

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

WCC File No. 0902416

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SC Court of Appeals

John Hart, Employee, ... Appellant,

v.

Owen Steel Company, Employer, and Old Republic Insurance Company, Carrier, ...
..... Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant,)

WCC FILE NO. 0902416

-vs-)

Owen Steel Company,)
Employer,)

DECISION AND ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants.)

HEARING:

Held in Columbia, South Carolina on July 28, 2010.

APPEARANCES:

Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, LLC. Employer & Carrier represented by Russell T. Infinger, Esquire, of Nexsen Pruet, LLC

PURPOSE OF THE HEARING:

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

DECISION AND ORDER:

by T. Scott Beck, Commissioner.

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STIPULATIONS

The parties stipulate to the following matters:

1. The Commission has jurisdiction to hear the matters presented.
2. Venue is proper in Richland County.
3. The parties had notice of the hearing scheduled for July 28, 2010.
4. This matter came before the Commission on Forms 50 and 51.
5. The Commission's file, Commissioner's notes, and the Administrative Procedures

Act submissions are a part of the record.

6. Claimant sustained an admitted injury by accident arising out of and in the scope of his employment with employer on March 16, 2009.

7. Defendants are responsible for reimbursement of medical mileage from Claimant's address in Georgia to and from his authorized treating physicians and pharmacy.

8. Past emergency room visits reflected in the APA submissions were required emergency treatment and the reasonable cost of this treatment shall be paid by the Employer.

9. Claimant is entitled to an evaluation and possible treatment by a qualified

neurologist which will be scheduled authorized by the Employer.

STATEMENT OF THE CASE

This is an admitted case in which the Claimant, John Hart, sustained an injury by accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw.

Claimant filed a Form 50 seeking: (1) temporary total disability compensation from August 19, 2009 and continuing; (2) an increase in his compensation rate based on a merit raise; (3) evaluation and treatment from a neurologist; (4) reimbursement for mileage expenses to and from his home to the doctors and pharmacy; and (5) reimbursement for visits to the emergency room for treatment when his teeth broke and became infected.

Defendants timely filed a Form 51. Defendants agree to provide evaluation and treatment from a neurologist; to promptly reimburse Claimant for mileage expenses to and from his home in Georgia to the doctors and pharmacy; and to pay for the emergency room visits as submitted in the APA submissions. Defendants contend: (1) Claimant is not entitled to temporary total disability compensation based on his receipt of unemployment compensation and representations to the Department of Labor and Workforce; and (2) increasing the compensation rate based on the merit raise would be speculative because Owens Steel is not offering overtime to current employees due to the slow economy.

EVIDENCE OF THE CASE

Claimant, John Hart, testified on his own behalf. He is a long time employee of Owens

Steel where he worked as a welder. He was injured on March 16, 2009 when the air chipper he was using exploded. He remembers being hit in the face, but the next thing he remembers is being taken to the doctor by the safety director, Myron Samuels.

Hart was put on light duty by his treating dentists. Owens Steel put him to work in the tool room checking out tools. He was allowed to sleep as he was on medication for pain. The tool room job is an accommodation for injured workers.

Hart was laid off on August 16, 2009. He was one of 37 workers who were laid off. Owens Steel applied for unemployment compensation on his behalf. He has been collecting unemployment compensation. He has advised the Department of Labor and Workforce that he is able and available for work, albeit light duty.

Hart testified he enjoys working at Owens Steel and hopes to return when his injuries have healed. Should he begin receiving temporary total disability compensation, he will advise the Department of Labor and Workforce.

Myron Samuels testified by deposition. He is the safety director for Owens Steel. He took Hart to Doctor's Care immediately after the accident. Hart was put on light duty by Owens Steel based on the doctor's report. None of the doctors ever took Hart off light duty. Hart was laid off while on light duty.

Medical records showed Hart is on light duty restrictions as recently as June 30, 2010.

FINDINGS OF FACT

1. Claimant sustained an injury by accident arising out of and in the course of his employment on March 16, 2009. The sole issues for determination are entitlement to Temporary Total Disability Compensation, along with the Average Weekly Wage and Compensation Rate.
2. Claimant was put on light duty restrictions by the authorized treating physician,

Dr. Sykes. These restrictions were never lifted and were renewed on June 30, 2010.

3. Employer offered employment suitable to Claimant's capacity from the date of his injury until August 16, 2009. The suitable employment provided had been a specific accommodation for injured workers and was not a normal job. Claimant was laid off in a large reduction in force involving 37 workers.

4. Employer filed for unemployment compensation for Claimant. Claimant is not physically capable of working as a welder due to his injuries, but is capable of working within his restrictions. There is no inconsistency between receipt of unemployment compensation and partial disability when the employee is capable of working within restrictions.

5. Claimant is entitled to receive temporary total disability compensation at his compensation rate from August 19, 2009 and continuing on a running award.

6. According to the Form 20, Claimant's average weekly wage is \$576.50 with a resulting compensation rate of \$384.35.

7. Claimant received an annual merit raise from \$13.05 to \$13.55 per hour on September 1, 2008. Claimant contends his average weekly wage should be \$591.69 with a resulting compensation rate of \$394.48, based on the increase in his hourly rate. I find the use of claimant's calculations for average weekly wage would be speculative.

8. Permanency is premature as Claimant has not reached maximum medical improvement.

CONCLUSIONS OF LAW

1. Claimant sustained an injury by accident arising out of and in the course of his employment on March 16, 2009, within the meaning of S.C. Code Ann. § 42-1-160 (2009).

2. Disability is defined as "Incapacity because of injury to earn wages which the

employee was receiving at the time of injury in the same or any other employment.” Reg. 67-502. Employer offered no suitable employment within his capacity to Claimant. As he was still disabled due to his injury, he is entitled to temporary compensation until he reaches MMI. § 42-9-10; 42-9-190.

3. Medical treatment is to be provided so long as it tends to lessen the period of disability. § 42-15-60; Dodge v. Bruccoli, Clark, and Layman, Inc., 518 S.E.2d 593 (S.C. 1999); Dykes v. Daniel Constr. Co., 202 S.E.2d 646 (S.C. 1974).

4. The employer’s representative shall provide and pay for medical care while a claimant is receiving or entitled to receive temporary compensation benefits. Reg. 67-509. Medical, surgical, hospital and other treatment which will tend to lessen the period of disability within the judgment of the Commission shall be provided by the employer. For good cause shown, the Commission may order such further medical, surgical, hospital or other treatment as may in the discretion of the Commission be necessary. S.C. Code Ann. § 42-15-60. When the Employer refuses to provide medical treatment, the Commission has authority to designate the treating physician.

5. The Workers’ Compensation Act “requires employers to pay temporary total disability to an employee who has ‘been out of work due to a reported work related injury’ for eight days.” Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct.App.2006), *quoting* S.C. Code § 42-9-260(A) (Supp. 2006). When the injured worker is under work restrictions, the employer must either offer suitable employment within the injured worker’s capacity or pay temporary total disability compensation. See S.C. Code § 42-9-190 (2005); Last v. MSI Const. Co., Inc., 305 S.C. 349, 409 S.E.2d 334 (1991))(fact that incarcerated claimant remained unemployable for reasons other than his injury was not dispositive of his right to temporary

compensation; rather, the issue was whether the injury had resulted in some loss of his earning capacity). See also Grayson v. Carter Rhoad Furniture, 317 S.C. 306, 454 S.E.2d 320 (1996)(temporary compensation improperly suspended because claimant not at MMI and still under restrictions by the doctor, thus no evidence period of temporary total disability ever ended); Hines v. Hendricks Canning Co., 263 S.C. 399, 211 S.E.2d 220 (1975)(allowing an employee temporary total benefits and rejecting the carrier's argument that the claimant's loss of earning capacity was caused by his full-time attendance at school rather than his work-related injury). Cf. Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996)(claimant's inability to work was still due to her injury and not to her pregnancy and that the prolongation, caused by the pregnancy, of the period of temporary disability did not alter that overriding fact).

6. “While [a] claimant’s application for and acceptance of unemployment compensation may be considered by the commission as evidence in deciding whether disability continued, and may be conclusive against the award of total disability benefits for the period of time during which unemployment compensation was drawn, it [would be] error to conclude that such conduct raised an estoppel in bar of any relief to which claimant would otherwise be entitled as an injured employee.” Harvey v. Art Metal, Inc., 247 S.C. 443, 147 S.E.2d 697 (1966). “[T]here is no real inconsistency between the claimant’s entitlement to unemployment compensation for loss of wages through the termination of a job which he could and did perform in his partially disabled condition, and his entitlement to some workmen’s compensation benefits.” Id.

“It would, therefore, not be appropriate or equitable to allow the Defendant (carrier) to derive a windfall benefit by taking credit against any sums received from other sources or to permit the carrier not to make payments which are admittedly due under the Workmen’s

Compensation laws of the State, merely because of money received by the worker from other sources during the same period of time.” McLeod v. South Carolina Ins. Co., 272 S.C. 254, 251 S.E.2d 193 (1979).

7. The determination of whether a claimant’s merit raise constitutes an “exceptional reason” for purposes of applying the standard wage calculation method provided by the Workers’ Compensation Act is a question of law. S.C.Code Ann. § 42-1-40 (Supp.2006) provides in relevant part:

“Average weekly wages” means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of injury, AAA

When for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

The objective of wage calculation is to arrive at a fair approximation of the claimant’s probable future earning capacity. Disability reaches into the future, not the past; loss as a result of the injury must be thought of in terms of its impact on probable future earnings. Bennett v. Gary Smith Builders, 271 S.C. 94, 245 S.E.2d 129 (1978). Earned pay increases qualify as an “exceptional reason” to recalculate a claimant’s average weekly wage. Elliott v. S.C. Dept. of Transp., 362 S.C. 234, 607 S.E.2d 90 (Ct. App. 2004).

AWARD

IT IS THEREFORE ORDERED that the Employer shall pay temporary total disability to Claimant in the amount of \$384.35 per week commencing on August 19, 2009 and continuing until further order of the Commission;

IT IS FURTHER ORDERED that the Employer shall pay for past causally-related

medical treatment including the emergency room visits in the APA submissions;

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

IT IS FURTHER ORDERED that Employer shall promptly and without delay schedule and authorize an evaluation by a neurologist, and if further treatment by a neurologist will tend to lessen Claimant's period of disability, said treatment shall be provided;

IT IS FURTHER ORDERED that permanency is premature;

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the

attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

September 1, 2010

By: Amy Bracy, Administrative Assistant to Commissioner Beck

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant,)

WCC FILE NO. 0902416

-vs-)

Owen Steel Company,)
Employer,)

DECISION AND ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants.)

HEARING:

Held in Columbia, South Carolina on November 19, 2010.

APPEARANCES:

Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, LLC. Employer & Carrier represented by Russell T. Infinger, Esquire, of Nexsen Pruet, LLC

PURPOSE OF THE HEARING:

To determine issues as set forth on the Motion for Rule and Order to Show Cause.

DECISION AND ORDER:

By T. Scott Beck, Commissioner.

