AUTHORIZATION: Upon presentation of the original or a photocopy of this signed authorization, I authorize any medical professional, hospital or other medical-care institution, insurance support organization, pharmacy, governmental agency, insurance company, group policyholder, employer or benefit plan administrator to provide my credit insurance company named above or an agent, attorney, consumer reporting agency or independent administrator, acting on its behalf, information concerning advice, care or treatment provided the Claimant named below, including information relating to mental illness, use of drugs or use of alcohol. I also authorize my employer, group policyholder or benefit plan administrator to provide my insurance company with financial or employment-related information.

I understand that such information will be used by the insurance company for the purpose of evaluating my claim for insurance benefits and that I or any authorized representative will receive a copy of this authorization upon request. This authorization is valid from the date signed for the term of the policy.

I hereby certify that I have read and understand the attached Fraud Warning Statement.

2-12-2010
Date

[Signature]
Signature of Claimant

Sun Life Assurance Company of Canada

Short Term Disability Claim Packet



Section B: Employee's Statement

1 General Information

Provide your full address and Social Security number.

Please print clearly.

Your name (first, middle initial, last) JOHN R BOWEN	☒ M ☐ F	Social Security number [REDACTED]	Date of birth 3/16/65
Your street address [REDACTED]	City [REDACTED]	State [REDACTED]	Zip Code [REDACTED]
Your occupation FOREMAN/INSTALLER/SIDING 7 WINDOWS	Telephone Number [REDACTED]		
Employer Name VINYL SERVICES / Larry Bolt	Group Policy Number 028083		

2 Information About the Condition Causing Your Disability

Reminder: Return completed claim packet (including Attending Physician Statement) and all required documentation to:

Sun Life Assurance Company of Canada
Group STD Claims
P.O. Box 81915
Wellesley Hills, MA 02481

Tel: 1-800-247-8875
Fax: (781) 304-5599

Type (check one): ☐ Pregnancy ☐ Motor vehicle accident ☒ Work-related injury/sickness
☐ Sickness ☐ Other accident

Describe in detail how, when and where the accident occurred -OR- Describe the nature of your illness/condition and its first symptoms. If work-related, describe cause of injury/illness. BACK PAIN, KNEE PAIN IN BOTH KNEES, FIRST SYMPTOMS (2007) (2007) (2007) SPINE INJURY. Fall in 2007 from 20' while working on scaffolding. Ladder slipped out under scaffolding.			
Date you were first treated by a physician (2007) (2007) (2007) (2007)	Last day worked prior to disability 11-13-09	Did you work a full day? ☒ Yes ☐ No	
Name of your first treating physician DR. McGOOSE (CYN-Knee)	Physician phone number (800) 234-7654	Name of hospital BAYVIEW orthopaedics	
Name of hospital GREENVILLE HOSPITAL SYSTEM	Hospital phone number (941) 494-9611	Date(s) of confinement 11-13-09 to 11-13-09	
Date first unable to work 11-13-09	Date you expect to return to work UNKNOWN	Do you expect to return full- or part-time? ☐ Full-Time ☐ Part-Time	

If work-related, have you filed/do you intend to file, a Workers' Compensation claim? ☒ Yes ☐ No

3 Information About Other Income

Are you currently receiving, or entitled to receive, benefits from any of the following sources?

Check all that apply and provide details for each source of income.

Source of Income	Amount of each payment	Weekly or monthly?	Period/date(s) covered by payment
☐ Vacation pay	\$	☐ Wkly ☐ Mthly	
☐ Sick pay	\$	☐ Wkly ☐ Mthly	
☐ State Disability	\$	☐ Wkly ☐ Mthly	
☐ Other:	\$	☐ Wkly ☐ Mthly	

4 Signature

Reminder: Please be sure to sign and return any Authorization statements included in this packet.

I certify that the above statements are true and complete. I have read and understand the Fraud Warning on page 6 of this packet.

Employee's signature John R Bowen	Date signed 1-25-2010

COMBINED INSURANCE COMPANY OF AMERICA

HOME OFFICE • 5050 BROADWAY, CHICAGO, ILLINOIS 60640

CLAIM
NUMBER

NAME
ADDRESS

John Randolph Bowen

PLEASE PRINT—DO NOT WRITE

CLAIMANT'S FULL NAME

MR
MRS
MISS

ADDRESS (Street and No.)

BIRTH
DATE

MO

DAY

YR

HEIGHT

WEIGHT

OCCUPATION

EMPLOYER'S NAME

EMPLOYER'S ADDRESS

IF YOU HAVE OTHER ACCIDENT, SICKNESS OR HOSPITAL INSURANCE, GIVE COMPANY NAME

AREA CODE

HOME PHONE

BUSINESS PHONE

POLICY NUMBER(S)

FORM NUMBER(S)

LAST PAYMENT DATE

a) *MY 606701*

a) *11-66-R*

a) 19

b) *MY 606701*

b)

b) 19

c)

c)

c) 19

d)

d)

d) 19

ARE YOU ALSO FILING CLAIM UNDER WORKER'S COMP ACT?

☒ YES

☐ NO

IF CLAIM IS FOR
SICKNESS
PLEASE
COMPLETE

DATE OF FIRST SYMPTOMS

19

HAVE YOU EVER HAD SAME OR SIMILAR CONDITION?

☐ YES

☐ NO

IF YES GIVE DATE

19

NATURE OF SICKNESS

IF CLAIM IS FOR
ACCIDENT
PLEASE
COMPLETE

DATE OF ACCIDENT

TIME OF ACCIDENT

NATURE OF INJURIES

3-22-04

9:00 AM

PM

Ruptured Disc in Neck

PLEASE STATE EXACTLY WHERE YOU WERE WHEN ACCIDENT OCCURRED

SCHECH, SC, ON TOWERS ON Radio station R.D. for (Frederick) (Camp)

WHAT WERE YOU DOING WHEN ACCIDENT OCCURRED?

Installing JACIA in Gable

PLEASE DESCRIBE IN DETAIL HOW ACCIDENT OCCURRED

we were on scaffolding with 2 inches and walk board on ladder. We

were on ladder fell backwards, we fell about 20 feet

HOSPITAL'S NAME AND ADDRESS AND CONFINEMENT DATES

Greenville Memorial

Hospital

FROM *1-24* TO *1-26*

ATTENDING PHYSICIANS' NAMES AND ADDRESSES

DR. STEAS EMMETT LUCAS

DATES OF TREATMENT

9-15-04, 10-9-04, 12-8-04

PLEASE COMPLETE
FOR BOTH
ACCIDENT
AND
SICKNESS
CLAIMS

54 Bear Drive Greenville SC

29605

A) TOTAL DISABILITY: BETWEEN WHAT DATES WERE YOU UNABLE TO PERFORM ANY DUTIES?

A) FROM *1-18-2005* THROUGH *4/13-2005*

B) DATE RETURNED TO WORK

B) *POA COPY* 19

C) PARTIAL DISABILITY: BETWEEN WHAT DATES WERE YOU ABLE TO PERFORM ONLY PARTIAL DUTIES?

C) FROM *1-18-2005* THROUGH *4/13-2005*

D) IF CONFINED INDOORS, GIVE DATES

D) FROM *1-18-2005* THROUGH *4/13-2005*

WOULD IT BE ALL RIGHT IF, DURING THE NEXT YEAR, WE MENTION YOUR CLAIM BENEFITS WHEN TALKING TO PROSPECTIVE POLICYHOLDERS ABOUT OUR CLAIM SERVICE? ☒ YES ☐ NO ☐ THANK YOU.

DATED: 19

SIGNED: *[Signature]*
CLAIMANT'S SIGNATURE (If Minor, Parent's Signature)

AUTHORIZATION TO RELEASE INFORMATION

I authorize any hospital, medical practitioner, medically related facility, insurance company, employer or consumer reporting agency to release to Combined Insurance Company of America any information concerning my health for the purpose of processing a claim. Combined is also authorized to disclose such information to any doctor. This authorization or photocopy shall be valid for the duration of the claim. Copy is available upon request.

DATED: 19

SIGNED: *[Signature]*
CLAIMANT'S SIGNATURE (If Minor, Parent's Signature)

EMPLOYER'S STATEMENT (IF STUDENT, PLEASE HAVE SCHOOL PRINCIPAL COMPLETE)

EMPLOYEE'S NAME

WORKER'S COMP. CLAIM FILED FOR THIS DISABILITY?

☒ YES

NO ☐

NAME AND ADDRESS OF COMPENSATION CARRIER

TOTAL DISABILITY BETWEEN WHAT DATES DID EMPLOYEE GIVE UP ALL DUTIES?

FROM

19

TO

19

DATE RETURNED TO WORK (OR SCHOOL)

PARTIAL DISABILITY BETWEEN WHAT DATES DID EMPLOYEE PERFORM ONLY PART OF DUTIES?

FROM

19

TO

19

DATE

TITLE

SIGNATURE

TELEPHONE

19

ATTENDING PHYSICIAN'S STATEMENT

PATIENT'S NAME

John Randolph Bowen

ADDRESS

CITY STATE-ZIP CODE

AGE 39

1 NATURE AND ORIGIN OF

☐ SICKNESS

☒ INJURY

DIAGNOSIS (DESCRIBE COMPLICATIONS, IF ANY)

Acute C5-6 HNP 722.0

CONFIRMED BY X RAY? ☒ YES

NO ☐

2 WHEN DID SYMPTOMS FIRST APPEAR OR ACCIDENT HAPPEN?

DATE 3-22-04

2004

3 WHEN DID PATIENT FIRST CONSULT YOU FOR THIS CONDITION?

DATE 9-15-04

2004

4 HOW DID CONDITION ORIGINATE?

FALL AT WORK FROM 20 FEET

5 HAS PATIENT EVER HAD SAME OR SIMILAR CONDITION (IF YES STATE WHEN AND DESCRIBE)

☐ YES

NO ☒

6 DESCRIBE ANY OTHER DISEASE OR INFIRMITY AFFECTING PRESENT CONDITION

7 NATURE OF SURGICAL OR OBSTETRICAL PROCEDURE, IF ANY (DESCRIBE FULLY AND GIVE APPROACH USED IF MORE THAN ONE IS POSSIBLE)

DATES 1/24/05

19

APPROACH USED

C5-6 ACDF

CLOSED REDUCTION?

OPEN REDUCTION?

METAL FIXATION? yes

8 GIVE DATES OF TREATMENT, AND NATURE OF TREATMENT OTHER THAN SURGICAL

DATES

OFFICE 4/15/04, 12/17/04, 1/18/05, 2/12/05, 3/16/05, 4/13/05

HOME

HOSPITAL

NATURE OF TREATMENT

Pre Op & Post Op Care

9 IS PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION? IF DISCHARGED GIVE DATE AND DEGREE OF RECOVERY

☐ YES

NO ☒

DATE 4/13/05

19

RECOVERED? ☒ YES

NO ☐

10 IF PATIENT HOSPITALIZED GIVE NAME AND ADDRESS OF HOSPITAL

HOSPITAL Greenville Memorial

Greenville

CITY

STATE SC

FROM

1-24-05

TO

1-26-05

19

11 HOW LONG WAS OR WILL PATIENT BE CONTINUOUSLY TOTALLY DISABLED (UNABLE TO WORK)?

FROM 1-18-2005

19

THROUGH

4/13/05

19

12 HOW LONG WAS OR WILL PATIENT BE PARTIALLY DISABLED?

FROM

1-18-05

19

THROUGH

4/13/05

19

13 WAS PATIENT CONFINED TO THE HOUSE? (IF YES GIVE DATES)

☒ YES

NO ☐

FROM 1-18-05

19

THROUGH

4/13/05

19

PHYSICIAN'S SIGNATURE

Ernest J. ...

DEGREE

MD

COMPLETE ADDRESS

54 Bear Dr. Greenville SC 29605

DATE

4/21/05

TELEPHONE

864-467-0079

MUST BE FURNISHED UNDER AUTHORITY OF SECTION 6109 OF THE IRS CODE

INDIVIDUAL PRACTITIONER'S S.S. NO

ALL OTHERS - EMPLOYER I.D. NO

517-1041913131

PLEASE RETURN THIS FORM TO THE ADDRESS INDICATED
MAILING ADDRESS: P.O. Box 410288 Kansas City, Missouri 64141
TOLL FREE: 1-800-231-0801

CLAIMANT'S PROOF OF ACCIDENT OR ILLNESS

INSTRUCTIONS TO INSURED: PLEASE COMPLETE THIS FORM IN ITS ENTIRETY.

Furnishing or acceptance of this form is not an admission of liability, nor a waiver of any provisions of the insurance contract by the Company indicated above. Neither will the Company assume any of the expenses related to the completion of this form. Any person who with intent to defraud or knowing he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

Name: John Randolph Bowen Sex: M ☒ F ☐Telephone: () [REDACTED]Complete Address: [REDACTED]
Street City State ZipPolicy No: 100033639Effective Date: 2.2.06?Social Security No: 247-45-5418Date of Birth: 3/16/1965Occupation: FOREMAN ON SIDING INSTALLING CREWEmployer's Name and Address: VINYL SERVICES 175 010PLANTATION DR WALHALLA SC 29681What Was Your Gross Annual Income on the Last Day You Worked: 900.00 weekly 20 per hrDate Accident Occurred: 3/22/09 Date Symptoms of Sickness: 9/14/09Date you Stopped Working: 11/13/09 Usual Working Hours: From 7 To 330

Accident: Describe Nature of Injury and How, When and Where Injury Occurred:

SCAFFOLDING FALL APPROX 20 FT. INJURED BACK, NECK
ANKLE, KNEES, FALL WAS IN 3/22/09. IN SENECA SC
was treated at ROBERT ROBERTSON Hospital, CLINSON
ORTHOPAEDICS, spine clinic (Greenville) surgery at Greenville memorial

If Illness, Describe Symptoms: BACK PAIN, KNEE PAINDate of First Treatment: 3/30/09 - 11-13-09

COPY

AMERICO FINANCIAL LIFE & ANNUITY INSURANCE CO.
 (600)231-0801
 P.O. Box 410286, Kansas City, MO 64141

ATTENDING PHYSICIAN'S STATEMENT

Policy Number: M0033630 Insured: John Bowen

Every question on this form must be answered. Items left blank will result in return of the claim form for completion, thereby causing unnecessary delay in processing of your patient's claim.

Patient's Name: John Bowen Age: 44

Nature of Sickness or Injury (describe complications if any):

T2-L2 - displacement of lumbar intervertebral disc w/o myelogram

When did symptoms first appear or accident happen?

03-22-04

When did patient first consult you for this condition?

Date: 01-20-10Has patient ever had same or similar conditions (if yes, state when and describe)? ☒ Yes ☐ No

Describe any other diseases or infirmity affecting present condition:

SLE C5-6 acpf + plating in march 2004

Give dates of treatment:

01-20-10, 02-03-10, 02-19-10

Hospital:

N/A

Date:

Is patient still under your care for this condition? (if discharged, give Date) ☒ Yes ☐ No

Date:

N/A

If patient is hospitalized, give name and address of hospital:

Admitted:

N/A

Discharged:

Hospital:

N/A

Address:

How long was or will patient be continuously totally disabled (unable to work)?

From:

11-11-09

To:

01-01-10

Names of other attending physicians or referring physicians:

x 0000 until series of 3 injecti-
have been completed

1st - 2-19-102nd - 3-12-103rd to be scheduled

Other insurance companies notified of this condition:

Sunlife Insurance

Other Remarks:

Doctor's Personal Signature

x Silas Emmett Lucas MD

Date:

02-19-10

Type or print doctor's name

Silas Emmett Lucas MD

Degree

State License No.