STIPULATIONS

The parties stipulate to the following matters:

1. The Commission has jurisdiction to hear the matters presented.
2. Venue is proper in Richland County.
3. The parties had notice of the hearing scheduled for November 19, 2010.
4. This matter came before the Commission on a Motion for Rule and Order to Show Cause and pursuant to Regulation 67-1404.
5. The Commission's file, Commissioner's notes, and the Administrative Procedures Act submissions are a part of the record.
6. Claimant sustained an admitted injury by accident arising out of and in the scope of his employment with employer on March 16, 2009.
7. Defendants are responsible for reimbursement of medical mileage from Claimant's address in Georgia to and from his authorized treating physicians and pharmacy.

STATEMENT OF THE CASE

This is an admitted case in which the Claimant, John Hart, sustained an injury by accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw.

The undersigned Commissioner previously issued a Decision and Order on September 1, 2010. Certain provisions of that Order were appealed by Defendants. That appeal is currently pending before the Appellate Panel. The part of the Order at issue here was not appealed and is

the law of the case. That provision states:

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

Claimant filed this motion on October 14, 2010, seeking relief under § 42-3-150 and § 42-3-175. As grounds for the Motion, Claimant alleges:

Despite the clear terms of the Order, Defendants have failed to fully reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.

To date, Claimant is owed reimbursement for 4,182 miles for travel incurred from May 7, 2010 - September 30, 2010, in the amount of \$2,091.00. Claimant has submitted multiple mileage reimbursement requests to Defendants. Claimant's attorney and paralegal have repeatedly requested reimbursement to no avail. Moreover, Defendants have a history in this case of refusing to pay or delaying payment of mileage.

Claimant's attorney advised the undersigned that since the filing of the motion, his office had communicated with Defense Counsel on these issues. Some of the mileage has been paid. Defense counsel advised Claimant's counsel that the Carrier had issued checks for the outstanding balance of \$1,377.00 on November 17, 2010. These checks have not yet been received.

Defense counsel admits that the mileage has not been paid timely pursuant to the previous Order. Defense counsel avers that there has been no willfulness behind the delays. The delays are due to administrative problems related to his office and communication with the Carrier.

On questioning from the undersigned, Claimant's counsel advises that he has spent approximately three hours on this issue and his paralegal approximately 6 hours. His official hourly rate is \$250.00.

FINDINGS OF FACT

1. Defendants failed to comply with the specific provisions of the September 1, 2010 order to “promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.”

2. I do not find that the failure to comply was willful or contumacious. I find the failure to comply was due to administrative problems between the Attorney for Defendants and the Carrier. Although not willful or contumacious, administrative problems do not constitute good cause for failure to timely pay medical reimbursements.

3. As Defendants’ conduct was not willful or contumacious, I do not find sufficient grounds for Defendants to be held in contempt under § 42-3-150 nor to impose sanctions under § 42-3-175.

4. Defendants shall pay the Claimant’s attorney’s fees in the amount of \$1,000.00, pursuant to § 42-3-175. This amount is based on \$750.00 for the attorney’s time and \$250.00 for the paralegal’s time. I find Claimant’s attorney representation of the amount of time he and his staff spent on enforcing this order to be accurate and reasonable. His efforts are amply documented by the e-mails and letters submitted to the Commission. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

5. As of the date of this hearing, Defendants have not timely paid \$1,377.00 in

medical mileage reimbursements to the Claimant. Some of these unpaid reimbursements date back to June and July 2010 – which was before the Order. Pursuant to § 42-9-90, there is added to this unpaid amount, an amount equal to 10% thereof, which shall be immediately paid directly to Claimant. This additional amount is \$137.70. I find the administrative problems described by Defendants' attorney are not "conditions over which he had no control such installment could not be paid within the period prescribed for the payment."

6. Defendants are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be willful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

7. No hearing costs are assessed.

CONCLUSIONS OF LAW

1. Orders of the Commission are binding and enforceable on those who come before it in the same manner and to the same extent as orders of our courts. In establishing the Commission, the legislature created a quasi-judicial agency with the authority to adjudicate contested claims and issue orders within its area of jurisdiction. See S.C. Code Ann. § 42-1-540 (1974); Sabb v. South Carolina State University, 350 S.C. 416, 567 S.E.2d 231 (2002) ("The phrase 'shall exclude all other rights and remedies' in the exclusivity provision demonstrates plain and unambiguous legislative intent to vest the Workers' Compensation Commission with exclusive original jurisdiction over an employee's claims"). If the Commission did not have the power to enforce its orders, then the Commission's orders would be nullities *ab initio*. As succinctly stated by the Rhode Island Supreme Court:

Without the authority to cite and punish for contempt of its decrees and orders the commission would be virtually powerless to enforce them. To hold that the legislature, in transferring jurisdiction of workmen's compensation cases from the superior court, intended that the commission it created for that purpose would establish a forum not fully effective is repugnant to reason and wholly untenable. Segrella v. Workmen's Compensation Commission, 162 A.2d 810 (R.I. 1960).

See also, Kennedy v. Kenney Mfg. Co., 519 A.2d 585 (R.I. 1987)(workers' compensation commissioner possesses certain judicial powers not specifically conferred by statute including the power to hold persons in criminal contempt); Hudock v. Industrial Com'n of Virginia, 340 S.E.2d 168 (Va.App. 1986)("Commission, as quasi-judicial body within the area of its jurisdiction, has the power of contempt over those in disobedience of its lawful orders").

2. The Commission's explicit authority to enforce its Orders is set forth in two statutes: § 42-3-150 and § 42-3-175.

The Commission's contempt power is set forth in § 42-3-150. Under the title "Manner in which attendance of witnesses and production of books and papers may be compelled", the statute provides, in pertinent part, the following:

In case of contumacy by any person or refusal to obey a subpoena issued to any person, the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the Commission may be punished as a contempt thereof.

Any person who shall without just cause fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the Commission, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty nor more than two hundred dollars or by a term of imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense. Subpoenas shall be issued in the name of the Commission and shall be signed by a commissioner. Subpoenas shall be issued to such persons as the Commission may designate.

In addition, the Commission may punish for contempt in the manner authorized by this section any person whose disorderly conduct in any Commission

proceeding interferes with the orderly process of such proceeding.
S.C. Code Ann. § 42-3-150 (1980).

Supplemental to the contempt power, the legislature passed § 42-3-175 which grants the Commission explicit authority to direct a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

§ 42-3-175 further directs the Commission to determine if the failure to comply with an Order authorizing medical treatment and/or payment of benefits is willful disobedience. In such a case, the commission may impose sanctions “including, but not limited to, a fine of up to five hundred dollars for each day of the violation.” The Commission “must notify the Department of Insurance of an insurer’s or an adjuster’s failure to authorize and pay benefits for medical treatment.”

3. Although not willful or contumacious, administrative problems do not constitute good cause for failure to timely pay medical reimbursements within the meaning of § 42-3-175.

4. The Commission has no discretion to reduce or modify mandatory sanctions, fines and penalties. Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App. 2006). The Commission’s role is to make appropriate findings of fact. Once appropriate findings are made requiring imposition of a sanction, fine or penalty, the Commission must direct payment of such sanction, find or penalty. This would include attorney’s fees and costs of enforcing the order pursuant to § 42-3-175.

5. The award of \$1,000 attorney’s fees is reasonable in light of the demonstrated

time spent and efforts made by Claimant's attorney to enforce the Order. The Commission has explicit authority to order a Defendant to "pay the Claimant's attorney's fees and costs of enforcing the order." Payment of attorneys fees and costs is mandatory whenever the Commission finds "an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . ." S. C. Code Ann. § 42-3-175 (2007).

6. Under § 42-9-90, a failure to pay the compensation due within fourteen days after it becomes due requires "there shall be added to such unpaid installment an amount equal to ten percent thereof . . ." As mileage payments in the amount of \$1,377.00 were not made within 14 days of the previous Order, Defendants shall be assessed an additional 10% penalty on all compensation not timely paid. See Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App. 2006)(commission does not have discretion to limit mandatory penalties). This amount is to be paid directly to the Claimant.

7. The statutory fines and penalties exist to ensure that the workers' compensation system effectively fills its role of providing compensation to injured workers and their dependents so they do not become charges on society. The fines and penalties are designed to promote proper claim and benefit handling by employers and their representatives so that the system will be more efficient and injured workers will not suffer due to delays in payment of compensation and medical treatment.

8. Unappealed findings within an Order are conclusive and binding on all parties. § 42-17-60. The Commission has authority to enforce unappealed findings even if other issues within the Order have been appealed and are not yet binding. As the Defendants did not appeal (and indeed stipulated to) their obligation to pay mileage, this issue is appropriately before the

undersigned on Claimant's Motion.

AWARD

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,000.00 to Samuels Law Firm, LLC, for attorney's fees;

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$137.70 to Claimant;

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be willful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

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

January 4, 2011

By: Amy Bracy, Administrative Assistant to Commissioner Beck

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant/Respondent,)

WCC FILE NO. 0902416

-vs-

Owen Steel Company,)
Employer,)

APPELLATE PANEL
DECISION AND ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants/Appellants.)

DATE OF REVIEW HEARING:

Hearing held and oral arguments presented in Columbia, S.C.
on December 14, 2010.

APPEARANCES:

Claimant represented by Stephen B. Samuels, Esquire, of
Samuels Law Firm, LLC. Employer & Carrier represented by
Russell T. Infinger, Esquire, of Nexsen Pruet, LLC

DECISION AND ORDER:

by Commissioners Derrick L. Williams, David W.
Huffstetler, and Avery B. Wilkerson, Jr.

STATEMENT OF THE CASE

This is an admitted case in which the Claimant, John Hart, sustained an injury by accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw.

Claimant filed a Form 50 seeking: (1) temporary total disability compensation from August 19, 2009 and continuing; (2) an increase in his compensation rate based on a merit raise; (3) evaluation and treatment from a neurologist; (4) reimbursement for mileage expenses to and from his home to the doctors and pharmacy; and (5) reimbursement for visits to the emergency room for treatment when his teeth broke and became infected.

Defendants timely filed a Form 51. Defendants agree to provide evaluation and treatment from a neurologist; to promptly reimburse Claimant for mileage expenses to and from his home in Georgia to the doctors and pharmacy; and to pay for the emergency room visits as submitted in the APA submissions. Defendants contend: (1) Claimant is not entitled to temporary total disability compensation based on his receipt of unemployment compensation and representations to the Department of Labor and Workforce; and (2) increasing the compensation rate based on the merit raise would be speculative because Owens Steel is not offering overtime to current employees due to the slow economy.

A hearing was held on July 28, 2010 in Columbia, S.C. before Commissioner T. Scott Beck. Commissioner Beck issued a Decision and Order on September 1, 2010. The Decision and Order

concluded, in relevant part, that:

IT IS THEREFORE ORDERED that the Employer shall pay temporary total disability to Claimant in the amount of \$384.35 per week commencing on August 19, 2009 and continuing until further order of the Commission;

Defendants timely filed a Form 30 (Request for Commission Review). Following presentation of briefs by the parties, the Appellate Panel of the Workers' Compensation Commission heard oral arguments on December 14, 2010.

ISSUES ON APPEAL

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

1. Did the Single Commissioner err in finding that the claimant was entitled to TTD disability when as a result of receiving unemployment he conceded that he was able to work?
2. Did the Single Commissioner err in finding that the claimant was entitled to receive TTD when he was concurrently receiving unemployment compensation and admitted at the hearing he was able to work?

Following review and consideration by the Appellate Panel of the evidence and testimony in the case, the briefs submitted by the parties, and oral arguments espousing the parties' respective positions on the issues on appeal, the Appellate Panel finds a **FULL AFFIRMATION** of the Decision and Order of Commissioner T. Scott Beck.

FINDINGS OF FACT

1. Claimant sustained an injury by accident arising out of and in the course of his employment on March 16, 2009. The sole issues for determination are entitlement to Temporary Total Disability Compensation, along with the Average Weekly Wage and Compensation Rate.
2. Claimant was put on light duty restrictions by the authorized treating physician., Dr. Sykes. These restrictions were never lifted and were renewed on June 30, 2010.

3. Employer offered employment suitable to Claimant's capacity from the date of his injury until August 16, 2009. The suitable employment provided had been a specific accommodation for injured workers and was not a normal job. Claimant was laid off in a large reduction in force involving 37 workers.

4. Employer filed for unemployment compensation for Claimant. Claimant is not physically capable of working as a welder due to this injuries, but is capable of working within his restrictions. There is no inconsistency between receipt of unemployment compensation and partial disability when the employee is capable of working within restrictions.

5. Claimant is entitled to receive temporary total disability compensation at his compensation rate from August 19, 2009 and continuing on a running award.

6. According to the Form 20, Claimant's average weekly wage is \$576.50 with a resulting compensation rate of \$384.35.

7. Claimant received an annual merit raise from \$13.05 to \$13.55 per hour on September 1, 2008. Claimant contends his average weekly wage should be \$591.69 with a resulting compensation rate of \$394.48, based on the increase in his hourly rate. I find the use of claimant's calculations for average weekly wage would be speculative.

8. Permanency is premature as Claimant has not reached maximum medical improvement.

CONCLUSIONS OF LAW

1. Claimant sustained an injury by accident arising out of and in the course of his employment on March 16, 2009, within the meaning of S.C. Code Ann. § 42-1-160 (2009).

2. Disability is defined as "Incapacity because of injury to earn wages which the

employee was receiving at the time of injury in the same or any other employment.” Reg. 67-502.

Employer offered no suitable employment within his capacity to Claimant. As he was still disabled due to his injury, he is entitled to temporary compensation until he reaches MMI. § 42-9-10; 42-9-190.

3. Medical treatment is to be provided so long as it tends to lessen the period of disability. § 42-15-60; Dodge v. Bruccoli, Clark, and Layman, Inc., 518 S.E.2d 593 (S.C. 1999); Dykes v. Daniel Constr. Co., 202 S.E.2d 646 (S.C. 1974).

4. The employer’s representative shall provide and pay for medical care while a claimant is receiving or entitled to receive temporary compensation benefits. Reg. 67-509. Medical, surgical, hospital and other treatment which will tend to lessen the period of disability within the judgment of the Commission shall be provided by the employer. For good cause shown, the Commission may order such further medical, surgical, hospital or other treatment as may in the discretion of the Commission be necessary. S.C. Code Ann. § 42-15-60. When the Employer refuses to provide medical treatment, the Commission has authority to designate the treating physician.

5. The Workers’ Compensation Act “requires employers to pay temporary total disability to an employee who has ‘been out of work due to a reported work related injury’ for eight days.” Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct.App.2006), *quoting* S.C. Code § 42-9-260(A) (Supp. 2006). When the injured worker is under work restrictions, the employer must either offer suitable employment within the injured worker’s capacity or pay temporary total disability compensation. See S.C. Code § 42-9-190 (2005); Last v. MSI Const. Co., Inc., 305 S.C. 349, 409 S.E.2d 334 (1991))(fact that incarcerated claimant remained unemployable for reasons other than his injury was not dispositive of his right to temporary compensation; rather, the issue was

whether the injury had resulted in some loss of his earning capacity). See also Grayson v. Carter Rhoad Furniture, 317 S.C. 306, 454 S.E.2d 320 (1996)(temporary compensation improperly suspended because claimant not at MMI and still under restrictions by the doctor, thus no evidence period of temporary total disability ever ended); Hines v. Hendricks Canning Co., 263 S.C. 399, 211 S.E.2d 220 (1975)(allowing an employee temporary total benefits and rejecting the carrier's argument that the claimant's loss of earning capacity was caused by his full-time attendance at school rather than his work-related injury). Cf. Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996)(claimant's inability to work was still due to her injury and not to her pregnancy and that the prolongation, caused by the pregnancy, of the period of temporary disability did not alter that overriding fact).

6. "While [a] claimant's application for and acceptance of unemployment compensation may be considered by the commission as evidence in deciding whether disability continued, and may be conclusive against the award of total disability benefits for the period of time during which unemployment compensation was drawn, it [would be] error to conclude that such conduct raised an estoppel in bar of any relief to which claimant would otherwise be entitled as an injured employee." Harvey v. Art Metal, Inc., 247 S.C. 443, 147 S.E.2d 697 (1966). "[T]here is no real inconsistency between the claimant's entitlement to unemployment compensation for loss of wages through the termination of a job which he could and did perform in his partially disabled condition, and his entitlement to some workmen's compensation benefits." Id.

"It would, therefore, not be appropriate or equitable to allow the Defendant (carrier) to derive a windfall benefit by taking credit against any sums received from other sources or to permit the carrier not to make payments which are admittedly due under the Workmen's Compensation laws

of the State, merely because of money received by the worker from other sources during the same period of time.” McLeod v. South Carolina Ins. Co., 272 S.C. 254, 251 S.E.2d 193 (1979).

7. The determination of whether a claimant’s merit raise constitutes an “exceptional reason” for purposes of applying the standard wage calculation method provided by the Workers’ Compensation Act is a question of law. S.C.Code Ann. § 42-1-40 (Supp.2006) provides in relevant part:

“Average weekly wages” means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of injury, ...

When for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

The objective of wage calculation is to arrive at a fair approximation of the claimant’s probable future earning capacity. Disability reaches into the future, not the past; loss as a result of the injury must be thought of in terms of its impact on probable future earnings. Bennett v. Gary Smith Builders, 271 S.C. 94, 245 S.E.2d 129 (1978). Earned pay increases qualify as an “exceptional reason” to recalculate a claimant’s average weekly wage. Elliott v. S.C. Dept. of Transp., 362 S.C. 234, 607 S.E.2d 90 (Ct. App. 2004).

AWARD

IT IS HEREBY ORDERED that the Decision and Order of Commissioner T. Scott Beck, filed September 1, 2010, is AFFIRMED;

IT IS FURTHER ORDERED that the Employer shall pay temporary total disability to Claimant in the amount of \$384.35 per week commencing on August 19, 2009 and continuing until

further order of the Commission;

IT IS FURTHER ORDERED that the Employer shall pay for past causally-related medical treatment including the emergency room visits in the APA submissions;

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

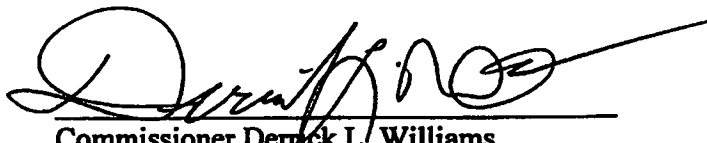
IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

IT IS FURTHER ORDERED that Employer shall promptly and without delay schedule and authorize an evaluation by a neurologist, and if further treatment by a neurologist will tend to lessen Claimant's period of disability, said treatment shall be provided;

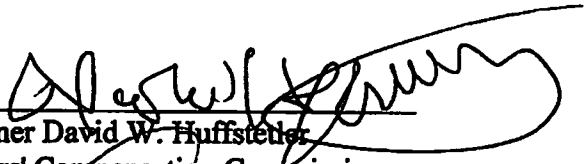
IT IS FURTHER ORDERED that permanency is premature;

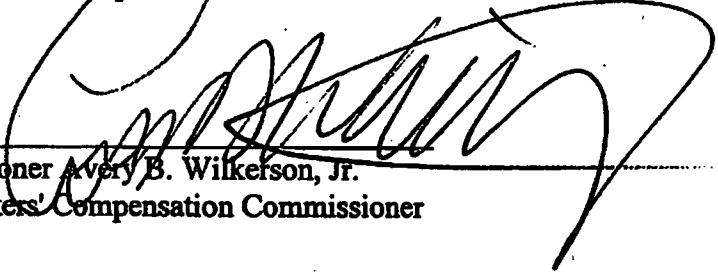
IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.


Commissioner Derrick L. Williams
S.C. Workers' Compensation Commission

CONCURRING:


Commissioner David W. Huffstetter
S.C. Workers' Compensation Commission


Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commissioner

CERTIFICATE OF SERVICE

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

This 1st day of February, 2011
By Valerie D. Decker

Administrative Assistant to the Commissioner

Stephen B. Samuels
Russell T. Ingiger

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	WORKERS' COMPENSATION COMMISSION
COUNTY OF RICHLAND	)	
John Hart,	)	WCC FILE NO.: 0902416
	)	
Claimant,	)	
	)	
-vs-	)	
	)	
Owen Steel Company,	)	
	)	DECISION AND ORDER
Employer,	)	
	)	
and	)	
	)	
Old Republic Insurance Company,	)	
	)	
Carrier,	)	
Defendants.	)	
	)	

HEARING: Held in North Augusta, South Carolina on August 23, 2012.

APPEARANCES: Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, LLC. Employer & Carrier represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C.

PURPOSE OF THE HEARING: To determine issues as set forth on the Motion for Rule and Order to Show Cause.

DECISION AND ORDER: by T. Scott Beck, Commissioner.

STIPULATIONS

The parties stipulate to the following matters:

1. The Commission has jurisdiction to hear the matters presented.
2. The parties consent to venue in Aiken County.
3. The parties had notice of the hearing scheduled for August 23, 2012.
4. This matter came before the Commission on a Motion for Rule and Order to Show Cause and pursuant to Regulation 67-1404.
5. The Commission's file, Commissioner's notes, and the Administrative Procedures Act submissions are a part of the record.
6. Claimant sustained an admitted injury by accident arising out of and in the scope of his employment with employer on March 16, 2009.
7. Defendants are responsible for reimbursement of medical mileage from Claimant's current home address whether in Georgia or South Carolina to and from his authorized treating physicians and pharmacy.
8. Dr. Berger is designated as the authorized treating physician to provide all dental care to Claimant. Defendants agree to reimburse Claimant for the cost of Dr. Berger's initial evaluation.
9. Dr. Rogers is designated as the authorized treating physician to provide neurological care to Claimant.
10. Defendants agree to provide an evaluation for psychological and psychiatric injury through Post Trauma Resources.

STATEMENT OF THE CASE

This is an admitted case in which the Claimant, John Hart, sustained an injury by

accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw and a neurologist.