18095

Address

Phone ()

864-234-7654

Claimant's

Signature:

[Signature]

POA COPY

Piedmont Orthopaedic Associates, P.A.
 35 International Drive
 Greenville, SC 29615

Tests

Results for: STREP A SCREEN, THROAT

Ordered/ Test Name Performed	Ind Results	Units Range

6/1/2006 STREP A SCREEN, THROAT

6/1/2006

STREP A SCREEN, THROAT

NEGATIVE

***** END OF RESULTS *****

Assessment

- Sore throat
- Echo virus upper respiratory

Allergies

No Known Allergies.

Plan

- Streptococcus direct screen

Dextromethorphan-guaifenesin 30 mg-800 mg tablet, extended release. SIG: 1 tab(s) orally 2 times a day for 30 day(s) . Dispense: 60 cap(s). Refill: 1.

PredniSONE 20 mg tablet. SIG: 3 orally once a day for 5 day(s) . Dispense: 15 TAB. Refill: 0.

Amoxil 500 mg tablet. SIG: 1 TAB orally 3 times a day for 10 day(s) . Dispense: 30 TAB. Refill: 0.

Practice Management

Etab outpatient detailed h&p - moderate complexity decision 99214; Total face to face time was unspecified

Reason for Visit

Visit for: follow-up exam.

2 3/31/2010 8:39:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/31/2010 08:39AM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: RECHECK.

History of present illness

John Bowen is a 45 year old male.

- Fever high (over 102 F by thermometer).
- Feeling congested in the chest • Shortness of breath • Cough • Coughing up sputum • Wheezing

Past medical/surgical history**Reported History:**

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.
 Head: No headache.
 Neck: No neck symptoms.
 Eyes: No eye symptoms.
 Otolaryngeal: No otolaryngeal symptoms.
 Cardiovascular: No cardiovascular symptoms.
 Pulmonary: No pulmonary symptoms.
 Gastrointestinal: No gastrointestinal symptoms.
 Genitourinary: No genitourinary symptoms.
 Musculoskeletal: No musculoskeletal symptoms.
 Neurological: No neurological symptoms.
 Psychological: No psychological symptoms.
 Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value	Date
PR	77 bpm	3/31/2010
Blood pressure	138/97 mmHg	3/31/2010
Weight	264 lbs	3/31/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

Tympanic Membrane: ° Normal.

Pharynx:

Oropharynx: • Posterior pharyngeal wall was abnormal. • Posterior pharyngeal wall was erythematous. °

Posterior pharyngeal wall did not have an exudate. ° Posterior pharyngeal wall did not have white patches.

Mucosal: • Pharynx had mucosal abnormalities. ° Pharynx was moist. ° Pharynx was not dry. ° Pharynx was not erythematous.

Lymph Nodes:

° Normal. ° Cervical lymph nodes were not enlarged.

Cardiovascular:

Heart Rate And Rhythm: • Tachycardia present.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: • Showed the abdomen was round.

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Palpation: ° Abdominal palpation revealed no abnormalities.

Neurological:

° System: normal.

Assessment

• Streptococcal pneumonia

Therapy

• Patient to call if symptoms worsen.

Allergies

No Known Allergies.

Plan

• Pulse oximetry

Tessalon 200 mg capsule. SIG: 1 cap(s) orally 3 times a day for 5 day(s) . Dispense: 15 cap(s). Refill: 0.

Practice Management

Etab outpatient expanded h&p - low complexity decisions

3 3/26/2010 10:27:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/26/2010 10:27AM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Recheck.

History of present illness

John Bowen is a 45 year old male.

• Fever high (over 102 F by thermometer).

• Feeling congested in the chest • Shortness of breath • Cough • Coughing up sputum • Wheezing

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
Temperature	97.7 F	3/26/2010
PR	89 bpm	3/26/2010
Blood pressure	145/99 mmHg	3/26/2010
Weight	270 lbs	3/26/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

Tympanic Membrane: ° Normal.

Pharynx:

Oropharynx: • Posterior pharyngeal wall was abnormal. • Posterior pharyngeal wall was erythematous. °
 Posterior pharyngeal wall did not have an exudate. ° Posterior pharyngeal wall did not have white patches.
Mucosal: • Pharynx had mucosal abnormalities. ° Pharynx was moist. ° Pharynx was not dry. ° Pharynx was not erythematous.

Lymph Nodes:

° Normal. ° Cervical lymph nodes were not enlarged.

Cardiovascular:

Heart Rate And Rhythm: • Tachycardia present.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: • Showed the abdomen was round.

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Palpation: ° Abdominal palpation revealed no abnormalities.

Neurological:

° System: normal.

Assessment

• Streptococcal pneumonia

Therapy

- Patient to call if symptoms worsen.

Allergies

No Known Allergies.

Plan

- INJECTION - CEFTRIAXONE SODIUM - PER 250 MG (ROCEPHIN) 1g
- Pulse oximetry
- A chest x-ray with posterior-anterior and lateral views

Zithromax 500 mg tablet. SIG: 1 tab(s) orally once a day for 5 day(s) . Dispense: 5 tab(s). Refill: 0.

Practice Management

Etab outpatient detailed h&p - moderate complexity decision

4 3/23/2010 8:39:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/23/2010 08:39AM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: SORE THROAT, HEADACHES, FEVER, CHEST CONGESTION.

History of present illness

John Bowen is a 45 year old male.

- Fever high (over 102 F by thermometer).
- Feeling congested in the chest • Shortness of breath • Cough • Coughing up sputum • Wheezing

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.

Genitourinary: No genitourinary symptoms.

Musculoskeletal: No musculoskeletal symptoms.

Neurological: No neurological symptoms.

Psychological: No psychological symptoms.

Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
Temperature	98.2 F	3/23/2010
PR	102 bpm	3/23/2010
Blood pressure	168/101 mmHg	3/23/2010
Weight	266 lbs	3/23/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

Tympanic Membrane: ° Normal.

Pharynx:

Oropharynx: • Posterior pharyngeal wall was abnormal. • Posterior pharyngeal wall was erythematous. ° Posterior pharyngeal wall did not have an exudate. ° Posterior pharyngeal wall did not have white patches.
Mucosal: • Pharynx had mucosal abnormalities. ° Pharynx was moist. ° Pharynx was not dry. ° Pharynx was not erythematous.

Lymph Nodes:

° Normal. ° Cervical lymph nodes were not enlarged.

Cardiovascular:

Heart Rate And Rhythm: • Tachycardia present.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: • Showed the abdomen was round.

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Palpation: ° Abdominal palpation revealed no abnormalities.

Neurological:

° System: normal.

Assessment

• Streptococcal pneumonia

Therapy

• Patient to call if symptoms worsen.

Allergies

No Known Allergies.

Plan

- INJECTION - CEFTRIAXONE SODIUM - PER 250 MG (ROCEPHIN) 1g
- Pulse oximetry
- A chest x-ray with posterior-anterior and lateral views

Zithromax 500 mg tablet. SIG: 1 tab(s) orally once a day for 5 day(s) . Dispense: 5 tab(s). Refill: 0.

ProAir HFA CFC free 90 mcg/inh aerosol with adapter. SIG: 2 puff(s) inhaled 4 times a day for 30 day(s) PRN(as needed for wheezing) . Dispense: 1 each. Refill: 0.

Albuterol 0.083% solution. SIG: 3 mL inhaled every 6 hours for 14 day(s) . Dispense: 56 each. Refill: 0.

Practice Management

Estab outpatient detailed h&p - moderate complexity decision

5 3/9/2010 2:36:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/09/2010 02:36PM, Examiner: Edward (Ted) H. Booker, JR

Plan

Diovan 160 mg tablet. SIG: 1 tab(s) orally once a day for 90 day(s) . Dispense: 90 tab(s). Refill: 3.

DISCONTINUED BY: HALIE BARRON. REASON: Course Complete.

6 2/26/2010 1:30:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 2/26/2010 01:30PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Follow up from dr lear.

History of present illness

John Bowen is a 44 year old male.

- Headache.
- Knee joint pain bilaterally in the medial aspect • Accompanied by a popping sound • When passively moved • When actively moved • Worse with weightbearing • Started gradually • Worse on rising from a seated position • Slowly worsens with extended activity • Is improved by rest • Is unrelenting • Knee joint swelling ° No bilateral knee joint pain accompanied by a grating sensation ° No knee warmth ° The knee did not suddenly 'lock up' ° No intermittent knee locking ° The knee does not catch during movement ° No snapping sensation in the knee ° No clicking sensation in the knee ° No regional soft tissue swelling of both lower extremities

° Not tiring easily ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history**Reported History:**

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

DID WELL WITH HEART CATH. BP MEDS CHANGED. WILL CALL WITH CHANGES. BELIEVE THAT HCTZ WAS ADDED TO DIOVAN. BYSTOLIC INCREASED TO 10MG.

BILATERAL MEDIAL KNEE PAIN AND SWELLING THAT HAS BECOME DEBILITATING. HISTORY OF CARTILAGE REPAIR IN THE LEFT KNEE PER DR MCALLUM IN 01 AND RIGHT KNEE MENISCAL REPAIR IN 02 PER DR MCGEORGE. BOTH WERE JOB RELATED.

Family history

Family history reviewed
Family history unchanged.

Review of systems

Systemic: No fever and no chills.
Head: No headache.
Neck: No neck symptoms.
Eyes: Worsening vision and blurred vision.
Otolaryngeal: No otolaryngeal symptoms.
Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value	Date
PR	72 bpm	2/26/2010
Blood pressure	146/99 mmHg	2/26/2010
Weight	265 lbs	2/26/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:
° Eyes: normal.

Ears, Nose, Throat:

° ENT: normal.

Lymph Nodes:

° Normal.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Musculoskeletal System:

Knee:

General/bilateral: • Tenderness on palpation medial and inferior to the joint line of both knees; ABOUT PEZ ANSERINE REGION. ° No swelling of the knee. ° No induration of the knee. ° No edema of the knee. ° No erythema of the knee. ° No warmth of the knee. ° No deformity of the knee. ° Patella was normal.

Neurological:

° System: normal.

Assessment

Chest pain or discomfort.

- Hypertension
- Hyperlipoproteinemia
- Enthesopathy of the knee

Therapy

UNABLE TO DETERMINE WETHER THIS INSTANCE OF KNEE PAIN IS WORK RELATED.

NAPROXYN 220-440MG PO BID PRN. REFER TO DR MCGEORGE AT PATIENT REQUEST FOR FURTHER EVALUATION AND TREATMENT.

Allergies

No Known Allergies.

Practice Management

Etab outpatient detailed h&p - moderate complexity decision

7 2/12/2010 8:21:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 2/12/2010 08:21AM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: FOLLOW UP FROM CARDIOLOGIST.

History of present illness

John Bowen is a 44 year old male.

- Headache.

° Not tiring easily ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No regional soft tissue swelling of both lower extremities ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

BP UP TODAY. HAS HA AND COMPLAINS OF WORSENING VISION. NO CHEST PAIN. TO HAVE HEART CATH DONE IN 3 DAYS.

Family history

Family history reviewed
Family history unchanged.

Review of systems

Systemic: No fever and no chills.
Head: No headache.
Neck: No neck symptoms.
Eyes: Worsening vision and blurred vision.
Otolaryngeal: No otolaryngeal symptoms.
Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
PR	79 bpm	2/12/2010
Blood pressure	167/109 mmHg	2/12/2010
Weight	264 lbs	2/12/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:
° Eyes: normal.

Ears, Nose, Throat:

° ENT: normal.

Lymph Nodes:

° Normal.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.
Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.
Murmurs: ° No murmurs were heard.
Arterial Pulses: ° Equal bilaterally and normal.
Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Neurological:

° System: normal.

Assessment

- Chest pain or discomfort.
- Hypertension
- Hyperlipoproteinemia

Therapy

REFER FOR EYE EXAM. INCREASE DIOVAN TO 320MG AND MONITOR BP. MONITOR FOR WORSENING DIZZINESS. REPORT TO ER OR RTC WITH CP SOB.

Allergies

No Known Allergies.

Practice Management

Etab outpatient detailed h&p - moderate complexity decision

8 2/3/2010 3:46:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 2/03/2010 03:46PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Recheck, test results.

History of present illness

- John Bowen is a 44 year old male.
- Headache.

° Not tiring easily ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No regional soft tissue swelling of both lower extremities ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

PERFUSION PART OF STRESS TEST SHOWS POSSIBLE ISCHEMIA. BP BETTER.

Family history

- Family history reviewed
- Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.

Eyes: Worsening vision and blurred vision.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value	Date
PR	86 bpm	2/03/2010
Blood pressure	148/95 mmHg	2/03/2010
Weight	266 lbs	2/03/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Ears, Nose, Throat:

° BNT: normal.

Lymph Nodes:

° Normal.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Neurological:

° System: normal.

Assessment

Chest pain or discomfort.

- Hypertension
- Hyperlipoproteinemia

Therapy

ABNORMAL STRESS TEST. REFER TO CARDIOLOGY FOR POSSIBLE STRESS TEST. BP BETTER.

Allergies

No Known Allergies.

Plan

BYSTOLIC 5 mg tablet. SIG: 1 tab(s) orally once a day (in the morning) for 30 day(s) . Dispense: 30 tab(s). Refill: 5. RENEWED WITH CHANGES BY WILL PUTNAM.

Practice Management

Etab outpatient expanded h&p - low complexity decisions

9 1/22/2010 3:47:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 1/22/2010 03:47PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Recheck.

History of present illness

John Bowen is a 44 year old male.

- Right lower back pain • On the left • Midline • Which is excruciating • Radiating to the legs • Starting suddenly • Present upon awakening • Is chronic • Worse in the morning • Worsens when going from sitting to standing • With standing • With walking • During exercise • After exercise • Relieved by sitting • Is unrelenting • Causing difficulty standing erect • Causing difficulty finding a comfortable position • Resembling a shocklike sensation to the right foot • With muscle spasm ° Lower back pain not relieved by medication ° No regional soft tissue swelling of both lower extremities

- An accident; 2004

- ° Not tiring easily ° No headache ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

INTERMITTENT CHEST PAIN. SOB ON EXERTION. THIS HAS BEEN HAPPENING FOR THE LAST 3-4 MONTHS AS HE REMEBERS NOW. NO CURRENT CP. BACK PAIN BETTER. BP STILL HIGH.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.

Genitourinary: No genitourinary symptoms.

Musculoskeletal: No musculoskeletal symptoms.

Neurological: No neurological symptoms.

Psychological: No psychological symptoms.

Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value	Date
PR	108 bpm	1/22/2010
Blood pressure	162/106 mmHg	1/22/2010
Weight	268 lbs	1/22/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Neck:

Palpation: ° Of the neck revealed no abnormalities.

Suppleness: ° Neck demonstrated no decrease in suppleness.

Eyes:

General/bilateral:

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Lymph Nodes:

° Cervical lymph nodes were not enlarged.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Back:

• Muscle spasm of the middle back. ° Middle back exhibited no swelling.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Musculoskeletal System:

Cervical Spine:

General/bilateral: • Cervical spine exhibited a muscle spasm. • Cervical spine pain was elicited by motion.

° Cervical spine showed no tenderness on palpation. ° Cervical spine showed full range of motion. °

Cervical spine showed no weakness.

Thoracic Spine:

General/bilateral: • Palpation of the thoracic spine revealed abnormalities. • Thoracic spine exhibited tenderness on palpation. ° Thoracic spine had a normal appearance.

Lumbar / Lumbosacral Spine:

General/bilateral: • Lumbosacral spine exhibited muscle spasms. • Neurodynamic tests of the lumbosacral spine were performed. • A straight-leg raising test was positive. ° Lumbosacral spine exhibited a normal appearance.