The undersigned Commissioner previously issued two Decision and Orders in this case. The first Order was filed on September 1, 2010 following a Form 50 hearing held on July 28, 2010. It included provisions stating:

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

As Defendants failed to comply with the mileage provision, Claimant filed a Motion for Rule and Order to Show Cause on October 14, 2010, seeking relief under § 42-3-150 and § 42-3-175. A hearing was held on November 19, 2010. A Decision and Order was filed on January 4,

2011. The Order stated:

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,000.00 to Samuels Law Firm, LLC, for attorney's fees;

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$137.70 to Claimant;

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.

On April 16, 2012, Claimant filed a second Motion for Rule and Order to Show Cause.

Claimant made the following prayer for relief:

THEREFORE, Claimant request Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission; to be ordered to provide a treating neurologist, neuropsychologist, psychiatrist and oral surgeon of Claimant's choosing; to be reported to the Department of Insurance; and further to pay to Claimant an appropriate amount for attorney's fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

A hearing was originally set on the Motion for May 30, 2012. The hearing was removed from the docket based on counsel advising the Commission that the matter had been resolved on a Consent Order. The parties were unable to finalize the agreement so, on the request of Claimant, the case was restored to the hearing roster. The hearing was held on August 23, 2012.

The hearing was not transcribed. The undersigned heard arguments from counsel and reviewed documentary evidence submitted by Claimant. At the hearing, counsel for Defendants stated his client consented to Dr. Berger and Dr. Rogers as the treating dentist and neurologist, and had authorized all treatment ordered by these doctors. Counsel further stated Defendants had agreed to a psychological and psychiatric evaluation by Post Trauma Resources, but had not yet consented to treatment as the psychological claim had not been accepted nor previously ordered.

Among the documents presented was an e-mail dated June 3, 2011, from the claims adjuster, Tara Potter, stating in pertinent part, "“Mileage is excessive and I do not intent [sic] to cover it.” [Exhibit page 66]. Counsel for Defendants admitted the denied mileage was for a trip to the pharmacy to fill a prescription written by an authorized treating physician.

EVIDENCE OF THE CASE

TAB	DESCRIPTION	PAGES
1.	Proposed Consent Order prepared by Counsel for Claimant; Email correspondence between Counsel re: provision of medical treatment and agreement reached prior to Motion hearing scheduled for 05/30/2012	1 - 16
2.	Report of Robert F. Berger, D.D.S., of Berger Dental Group dated 05/07/2012; Referral to David S. Rogers, M.D. dated 05/09/2012;	17 - 21
3.	Portions of Express Dental's file (company managing dental treatment for Defendants) including questionnaire to Dr. Fred Sykes dated 08/18/11	22 - 51
4.	Patient Prescription Profile from CVS dated 05/09/2012 listing all prescriptions written by Dr. Ashley Kent; Email correspondence between paralegals re: problems w/prescriptions	52 - 58
5.	Correspondence exchanged via email and facsimile with Adjuster re: mileage reimbursement; Copy of mileage submitted on 06/06/12;	59 - 72

	Reimbursement check received 07/17/12	
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FINDINGS OF FACT

1. Dr. Berger is designated as the authorized treating physician to provide all dental care to Claimant. Defendants agree to reimburse Claimant for the cost of Dr. Berger's initial evaluation.
2. Dr. Rogers is designated as the authorized treating physician to provide neurological care to Claimant.
3. Defendants agree to provide an evaluation for psychological and psychiatric injury through Post Trauma Resources.
4. Defendants failed to comply with the specific provisions of the September 1, 2010 order to "promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers." Defendants, based on the June 3, 2011 e-mail from Tara Potter, willfully refused to pay \$227.76 mileage for a trip to the pharmacy on April 29, 2011. There are also two documented instances on December 20, 2011 and June 6, 2012, where mileage was ultimately paid, but not paid within 14 days.
5. I find by clear and convincing evidence that the refusal to comply with the previous Orders was wilful and contumacious.
6. As Defendants' conduct was wilful and contumacious, I find clear and convincing evidence for Defendants to be held in contempt under § 42-3-150 and to impose sanctions under § 42-3-175.

7. Defendants shall pay the Claimant's attorney's fees in the amount of \$1,500.00, pursuant to § 42-3-175. I find Claimant's attorney's representation of the amount of time he and his staff spent on enforcing this order to be accurate and reasonable. His efforts are amply documented by the e-mails and letters submitted to the Commission. The Commission has explicit authority to order a Defendant to "pay the Claimant's attorney's fees and costs of enforcing the order." Payment of attorneys fees and costs is mandatory whenever the Commission finds "an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . ." S. C. Code Ann. § 42-3-175 (2007).

8. Defendants are ordered to pay a penalty, at the rate of \$10.00 per day for 438 days, for non-compliance with the previous Order. The 438 days is based on the date of the e-mail from the claims adjuster. The total amount of the fine is \$4,380.00 payable to the Commission under § 42-3-175. This amount is a reasonable penalty under the statute in light of the statute's purpose of compelling employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's orders. In assessing the penalty, due consideration was also given to the delays in filling prescriptions and providing dental and neurological treatment.

9. Defendants are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

10. No hearing costs are assessed.

CONCLUSIONS OF LAW

1. Orders of the Commission are binding and enforceable on those who come before it in the same manner and to the same extent as orders of our courts. In establishing the Commission, the legislature created a quasi-judicial agency with the authority to adjudicate contested claims and issue orders within its area of jurisdiction. See S.C. Code Ann. § 42-1-540 (1974); Sabb v. South Carolina State University, 350 S.C. 416, 567 S.E.2d 231 (2002) (“The phrase ‘shall exclude all other rights and remedies’ in the exclusivity provision demonstrates plain and unambiguous legislative intent to vest the Workers' Compensation Commission with exclusive original jurisdiction over an employee's claims”). If the Commission did not have the power to enforce its orders, then the Commission’s orders would be nullities *ab initio*. As succinctly stated by the Rhode Island Supreme Court:

Without the authority to cite and punish for contempt of its decrees and orders the commission would be virtually powerless to enforce them. To hold that the legislature, in transferring jurisdiction of workmen's compensation cases from the superior court, intended that the commission it created for that purpose would establish a forum not fully effective is repugnant to reason and wholly untenable.

Segrella v. Workmen's Compensation Commission, 162 A.2d 810 (R.I. 1960).

See also, Kennedy v. Kenney Mfg. Co., 519 A.2d 585 (R.I. 1987)(workers' compensation commissioner possesses certain judicial powers not specifically conferred by statute including the power to hold persons in criminal contempt); Hudock v. Industrial Com’n of Virginia, 340 S.E.2d 168 (Va.App. 1986) (“Commission, as quasi-judicial body within the area of its jurisdiction, has the power of contempt over those in disobedience of its lawful orders”).

2. The Commission’s explicit authority to enforce its Orders is set forth in two

statutes: § 42-3-150 and § 42-3-175.

The Commission's contempt power is set forth in § 42-3-150. Under the title "Manner in which attendance of witnesses and production of books and papers may be compelled", the statute provides, in pertinent part, the following:

In case of contumacy by any person or refusal to obey a subpoena issued to any person, the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the Commission may be punished as a contempt thereof.

Any person who shall without just cause fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the Commission, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty nor more than two hundred dollars or by a term of imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense. Subpoenas shall be issued in the name of the Commission and shall be signed by a commissioner. Subpoenas shall be issued to such persons as the Commission may designate.

In addition, the Commission may punish for contempt in the manner authorized by this section any person whose disorderly conduct in any Commission proceeding interferes with the orderly process of such proceeding.
S.C. Code Ann. § 42-3-150 (1980).

Supplemental to the contempt power, the legislature passed § 42-3-175 which grants the Commission explicit authority to direct a Defendant to "pay the Claimant's attorney's fees and costs of enforcing the order." Payment of attorneys fees and costs is mandatory whenever the Commission finds "an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . ." S. C. Code Ann. § 42-3-175 (2007).

§ 42-3-175 further directs the Commission to determine if the failure to comply with an Order authorizing medical treatment and/or payment of benefits is wilful disobedience. In such a

case, the commission may impose sanctions “including, but not limited to, a fine of up to five hundred dollars for each day of the violation.” The Commission “must notify the Department of Insurance of an insurer’s or an adjuster’s failure to authorize and pay benefits for medical treatment.”

3. The award of \$1,500 attorney’s fees is reasonable in light of the demonstrated time spent and efforts made by Claimant’s attorney to enforce the Order. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

4. The statutory fines and penalties exist to ensure that the workers’ compensation system effectively fills its role of providing compensation to injured workers and their dependents so they do not become charges on society. The fines and penalties are designed to promote proper claim and benefit handling by employers and their representatives so that the system will be more efficient and injured workers will not suffer due to delays in payment of compensation and medical treatment.

AWARD

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$4,380.00 to the South Carolina Workers’ Compensation Commission as a statutory fine for wilful disobedience of an order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,500.00 to Samuels Law Firm, LLC, for attorney’s fees for enforcing an

order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall pay \$227.76 to Claimant within fourteen days of this hearing;

IT IS FURTHER ORDERED that the undersigned Commissioner will retain jurisdiction with respect to any further proceedings involving penalties, sanctions, contempt and enforcement of any previous Orders in this case;

IT IS FURTHER ORDERED that Dr. Robert F. Berger, D.D.S. and Berger Dental Group, P.A., are designated as the authorized treating physicians for the provision of dental treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred. Defendants shall reimburse Claimant \$1,190.00 for the cost of the initial evaluation.

IT IS FURTHER ORDERED that Dr. David Rogers is designated as the authorized treating physicians for the provision of neurological treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing,

physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that Defendants shall provide a psychological and psychiatric evaluation with Post Trauma Resources. Should the doctors at Post Trauma Resources recommend treatment and should Defendants accept that recommendation, Post Trauma Resources shall be designated as the authorized treating physicians for the provision of psychological and psychiatric treatment. However, as a determination of whether Claimant has suffered a compensable psychological injury goes to the merits, ordering treatment is beyond the scope of this proceeding.

IT IS FURTHER ORDERED that in the event any of the above providers is unable or unwilling to act as Claimant's treating physician, that the parties shall agree upon an authorized treating physician, and if the parties are unable to agree, the undersigned Commissioner will designate the authorized treating physician.

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

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

October 10, 2012

By: Amy Bracy, Administrative Assistant to Commissioner Beck

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant/Respondent,)

WCC FILE NO. 0902416

-vs-)

Owen Steel Company,)
Employer,)

APPELLATE PANEL
DECISION AND ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants/Appellants.)

DATE OF REVIEW HEARING: Hearing held and oral arguments presented in Columbia, S.C. on February 20, 2013

APPEARANCES: Claimant represented by Stephen B. Samuels, Esquire, of Samuels Law Firm, L.L.C. Employer & Carrier represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C.

DECISION AND ORDER: by Commissioners Susan S. Barden, Melody L. James, and Avery B. Wilkerson, Jr.

STATEMENT OF THE CASE

This appeal by the Defendants arises out of a **Rule to Show Cause** hearing held before Commissioner Scott Beck on August 23, 2012. The hearing was set pursuant to a **Motion for Order and Rule to Show Cause** filed by the Claimant, John Hart, on April 16, 2012.