Assessment

Chest pain or discomfort.

Polyarticular joint pain.

• Hypertension

• Lumbar disc degeneration

Therapy

EKG, STRESS TEST, ADD BYSTOLIC, FOLLOW UP IN TWO WEEKS.

Allergies

No Known Allergies.

Plan

- A 12-lead ECG
- A stress test with physician supervision, interpretation and report
- Multiple SPECT perfusion studies

BYSTOLIC 5 mg tablet. SIG: 1 tab(s) orally once a day (in the morning) for 30 day(s) . Refill: 5.

Practice Management

Etab outpatient expanded h&p - low complexity decisions

Current Conditions/Problems

Physical trauma at the workplace.

10 1/11/2010 1:37:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 1/11/2010 01:37PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: 2 week check up.

History of present illness

John Bowen is a 44 year old male.

• Right lower back pain • On the left • Midline • Which is excruciating • Radiating to the legs • Starting suddenly • Present upon awakening • Is chronic • Worse in the morning • Worsens when going from sitting to standing • With standing • With walking • During exercise • After exercise • Relieved by sitting • Is unrelenting • Causing difficulty standing erect • Causing difficulty finding a comfortable position • Resembling a shocklike sensation to the right foot • With muscle spasm ° Lower back pain not relieved by medication ° No regional soft tissue swelling of both lower extremities

• An accident; 2004

° Not tiring easily ° No headache ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

PAIN IS WORSE. TO SEE DR LUCAS CONCERNING BP ON 1/20/10. BP STILL HIGH. NO CP/SOB.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.
Eyes: No eye symptoms.
Otolaryngeal: No otolaryngeal symptoms.
Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value	Date
PR	122 bpm	1/11/2010
Blood pressure	170/110 mmHg	1/11/2010
Weight	267 lbs	1/11/2010

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Neck:

Palpation: ° Of the neck revealed no abnormalities.

Suppleness: ° Neck demonstrated no decrease in suppleness.

Eyes:

General/bilateral:

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Lymph Nodes:

° Cervical lymph nodes were not enlarged.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Back:

• Muscle spasm of the middle back. ° Middle back exhibited no swelling.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Musculoskeletal System:

Cervical Spine:

General/bilateral: • Cervical spine exhibited a muscle spasm. • Cervical spine pain was elicited by motion.

° Cervical spine showed no tenderness on palpation. ° Cervical spine showed full range of motion. °

Cervical spine showed no weakness.

Thoracic Spine:

General/bilateral: • Palpation of the thoracic spine revealed abnormalities. • Thoracic spine exhibited tenderness on palpation. ° Thoracic spine had a normal appearance.

Lumbar / Lumbosacral Spine:

General/bilateral: • Lumbosacral spine exhibited muscle spasms. • Neurodynamic tests of the lumbosacral spine were performed. • A straight-leg raising test was positive. ° Lumbosacral spine exhibited a normal appearance.

Assessment

- Polyarticular joint pain.
- Lumbar disc degeneration

Therapy

INCREASE PAIN REGIMEN. CONTINUE DIOVAN. RECHECK IN 2 WEEKS.

Allergies

No Known Allergies.

Plan

Diovan 160 mg tablet. SIG: 1 tab(s) orally once a day for 90 day(s) . Dispense: 90 tab(s). Refill: 3.
Percocet 10/650 650 mg-10 mg. SIG: 1 cap(s) orally every 6 hours for 10 day(s) PRN(as needed for pain) .
Dispense: 40 tab(s). Refill: 0.

Practice Management

Estab outpatient expanded h&p - low complexity decisions

Current Conditions/Problems

Physical trauma at the workplace.

11 12/28/2009 2:39:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 12/28/2009 02:39PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Back pain and high bp.

History of present illness

John Bowen is a 44 year old male.

- Right lower back pain • On the left • Midline • Which is excruciating • Radiating to the legs • Starting suddenly • Present upon awakening • Is chronic • Worse in the morning • Worsens when going from sitting to standing • With standing • With walking • During exercise • After exercise • Relieved by sitting • Is unrelenting • Causing difficulty standing erect • Causing difficulty finding a comfortable position • Resembling a shocklike sensation to the right foot • With muscle spasm • Lower back pain not relieved by medication • No regional soft tissue swelling of both lower extremities
- An accident; 2004

• Not tiring easily • No headache • No chest pain or discomfort • and The heart rate was not fast • No dyspnea • No dizziness • No lightheadedness • No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

PRESENTS WITH BACK AND LEG PAIN THAT HAS REACHED A CRISIS POINT. HE FELL AT WORK 4 YEARS AGO AND HAS BEEN SUFFERING SINCE THEN. HE HAS MANAGED TO CONTINUE WORKING.

BUT LATELY HE CAN NOT CONTROL HIS PAIN WITH IBUPROFEN ALONE.

HE HAS CONTACTED HIS WORKMAN'S COMP COMPANY AND THEY ARE ARRANGING FOLLOW UP APPTS WITH HIS ORIGINAL WORKMAN'S COMP DOCS WHO TREATED THE SPINE AND LOWER EXTREMITIES.

Family history

Family history reviewed
Family history unchanged.

Review of systems

Systemic: No fever and no chills.
Head: No headache.
Neck: No neck symptoms.
Eyes: No eye symptoms.
Otolaryngeal: No otolaryngeal symptoms.
Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Musculoskeletal: No musculoskeletal symptoms.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
Temperature	97.6 F	12/28/2009
PR	106 bpm	12/28/2009
Blood pressure	182/108 mmHg	12/28/2009
Weight	265 lbs	12/28/2009

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Neck:

Palpation: ° Of the neck revealed no abnormalities.

Suppleness: ° Neck demonstrated no decrease in suppleness.

Eyes:

General/bilateral:

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Lymph Nodes:

° Cervical lymph nodes were not enlarged.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Back:

- Muscle spasm of the middle back. ° Middle back exhibited no swelling.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Musculoskeletal System:

Cervical Spine:

General/bilateral: • Cervical spine exhibited a muscle spasm. • Cervical spine pain was elicited by motion.
° Cervical spine showed no tenderness on palpation. ° Cervical spine showed full range of motion. °
Cervical spine showed no weakness.

Thoracic Spine:

General/bilateral: • Palpation of the thoracic spine revealed abnormalities. • Thoracic spine exhibited tenderness on palpation. ° Thoracic spine had a normal appearance.

Lumbar / Lumbosacral Spine:

General/bilateral: • Lumbosacral spine exhibited muscle spasms. • Neurodynamic tests of the lumbosacral spine were performed. • A straight-leg raising test was positive. ° Lumbosacral spine exhibited a normal appearance.

Assessment

- Polyarticular joint pain.
- Lumbar disc degeneration

Therapy

TREAT PAIN. ADD LORTAB PRN BTP. HAVE PATIENT CONTINUE ALEVE 440MG PO BID.

DEFER ST DISABILITY AND WORK EXCUSES TO WORKMAN'S COMP DOCS.

RTC IN 2 WEEKS TO RECHECK BP.

Allergies

No Known Allergies.

Plan

Lortab 10/500 500 mg-10 mg tablet. SIG: 1 tab(s) orally every 6 hours for 14 day(s) . Dispense: 56 tab(s). Refill: 0.

Practice Management

Estab outpatient detailed h&p - moderate complexity decision

Current Conditions/Problems

Physical trauma at the workplace.

12 12/21/2009 8:59:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 12/21/2009 08:59AM, Examiner: Edward (Ted) H. Booker, JR

Assessment

Polyarticular joint pain.

Plan

- Basic metabolic panel with total calcium
- A lipid profile
- ALT (SGPT) level
- AST (SGOT) level

13 12/15/2009 2:25:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 12/15/2009 02:25PM, Examiner: Edward (Ted) H. Booker, JR

Plan

Diovan 160 mg tablet. SIG: 1 tab(s) orally once a day for 30 day(s) . Dispense: 30 tab(s). Refill: 0.

14 5/20/2009 3:50:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 5/20/2009 03:50PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Recheck blood pressure.

History of present illness

John Bowen is a 44 year old male.

° Not tiring easily ° No headache ° and No headache ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No regional soft tissue swelling of both lower extremities ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Tests: Blood pressure was high, systolic was 142 mmHg, and diastolic was 102 mmHg.

Personal history

Social history reviewed and social history unchanged.

Subjective

BACK PAIN S/P WORK ACCIDENT 5 YEARS AGO. DOCUMENTED DISEASE.

BP TOO HIGH. HEADACHES.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.

Genitourinary: No genitourinary symptoms.

Musculoskeletal: Lower back pain radiating to the legs and back stiffness.

Neurological: No neurological symptoms.

Psychological: No psychological symptoms.

Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
Temperature	98.1 F	5/20/2009
PR	82 bpm	5/20/2009
Blood pressure	135/86 mmHg	5/20/2009
Weight	258 lbs	5/20/2009

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Ears, Nose, Throat:

° ENT: normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

Tympanic Membrane: ° Normal.

Pharynx:

Oropharynx: ° Posterior pharyngeal wall was normal. ° Posterior pharyngeal wall was not erythematous. °

Posterior pharyngeal wall did not have an exudate. ° Posterior pharyngeal wall did not have white patches.

Mucosal: ° Pharynx had no mucosal abnormalities. ° Pharynx was moist. ° Pharynx was not dry.

Lymph Nodes:

° Normal. ° Cervical lymph nodes were not enlarged.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Neurological:

° System: normal.

Assessment

- Hypertension
- Lumbar disc degeneration

Allergies

No Known Allergies.

Plan

- Order postponed for basic metabolic panel with total calcium
- Order postponed for a lipid profile
- Order postponed for ALT (SGPT) level
- Order postponed for AST (SGOT) level

Motrin 800 mg tablet. SIG: 1 tab(s) orally 3 times a day for 30 day(s) . Dispense: 90 tab(s). Refill: 2.
Diovan 160 mg tablet. SIG: 1 tab(s) orally once a day for 30 day(s) . Dispense: 30 tab(s). Refill: 5.

Practice Management

Etab outpatient expanded h&p - low complexity decisions

Reason for Visit

Visit for: follow-up exam and as a follow-up.

15 5/6/2009 3:03:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 5/06/2009 03:03PM, Examiner: Will Putnam, P A C

Chief complaint

The Chief Complaint is: Bp has been running high.

History of present illness

John Bowen is a 44 year old male.

° Not tiring easily ° No headache ° and No headache ° No chest pain or discomfort ° and The heart rate was not fast ° No dyspnea ° No regional soft tissue swelling of both lower extremities ° No dizziness ° No lightheadedness ° No fainting

Past medical/surgical history

Reported History:

No recent change in medical history.

Tests: Blood pressure was high, systolic was 142 mmHg, and diastolic was 102 mmHg.

Personal history

Social history reviewed and social history unchanged.

Subjective

BACK PAIN S/P WORK ACCIDENT 5 YEARS AGO. DOCUMENTED DISEASE.

BP TOO HIGH. HEADACHES.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.

Genitourinary: No genitourinary symptoms.
Musculoskeletal: Lower back pain radiating to the legs and back stiffness.
Neurological: No neurological symptoms.
Psychological: No psychological symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value	Date
Temperature	97.9 F	5/06/2009
PR	93 bpm	5/06/2009
Blood pressure	147/92 mmHg	5/06/2009
Weight	256 lbs	5/06/2009

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Extraocular Movements: ° Normal.

Pupils: ° Normal. ° PERRLA.

External: ° Lacrimation was normal. ° Conjunctiva exhibited no abnormalities.

Sclera: ° Normal.

Ears, Nose, Throat:

° ENT: normal.

Ears:

General/bilateral:

Outer Ear: ° Normal.

Tympanic Membrane: ° Normal.

Pharynx:

Oropharynx: ° Posterior pharyngeal wall was normal. ° Posterior pharyngeal wall was not erythematous. °

Posterior pharyngeal wall did not have an exudate. ° Posterior pharyngeal wall did not have white patches.

Mucosal: ° Pharynx had no mucosal abnormalities. ° Pharynx was moist. ° Pharynx was not dry.

Lymph Nodes:

° Normal. ° Cervical lymph nodes were not enlarged.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Neurological:

° System: normal.

Assessment

- Hypertension
- Lumbar disc degeneration

Therapy

- Treat symptoms.
- Patient to call if symptoms worsen.
- Plan - start medication.

Allergies

No Known Allergies.

Plan

Diovan 160 mg tablet. SIG: 1 tab(s) orally once a day for 14 day(s) . Dispense: 14 tab(s). Refill: 0.

Practice Management

Estab outpatient detailed h&p - moderate complexity decision

Reason for Visit

Visit for: follow-up exam.

16 4/4/2007 2:45:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 4/04/2007 02:45PM, Examiner: Christina A. Booker

Chief complaint

The Chief Complaint is: Headache /sore throat.

History of present illness

John Bowen is a 42 year old male.

- Having symptoms ° Not tiring easily
- Headache • Sinus pain ° No pain over the nose
- Nasal discharge • Postnasal drip causing coughing • Nasal passage blockage • Frequent breathing through the mouth • Sore throat ° The ears do not feel full ° No sneezing

° No scratchy eyes ° No chest pain or discomfort ° No palpitations ° , and The heart rate was not fast ° No dyspnea during exertion ° No paroxysmal nocturnal dyspnea ° , and No cough ° No regional soft tissue swelling of both lower extremities

Past medical/surgical history

Reported History:

No recent change in medical history.

Diagnosis History:

No coronary artery disease

Personal history

Social history reviewed and social history unchanged.

Family history

Family history reviewed.

Review of systems

Systemic: High fever.

Head: No headache.

Neck: No neck symptoms.

Eyes: No eye symptoms.
Otolaryngeal: No otolaryngeal symptoms.
Cardiovascular: No cardiovascular symptoms.
Pulmonary: No pulmonary symptoms.
Gastrointestinal: No gastrointestinal symptoms.
Genitourinary: No genitourinary symptoms.
Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements

	Value
Temperature	97.8 F
PR	96 bpm
Blood pressure	148/91 mmHg
Weight	254 lbs

General Appearance:

• Acutely ill. ° Oriented to time, place, and person.

Head:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Ears:

General/bilateral:

° Ears: normal.

Nose:

General/bilateral:

Discharge: • Nasal discharge seen. • Purulent nasal discharge. • Nasal discharge both sides.

Sinus Tenderness: • Tenderness of sinuses.

Pharynx:

Oropharynx: • Abnormal. • Tonsils were erythematous. • Tonsils were cryptic.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Tests

Results for: Lipid Panel With LDL/HDL Ratio

Ordered/ Test Name Performed	Ind Results	Units Range

3/27/2007 Lipid Panel With LDL/HDL Ratio

3/30/2007

Cholesterol, Total	H 214	mg/dL 100-199
Triglycerides	H 252	mg/dL 0-149
HDL Cholesterol	L 28	mg/dL 40-59
VLDL Cholesterol Cal	H 50	mg/dL 5-40

LDL Cholesterol Calc H 136 mg/dL 0-99

Comment

If initial LDL-cholesterol result is >100 mg/dL, assess for risk factors.

LDL/HDL Ratio H 4.9 ratio 0.0-3.6

LDL/HDL

Men Women

1/2 Avg. Risk 1.0 1.5

***** END OF RESULTS *****

Assessment

- Acute sinusitis
- Acute pharyngitis
- Hyperlipoproteinemia

Therapy

WILL TRY VYTORIN FOR CHOLESTEROL.

Allergies

No Known Allergies.