This is an admitted case in which the Claimant, John Hart, sustained an injury by accident in the course of and arising out of his employment with the Employer, Owens Steel. Hart was injured on March 16, 2009 when the air chipper he was using exploded. The back plate of the chipper hit Hart in the face and mouth, knocking him out and injuring his jaw, teeth, mandible and other body parts. Defendants have accepted his case and provided certain medical treatment, specifically dental treatment for the injuries to his teeth and jaw and a neurologist.

Commissioner Beck previously issued two Decision and Orders in this case. The first Order was filed on September 1, 2010 following a Form 50 hearing held on July 28, 2010. It included provisions stating:

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

As Defendants failed to comply with the mileage provision, Claimant filed a Motion for Rule and Order to Show Cause on October 14, 2010, seeking relief under § 42-3-150 and § 42-3-175. A hearing was held on November 19, 2010. A Decision and Order was filed on January 4,

2011. The Order stated:

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,000.00 to Samuels Law Firm, LLC, for attorney's fees;

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$137.70 to Claimant;

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.

On April 16, 2012, Claimant filed a second Motion for Rule and Order to Show Cause.

Claimant made the following prayer for relief:

THEREFORE, Claimant request Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission; to be ordered to provide a treating neurologist, neuropsychologist, psychiatrist and oral surgeon of Claimant's choosing; to be reported to the Department of Insurance; and further to pay to Claimant an appropriate amount for attorney's fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

A hearing was originally set on the Motion for May 30, 2012. Before the actual hearing, the attorneys reached an agreement on the issues -- which was confirmed by e-mail. The parties advised Commissioner Beck that a Consent Order would be forthcoming and the case was removed from the docket. The parties were unable to finalize the agreement so, on the request of Claimant, the case was restored to the hearing roster. The hearing was held on August 23, 2012.

The hearing was not transcribed. Commissioner Beck heard arguments from counsel and reviewed documentary evidence submitted by Claimant. At the hearing, counsel for Defendants

stated his client consented to Dr. Berger and Dr. Rogers as the treating dentist and neurologist, and had authorized all treatment ordered by these doctors. Counsel further stated Defendants had agreed to a psychological and psychiatric evaluation by Post Trauma Resources, but had not yet consented to treatment as the psychological claim had not been accepted nor previously ordered.

Among the documents presented was an e-mail dated June 3, 2011, from the claims adjuster, Tara Potter, stating in pertinent part, "Mileage is excessive and I do not intent [sic] to cover it." [Exhibit page 66]. Counsel for Defendants admitted the denied mileage was for a trip to the pharmacy to fill a prescription written by an authorized treating physician.

The Single Commissioner issued the Order on October 10, 2012. He found Defendants were in contempt under § 42-3-150 and had violated § 42-3-175. Defendants were ordered to pay a \$4,380.00 penalty to the Commission; to pay attorney's fees to Claimant's Counsel in the amount of \$1,500.00; to reimburse Claimant \$1,190.00 for the cost of the initial evaluation by Dr. Berger; and to pay mileage in the amount of \$227.76. Defendants were further ordered to provide certain medical treatment and evaluations.

Defendants timely filed a Form 30 (Request for Commission Review). Following presentation of briefs by the parties, the Appellate Panel of the Workers' Compensation Commission heard oral arguments on December 14, 2010.

At oral argument, Defense Counsel advised the Appellate Panel that his client was abandoning the appeal on all issues except for the amount of attorney's fees (Issues 6, 7, and 12). The appeal went forward on those issues.

Immediately after the argument concluded, the Appellate Panel instructed Claimant's Counsel to submit an affidavit supporting "Claimant's attorney's fees and costs of enforcing the

order.” S.C. Code Ann. § 42-3-175 (2007). Defendants objected to the affidavit on the grounds that the affidavit supported a claim for \$6,407.50 in attorney’s fees and costs, versus the \$1,500.00 ordered by the Single Commissioner. The affidavit was accepted and is part of the record in the case. 25A S.C. Code Ann. Reg. 67-707 A (2007).

ISSUES ON APPEAL

Defendants’ Form 30 (Request for Commission Review) sets forth the following grounds:

1. Did the Single Commissioner err in finding as a matter of fact that the Defendants failed to comply with the specific provisions of the September 1, 2010 Order to promptly and without delay reimburse the Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers?
2. Did the Single Commissioner err in concluding as a matter of fact that the Defendants, based on the June 3, 2011 email from Tara Potter, willfully refused to pay \$227.76 in mileage for a trip to the pharmacy on April 29, 2011?
3. Did the Single Commissioner err in finding as a matter of fact that there are also two documented instances on December 20, 2011 and June 6, 2012 where mileage was ultimately paid, but not paid within 14 days?
4. Did the Single Commissioner err in finding as a matter of fact that by clear and convincing evidence the refusal to comply with the previous Order was willful and contumacious?
5. Did the Single Commissioner err in finding as a matter of fact that that, as Defendants conduct was willful and contumacious that there was clear and convincing evidence for Defendants to be held in contempt pursuant to Section 42-3-150 and to impose sanctions

under Section 42-3-175?

6. Did the Single Commissioner err in finding as a matter of fact that Defendants shall pay the Claimant's attorney's fees in the amount of \$1,500.00 pursuant to Section 42-3-175?

7. Did the Single Commissioner err in finding as a matter of fact that the Claimant's attorney's representation of the amount of time he and his staff spent on enforcing this Order to be accurate and reasonable, that the Claimant's attorney's efforts were amply documented by the emails and letters submitted to the Commission, and that the Commission has the explicit authority to Order a Defendant to pay the Claimant's attorney's fees and costs of enforcing the Order?

8. Did the Single Commissioner err in finding as a matter of fact that the Defendants were ordered to pay a penalty, at a rate of \$10.00 per day for 438 days for non-compliance with the previous Order, and that the 438 days is based on the date of the email from the claims adjuster, with the total amount of the fine being \$4,380.00 payable to the Commission pursuant to Section 42-3-175?

9. Did the Single Commissioner err in finding as a matter of fact that that this amount is a reasonable penalty under the Statute in light of the Statute's purpose of compelling Employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's Orders?

10. Did the Single Commissioner err in finding as a matter of fact that, in assessing the penalty, due consideration was also given to the delays in filling prescriptions and provided dental and neurological treatment?

11. Did the Single Commissioner err in finding as a matter of fact that the Defendants

are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the attorney a written reimbursement request submitted by the Claimant, and any failure to make payment within a 14 day time period will be deemed to be willful and contumacious, subjecting Defendants to further sanctions under Section 42-3-150 and Section 42-3-175?

12. Did the Single Commissioner err in concluding as a matter of law that the award of \$1,500.00 in attorney's fees is reasonable in light of the demonstrated time spent and efforts made by the Claimant's attorney to enforce the Order?

Following review and consideration by the Appellate Panel of the evidence and testimony in the case, the briefs submitted by the parties, and oral arguments espousing the parties' respective positions on the issues on appeal, the Appellate Panel finds a FULL AFFIRMATION of the Decision and Order of Commissioner T. Scott Beck.

FINDINGS OF FACT

Pursuant to S.C. Code Ann. § 42-17-50 (2007), the Appellate Panel has examined and weighed the evidence in the record, along with the stipulated facts and arguments of counsel. Upon so doing, the Panel makes the following findings of fact:

1. Dr. Berger is designated as the authorized treating physician to provide all dental care to Claimant. Defendants agree to reimburse Claimant for the cost of Dr. Berger's initial evaluation.
2. Dr. Rogers is designated as the authorized treating physician to provide neurological care to Claimant.
3. Defendants agree to provide an evaluation for psychological and psychiatric injury through Post Trauma Resources.

4. Defendants failed to comply with the specific provisions of the September 1, 2010 order to “promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.” Defendants, based on the June 3, 2011 e-mail from Tara Potter, willfully refused to pay \$227.76 mileage for a trip to the pharmacy on April 29, 2011. There are also two documented instances on December 20, 2011 and June 6, 2012, where mileage was ultimately paid, but not paid within 14 days.

5. We find by clear and convincing evidence that the refusal to comply with the previous Orders was wilful and contumacious.

6. As Defendants’ conduct was wilful and contumacious, we find clear and convincing evidence for Defendants to be held in contempt under § 42-3-150 and to impose sanctions under § 42-3-175.

7. Defendants shall pay the Claimant’s attorney’s fees in the amount of \$1,500.00, pursuant to § 42-3-175. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

8. On the instructions of the Appellate Panel, Claimant submitted an affidavit substantiating the attorney’s fees and costs of enforcing Commissioner Beck’s previous order. The affidavit was received pursuant to the Commission’s discretion to receive additional evidence when such evidence is necessary for the completion of the record in a case on review. 25A S.C. Code Ann. Reg. 67-707 A (2007).

9. Claimant submitted an affidavit documenting 19.0 hours of attorney time at \$300.00 per hour and 9.1 hours of paralegal time at \$75.00 per hour, along with costs of \$25.00 for the filing fee. The total of attorney's fees and costs involved in enforcing the Order is \$6,407.50. This affidavit is made part of the record in this case.

10. "Our case law and court rules make clear that when a contract or statute authorizes an award of attorney's fees, the trial court must make specific findings of fact on the record for each of the required factors to be considered." Griffith v. Griffith, 332 S.C. 630, 646, 506 S.E.2d 526, 534-35 (Cl.App. 1998). The factors we should consider in determining reasonable attorney's fees are:

- (1) nature, extent, and difficulty of the legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained.

Blumberg v. Nealco, Inc., 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993). "[A]bsent sufficient evidentiary support on the record for each factor, the award should be reversed and the issue remanded for the trial court to make specific findings of fact." Id. at 494, 427 S.E.2d at 661.

We find sufficient evidentiary support to award the attorney's fees and costs claimed in this case. As the nature, extent and difficulty of the legal services rendered, we find the need to conduct discovery to obtain written proof of Defendants' contumacy along with filing the motion and arguing the case are specific skills requiring the services of an attorney. We note "in the best tradition of the profession, he attempted to settle this matter with" opposing counsel before actually taking the case to a hearing. Williamson v. Middleton, 649 S.E.2d 57, 374 S.C. 419 (Cl. App. 2007), *reversed on other grounds*, 383 S.C. 490, 681 S.E.2d 867 (2009). The time and

labor involved are amply documented by the affidavit of counsel. Claimant's counsel is well-known to the Commission as an attorney experienced and well-versed in the workers' compensation arena. Regarding the contingency of the compensation, we find the legislature was fully aware that claimant's attorneys in workers' compensation cases are almost universally paid under contingency fee agreements. See 25A S.C. Code Ann. Reg. 67-1205 (2007). In enacting § 42-3-175, the legislature was aware that the beneficial results obtained were not likely to result in additional monetary compensation. We find § 42-3-175 was designed to reimburse claimant's attorneys for their time and expenses on an hourly basis reflecting the actual attorney's fees and costs involved in enforcing the Order. In this case, we find the fact that compensation was contingent in prevailing at the hearing supports an award of attorney's fees. Regarding the fee customarily charged, we find \$300.00 an hour for an attorney and \$75.00 per hour for a paralegal is a reasonable and customary rate for an attorney with 14 years of experience practicing before the Commission. Finally, we find counsel obtained beneficial results for his client.

11. Claimant did not appeal the amount of attorney's fees awarded by the Single Commissioner; only Defendants appealed. Claimant may not benefit from Defendants' appeal. We therefore find the \$1,500.00 attorney's fee award is the law of the case as to Claimant. See Floyd v. Floyd, 615 S.E.2d 465, 365 S.C. 56 (Ct. App. 2005)(law of the case rule applied where party failed to challenge amount of attorney's fees awarded). The Appellate Panel lacks authority to reverse an unappealed finding of a Single Commissioner. We therefore affirm the finding that Defendants are to pay \$1,500 in attorney's fees.

12. Defendants are ordered to pay a penalty, at the rate of \$10.00 per day for 438 days, for non-compliance with the previous Order. The 438 days is based on the date of the c-

mail from the claims adjuster. The total amount of the fine is \$4,380.00 payable to the Commission under § 42-3-175. This amount is a reasonable penalty under the statute in light of the statute's purpose of compelling employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's orders. In assessing the penalty, due consideration was also given to the delays in filling prescriptions and providing dental and neurological treatment.

13. Defendants are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

14. No hearing costs are assessed.

CONCLUSIONS OF LAW

Pursuant to S.C. Code Ann. § 42-17-50 (2007), the Appellate Panel has examined and weighed the evidence in the record, along with the stipulated facts, arguments of counsel and relevant legal authorities. Upon so doing, the Panel makes the following Conclusions of Law:

1. Orders of the Commission are binding and enforceable on those who come before it in the same manner and to the same extent as orders of our courts. In establishing the Commission, the legislature created a quasi-judicial agency with the authority to adjudicate contested claims and issue orders within its area of jurisdiction. See S.C. Code Ann. § 42-1-540 (1974); Sabb v. South Carolina State University, 350 S.C. 416, 567 S.E.2d 231 (2002) ("The phrase 'shall exclude all other rights and remedies' in the exclusivity provision demonstrates plain and unambiguous legislative intent to vest the Workers' Compensation Commission with

exclusive original jurisdiction over an employee's claims"). If the Commission did not have the power to enforce its orders, then the Commission's orders would be nullities *ab initio*. "The power to punish for contempt is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice." Curlee v. Howle, 277 S.C. 377, 382, 287 S.E.2d 915, 917 (1982). As succinctly stated by the Rhode Island Supreme Court:

Without the authority to cite and punish for contempt of its decrees and orders the commission would be virtually powerless to enforce them. To hold that the legislature, in transferring jurisdiction of workmen's compensation cases from the superior court, intended that the commission it created for that purpose would establish a forum not fully effective is repugnant to reason and wholly untenable. Segrella v. Workmen's Compensation Commission, 162 A.2d 810 (R.I. 1960).

See also, Kennedy v. Kenney Mfg. Co., 519 A.2d 585 (R.I. 1987)(workers' compensation commissioner possesses certain judicial powers not specifically conferred by statute including the power to hold persons in criminal contempt); Hudock v. Industrial Com'n of Virginia, 340 S.E.2d 168 (Va. App. 1986)("Commission, as quasi-judicial body within the area of its jurisdiction, has the power of contempt over those in disobedience of its lawful orders").

2. The Commission's explicit authority to enforce its Orders is set forth in two statutes: § 42-3-150 and § 42-3-175.

The Commission's contempt power is set forth in § 42-3-150. Under the title "Manner in which attendance of witnesses and production of books and papers may be compelled", the statute provides, in pertinent part, the following:

In case of contumacy by any person or refusal to obey a subpoena issued to any person, the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of

the Commission may be punished as a contempt thereof.

Any person who shall without just cause fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the Commission, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty nor more than two hundred dollars or by a term of imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense. Subpoenas shall be issued in the name of the Commission and shall be signed by a commissioner. Subpoenas shall be issued to such persons as the Commission may designate.

In addition, the Commission may punish for contempt in the manner authorized by this section any person whose disorderly conduct in any Commission proceeding interferes with the orderly process of such proceeding.

S.C. Code Ann. § 42-3-150 (1980).

Supplemental to the contempt power, the legislature passed § 42-3-175 which grants the Commission explicit authority to direct a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007).

§ 42-3-175 further directs the Commission to determine if the failure to comply with an Order authorizing medical treatment and/or payment of benefits is wilful disobedience. In such a case, the commission may impose sanctions “including, but not limited to, a fine of up to five hundred dollars for each day of the violation.” The Commission “must notify the Department of Insurance of an insurer’s or an adjuster’s failure to authorize and pay benefits for medical treatment.”

3. The award of \$1,500 attorney’s fees is affirmed. The Commission has explicit authority to order a Defendant to “pay the Claimant’s attorney’s fees and costs of enforcing the

order.” Payment of attorneys fees and costs is mandatory whenever the Commission finds “an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission . . .” S. C. Code Ann. § 42-3-175 (2007). See Martin v. Rapid Plumbing, 631 S.E.2d 547, 369 S.C. 278 (Ct. App. 2006)(appellate panel does not have discretion to limit the amount of a mandatory penalty).

4. “Our case law and court rules make clear that when a contract or statute authorizes an award of attorney’s fees, the trial court must make specific findings of fact on the record for each of the required factors to be considered.” Griffith v. Griffith, 332 S.C. 630, 646, 506 S.E.2d 526, 534-35 (Ct.App. 1998) . The factors we should consider in determining reasonable attorney’s fees are:

(1) nature, extent, and difficulty of the legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained.

Blumberg v. Nealco, Inc., 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

5. As to Claimant, the \$1,500.00 attorney’s fee award is the law of the case. See Floyd v. Floyd, 615 S.E.2d 465, 365 S.C. 56 (Ct. App. 2005)(law of the case rule applied where party failed to challenge amount of attorney’s fees awarded).

6. The statutory fines and penalties exist to ensure that the workers’ compensation system effectively fills its role of providing compensation to injured workers and their dependents so they do not become charges on society. The fines and penalties are designed to promote proper claim and benefit handling by employers and their representatives so that the system will be more efficient and injured workers will not suffer due to delays in payment of compensation and medical treatment.

AWARD

IT IS THEREFORE ORDERED that the Employer and Carrier shall immediately and without delay pay \$4,380.00 to the South Carolina Workers' Compensation Commission as a statutory fine for wilful disobedience of an order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall immediately and without delay pay \$1,500.00 to Samuels Law Firm, L.L.C. for attorney's fees for enforcing an order pursuant to S.C. Code Ann. § 42-3-175 (2007);

IT IS FURTHER ORDERED that the Employer and Carrier shall pay \$227.76 to Claimant within fourteen days of the hearing before the Single Commissioner;

IT IS FURTHER ORDERED that Commissioner Beck will retain jurisdiction with respect to any further proceedings involving penalties, sanctions, contempt and enforcement of any previous Orders in this case;

IT IS FURTHER ORDERED that Dr. Robert F. Berger, D.D.S. and Berger Dental Group, P.A., are designated as the authorized treating physicians for the provision of dental treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred. Defendants shall reimburse Claimant \$1,190.00 for the cost of the initial evaluation.

IT IS FURTHER ORDERED that Dr. David Rogers is designated as the authorized

treating physicians for the provision of neurological treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that Defendants shall provide a psychological and psychiatric evaluation with Post Trauma Resources. Should the doctors at Post Trauma Resources recommend treatment and should Defendants accept that recommendation, Post Trauma Resources shall be designated as the authorized treating physicians for the provision of psychological and psychiatric treatment. However, as a determination of whether Claimant has suffered a compensable psychological injury goes to the merits, ordering treatment is beyond the scope of this proceeding.

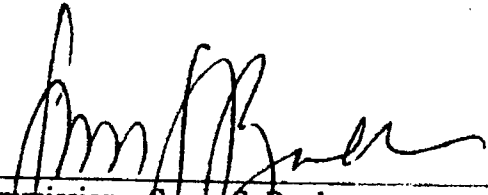
IT IS FURTHER ORDERED that in the event any of the above providers is unable or unwilling to act as Claimant's treating physician, that the parties shall agree upon an authorized treating physician, and if the parties are unable to agree, Commissioner Beck, or in his absence the jurisdictional Commissioner, will designate the authorized treating physician.

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further

sanctions under § 42-3-150 and § 42-3-175.

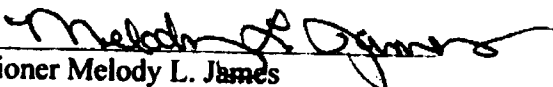
AND IT IS SO ORDERED.

Dated: 4-16-13

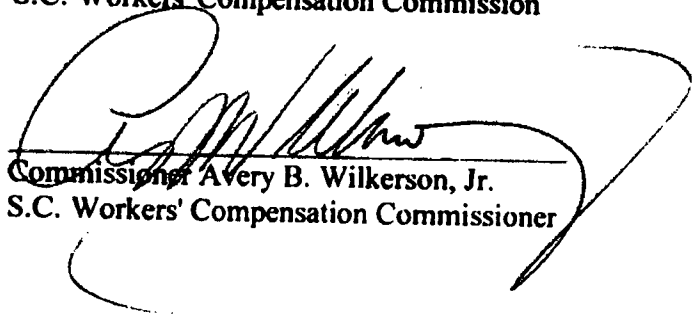


Commissioner Susan S. Barden
S.C. Workers' Compensation Commission

CONCURRING:



Commissioner Melody L. James
S.C. Workers' Compensation Commission



Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commissioner

CERTIFICATE OF SERVICE

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

By Valerie Deller on April 16, 2013



Claimant's Name: John H. Hart SSN: 247-17-2181 Employer's Name: Owens Steel Company, Inc.
Address: 3946 Webb Court Address: 727 Mauney Drive
City: Columbia State: SC Zip: 29204 City: Columbia State: SC Zip: 29201
Home Phone: (803) 351-2042 Work Phone: () - Insurance Carrier: Old Republic Insurance Co.
Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm, LLC Preparer's Phone #: (803) 779-4000

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

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

Date of Injury or Illness: 3/16/09

☒ Injury ☐ Illness ☐ Repetitive Trauma

- 1a. The claimant sustained an injury to Teeth, Mandible/Jaw, brain (Part(s) of Body Injured) on 3/16/09 (Month/Day/Year) in Richland county, state of SC.
1b. Body part(s) affected are: Teeth, Mandible/Jaw, TMJ, Brain, skull, nervous system, psychological overlay

Briefly describe how the accident occurred. Chipper exploded hitting employee in face.

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 3/16/09 (Month/Day/Year) in the following manner:
Notified Supervisor

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

☒ (a) medical examination and treatment for: teeth and mandible

☒ (b) additional medical examination and treatment for: brain, psyche and nervous system

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
August 19, 2009 and continuing on running award

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

☐ (1) General Disability:

☐ Total

☐ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

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

10a. At the time of the injury, the Claimant was paid weekly wages of \$600 needed, and demands accounting of days worked and wages earned as provided by law.