Plan

Augmentin 875 mg-125 mg tablet. SIG: 1 tab(s) orally every 12 hours for 10 day(s). Dispense: 20 TAB. Refill: 0.
DuraDEX 20 mg-1200 mg tablet, extended release. SIG: 1 tab(s) orally every 12 hours for 30 day(s). Dispense: 60 tab(s). Refill: 1.

Deltasone 20 mg tablet. SIG: 2 TAB orally once a day for 3 day(s) SIG: 1 TAB orally once a day for 3 day(s) SIG: 0.5 TAB orally once a day for 4 day(s). Dispense: 11 tab(s). Refill: 0.

Nasonex 50 mcg/inh spray. SIG: 2 spray(s) intranasally once a day for 30 day(s). Dispense: 17 g. Refill: 5.

Vytorin 10 mg-40 mg tablet. SIG: 1 tab(s) orally once a day for 30 day(s). Dispense: 30 TAB. Refill: 5.

Practice Management

Etab outpatient detailed h&p - moderate complexity decision 99214; Total face to face time was unspecified.

Reason for Visit

Visit for: follow-up exam.

17 3/27/2007 10:40:00 AM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/27/2007 10:40AM, Examiner: Lab Lab

Assessment

Visit for: screening for lipid disorders.

18 3/26/2007 2:40:00 PM

John Bowen, Gender: M, DOB: 3/16/1965, Encounter Date and Time: 3/26/2007 02:40PM, Examiner: Edward H. Booker, SR

Chief complaint

The Chief Complaint is: Ankle pain.

History of present illness

John Bowen is a 42 year old male.

• No symptoms since last visit • While on prescribed medication(s) • Symptoms unchanged since last visit • Since last procedure • Constant generalized pain • Intermittently ° Symptoms have changed ° Symptoms not controlled

• Hip joint pain bilaterally • Muscle aches • Arthralgias started suddenly • As a chronic condition • In more than one joint • Joint pain which is getting worse • Bone pain
• Tingling • A burning sensation • Pain controlled by rest

Past medical/surgical history

Reported History:

No recent change in medical history.

Personal history

Social history reviewed and social history unchanged.

Subjective

PT WITH CHRONIC PAIN FOLLOWING A FALL 3/04.

Family history

Family history reviewed

Family history unchanged.

Review of systems

Systemic: No fever and no chills.

Head: No headache.

Neck: No neck symptoms.

Eyes: No eye symptoms.

Otolaryngeal: No otolaryngeal symptoms.

Cardiovascular: No cardiovascular symptoms.

Pulmonary: No pulmonary symptoms.

Gastrointestinal: No gastrointestinal symptoms.

Genitourinary: No genitourinary symptoms.

Musculoskeletal: No musculoskeletal symptoms. Hip joint stiffness, ankle joint pain, ankle joint swelling bilaterally, starts gradually, slowly worsens, ankle joint stiffness bilaterally, a shocklike sensation in both ankles, bilateral foot stiffness, foot pain, the tendon below the ankle slips out of place, and soft tissue swelling.

Neurological: No neurological symptoms.

Psychological: No psychological symptoms.

Skin: No skin symptoms.

Physical findings

Vital Signs:

Vital Signs/Measurements	Value
Temperature	97.9 F
PR	90 bpm
Blood pressure	134/92 mmHg
Weight	250 lbs
Pain Level ____ (0-10):	Value
Pain level at rest	3
Pain level with movement	9

General Appearance:

° Oriented to time, place, and person. ° Well developed. ° Well nourished. ° In no acute distress.

Head:

° Normal.

Neck:

° Normal.

Eyes:

General/bilateral:

° Eyes: normal.

Ears, Nose, Throat:

° ENT: normal.

Lymph Nodes:

° Normal.

Chest:

° Normal.

Lungs:

° Clear to auscultation.

Cardiovascular:

Heart Rate And Rhythm: ° Normal.

Heart Sounds: ° No gallop was heard. ° No pericardial friction rub heard.

Murmurs: ° No murmurs were heard.

Arterial Pulses: ° Equal bilaterally and normal.

Edema: ° Not present.

Back:

• Tenderness on palpation. • Lower back exhibited tenderness on palpation. • Lower back exhibited tenderness on palpation of the left paraspinal region. ° Normal.

Abdomen:

Visual Inspection: ° Abdomen was normal on visual inspection.

Auscultation: ° Abdominal auscultation revealed no abnormalities.

Palpation: ° Abdominal palpation revealed no abnormalities.

Musculoskeletal System:

General/bilateral: ° Musculoskeletal system: normal.

Hips:

General/bilateral: • Hips showed abnormalities. • Tenderness on palpation of the hips. • Hips showed lateral tenderness on palpation. ° Hips showed a normal appearance.

Left Hip: • Examined.

Ankle:

General/bilateral: • Ankles showed abnormalities. • Tenderness on palpation of the ankles. • Both ankles were tender on palpation. • Pain was elicited by motion of the ankle. • Pain was elicited in both ankles by motion. ° Appearance of the ankles was normal.

Right Ankle: • Examined.

Left Ankle: • Examined.

Foot:

General/bilateral: • Feet showed abnormalities. • Palpation of the foot revealed abnormalities. • Tenderness on palpation of the feet.

Right Foot: • Examined.

Left Foot: • Examined.

Neurological:

° System: normal.

Skin:

° Normal.

Assessment

• Generalized osteoarthritis

Therapy

- Treat symptoms.
- Continue current medication.
- Patient to call if symptoms worsen.

Allergies

No Known Allergies.

Plan

- An MRI of any joint of the lower extremity without, then with contrast LEFT HIP, BOTH ANKELS AND BOTH FEET. INCREASING PAIN FOLLOWING A FALL 3 YEARS AGO

Meloxicam 7.5 mg tablet. SIG: 1 TAB orally once a day for 30 day(s) . Dispense: 30 TAB. Refill: 1.

Lortab 7.5/500 500 mg-7.5 mg tablet. SIG: 1 tab(s) orally every 6 hours for 30 day(s) . Dispense: 120 tab(s). Refill: 2.

Practice Management

Estab outpatient detailed h&p - moderate complexity decision 99214 and detailed H&P with moderate complexity decision making 99214; Total face to face time was unspecified; Total face to face time was unspecified

Reason for Visit

Visit for: follow-up exam.

BOWEN, JOHN RANDOLPH; DOB: 3/16/1965; 44 yr M; ID# ;
Encounter date: 2/10/2010 Location: Oconee Heart Center
Clinician of record: JEFFREY LEHR, MD; Electronically signed by: JEFFREY LEHR, MD

Nursing

Intake Note

Referring Clinician: BOOKER TED

Subjective

History of Present Illness

HPI Details: This 44 yo male c/o intermittent chest pain and dyspnea on exertion for the last 3-4 months. It can occur with exertion, and at times at rest. It is sharp, retrosternal, average 7 on a 1-10 scale in intensity, and lasts 10 seconds, on average. It is associated with dyspnea, particularly on exertion, but no nausea or diaphoresis. There is no radiation. It occurs about 5x per week. In evaluation, he had a mildly abnormal Lexiscan Cardiolite stress test 1/28/10. It showed no ST segment changes, but the myocardial perfusion images showed a moderate-sized area of mild ischemia in the inferoapical segment.

Cardiovascular

Chest pain, No history of myocardial infarction, No syncope, Palpitations, No valvular heart disease, No Hx murmur, No history of rheumatic fever, Denies congestive heart failure, No orthopnea, No Paroxysmal nocturnal dyspnea, No nocturia, No peripheral vascular disease, No claudication, Hypertension, No hyperlipidemia

his hands swell

Respiratory

Dyspnea on exertion, No asthma, No hx of COPD/Emphysema, No cough, No history of pulmonary tuberculosis, No hx of sleep apnea, Snoring, Daytime Somnolence

Past Med/Surg History Problems

Cardiac stress test, abnormal - mild infero-apical ischemia 1/25/10

Chest pain

Hypertlipidemia

Hypertension, essential

Nephrolithiasis (kidney stone)

Shortness of breath (dyspnea)

Past Med/Surg History Procedures

Fusion of spine(1) - cervical

Knee arthroscopy, surgery(1) - bilateral

Med List last modified Feb 10 2010

Aspirin 81 mg Tab, 1 tablet(s) by mouth daily taking

Bystolic 5 mg Tab, 1 tab(s) By Mouth Daily taking

Diovan 160 mg Tab, 1 tab(s) By Mouth Daily taking

Oxycodone-Acetaminophen 5 mg-325 mg Tab, 1 tab(s) By Mouth 3 Times A Day taking

aspirin-oral discontinued (Replaced with dosage for medication)

oxycodone-hcl/acetaminophen-oral discontinued (Replaced with dosage for medication)

valsartan-oral discontinued (Replaced with dosage for medication)

BOWEN, JOHN RANDOLPH; DOB: 3/16/1965; 44 yr M; ID#;
Encounter date: 2/10/2010 Location: Oconee Heart Center;
Clinician of record: JEFFREY LEHR, MD; Electronically signed by: JEFFREY LEHR, MD

Preferred Pharmacy
None documented

Allergies last modified Feb 10 2010
MORPHINE: Aggressive

Family History last modified Feb 10 2010 16:01
Risk Factors: Cancer, melanoma; Heart disease; Hyperlipidemia; Hypertension, Osteoarthritis;
Osteoporosis; Smoking tobacco; Stroke; Other: Father is alive, 67, with HTN, CVA x2, MI in his early-
mid 50's; Mother is alive and well, his Brother has Asthma; no children

Social History risk factors last modified Feb 10 2010 15:25
Risk Factors: Alcohol current use: none; Caffeine: moderate (equiv to 1-3 8oz coffee/day); Home:
smoke detector use: yes; Seat belt use: no; Tobacco: no current use
Personal: Ethnicity: Caucasian; Marital status: Married; Employer Unemployed; Occupation: construction

Review of Systems

Constitutional
No weight loss, No weight gain, No fever, No night sweats

Neurologic
No hx of cerebrovascular accident, No history of transient ischemic attacks, No Migraines, No seizure
disorder

Eyes (R,L)
No Amaurosis, Diplopia, No Cataracts, No glaucoma

ENT
No Hypoacusis, No tinnitus, No epistaxis, No dysphagia

Endocrine
No diabetes mellitus, No hypothyroidism, No hyperthyroidism

Gastrointestinal
No peptic ulcer disease, denies hx of GI bleeding, denies hx of hepatitis, No Hx Cholecystitis, No hx
pancreatitis, No history of diverticulitis, No nausea, No vomiting, No diarrhea

Genitourinary, Male
No Prostate Hx/Sys

Hematologic, Oncologic
No anemia, Patient denies ever having a transfusion, No cancer, No pulmonary embolism, No history of
venous thrombosis

Musculoskeletal
Hx Orthopedic surgery, No hx of rheumatoid arthritis, No hx of systemic lupus erythematosus, Hx DJD,
No Arthritis, No muscle pains

Fusion in C spine in 2004. Both knees scoped 2001 & 2002. Rt ankle scoped in 2007.

Skin
No skin rash

Allergic, Immunologic
No Seasonal allergies

Psychiatric
Not feeling depressed, Not feeling anxious

BOWEN, JOHN RANDOLPH; DOB: 3/16/1965; 44 yr M; ID#:
Encounter date: 2/10/2010 Location: Oconee Heart Center;
Clinician of record: JEFFREY LEHR, MD; Electronically signed by: JEFFREY LEHR, MD

Objective

Vital Signs

HR: 92 Blood Pressure: 147/92 (R arm sitting Adult-std cuff)

Date/Time: Feb 10 2010 15:18

Temp: 98.5°F (Oral) [37.0°C] HR: 93 Blood Pressure: 148/94 (L arm sitting Adult-std cuff)

Height: 73 in [185.42 cm] Weight: 262 lbs [118.841 kg] BMI: 34.6 BSA: 2.413

Other and Notes: 98% on RA

Date/Time: Feb 10 2010 15:16

Physical Exam

Constitutional

Appears healthy, Looks well

Mental/Psychiatric Status

Alert, Oriented, cooperative, Affect normal

Eyes (R,L)

Conjunctiva normal, Eyelid normal, Pupil size and shape normal

Nose, Throat

Good oral hygiene, Oral mucosa normal

Neck

Neck symmetrical, Trachea midline, No thyromegaly, No jugular venous distention, No hepatojugular reflux

Respiratory

Respiratory effort normal, Breath sounds normal, No rales, No rhonchi, No wheezing, No pleural friction rub

Cardiac

Apex beat normal, Apex beat not displaced, Apex beat not thrusting, No cardiac thrill, Heart rate normal, S1 normal, S2 normal, No S3 gallop, No S4 gallop, No heart murmur, No pericardial friction rub

Vascular

Radial pulse normal, Carotid pulse normal, No carotid bruit, Abdominal aorta not palpable, No abdominal aortic bruit, Femoral pulse normal, No femoral bruit, Dorsalis pedis pulse present, pedal pulses are grade-2, No varicose veins, No leg edema, No pedal edema

Gastrointestinal

Bowel sounds normal, No hepatomegaly, No splenomegaly, No abdominal tenderness, No abdominal mass

Musculoskeletal

Gait normal, No kyphosis, No scoliosis, Muscle strength normal, Joint range of motion normal

Skin

No clubbing, No cyanosis, No pallor, Skin warm and dry, No diaphoresis, No stasis dermatitis, No cutaneous xanthoma

Test Results

ECG Findings

NSR, Normal Axis, Normal Intervals, No ST shift or T Wave abnormality

BOWEN, JOHN RANDOLPH; DOB: 3/18/1965; 44 yr M; ID#:
Encounter date: 2/10/2010 Location: Cooney Heart Center;
Clinician of record: JEFFREY LEHR, MD; Electronically signed by: JEFFREY LEHR, MD

Assessments

Cardiac stress test, abnormal - mild infero-apical ischemia 1/25/10 (ICD-9 billing code: 734.39)
Chest pain (ICD-9 billing code: 786.50)
Hypertension, essential (ICD-9 billing code: 401.9)
Shortness of breath (dyspnea) (ICD-9 billing code: 786.05)

Plan

Procedure Orders

EKG/Interpretation(Performed - Hypertension, essential)

Tests/Procedures ordered

Cardiac Cath- Left Heart

Cardiac Catheterization-Details including angioplasty and stenting, with local anesthesia and sedation, risks, benefits and alternatives were discussed at length with the patient. The risks include but are not limited to: death, heart attack, stroke, kidney failure, allergic reaction, swelling, bleeding/hemorrhage, loss or injury to limbs, nerve or vascular (blood vessel) damage, blood clots/embolisms, infection, persistent pain, hematoma, bruising, pseudoaneurysm, retroperitoneal bleeding (bleeding into the abdominal cavity), arrhythmias, puncturing the heart, low blood pressure, loss of consciousness, complications due to the use of vascular closure devices, the need for emergent vascular or even open heart surgery and other unforeseen complications were discussed with the patient. All questions were answered. No guarantees were made. The patient verbalized understanding of this and gave informed consent.

Follow Up Plan

Will recheck patient in 2 weeks

Renal Angiography to be done as well, given his HTN


3/17/10
6:20 PM

1230
1330

LAC



HCC Pre-Procedure Assessment Sheet

Procedure Date: 2-15-10 Patient Name: Bowen, John DOB: 3-16-64
 Diagnosis/Complaint (reason for referral): CP, HBP, abd stress test
 Patient identified/armband checked by: _____ (initials) Patient Phone # _____
 Primary Physician: E Booker Performing Physician: Lehr
 Allergies (list): N/A
 See Home Medications(list) completed: ☐ Yes ☐ No ☐ N/A

Medical History	Yes	No	N/A	Comment
Previous cardiac surgery		☒		
Cardiac catheterization		☒		
PTCA		☒		
MI		☒		
HTN	☒			
Diabetes		☒		
Hyperlipedemia		☒		
Heart murmur/arrhythmia	☒			
Rheumatic fever		☒		
PVD		☒		
Carotid Disease		☒		
CHF		☒		
Pacemaker/ICD		☒		
Family History CAD	☒			<u>father, grand</u>
Sleep Apnea		☒		<u>parents</u>
Pregnant		☒		
Neuro		☒		
Pulmonary		☒		
GI/GU		☒		
Musculoskeletal		☒		
Vein Stripping		☒		
Cancer		☒		
Other				

Medical History	Yes	No	N/A	Comment
Tobacco use		☒		
EIOH		☒		
NPO	☒			
Hx of infectious disease		☒		
Cultural/Spiritual needs		☒		
Signs of Abuse/Neglect		☒		
Communication Barriers		☒		Type:
Learning Barriers		☒		Type:
Artificial Implants		☒		Type:
Behavioral/Emotional Status				
☒ Calm/Relaxed		☐ Restless		☐ Other
☒ Cooperative		☐ Anxious		
Skin Appearance/Integrity				
☒ Good Color		☐ Intact		
☒ Warm and Dry		☐ Other		
Ancillary Studies				
EKG	☒			
CXR	☒			
LAB	☒			
Consent Signed	☒			
Advanced Directive		☒		
History & Physical	☒			

Vitals: (Time: 1230)
 Right Arm B/P 144/79 Left Arm B/P 150/101 P 82 R 16 T 98.5 O₂ Sat 98 Ht 6'1 Wt 265
 Peripheral Pulses: Right: Dorsalis Pedis _____ Posterior Tibial 2+
 Left: Dorsalis Pedis 1+ Posterior Tibial 2+

Pain Scale(0-10): 0 Characteristics of Pain: _____

Pain Intervention: _____
Instructions Regarding Pain Management (#90328) provided.

Discharge Planning: Home w/ wife

IV Access: Site: LAC Gauge: 20
 Attempts: 1 Started By: _____

Pre-procedure Medications: (Time: 1235) Aspirin 40mg + Bridgel 80mg po
 Comments: _____

Phone interview complete: MDA 2-15-10 1330 Rachel Kurn 2-15-10 1235
 Initials Date Time RN Signature (on procedure date) Date Time
 Reviewed: _____ Revised: 11/07/2009

0909



OONEE
 Medical Center
Physician Order Sheet

Patient's Name:

Date:

Time:

Date of Birth:

Allergies:

Weight:

Admit to: ☐ Inpatient ☐ Observation ☐ Outpatient

☐ May use: Patient Specific Emergency Orders for Adults #11769.

2/15/10 1510

① Oxycodone 650y for back pain 7/10 x1 Dose
 VLB Dr. White / Arjo Anderson

*noted
 Arjo Anderson
 2/15/10
 1530*

[Signature]
 3/17/10
 620 PM

Physician Signature:

Date:

Time:

Unapproved Abbreviations:

U, Ut, Uts

Q.O.D

MSO₄, MgSO₄, MS

Q.D., qd

1.0 or .1

I.U.

0109

Physician Order Sheet

11482 DRS4

BOWEN, JOHN RANDOLPH
 A100460 0098 44Y 03/16/10
 PHYS: LEHR, JEFFREY M



Post Angiogram Orders

Allergies: _____

Admit to: ☐ Inpatient ☐ Observation ☒ Outpatient

Post Angiogram Orders

Inpatients: May discharge to home at 11:00 PM if cleared by primary care provider.

Outpatients: discharge to home at 4:00 PM.

Transfer to _____ via EMS when bed available, to the care of _____, MD.

1. Bed rest 2 hours post angiogram with affected leg straight. Obtain lying, sitting, and standing BP; HR at time of initial ambulation post angiogram. May be discharged home when bed rest is complete, vital signs are stable, and there is no sign of active bleeding from access site after ambulation.
2. Elevate HOB for comfort (limit to 30 degrees if no seal used).
3. ☐ 5 lb. sandbag over puncture site x _____ hours. ☐ Pressure dressing x 2 hours
4. Post angiogram assessments: Monitor EKG (if on a monitored floor), BP, HR, pedal pulses (affected limb), and inspect site. Access site/dressing for complications i.e. bleeding, hematoma, heat, swelling, drainage.
5. Continue IV fluids: ☐ 0.45 Normal Saline ☒ 0.9 Normal Saline ☐ D5W with 3amp NaHCO₃ or ☐ Other solution at 100 ml/hour x 2 hours
6. Diet: ☒ Low fat/Low cholesterol. Encourage oral fluids, record intake and output. ☐ ADA diet
7. Remove groin dressing in AM and apply Bandaid™.
8. Re: pending diagnostic studies on **Rule Out** orders:
EKG's and cardiac enzymes ☐ continue ☐ discontinue
9. Schedule follow-up with cardiologist in _____ days/ _____ weeks.
10. Inpatient only: diabetic medication alert, pharmacist to profile.
11. Continue/start:
☐ Lovenox 1mg/kg subcutaneous q12 hours ☐ Aspirin _____ mg PO
☐ Aggrastat drip per protocol: ☐ renal dose ☐ normal dose ☐ Other
☐ Plavix _____ mg PO NOW ☐ NTG drip at _____ mcg/min.
12. Patient may continue their home medications on _____ (date) Coumadin on _____ (date)
If on Metformin: Patient should not take Metformin for 48 hours and contact their physician to determine when it is safe to resume this medication.
13. O₂ per Protocol.

Physician Signature: [Signature]

Unapproved Abbreviations:

U, Ut, Uts

Q.O.D

MSO₄, MgSO₄, MS

Reviewed: 09/05

Q.D., qd

1.0 or .1

LU.

Revised: 6/06, 3/08, 8/08, 10/09

1009

Post Angiogram Orders

metformin 2/15/10
1500
2/15/10
1500
Date: 2/15/10 Time: 1500



Cath Lab Procedural Physician Orders

Date: 2/15/10

Allergies: NKA

1. Versed 2 mg IV at 1300 (time of VORB)

Versed mg IV at

Versed mg IV at

2. Dilaudid mg IV at

Dilaudid mg IV at

3. Fentanyl 50 mcg IV at 1300

4. Demerol mg IV at

5. Labetalol mg IV at

Labetalol mg IV at

6. Hydralazine mg IV at

Hydralazine mg IV at

7. NTG paste inch(es) at

8. NTG mcg IC at

9. Zofran mg IV at

10. Phenergan mg IV at

11. Other:

V.O.R.B. Dr. LEHR / B. SCHWARTZ

Physician Signature: [Signature]

Unapproved Abbreviations:

U, Ut, Uts

Q.O.D

MSO₄, MgSO₄, MS

Q.D., qd

1.0 or .1

LU.

Date: 2/15/10 Time: 145p

Reviewed: 0909

Revised: 0408, 0808

Cath Lab Procedural Physician Orders

NOTED 2/15/10
1335 S. Schwartz

Copy/scan to the patient record

BOWEN, JOHN RANDOLPH M
A1004600098 3/16/1965

PHY: LEHR, JEFFREY M



BOWEN, JOHN RANDOLPH
A1004600098 Y 03
PHYS: LEHR, JEFFREY
MR: 000114980 O/P 02/15/10

Cardiac Cath Lab Pre-Angiogram Orders

Allergies: Morphine

Diagnosis: CP, SOB, HTN, Abul stress test

1. ***Notify Physician and Cath Lab personnel if allergic to shellfish or iodine***
2. NPO after midnight except for B/P medications and GI medications with sips of water.
3. Saline lock (preferably in left arm). Start IVF's at Arrival (date/time).
☐ 0.45 Normal Saline, ☒ 0.9 Normal Saline at 80 ml/hr, ☐ D5W with 3 amp Na⁺HC0₃
(or) ☐ other solution: at ml/hr
4. Prep right groin (approx. 8" around Right femoral pulse) with clippers.
5. Consent for Cardiac Cath + Renal Angiography signed and witnessed on the chart.
6. H & P and consult (if applicable) on chart. If patient has had CABG in past, request graft report be on chart prior to procedure.
7. EKG, CXR within last 7 days.
8. Labs: To be done within 48 hours of scheduled angiogram
a. ☐ BUN, Creatinine, Potassium, Hemoglobin, Pro-Time
b. ☒ BMP, CBC, Pro-Time & PTT
c. ☐ Other:
9. Notify Physician if:
a. INR greater than 1.5 or patient on Coumadin
b. Bun/Creatinine or H/H are abnormal
10. No Lovenox 8 hours pre-angiogram unless ordered by performing Physician.
11. Discontinue Metformin prior to angiogram and hold for 48 hours after angiogram. Hold insulin while NPO unless otherwise ordered by physician. Continue sliding scale Accucheck blood sugars as ordered.
12. Discontinue Coumadin days prior to angiogram.
13. Pre-medicate with:
☒ Benadryl 50 mg PO ☐ Valium 5 mg PO
☐ Mucomyst 600 mg PO (in orange juice) ☐ Hydrocortisone 100 mg IV
☐ Pepcid 40 mg IV ☐ Solumedrol 60 mg IV
☒ Oxygen protocol ☒ Pepcid 40 mg PO

noted
2-15-10
A. Lehr
1237

Physician Signature:

Date: 2/10/10 Time: 4:15 PM

Unapproved Abbreviations:

U, Ut, Uts	Q.D., qd
Q.O.D	1.0 or .1
MSO ₄ , MgSO ₄ , MS	I.U.

0409

Cardiac Cath Lab Pre-Angiogram Orders

Copy/Scan to Patient Record

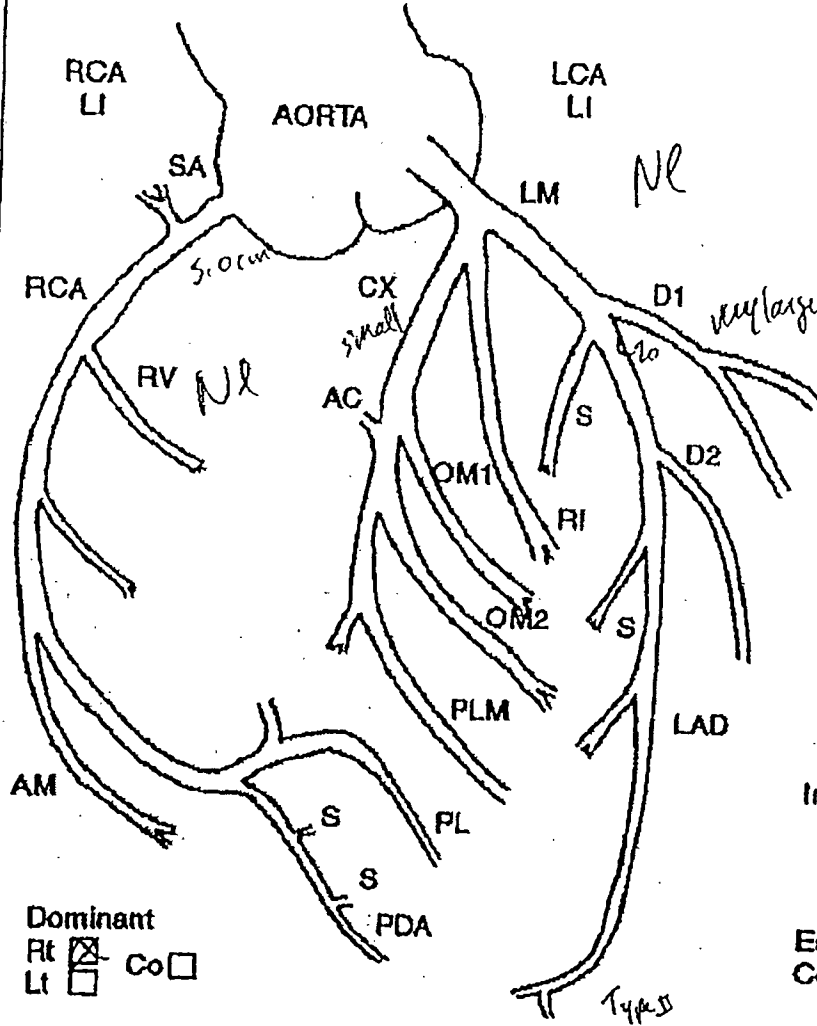
Cardiac Catheterization Lab Post Progress

MYNX

Procedure Performed LHC, Cor Arty, Renal Arty, LVS Primary Care Physician: B

Hemostasis obtained by: ☐ Manual compressions ☐ VasoSeal ☐ Angio-Seal ☒

DATE: 2/15/10
DEPLOYMENT TIME: 1345
AMBULATION TIME: 1448
DEPLOYED BY: J. Le
LOT NUMBER: F09
access/closure : 811-700-MY

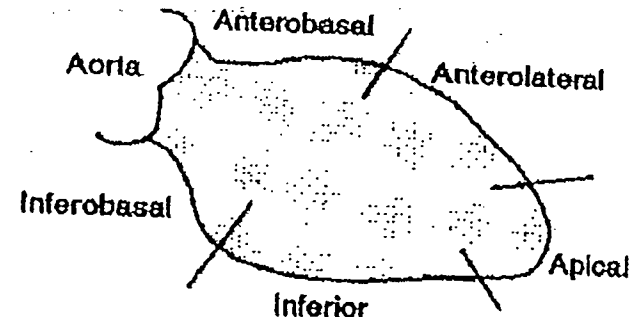


Dominant
Rt ☒ Lt ☐ Co ☐

Renal Arteries - NR

LV 28/9, 130/20
AO 139/87

Indicate abnormal wall motion



Estimated ejection fraction 65
Complications ☒ No ☐ Yes (Describe below)

EBL ☒ Minimal (less than 50 mls)
☐ Other

Pre-procedure diagnosis: Cl. SOB, HTO, ?RAS

Post procedure diagnosis: No angio sig. CAD or RAS
NR LV systolic function

Physician Signature: [Signature]

0909

Cardiac Cath Lab Post Progress Note

Date: 2/15/10

Time: 150pm

BOWEN, JOHN RANDOLPH M
A1004800098 3/16/1985

Make two copies; one to chart, one to Physician: LEHR, JEFFREY M

Cardiac Cath Lab Pre-Procedure/Pre-Sedation Flow Sheet

- ☐ Medication Administration Record (MAR) on chart and reviewed (Inpatients).
- ☐ Home Medication List obtained from patient or Pharmacy, reviewed and updated (Outpatients).