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

11a. Further grounds or unusual aspects of claim:

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

11c. To the best of your knowledge, did you have any prior permanent disability? None known to listed body parts
If yes, describe: _____

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

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

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

14. Estimated time needed for hearing: 60 minutes

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

Stephen B. Samuels
Preparer's Signature

Attorney at Law
Title

Stephen@SamuelsLawFirm.net
Email

4-23-10
Date

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

ATTACHMENT

Claimant: John H. Hart
WCC File No.: 0902416

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

Isaiah L. Davis, DMD
3026 Farrow Road
Columbia, South Carolina 29203-7002

Providence Hospital
2753 Laurel Street
Columbia, South Carolina 29204

Doctor's Care – Columbia East
7653 Garners Ferry Road
Columbia, South Carolina 29209

Associates in Oral and Maxillofacial Surgery
307 Columbia Avenue
Lexington, South Carolina 29072

Robert B. Salter, DMD
7 Monckton Boulevard
Columbia, South Carolina 29206

Premier Endodontics
7024 Brookfield Road
Columbia, South Carolina 29223



WCC File #: 0902146
Case File #: 002979-010519-WC-01
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: John H. Hart SSN: 247-17-2181 Employer's Name: Owen Steel Company
Address: 3946 Webb Court Address: 727 Mauney Drive
City: Columbia State: SC Zip: 29204 City: Columbia State: SC Zip: 29201
Home Phone: (803) 351-2042 Work Phone: () Insurance Carrier: Old Republic
Date of Injury: 03/16/09
Preparer's Name: Russell T. Infinger Law Firm: Nexsen Pruet, LLC Preparer's Phone #: (864) 282-1122

Date of Injury or Illness: 03/16/09

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

1. It is **Admitted** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
It is admitted claimant sustained an injury on 03/16/09. Defendants are providing medical treatment. Defendants deny TTD benefits.
2. It is **Admitted** 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** the relationship of employer and employee existed at the time in question. The reasons for denial are:

4. It is **Admitted** 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** notice of injury was given the employer. The reasons for denial are:

6. It is **Admitted** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:

7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
See No. 1
8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
See No. 1
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$ 576.50 applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: _____
12. Estimated time needed for hearing: 30 minutes

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Stephen B. Samuels, Esquire

Address: P.O. Box 50349, Columbia, SC 29250

on the 21st day of May, 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.

Russell T. Infinger Attorney Title RInfinger@nexsenpruet.com Email May 21, 2010 Date
Preparer's Signature

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

1612 Marlon Street • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5739

www.wcc.sc.gov



File #: 0902146

Case File #: 002979-010519-WC-01

Carrier Code #:

Employer FEIN #:

Claimant's Name: John H. Hart SSN: 247-17-2181

Employer's Name: Owen Steel Company

Address: 3946 Webb Court

Address: 727 Mauney Drive

City: Columbia State: SC Zip: 29204

City: Columbia State: SC Zip: 29201

Home Phone: (803) 351-2042 Work Phone: () -

Insurance Carrier: Old Republic

Date of Injury: 03/16/09

Preparer's Name: Russell T. Infinger Law Firm: Nexsen Pruet, LLC Preparer's Phone #: (864) 282-1122

Date of Injury or Illness: 03/16/09

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

- It is **Admitted** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
It is admitted claimant sustained an injury on 03/16/09. Defendants are providing medical treatment. Defendants deny TTD benefits. Defendants only admit injury for dental work.
- It is **Admitted** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
- It is **Admitted** the relationship of employer and employee existed at the time in question. The reasons for denial are:
- It is **Admitted** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
- It is **Admitted** notice of injury was given the employer. The reasons for denial are:
- It is **Denied** the employee Needs / Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are:
Defendants have provided medical treatment for dental work causally related to this injury.
- It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
See No. 1
- It is **Denied** the employee is permanently disabled. The reasons for denial are:
See No. 1
- It is **Denied** the employee has serious disfigurement.
- It is contended that an average weekly wage of \$ 576.50 applies, according to attached Form 20 as provided by law.
- Further contentions, grounds of defense, or unusual aspects are:
- Estimated time needed for hearing: 30 minutes

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Stephen B. Samuels, Esquire

Address: P.O. Box 50349, Columbia, SC 29250

on the 4th day of June, 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
TitleRInfinger@nexsenpruet.com
EmailJune 4, 2010
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

WCC Form # 51
Revised 9/07**Amended 51****Employer's Answer to Request for Hearing**

South Carolina Workers' Compensation Commission

1612 Marion Street • Post Office Box 17
Columbia, South Carolina 29202-1715
(803) 737-5739
www.wcc.sc.gov



WCC File #: 0902146

Carrier File #: 002979-010519-WC-01

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: John H. Hart SSN: 247-17-2181

Employer's Name: Owen Steel Company

Address: 3946 Webb Court

Address: 727 Mauney Drive

City: Columbia State: SC Zip: 29204

City: Columbia State: SC Zip: 29201

Home Phone: (803) 351-2042 Work Phone: () -

Insurance Carrier: Old Republic

Date of Injury: 03/16/09

Preparer's Name: Russell T. Infinger Law Firm: _____ Preparer's Name: Russell T. Infinger Law Firm: _____

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☐ claimant ☒ employer (check one) Date of Injury: 03/16/09

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 Rider

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

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Stephen B. Samuels, Esquire

Name

Samuels Law Firm, P.O. Box 50349, Columbia, SC 29250

Address

on the 16th day of September, 2010 by ☒ first class mail ☐ personal service ☐ certified mail.

Russell T. Infinger
Preparer's Signature

Attorney
Title

September 16, 2010
Date

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

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

RIDER TO FORM 30
JOHN HART
v.
OWEN STEEL COMPANY
WCC FILE NO. 0902416

1. Did the Single Commissioner err in finding that the claimant was entitled to TTD disability when as a result of receiving unemployment he conceded that he was able to work?
2. Did the Single Commissioner err in finding that the claimant was entitled to receive TTD when he was concurrently receiving unemployment compensation and admitted at the hearing he was able to work?

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant,)
-vs-)
Owen Steel Company,)
Employer,)
and)
Old Republic Insurance Company,)
Carrier,)
Defendants.)

WCC FILE NO. 09302416

**CLAIMANT'S MOTION FOR
ORDER AND RULE TO SHOW CAUSE**

Claimant, by and through his undersigned attorney, hereby moves for an Order compelling Defendants to appear and show cause for their failure to comply with the Decision and Order of the Single Commissioner dated September 1, 2010. Claimant requests Defendants be held in contempt for failure to comply with the Order and seeks payment of the unappealed portion of the Order with interest and penalties, plus an appropriate award of attorney's fees for compensatory contempt. Alternatively, Claimant seeks relief under § 42-3-175.

As grounds for this Motion, Claimant would show:

1. A hearing was held before the Honorable T. Scott Beck, Commissioner, on July 28, 2010. By Decision and Order dated September 1, 2010, Commissioner Beck ordered certain benefits be paid to Claimant.

The Order provided that:

IT IS THEREFORE ORDERED that the Employer shall pay temporary total disability to Claimant in the amount of \$384.35 per week commencing on August 19, 2009 and continuing until further order of the Commission;

IT IS FURTHER ORDERED that the Employer shall pay for past causally-related medical treatment including the emergency room visits in the APA Submissions;

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers;

IT IS FURTHER ORDERED that Employer shall promptly and without delay schedule and authorize an evaluation by a neurologist, and if further treatment by a neurologist will tend to lessen Claimant's period of disability, said treatment shall be provided;

IT IS FURTHER ORDERED that permanency is premature;

IT IS FURTHER ORDERED that no hearing costs are assessed;

AND IT IS SO ORDERED.

2. On September 16, 2010, an appeal was filed by counsel for Defendants. The only issues listed in Defendant's Form 30 were concerning whether the Single Commissioner erred in finding that: 1) the claimant was entitled to TTD disability when as a result of receiving unemployment he conceded that he was able to work and; 2) admitted at the hearing he was able to work.

3. None of Commissioner Beck's other findings were appealed by Defendants.

4. Despite the clear terms of the Order, Defendants have failed to fully reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.

5. To date, Claimant is owed reimbursement for 4,182 miles for travel incurred from May 7, 2010 - September 30, 2010, in the amount of \$2,091.00. Claimant has submitted multiple mileage reimbursement requests to Defendants. [Exhibit 1]. Claimant's attorney and paralegal have

repeatedly requested reimbursement to no avail. Moreover, Defendants have a history in this case of refusing to pay or delaying payment of mileage.

6. Claimant requests the Commission award attorney's fees and costs of this motion as compensatory contempt to compensate Claimant for additional time and expense incurred in seeking to have the Decision and Order of the Commission enforced. The Commission has authority to fine a party who refuses to comply with an Order in contempt and assess attorney's fees as compensatory contempt. The Commission's contempt power is set forth in § 42-3-150. The statute provides, in pertinent part, the following:

In case of contumacy by any person . . . the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the Commission may be punished as a contempt thereof.
S.C. Code Ann. § 42-3-150 (1980).

"Contumacy" is the "refusal or intentional omission of a person . . . duly before the court, to obey some lawful order or direction made in the cause." Black's Law Dictionary (6th Ed. 1990) at 330. "Contumacious conduct" is "[w]illfully stubborn and disobedient conduct, commonly punishable as contempt of the court." Id. Our courts routinely enforce their orders by finding the contumacious party in contempt. See, Ex Parte: Stone v. Reddix-Smalls, 295 S.C. 514, 369 S.E.2d 840 (S.C.1988)(contumacious behavior which tends to bring the authority and administration of the law into disrespect may also support a finding of contempt); Curlee v. Howle, 277 S.C. 377, 287 S.E.2d 915 (1982) (father held in contempt for willfully disobeying a Court Order to return children to their mother on a certain day) ; Cheap-O's Truck Stop, Inc. v. Cloyd, 350 S.C. 596, 567 S.E.2d 514 (Ct. App. 2002)(remanding for trial court to "evaluate defendant's contumacious conduct"); Whetstone v. Whetstone, 309 S.C. 227, 420 S.E.2d 877 (Ct. App. 1992)("warning Mr. Whetstone

that the time for trifling with the judicial process has ended” and “of the possibility of much severer sanctions if he engages in further contumacy”). There is no doubt the Carrier’s conduct in this case is contumacious. It is undisputed the Carrier refused to comply with an Order of the Commission.

South Carolina courts have long recognized attorney’s fees as an appropriate remedy for compensatory contempt. See, Poston v. Poston, 331 S.C. 106, 114, 502 S.E.2d 86, 90 (1998) (“In a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court’s prior order, including reasonable attorney’s fees. The award of attorney’s fees is not a punishment but an indemnification to the party who instituted the contempt proceeding.”); Curlee v. Howle, 277 S.C. 377, 386-87, 287 S.E.2d 915, 919-20 (1982) (“Compensatory contempt is a money award for the plaintiff when the defendant has injured the plaintiff by violating a previous court order..... Included in the actual loss are the costs of defending and enforcing the court’s order, including litigation costs and attorney’s fees.”); Lorick & Lowrance v. Motley, 69 S.C. 567, 48 S.E. 614 (1904)(a contemnor may be required to pay damages suffered by reason of his contemptuous action or suffer imprisonment); Ex Parte Thurmond, 1 Bailey 605 (1830) (when an individual right is directly involved in a contempt proceeding, the court has the power to order the contemnor to place the injured party in as good a situation as he would have been if the contempt had not been committed, or to suffer imprisonment); Lindsay v. Lindsay, 328 S.C. 329, 345, 491 S.E.2d 583, 592 (Ct.App.1997) (“A compensatory contempt award may include attorney fees.”). The authority to assess attorney’s fees for compensatory contempt is an inherent part of the Commission’s contempt power.