****Baseline Score:** A: 2 R: 2 C: 2 LOC: 2 O: 2 Score: 10

Nurse Signature: Rachel Lehn **Date:** 2-15-10 **Time:** 124

**Scoring Criteria	0	1	2
Activity (A)	Unable to move voluntarily on command	Able to move 2 extremities voluntarily on command	Able to move 4 extremities voluntarily on command
Respirations (R)	Apneic or on a ventilator	Dyspnea or tachypnea	Able to breath deeply/clear
Circulation (C)	↑ or ↓ in Systolic BP of greater than 50 mm Hg Pre-sedation	↑ or ↓ in Systolic B/P of 20-50 mm Hg pre-sedation	↑ or ↓ in Systolic B/P of less than 20 mm Hg pre-sedation
Level of Consciousness (LOC)	Responds vaguely/unresponsive	Sleepy, arouse to oriented	Awake/Alert
O2 Saturation (O)	SaO2 less than 92% with O2	Needs O2 to maintain SaO2 greater than or equal to 92%	Maintains SaO2 greater than or equal to 93% on room air

Pre-Procedure Checklist	Yes	No	N/A
Confirm correct patient (name and birth date), procedure and site	☒	☐	☐
Consent form completed and signed by patient and Physician	☒	☐	☐
Relevant documentation available	☒	☐	☐
Correct diagnostic and radiology test results available and properly labeled	☒	☐	☐
Any required blood products, implants, devices and/or special equipment for the procedure available	☒	☐	☐

Nurse/Technologist Signature: Rachel Lehn **Date:** 2-15-10 **Time:** 12

Procedure #1: <u>Lt He / Renals</u>	Procedure #2: _____
Time-out performed at: <u>1301</u> Time-out performed by: _____ (List all names)	Time-out performed at: _____ Time-out performed by: _____ (List all names)
☒ Correct Patient Confirmed * <u>met</u>	☐ Correct Patient Confirmed *
☒ Completed Consent <u>DW Lehn</u>	☐ Completed Consent
☒ All agree on procedure being done <u>S. Schwary, RN</u>	☐ All agree on procedure being done
☒ Correct site marked <u>A. nize, RN</u>	☐ Correct site marked
☒ Correct patient position confirmed	☐ Correct patient position confirmed
☒ All equipment/implants available	☐ All equipment/implants available
☒ Antibiotics/meds/irrigants verified	☐ Antibiotics/meds/irrigants verified
☒ Images labeled and displayed	☐ Images labeled and displayed
☒ Safety precautions considered	☐ Safety precautions considered
* Initiated Time-out	* Initiated Time-out

Reviewed: 0106

Revised: 0306, 0408, 0508, 0109, 0709

0709

Cardiac Cath Lab Pre-Procedure/Pre-Sedation Flow Sheet
(pg. 2 of 2)



Cardiac Cath Lab Pre-Procedure/Pre-Sedation Record

Physician Pre-Sedation and Procedure Evaluation/ History and Physical (H&P):
Physician must complete the bold outlined section.

(Check and detail all abnormal findings)

Systems	WNL	Abnormal
Neurological	☒	_____
HEENT	☒	_____
Respiratory	☒	_____
Cardiovascular	☒	_____
Other		_____

History of tobacco, alcohol, or substance use or abuse _____

Previous sedation/airway problem ☒ No ☐ Yes, explain _____

Airway Evaluation ☐ WNL ☒ short muscular neck ☐ loose teeth
☐ receding lower jaw ☐ protruding incisors
☐ other _____

ASA Classification (circle one)

I	No systemic problems
<u>II</u>	Mild or controlled disease
III	Moderate or uncontrolled disease
IV	Severe condition or significant multi-system disease (anesthesia consult recommended)
V	Moribund expected to die within 24 hours (anesthesia consult recommended)

Planned Agent(s): Verapamil + fentanyl

Risk, benefits, potential complications and alternative options associated with the planned sedation have been discussed with the patient or representative. ☒ Yes ☐ No

Patient assessed immediately prior to the procedure and determined to be an appropriate candidate for the planned agent. ☒ Yes ☐ No

Physician signature _____

Date: 2/15/10 Time: 12

Reviewed: 0106

Revised: 0506, 0408, 0508, 0808, 0709

0709

Cardiac Cath Lab Pre-Procedure/Pre-Sedation Flow Sheet
(pg. 1 of 2)

Copy/Scan to Patient Record

BOWEN, JOHN RANDOLPH
A1004600098 3/16/10

PHY: LEHR, JEFFREY M -

Oconee Medical Center
Heart Care Center
298 Memorial Drive
Seneca, SC 29672

Patient Name: Bowen John Randolph	DOB: 03/16/65
CaseID: 10-8051	MR#: 114980
Height: 72 in 183 cm	Weight: 265.0 lb, 120.2 Kg
Heart Rate: 87	Hemoglobin Cons:
	O, Est. Cons: 300

DATE OF PROCEDURE: 02/15/10

Allergies:

[12:53] NKDA

Risk Factors:

[12:52] Hypertension

[12:52] Family History of CAD

Medical Staff:

[12:51] Lehr, J MD

Procedures:

[12:52] Inj. Pulmonary Artery - 93541

[12:52] Inj. Left Atria - 93543

[12:52] Left Heart Cath - 93510

[12:52] Supervision & Int. (LV, RV, LA, RA) - 93555

[12:52] Supervision & Int. (PA, Aorta, CA, Grafts) - 9355

Medications:

[12:52] Lidocaine 2%/20 ml x 1

[12:52] Heparinized Saline 1000 units/500 ml used for flush x 2 bag(s)

[12:52] 0.9% Normal Saline @ 75 ml/hour

[12:53] O2 started at 2 liters via nasal cannula

[13:00] Versed 2 mg IV

[13:00] Fentanyl 50 mcg IV

Cath Lab Staff:

[12:51] Circulate: Schwery, S RN

[12:51] M: Schwery, S RN

[12:51] S:Mize, A RN

Case Times:

[12:53] Patient Arrived

Cath Comments/Nurses Notes:

[12:53] The right groin was prepped and draped in the usual sterile fashion

[13:03] Case started. After local infiltration with 2% Lidocaine, the right femoral artery was entered using the percutaneous technique

[13:05] 5 FR - 11 cm sheath to right femoral artery
 [13:05] 5 FR JL 4-0 inserted via femoral artery
 [13:07] Left Coronary Artery Visualized
 [13:08] Left Coronary Artery Visualized
 [13:09] Left Coronary Artery Visualized
 [13:09] Left Coronary Artery Visualized
 [13:09] Diagnostic catheter removed
 [13:09] 5 FR Williams Right 3 DRC inserted via femoral artery
 [13:13] Diagnostic catheter removed
 [13:13] 5 FR JR 4-0 inserted via femoral artery
 [13:18] *lt renal artery selected x2
 [13:19] *rt renal artery selected
 [13:19] Diagnostic catheter removed
 [13:19] 5 FR MPA2 100 cm inserted via femoral artery
 [13:22] Diagnostic catheter removed
 [13:22] 5 FR JR 3-5 inserted via femoral artery
 [13:24] Right Coronary Artery Visualized
 [13:29] Right Coronary Artery Visualized
 [13:29] Diagnostic catheter removed
 [13:29] 5 FR Angled Pigtail inserted via femoral artery
 [13:31] Injection Volume: 30 mls Injection Rate: 10 mls per second Injection Angle: rao Ejection Fraction: _____ %
 [13:33] Diagnostic catheter removed
 [13:34] Right iliac angiography for possible closure device deployment x 2
 [13:35] Arterial sheath removed in lab and hemostasis obtained with mynx

Catheters/Supplies:

[12:53] Cordis: 5fr Williams Right
 [12:53] Cordis: 5fr JLA
 [12:53] Cordis: 5fr Angled Pigtail
 [12:53] Cordis: 5fr 11cm Sheath

Case Totals:

[13:33] Fluoro: 12.9 minutes
 [13:33] Optiray 350 non-ionic contrast: 105 ml

Left Heart Pressures

Site	REST			POST L					
	HR	S/D	M	HR	S/D	M	HR	S/D	M
LV	69	128/9		67	130/20			/	
AO	69	137/97	115	67	139/87	110		/	

OCONEE
Medical Center
Heart Care Center

298 Memorial Drive
Seneca, SC 29672
864-885-7134

Heart Care Center			
Patient Name Bowen, John Randolph [REDACTED]	Medical Record # 000114980	Date of Birth/Sex March 16, 1965/M	Patient Type/Room# O/P/

Exam Date/Time: 02/15/2010 12:50
Ordering Physician: JEFFREY LEHR, M.D.

Account Number: 1004600098
Admitting Physician: Harvey Willis Putnam, Jr, P.A.
Consulting Physician: Harvey Willis Putnam, Jr, P.A.

Checkin #: 1099379
Ordering Diagnosis: 78650 CHEST PAIN NOS
Exam: 1200 CC-LH/LV/COR

PROCEDURE PERFORMED: Left heart catheterization, selective bilateral coronary angiography, selective bilateral renal angiography, left ventricular cineangiography, placement of Mynx closure device.

INDICATION: Chest pain. Dyspnea. Hypertension at a young age suggesting possible renal artery stenosis and fibromuscular dysplasia.

PROCEDURE REPORT: After informed consent was obtained, the patient was brought to the cardiac catheterization laboratory and prepped and draped in a sterile fashion. He was given Versed 2 mg IV for moderate anesthesia/sedation along with 50 microgram of fentanyl.

The right femoral area was infiltrated with 2% Xylocaine for local anesthesia. Using modified Seldinger technique, a 5-French introducer sheath was inserted into the right common femoral artery with a clean anterior entry. Using a 0.035-inch J-tip guidewire for catheter advancement under direct fluoroscopic visualization, selective bilateral coronary angiography was performed in multiple views in standard fashion using 5-French JL4 and JR3.5 catheters (5-French Williams catheter, JR4 catheter, and multipurpose catheters were also used, all of which produced dampening of pressures at the ostium of the right coronary artery). The JR4 catheter was used to perform selective angiography of both renal arteries. A 5-French angled pigtail catheter was placed into the left ventricle. Following pressure measurement, a left ventricular cineangiogram in the 30-degree RAO view was performed. The catheter was then pulled back across the aortic valve and removed over a guidewire. Two nonselective angiograms through the right common femoral arterial introducer sheath revealed no evidence of disease or extravasation of contrast at this level, with entry above the bifurcation of this vessel. The introducer sheath was removed and a 6-French Mynx closure device was inserted, with good hemostasis. There were no complications, and the patient tolerated the procedure well. Estimated blood loss less than 50 middle lobe x-ray. Total contrast: 105 mL of Optiray dye. Total fluoroscopy time: 12.9 minutes.

RESULTS:

HEMODYNAMICS: Left ventricular systolic pressure was 128. End-diastolic pressure 9 prior to angiography and 130/20 afterwards. On pullback, central aortic pressure measured 139/87. There is no significant gradient across the aortic valve.

CORONARY ARTERIES:

Patient Name: Bowen, John
Randolph
Checkin#: 1099379

Medrec#: 000114980

Exam Date: 02/15/2010 12:50

Exam: CC-LH/LV/COR

1. Left main: The left main coronary artery is a large vessel with no evidence of disease. It bifurcates normally distal end.
2. Left anterior descending: This is a large vessel, with only a 20% stenosis in the early mid segment noted. The mid and distal segments are free of disease. It is a type 2 vessel which reaches the apex. There is a large first diagonal branch which is free of disease. A very small second diagonal branch arises from the lateral segment and is free of disease. The septal perforating branches are free of disease.
3. Left circumflex: This is a small nondominant vessel which give rise to only a small single OM branch. This is free of disease.
4. Right coronary artery: The right coronary artery is a large dominant vessel, 5.0 mm. It is free of disease. The catheter went selectively into a conus branch, which caused significant dampening of pressures, even with several different catheters used this still occurred. The entire right coronary artery is free of significant disease. However, a large posterior descending artery is free of disease. A larger posterolateral ventricular branch is free of disease. There are minimal right-to-left collaterals noted.

RENAL ARTERIES:

1. Left renal artery: This is free of disease. However, the left kidney appears to be lobulated and perhaps somewhat small.
2. The right renal artery is free of disease, and supplies the entire right kidney, which appears to be normal size and larger than the left kidney.
3. Left ventricle: This is normal in size and shape. All wall segments contract well with no focal abnormality. The visually estimated ejection fraction is 65%. The mitral valve is competent.

SUMMARY:

1. No angiographically significant coronary artery disease.
2. Normal left ventricular systolic function.
3. No renal artery stenosis.

RECOMMENDATIONS: Continued medical therapy for hypertension which appears to be adequately controlled at this time. An outpatient evaluation for noncardiac chest pain is advised.

*** THIS IS AN ELECTRONICALLY VERIFIED REPORT ***
2/15/2010 4:30 PM: JEFFREY LEHR, M.D.

THIS REPORT IS PRELIMINARY UNTIL ELECTRONICALLY VERIFIED

JL / lb Job #: 544418
T: 02/15/2010 14:00

Dictated By: JEFFREY LEHR, M.D.



Brie Riage Orthopaedics

SPORTS MEDICINE, ORTHOPAEDIC SURGERY, TRAUMA SURGERY, TOTAL JOINT REPLACEMENT & HAND SURGERY

Main Office

10630 Clemson Blvd.
Suite 100
Seneca, SC 29678
864-482-6000
864-482-7000 fax
www.broa.com

June 25, 2004

Anderson Office

AnMed Health Campus
2000 East Greenville St.
Suite 2600
Anderson, SC 29621
864-260-9910
864-260-0209 fax

South Carolina Home Builder Self Insurers Fund
P.O. Box 7727
Columbia, SC 29202

ATTN: Beth Taylor
Fax # 803-252-8581

RE: John Bowen
DA: 3-22-04

Dear Ms. Taylor,

This is in regards to your inquiry about my patient John Bowen. Mr. Bowen's 5% impairment to his right lower extremity is in addition to his previous 14% impairment as he received from the prior injury. So, this would make his total impairment at 19%. Please do not hesitate to contact my office with any questions or concerns regarding his care.

Sincerely,

P. Sean McCallum, M.D.

Larry S. Bowman, MD

*Sports Medicine &
Orthopaedic Surgery*

James C. McGeorge, MD

*Sports Medicine &
Orthopaedic Surgery*

Steven L. Martin, MD

*Sports Medicine &
Orthopaedic Surgery*

P. Sean McCallum, MD

*Sports Medicine &
Orthopaedic Surgery*

John H. Murray, MD

*Sports Medicine &
Orthopaedic Surgery*

W. Bruce Richmond, MD

*Sports Medicine &
Orthopaedic Surgery*

Brian J. Redmond, MD

*Sports Medicine &
Orthopaedic Surgery*

J. Kirk Hensarling, MD

*Sports Medicine &
Orthopaedic Surgery*

Michael W. Mendes, MD

*Orthopaedic Surgery &
Total Joint Replacement*

Douglas A. Reeves, MD

*Musculoskeletal &
Sports Medicine*

Physician Assistants

C. Stephen Jackson, PA-C

Wallace S. Liggett, PA-C

G. Emmitt Carter, PA-C

F. Mlinar, PA-C

RECEIVED

JUL 02 2004

SCHBS/f

000065

Acct No.: 51774

Patient...: John Bowen

Date Of Birth: 3/16/1965

Doctor...: P. Sean McCallum, MD

Visit Date: 5/28/2004

John returns in followup for evaluation of his ankle injury. He has been back to work with mild intermittent swelling and discomfort with significant activity that is slowly improving.

He does have a 30-degree deficit in his range of motion of the right as compared to the left. This translates as per the AMA Guides to the Evaluation of Permanent Impairment, 5th edition, to a 5% impairment of the lower extremity. He may in the future require an arthroscopic debridement, should he have continued mechanical symptoms and significant difficulty with ambulating on uneven ground. Otherwise, he may return to work without restrictions.

dictated but not read

cc-Dr. Ted Booker

RECEIVED

JUN 14 2004

SCHBSIF

000064
429



Blue Ridge Orthopaedics

SPECIALIZING IN SPORTS MEDICINE, GENERAL ORTHOPAEDICS, TRAUMA, FOOT & HAND SURGERY AND TOTAL JOINT REPLACEMENT

Seneca Office
10630 Clemson Blvd.
Suite 100
Seneca, SC 29678
864-482-6000
864-482-7000 fax
www.broa.com

October 22, 2007

Anderson Office
100 Healthy Way
Suite 1200
Anderson, SC 29621
864-260-9910
864-328-1451 fax

South Carolina Home Builders
Self Insurers Fund
P.O. Box 7727
Columbia, SC 29202

ATTN: Vickie K. Rita
Sr. Claims Adjuster

Seneca Office
*Sports Medicine &
Orthopaedic Surgery*
Larry S. Bowman, MD
James C. McGeorge, MD
Steven L. Martin, MD
P. Sean McCallum, MD
Brian J. Redmond, MD
W. Scott Brown, MD
*Musculoskeletal &
Sports Medicine*
Douglas A. Reeves, MD

RE: John Bowen
DOB: 3/16/1965

Dear Ms. Rita:

This is in response to your question about our patient, John Bowen. Mr. Bowen has reached maximum medical improvement after his ankle arthroscopy on 07/10/2007. He did not sustain any further impairment in regards to his ankle or lower extremity after his arthroscopy, above what he has already been rated by our letter dated, 06/25/2004.

Please do not hesitate to contact our office if any questions or concerns regarding his care.

Sincerely,

P. Sean McCallum, M.D.

Anderson Office
*Sports Medicine &
Orthopaedic Surgery*
John H. Murray, MD
W. Bruce Richmond, MD
J. Kirk Hensarling, MD
Todd C. Swathwood, MD
James C. Mills III, MD
Mark A. Pierce, MD
*Musculoskeletal &
Sports Medicine*
Christopher B. Clemenow, MD

Physician Assistants
C. Stephen Jackson, PA-C
Wallace S. Ligger, PA-C
G. Ermitte Carter, PA-C
Frank M. Mlinar, PA-C
Blythe J. Watson, PA-C
Kristen L. Myers, PA-C
Anthony L. Alexander, PA-C

RECEIVED
OCT 25 2007
SCHBSIF

a Employee's social security number [REDACTED]		OMB No. 1545-0008		This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.	
b Employer identification number (EIN) 57-1060611		1 Wages, tips, other compensation 42181.60		2 Federal income tax withheld 3776.00	
c Employer's name, address, and ZIP code VINYL SERVICES, INC. 175 OLD PLANTATION DRIVE WALHALLA SC 29691		3 Social security wages 42181.60		4 Social security tax withheld 2615.26	
d Control number		5 Medicare wages and tips 42181.60		6 Medicare tax withheld 611.63	
e Employee's name, address, city and ZIP code JOHN R BOWEN [REDACTED]		7 Social security tips		8 Allocated tips	
f Suff.		9 Advance EIC payment		10 Dependent care benefits	
11 Nonqualified plans		12a See instructions for box 12		12b	
13 Statutory employer ☐ Self-employed ☐ Third-party sick pay ☐		12c		12d	
14 Other		15 State Employer's state ID number SC 25352917-8		16 State wages, tips, etc. 42181.60	
17 State income tax 2646.98		18 Local wages, tips, etc.		19 Local income tax	
20 Locality name					

Form W-2 Wage and Tax Statement
Copy C—For EMPLOYEE'S RECORDS (See Notice to Employees on the back of Copy B.) or Copy 2 to be Filed With Employee's State, City or Local Income Tax Return

2004

Department of the Treasury—Internal Revenue Service

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FAST! Use

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Printed on Recycled Paper

FORM 5203

This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

OMB No. 1545-0008

b Employer identification number (EIN) 57-1060611		a Employee's social security number [REDACTED]	
c Employer's name, address, and ZIP code VINYL SERVICES, INC. 175 OLD PLANTATION DRIVE WALHALLA d Control number SC 29691			
e Employee's name, address, city, and ZIP code JOHN R [REDACTED] BOWEN f Employee's address, city, and ZIP code [REDACTED]		1 Wages, tips, other compensation 40738.35	
2 Federal income tax withheld 3728.00		3 Social security wages 40738.35	
4 Social security tax withheld 2025.78		5 Medicare wages and tips 40738.35	
6 Medicare tax withheld 590.21		7 Social security tips [REDACTED]	
8 Allocated tips [REDACTED]		9 Advance EIC payment [REDACTED]	
10 Dependent care benefits [REDACTED]		11 Nonqualified plans [REDACTED]	
12a See instructions for box 12 [REDACTED]		13 Salaried employee ☐ Retirement plan ☐ Third-party sick pay ☐	
12b [REDACTED]		14 Other [REDACTED]	
12c [REDACTED]		15 State Employer's state ID number SC 25352917-8	
12d [REDACTED]		16 State wages, tips, etc. 40738.35	
17 State income tax 2557.81		18 Local wages, tips, etc. [REDACTED]	
19 Local income tax [REDACTED]		20 Locality name [REDACTED]	

Form **W-2** Wage and Tax Statement
Copy C — For EMPLOYEE'S RECORDS (see Notice to Employee on back of Copy B.) or Copy 2 to be Filed With Employee's State, City or Local Income Tax Return

2007

Department of the Treasury—Internal Revenue Service
Safe, accurate,
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1612 Marion Street
PO Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-57
FAX: (803) 737-57

Workers' Compensation Commission

DATE: 4-12-10

TO: J. South Lewis / Julie Harris

FROM: Claims Dept., Debbie Backman.

SUBJECT: Request for copies of commission files

Employee: John Bowen

Employer: Vinyl Services

D/A:

SSN:

Current Claims 0920040 + 040280

Your request for copies is being returned for the reason(s) listed below:

☐ Files can not be ordered from record center (destroyed).

☐ No file established at this time.

☐ Authorization from the employee, employer, insurance company or attorneys that were involved in the case must be submitted in writing to obtain information or copies of the file.

☐ Not enough information to identify file. Please include name, social security, date of injury, employer name etc.

☐ We must have individual checks (\$20.00) for each file to enable us to process your request.

☐ No public information available.

☒ other I found three prior claims

I am enclosing screen prints of each claim.

I am also returning to 4th check (no 4th claim) ⁴⁸³

Case File Maintenance - Details									
WCC #	9227656	**Closed**	Employee:	JOHN	R	BOWEN	Year of Injury:	0000	
FEIN	570805731	D/I: 07/30/1992	Employer:	J LARRY BOLT VINYL			Cur Loc:	9900	RECORDS C
Carrier	00182	South Carolina Insurance Company	CF#:				Notes	Prev Loc:	
Details Employer Carrier Attorney Loc/Status Awards Close Judicial Dependents Form 20									
Employee Information					Attorney				
Address:					Employee Attorney:				
City:					Carrier Attorney:				
SSN: [REDACTED]					Employer				
Marital Status: Married					Name: J LARRY BOLT VINYL				
DOB: 03/16/1965					City:				
Age: 0 Sex: Male					Phone:				
Ph/Email					Fax:				
Email:									
Accident									
Date of Injury: 07/30/1992 09: AM Claim Status: C Cancelled in favor of									
Rep to Emp: Final Receipt: 10/22/1992 Date Doc Received: Avg Wk Wage: 0.00									
Location: 42 LOW BACK AREA Date Reopened: Wk Comp Rate: 0.00									
Cause: 60 STRAIN OR INJURY BY Date Fatal: Letters									
Nature: 52 STRAIN Date Unrelated Death: WC Image: 9227656									
Ind Code: 17 SPECIAL TRADE C Date VOC Rehab: X Image: [REDACTED]									
County: 37 OCONEE Folder Label									
Acc Desc: LOWER BACK									

FILE DESTROYED

Case File Maintenance - Close

WCC # 9227656 **Closed**

Employee: JOHN

R BOWEN

Year of Injury: 0000

FEIN 570805731

D/I: 07/30/1992

Employer: J LARRY BOLT VINYL

Cur Loc: 9900 RECORDS CE

Carrier 00182 South Carolina Insurance Company

CF#:

Notes Prev Loc:

Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependents | Form 20 |

U

Car Code	CF #	Name	Status	Form 19 Not Req	Form 19 Receiv
00182		South Carolina Insurance Comp	Active	no	yes

Closing Details by Carrier

☐ Lifetime Medical ☐ Form 19 Not Required Date Final Receipt: 10/22/1992
☐ Lifetime Prescriptions ☒ Form 19 Received Date Reopened:
☐ Lifetime Prosthesis Time Lost: 0.0000 Reason Reopened:
☐ Lump Sum Date Denied: F19 Image: 00182 9227656

Total Amounts by Carrier

Temp Tot: 0.00 Disfigurement: 0.00 Release Amount: 0.00
 Temp Part: 0.00 Death: 0.00 Medical Amount: 0.00
 Perm Part: 0.00 Perm Tot: 0.00 Third Party Rc: 0.00
☐ Date Clincher: ☐ Date Third Party:

Claim Totals

Temp Tot: 137.00
 Temp Part: 0.00
 Perm Part: 0.00
 Disfigurement: 0.00
 Death: 0.00
 Perm Tot: 0.00
 Release: 0.00
 Medical: 784.00
 Third Party: 0.00

Grand Total: 0.00

Case File Maintenance - Details																																							
WCC #	0104048	**Closed**	Employee: JOHN	R BOWEN	Year of Injury: 0000																																		
FEIN:	571060611	D/I: 04/04/2001	Employer: VINYL SERVICES INC		Cur Loc: 9900	RECORDS CE																																	
Carrier	01670	SC Home Builders SIF	CF#: 00032329		Notes	Prev Loc: 0000	FILE ROOM																																
Details Employer Carrier Attorney Loc/Status Awards Close Judicial Dependents Form 20 																																							
Employee Information Address: [REDACTED] City: [REDACTED] SSN: [REDACTED] Marital Status: Unknown DOB: 03/16/1965 Age: 36 Sex: Male Ph/Email: [REDACTED] Email: [REDACTED]					Attorney Employee Attorney: [REDACTED] Carrier Attorney: [REDACTED] Employer Name: VINYL SERVICES INC 120 OLD PLANTATION DR City: WACHALLA SC 29691-0000 Phone: [REDACTED] Fax: [REDACTED]																																		
Accident Date of Injury: 04/04/2001 AM Claim Status: C Cancelled in Favor of Avg Wk Wage: 0.00 Rep to Emp: 04/04/2001 Final Receipt: 02/01/2002 Date Doc Received: Wk Comp Rate: 0.00 <table style="width: 100%; font-size: x-small;"> <tr> <td style="width: 15%;">Location</td> <td style="width: 15%;">53</td> <td style="width: 15%;">KNEE</td> <td style="width: 15%;">Date Reopened:</td> <td style="width: 15%;">Date Letter Sent:</td> <td style="width: 15%;"></td> </tr> <tr> <td>Cause</td> <td>99</td> <td>OTHER-MICELLANEOL</td> <td>Date Fatal:</td> <td></td> <td>Letters</td> </tr> <tr> <td>Nature</td> <td>52</td> <td>STRAIN</td> <td>Date Unrelated Death:</td> <td></td> <td>WC Image: 0104048</td> </tr> <tr> <td>Ind Code</td> <td>73</td> <td>MISC.</td> <td>Date VOC Rehab:</td> <td></td> <td>X Image: [REDACTED]</td> </tr> <tr> <td>County</td> <td>37</td> <td>OCONEE</td> <td></td> <td></td> <td>Folder Label</td> </tr> </table> Acc Desc: KNEE										Location	53	KNEE	Date Reopened:	Date Letter Sent:		Cause	99	OTHER-MICELLANEOL	Date Fatal:		Letters	Nature	52	STRAIN	Date Unrelated Death:		WC Image: 0104048	Ind Code	73	MISC.	Date VOC Rehab:		X Image: [REDACTED]	County	37	OCONEE			Folder Label
Location	53	KNEE	Date Reopened:	Date Letter Sent:																																			
Cause	99	OTHER-MICELLANEOL	Date Fatal:		Letters																																		
Nature	52	STRAIN	Date Unrelated Death:		WC Image: 0104048																																		
Ind Code	73	MISC.	Date VOC Rehab:		X Image: [REDACTED]																																		
County	37	OCONEE			Folder Label																																		

FILE DESTROYED

Case File Maintenance - Close

WCC # 0104048 **Closed**

Employee: JOHN R BOWEN

Year of Injury: 0000

FEIN 571060611 D/I: 04/04/2001

Employer: VINYL SERVICES INC

Cur Loc: 9900 RECORDS CE

Carrier 01670 SC Home Builders SIF

CF#: 00032329

Notes Prev Loc: 0000 FILE ROOM

Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependents | Form 20 |

U

Car Code	CF #	Name	Status	Form 19 Not Recd	Form 19 Received
01670	00032329	SC Home Builders SIF	Active	no	yes

Claim Totals

Temp Tot: 5,177.00

Temp Part: 0.00

Perm Part: 2,720.00

Disfigurement: 0.00

Death: 0.00

Perm Tot: 0.00

Release: 0.00

Medical: 6,364.00

Third Party: 0.00

Grand Total: 9.00

Closing Details by Carrier

☐ Lifetime Medical ☐ Form 19 Not Required Date Final Receipt: 02/01/2002
☐ Lifetime Prescriptions ☒ Form 19 Received Date Reopened:
☐ Lifetime Prosthesis
☐ Lump Sum Time Lost: 0.0000 Reason Reopened:
Date Denied: F19 Image: 01670 0104048

Total Amounts by Carrier

Temp Tot: 0.00 Disfigurement: 0.00 Release Amount: 0.00
Temp Part: 0.00 Death: 0.00 Medical Amount: 0.00
Perm Part: 0.00 Perm Tot: 0.00 Third Party Rc: 0.00
☐ Date Clincher: ☐ Date Third Party:

Case File Maintenance - Details

WCC # 0210175 **Closed** Employee: JOHN R BOWEN Year of Injury: 0000
 FEIN: 571060611 D/I: 07/23/2002 Employer: VINYL SERVICES INC Cur Loc: 9900 RECORDS CE
 Carrier: 01670 SC Home Builders SIF CF#: 00032998 Prev Loc: 0000 FILE ROOM

Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependents | Form 20

Employee Information

Address: [REDACTED]

City: [REDACTED] SC [REDACTED]

SSN: [REDACTED] Marital Status: Unknown

DOB: 03/16/1965 Age: 37 Sex: Male

Ph/Email

Email:

Attorney

Employee Attorney:

Carrier Attorney:

Employer

Name: VINYL SERVICES INC

120 OLD PLANTATION DR

City: WALHALLA

SC

29691-0000

Phone:

Fax:

Accident

Date of Injury: 07/23/2002

AM

Claim Status: C

Cancelled in Favor of:

Avg Wk Wage: 0.00

Rep to Emp: 07/23/2002

Final Receipt: 08/05/2003

Date Doc Received:

Wk Comp Rate: 0.00

Location: 53 KNEE

Date Reopened:

Date B Letter Sent:

Cause: 99 OTHER-MICELLANEOL

Date Fatal:

Nature: 52 STRAIN

Date Unrelated Death:

Ind Code: 73 MISC.

Date VOC Rehab:

County: 37 OCONEE

Acc Desc: KNEE

Letters

WC Image: 0210175

X Image:

Folder Label

FILE DESTROYED

Notes Prev Loc: 0000 FILE ROOM

Close










[illegible]

Closing Details by Carrier

☐ Lifetime Medical ☐ Form 19 Not Required Date Final Receipt: 08/06/2003
☐ Lifetime Prescriptions ☒ Form 19 Received Date Reopened:
☐ Lifetime Prosthesis Time Lost: 0.0000 Reason Reopened:
☐ Lump Sum Date Denied: F19 Images: 01670 0210175

Total Amounts by Carrier

Temp Tot: 0.00	Disfigurement: 0.00	Release Amount: 0.00
Temp Part: 0.00	Death: 0.00	Medical Amount: 0.00
Perm Part: 0.00	Perm Tot: 0.00	Third Party Re: 0.00
☐ Date Clincher:		☐ Date Third Party:

- Claim Totals

Temp Tot:	8,368.00
Temp Part:	0.00
Perm Part:	9,633.00
Disfigurement:	0.00
Death:	0.00
Perm Tot:	0.00
Release:	0.00
Medical:	14,274.00
Third Party:	0.00
Grand Total:	0.00

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0920040

John R. Bowen,

Employee,
Claimant,

vs.

Vinyl Services, Inc.,

Employer,

and

Bridgefield Casualty Insurance Company,

Carrier,
Defendants.

AFFIDAVIT

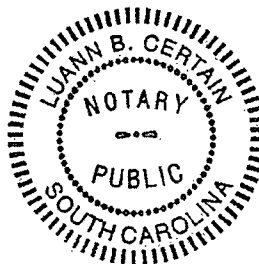
PERSONALLY APPEARED before me Larry Bolt who upon being duly sworn, deposes and states:

1. The Claimant's proper gross wages for the four (4) quarters preceding the date of incident are attached, see Attachment A.
2. The Claimant was on straight salary in 2008. In 2009, the Claimant went to an hourly rate due to business being slower than the previous year. Thus, the wages for the 4th quarter of 2008 are higher than the three (3) quarters from 2009.

Larry Bolt
Larry Bolt/Vinyl Services, Inc.

Date

SWORN to before me this 29th
Day of June, 2010.
Luann B. Certain
Notary Public for South Carolina
My Commission Expires: July 27, 2015
Date: 6-29-2010





Claimant's Name: John R. Bowen SSN: [REDACTED] Employer's Name: Vinyl Services, Inc.
Address: [REDACTED] Address: 175 Old Plantation Drive
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Walhalla State: SC Zip: 29691-5841
Home Phone: [REDACTED] Work Phone: [REDACTED] Insurance Carrier: Bridgefield Casualty Insurance Company
Preparer's Name: Julie E. Harris Preparer's Phone #: (864) 292-1317

Date of Injury: 11/11/2009
month day year

A. Total Wages Paid

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

Quarter	Ending Date	Total Wages Paid
1 st	12/31/2008	\$11,307.66
2nd	03/31/2009	\$5,127.69
3rd	06/30/2009	\$8,215.00
4th	09/30/2009	\$5,700.00

Total Paid	2.	\$30,350.35
3.	0	
4.	\$30,350.35	
5.	47	
- List total value of other allowances of any character made in lieu of wages during four quarters above.
 - Add lines 2 and 3.
 - List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred.

TOTAL WAGES PAID:

B. Average Weekly Wage

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

AVERAGE WEEKLY WAGE: 6. \$645.75

C. Compensation Rate

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

7. \$430.52

WEEKLY COMPENSATION RATE: 8. \$430.52

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

1st Q.

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	TOTAL	
	Hours	Rate
Employee Wages, Taxes and Adjustments		Oct - Dec 08
Gross Pay		
Foreman Salary		8,884.59
Foreman Vacation Salary		2,423.07
Total Gross Pay		11,307.66
Adjusted Gross Pay		11,307.66
Net Pay		11,307.66
Employer Taxes and Contributions		0.00

- 13 weeks

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Oct 1 - 4, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Oct 5, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Oct 12, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	Hours	Rate	Week of Oct 19, 08
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Oct 26, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Nov 2, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	Hours	Rate	Week of Nov 9, 08
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	Hours	Rate	Week of Nov 16, 08
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Nov 23, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Foreman Vacation Salary			807.69
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Nov 30, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Foreman Vacation Salary			807.69
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Dec 7, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Foreman Vacation Salary			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u>807.69</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	Hours	Rate	Week of Dec 14, 08
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Foreman Vacation Salary			807.69
Total Gross Pay			807.69
Adjusted Gross Pay			807.69
Net Pay			807.69
Employer Taxes and Contributions			0.00

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Week of Dec 21, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			1,615.38
Foreman Vacation Salary			0.00
Total Gross Pay			<u>1,615.38</u>
Adjusted Gross Pay			<u>1,615.38</u>
Net Pay			<u>1,615.38</u>
Employer Taxes and Contributions			<u>0.00</u>

10:47 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
October through December 2008

	<u>Hours</u>	<u>Rate</u>	<u>Dec 28 - 31, 08</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Foreman Vacation Salary			0.00
Total Gross Pay			0.00
Adjusted Gross Pay			0.00
Net Pay			0.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

2nd Q

\$5,127.69 - 11 wks

	Hours	Rate	Jan 1 - 3, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			0.00
Adjusted Gross Pay			0.00
Net Pay			0.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	<u>Hours</u>	<u>Rate</u>	<u>Week of Jan 4, 09</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			<u>0.00</u>
Adjusted Gross Pay			<u>0.00</u>
Net Pay			<u><u>0.00</u></u>
Employer Taxes and Contributions			<u>0.00</u>

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	<u>Hours</u>	<u>Rate</u>	<u>Week of Jan 11, 09</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			807.69
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			<u>807.69</u>
Adjusted Gross Pay			<u>807.69</u>
Net Pay			<u><u>807.69</u></u>
Employer Taxes and Contributions			<u>0.00</u>

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	<u>Hours</u>	<u>Rate</u>	<u>Week of Jan 18, 09</u>
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	25.5	20.00	510.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	<u>25.5</u>		<u>510.00</u>
Adjusted Gross Pay	<u>25.5</u>		<u>510.00</u>
Net Pay	<u>25.5</u>		<u>510.00</u>
Employer Taxes and Contributions			<u>0.00</u>

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jan 25, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	23.5	20.00	470.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	23.5		470.00
Adjusted Gross Pay	23.5		470.00
Net Pay	23.5		470.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Feb 1, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	21.5	20.00	430.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	21.5		430.00
Adjusted Gross Pay	21.5		430.00
Net Pay	21.5		430.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Feb 8, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	20	20.00	400.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	20		400.00
Adjusted Gross Pay	20		400.00
Net Pay	20		400.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Feb 15, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	28	20.00	560.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	28		560.00
Adjusted Gross Pay	28		560.00
Net Pay	28		560.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Feb 22, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	9	20.00	180.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	9		180.00
Adjusted Gross Pay	9		180.00
Net Pay	9		180.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Mar 1, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	8.5	20.00	170.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	8.5		170.00
Adjusted Gross Pay	8.5		170.00
Net Pay	8.5		170.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Mar 8, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			0.00
Adjusted Gross Pay			0.00
Net Pay			0.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Mar 15, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	32	20.00	640.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	32		640.00
Adjusted Gross Pay	32		640.00
Net Pay	32		640.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Mar 22, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	32	20.00	640.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	32		640.00
Adjusted Gross Pay	32		640.00
Net Pay	32		640.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Mar 29, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	16	20.00	320.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	16		320.00
Adjusted Gross Pay	16		320.00
Net Pay	16		320.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

3rd Q.

\$8,215 - 13 WKS

	Hours	Rate	Week of Apr 5, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	22.5	20.00	450.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	22.5		450.00
Adjusted Gross Pay	22.5		450.00
Net Pay	22.5		450.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Apr 12, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	27	20.00	540.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	27		540.00
Adjusted Gross Pay	27		540.00
Net Pay	27		540.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Apr 19, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	40	20.00	800.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	40		800.00
Adjusted Gross Pay	40		800.00
Net Pay	40		800.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Apr 26, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	36.5	20.00	730.00
Hourly Rate 2	1.5	30.00	45.00
Shop Time			0.00
Total Gross Pay	38		775.00
Adjusted Gross Pay	38		775.00
Net Pay	38		775.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of May 3, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	32	20.00	640.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	32		640.00
Adjusted Gross Pay	32		640.00
Net Pay	32		640.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of May 10, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	24	20.00	480.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	24		480.00
Adjusted Gross Pay	24		480.00
Net Pay	24		480.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of May 17, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	40	20.00	800.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	40		800.00
Adjusted Gross Pay	40		800.00
Net Pay	40		800.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of May 24, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	27.5	20.00	550.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	27.5		550.00
Adjusted Gross Pay	27.5		550.00
Net Pay	27.5		550.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of May 31, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	30	20.00	600.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	30		600.00
Adjusted Gross Pay	30		600.00
Net Pay	30		600.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jun 7, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	36	20.00	720.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	36		720.00
Adjusted Gross Pay	36		720.00
Net Pay	36		720.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jun 14, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	32	20.00	640.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	32		640.00
Adjusted Gross Pay	32		640.00
Net Pay	32		640.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jun 21, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	30	20.00	600.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	30		600.00
Adjusted Gross Pay	30		600.00
Net Pay	30		600.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jun 28, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	31	20.00	620.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	31		620.00
Adjusted Gross Pay	31		620.00
Net Pay	31		620.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

4th Q.
\$ 5,700
10 wks

	Hours	Rate	Week of Jul 5, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	24	20.00	480.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	24		480.00
Adjusted Gross Pay	24		480.00
Net Pay	24		480.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jul 12, 09
Employee Wages, Taxes and Adjustments			
Gross Pay:			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			<u>0.00</u>
Adjusted Gross Pay			<u>0.00</u>
Net Pay			<u><u>0.00</u></u>
Employer Taxes and Contributions			<u>0.00</u>

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jul 19, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	38.5	20.00	770.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	38.5		770.00
Adjusted Gross Pay	38.5		770.00
Net Pay	38.5		770.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Jul 26, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			0.00
Adjusted Gross Pay			0.00
Net Pay			0.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Aug 2, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	34.5	20.00	690.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	34.5		690.00
Adjusted Gross Pay	34.5		690.00
Net Pay	34.5		690.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Aug 9, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	27.5	20.00	550.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	27.5		550.00
Adjusted Gross Pay	27.5		550.00
Net Pay	27.5		550.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Aug 16, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	22	20.00	440.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	22		440.00
Adjusted Gross Pay	22		440.00
Net Pay	22		440.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Aug 23, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	32	20.00	640.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	32		640.00
Adjusted Gross Pay	32		640.00
Net Pay	32		640.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Aug 30, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	33	20.00	660.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	33		660.00
Adjusted Gross Pay	33		660.00
Net Pay	33		660.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Sep 6, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	29.5	20.00	590.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	29.5		590.00
Adjusted Gross Pay	29.5		590.00
Net Pay	29.5		590.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Sep 13, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	24	20.00	480.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay	24		480.00
Adjusted Gross Pay	24		480.00
Net Pay	24		480.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Week of Sep 20, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1	19	20.00	380.00
Hourly Rate 2			0.00
Shop Time	1	20.00	20.00
Total Gross Pay	20		400.00
Adjusted Gross Pay	20		400.00
Net Pay	20		400.00
Employer Taxes and Contributions			0.00

10:36 AM

06/28/10

Vinyl Services, Inc.
Payroll Summary
January through September 2009

	Hours	Rate	Sep 27 - 30, 09
Employee Wages, Taxes and Adjustments			
Gross Pay			
Foreman Salary			0.00
Hourly Rate 1			0.00
Hourly Rate 2			0.00
Shop Time			0.00
Total Gross Pay			0.00
Adjusted Gross Pay			0.00
Net Pay			0.00
Employer Taxes and Contributions			0.00

South Lewis

From: Boyd, Elaine [EBoyd@wcc.sc.gov]
Sent: Wednesday, July 21, 2010 9:44 AM
To: kwilliamslaw@bellsouth.net; South Lewis; asmith@smithpoe.com; Andrew D. Smith, LLC
Cc: Julie E. Harris
Subject: John R. Bowen vs. Vinyl Services, Inc (WCC # 0920040): ABW0920040Order note sheet.doc and 0402800 - Bowen

HEARING DATE: June 24, 2010
WCC FILE NO.: 0920040/0402800

CLAIMANT: John R. Bowen
EMPLOYER: Vinyl Services, Inc.
CARRIER: Bridgefield Casualty Insurance Co.

ATTORNEY (P): Kathryn Williams
ATTORNEY (D): J. South Lewis/Andrew D. Smith

AWW: \$ **CR:** \$ **MMI:** N/A

Period of TTD: **DOI:** 11/11/09 and 3/22/2004

Extent of Disability:

COURT REPORTER: Gigi Davis, 321 Mac Circle, Lexington, SC 29073

E-Mailed on 7/21/10

DIRECTIVES

Attorney Williams, please draft the order consistent with the below findings and return to this office within 30 days:

1. The parties agreed to consolidate 0402800 and 0920040 for purposes of this hearing.
2. The Claimant suffered a compensable accident in 2004. His 2009 case was denied by the carrier as a repetitive trauma claim.
3. The Claimant worked for the same employer for 20 years.
4. Attorney Smith stated the statute of limitations defense was given up at the time of the hearing. The Claimant knew in 2008 he was still having back problems.
5. I do not find what the Claimant was doing every day in his job was repetitive. Hard

work in itself is not compensable. The Claimant did various duties while working. He did not do the same job every day. In his various job duties, he did climbing, working over head, up and down a ladder on his knees from cutting handy plank (board). The weight of the board is the problem based on the Claimant's testimony.

6. The Claimant drew full unemployment. TTD is not an issue.
7. The Claimant gets along with his former employer very well. He thought his problems stemmed from his 2004 injury. The Claimant did not know anything about repetitive trauma until it was explained to him by his lawyer. The Claimant was no longer able to do his job after 11/11/09.
8. Dr. Lucas did not relate the Claimant's problems until April 21, 2010.
9. The Claimant has had several WCC claims: 2001, knee injury; 2002, knee injury; 2004, fell at work.
10. The Claimant is a deer hunter, but hunts from a ground blind. He cannot climb up a tree stand any longer. He does use a tripod on occasion. It is located in a specific place and is not taken back and forth out of the woods any more.
11. I find the Claimant has suffered an aggravation of his preexisting condition on 11/11/09 and is currently out of work due to an aggravation of that preexisting condition.
12. The greater weight of the evidence points directly towards a man who is worn out after working 20 years for this employer.
13. I find TTD is due from 11/09 and continuing until further order of the court.
14. It is ordered that the Claimant be returned to the authorized treating physician to determine if surgery would be recommended.
15. I find the AWW to be \$811.18 with the corresponding CR of \$540.81.
16. On pages 40-44 of the APA submissions, Dr. S. Emmett Lucas, III, states the Claimant has had an aggravation of a preexisting condition over and over again. Please note in the award each time when Dr. Lucas so notes the aggravation of the preexisting condition.

INSTRUCTIONS: Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter, or contact my assistant, Elaine Boyd, in writing at P.O. Box 1715, Columbia, SC 29202-1715 or via e-mail at eboyd@wcc.sc.gov . Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to eboyd@wcc.sc.gov , and mail or deliver the required hard copies.

The Commission now requires the original and three (3) copies of the proposed order with addressed, postage-paid envelopes.

Matters To Include In The Order:

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

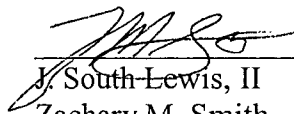
Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.

Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commission
1612 Marion Street
Columbia, SC 29202-1715

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 5, 2012



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THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SCWCC No. 0920040

John R. Bowen,

Respondent/Appellant,

v.

Vinyl Services, Inc. South Carolina Builders
SIF and Bridgefield Casualty Ins. Co.,

Defendants,

Of whom Vinyl Services, Inc. and Bridgefield
Casualty Ins. Co. are

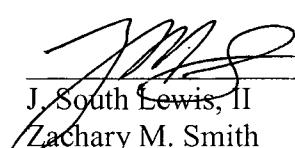
Appellants/Respondents.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on John R. Bowen by depositing a copy of it in the United State Mail, postage prepaid, on March 7, 2012, addressed to his attorney of record, Kathryn Williams, Esquire, Kathryn Williams, P.A., P.O. Box 10693, Greenville, South Carolina 29603.

March 7, 2012

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SC Court of Appeals



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