7. Under § 42-3-175, if a claimant brings an action before the commission to enforce an order authorizing medical treatment or payment of benefits and the commission determines that

an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission, the insurer, the self-insured employer, the self-insured fund, or the adjuster must pay the claimant's attorneys' fees and costs of enforcing the order. The commission may impose sanctions for wilful disobedience of an order, including, but not limited to, a fine of up to five hundred dollars for each day of the violation.

THEREFORE, Claimant request Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission, and upon failure to show good cause owing to conditions over which Defendants had no control, to be ordered to forthwith pay the award with interest and a 10% penalty, and further to pay to Claimant an appropriate amount for attorneys' fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250
(803) 779-4000

Columbia, South Carolina
October 14, 2010

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant,)

WCC FILE NO. 0902416

-vs-

Owen Steel Company,)
Employer,)

CLAIMANT'S MOTION FOR
ORDER AND RULE TO SHOW CAUSE

and)

Old Republic Insurance Company,)
Carrier,)
Defendants.)

Claimant, by and through his undersigned attorney, hereby moves for an Order compelling Defendants to appear and show cause for their failure to comply with the Decision and Order of the Single Commissioner dated September 1, 2010. Claimant requests Defendants be held in contempt for failure to comply with the Order, plus an appropriate award of attorney's fees for compensatory contempt. Alternatively, Claimant seeks relief under § 42-3-175.

As grounds for this Motion, Claimant would show:

1. Claimant John Hart was employed as a welder for Owens Steel. Hart was injured on March 16, 2009, when an air tool exploded sending the back plate of the tool into his face. Hart broke a number of teeth and was knocked unconscious. He suffers from problems with his teeth (most of which he lost as a result of the accident); chronic headaches; jaw and facial pain; depression; and mild cognitive deficits.

Hart is currently receiving medical treatment for his teeth. However, he is no longer being

provided treatment for his other causally-related problems.

2. A hearing was held before the Honorable T. Scott Beck, Commissioner, on July 28, 2010.

By Decision and Order dated September 1, 2010, Commissioner Beck ordered certain benefits be paid to Claimant.

The Order provided (in pertinent part) that:

IT IS FURTHER ORDERED that the Employer shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physicians related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred by the authorized treating physician. Treatment shall be provided until Claimant has reached maximum medical improvement and thereafter so long as such post-MMI treatment tends to lessen Claimant's period of disability;

IT IS FURTHER ORDERED that Employer shall promptly and without delay schedule and authorize an evaluation by a neurologist, and if further treatment by a neurologist will tend to lessen Claimant's period of disability, said treatment shall be provided;

3. On October 14, 2010, Claimant filed a Motion for Rule and Order to Show Cause concerning Defendants failure to reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers. After a hearing on November 19, 2010, Commissioner Beck issued an Order assessing costs and attorney's fees. Commissioner Beck did not find the failure to pay mileage to be wilful.

4. Pursuant to the September 1, 2010 Order, Defendants began providing neurological treatment for Claimant's headaches, cognitive issues and depression through Ashley Kent, MD. Dr. Kent ordered ongoing neurological treatment including various prescription medication. Treatment was provided until April 26, 2011 when Dr. Kent closed his practice in South Carolina and moved out of state. Dr. Kent recommended continuing neurological treatment along with a neuropsychological evaluation and treatment with a psychiatrist [Exhibit 1].

Claimant then requested a new physician be designated to continue the treatment. On August 2, 2011, counsel for Claimant wrote defense counsel advising that Claimant was going untreated for his neurological symptoms and asked if Carrier intended to authorize Dr. Kent's testing and treatment recommendations [Exhibit 2]. Rather than authorize the treatment recommended by Dr. Kent, Defendants set up an IME with Dr. Charles Jervey on August 24, 2011. Upon information and belief, Defendants engaged in *ex parte* communication with Dr. Jervey in violation of S.C. Code Ann. § 42-15-95 (2007). As such, Dr. Jervey's report cannot be used in any hearing in this case.¹

Claimant has made repeated efforts to solve the medication issues through paralegal for opposing counsel [Exhibit 3]. He is currently out of two prescription medications prescribed by Dr. Kent and cannot obtain refills or new prescriptions because he has no authorized treating neurologist and psychiatrist. Claimant has worked diligently with Express Dental Care to resolve the treatment issues. In late December of 2011, Claimant was assured by Express Dental Care the treatment issues would be resolved if he would be patient, undergo an ICAT scan and attend all appointments scheduled by Express Dental Care until Dr. I.E. Davis, oral surgeon, provided a definitive treatment plan. On February 23, 2012, Dr. I.E. Davis provided his report [Exhibit 4] which repeated the recommendation that Mr. Hart see a neurologist, stating "I would at this time encourage him to see a neurologist and see if his pain issues can be resolved from that end of things." Furthermore, Claimant's dental treatment has languished, such that he has continual problems with the prosthetic teeth breaking and no definitive treatment plan has been established.

5. Good cause being show, Claimant requests that the Commission order Defendants to provide treatment through a neurologist, psychiatrist and oral surgeon chosen by Claimant.

¹If the Commission finds Dr. Jervey's report is admissible, it should be noted that Dr. Jervey recommended treatment with a psychiatrist which has not been authorized.

Alternatively, Claimant requests the treating physicians be selected by the Commission pursuant to S.C. Code Ann. § 42-17-30 and § 42-15-60.

6. Claimant further requests the Commission award attorney's fees and costs of this motion as compensatory contempt to compensate Claimant for additional time and expense incurred in seeking to have the Decision and Order of the Commission enforced. The Commission has authority to fine a party who refuses to comply with an Order in contempt and assess attorney's fees as compensatory contempt. The Commission's contempt power is set forth in § 42-3-150. The statute provides, in pertinent part, the following:

In case of contumacy by any person . . . the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the Commission may be punished as a contempt thereof.

S.C. Code Ann. § 42-3-150 (1980).

"Contumacy" is the "refusal or intentional omission of a person . . .duly before the court, to obey some lawful order or direction made in the cause." Black's Law Dictionary (6th Ed. 1990) at 330. "Contumacious conduct" is "[w]illfully stubborn and disobedient conduct, commonly punishable as contempt of the court." Id. Our courts routinely enforce their orders by finding the contumacious party in contempt. See, Ex Parte: Stone v. Reddix-Smalls, 295 S.C. 514, 369 S.E.2d 840 (S.C.1988)(contumacious behavior which tends to bring the authority and administration of the law into disrespect may also support a finding of contempt); Curlee v. Howle, 277 S.C. 377, 287 S.E.2d 915 (1982) (father held in contempt for willfully disobeying a Court Order to return children to their mother on a certain day) ; Cheap-O's Truck Stop, Inc. v. Cloyd, 350 S.C. 596, 567 S.E.2d 514 (Ct. App. 2002)(remanding for trial court to "evaluate defendant's contumacious conduct"); Whetstone v. Whetstone, 309 S.C. 227, 420 S.E.2d 877 (Ct. App. 1992)("warning Mr. Whetstone that the time for trifling with the judicial process has ended" and "of the possibility of much severer

sanctions if he engages in further contumacy"). There is no doubt the Carrier's conduct in this case is contumacious. It is undisputed the Carrier refused to comply with an Order of the Commission.

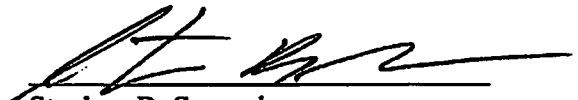
South Carolina courts have long recognized attorney's fees as an appropriate remedy for compensatory contempt. See, Poston v. Poston, 331 S.C. 106, 114, 502 S.E.2d 86, 90 (1998) ("In a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court's prior order, including reasonable attorney's fees. The award of attorney's fees is not a punishment but an indemnification to the party who instituted the contempt proceeding."); Curlee v. Howle, 277 S.C. 377, 386-87, 287 S.E.2d 915, 919-20 (1982) ("Compensatory contempt is a money award for the plaintiff when the defendant has injured the plaintiff by violating a previous court order..... Included in the actual loss are the costs of defending and enforcing the court's order, including litigation costs and attorney's fees."); Lorick & Lowrance v. Motley, 69 S.C. 567, 48 S.E. 614 (1904)(a contemnor may be required to pay damages suffered by reason of his contemptuous action or suffer imprisonment); Ex Parte Thurmond, 1 Bailey 605 (1830) (when an individual right is directly involved in a contempt proceeding, the court has the power to order the contemnor to place the injured party in as good a situation as he would have been if the contempt had not been committed, or to suffer imprisonment); Lindsay v. Lindsay, 328 S.C. 329, 345, 491 S.E.2d 583, 592 (Ct.App.1997) ("A compensatory contempt award may include attorney fees."). The authority to assess attorney's fees for compensatory contempt is an inherent part of the Commission's contempt power.

7. Under § 42-3-175, if a claimant brings an action before the commission to enforce an order authorizing medical treatment or payment of benefits and the commission determines that an insurer, a self-insured employer, a self-insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission, the

insurer, the self-insured employer, the self-insured fund, or the adjuster must pay the claimant's attorneys' fees and costs of enforcing the order. The commission may impose sanctions for wilful disobedience of an order, including, but not limited to, a fine of up to five hundred dollars for each day of the violation.

THEREFORE, Claimant request Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission; to be ordered to provide a treating neurologist, neuropsychologist, psychiatrist and oral surgeon of Claimant's choosing; to be reported to the Department of Insurance; and further to pay to Claimant an appropriate amount for attorney's fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250
(803) 779-4000

Columbia, South Carolina
April 16, 2012

South Carolina Workers' Compensation Commission

WCC. #

0902416

P.O. Box 1715 • 1333 Main Street, Suite 500

Carrier File #

002979-010519-WC-01

Columbia, South Carolina 29202-1715

Carrier Code #

(803) 737-5700

Employer FEIN

John H. Hart, III 247-17-2181

Claimant's Name

SSN

1217 Peachwood Drive
Columbia, South Carolina 29203

Address City State Zip

Owen Steel Company, Inc.

Employer's Name

727 Mauney Drive
Columbia, South Carolina 29201

Address City State Zip

Old Republic Insurance Company c/o Gallagher Bassett
Services, Inc.

Insurance Carrier

(803) 227-2283

Phone Number

Home Phone #

Work Phone #

Jason W. Lockhart

Preparer's Name

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

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).

1. Did the Single Commissioner err in finding as a matter of fact that the Defendants failed to comply with the specific provisions of the September 1, 2010 Order to promptly and without delay reimburse the Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers?
2. Did the Single Commissioner err in concluding as a matter of fact that the Defendants, based on the June 3, 2011 email from Tara Potter, willfully refused to pay \$227.76 in mileage for a trip to the pharmacy on April 29, 2011?
3. Did the Single Commissioner err in finding as a matter of fact that there are also two documented instances on December 20, 2011 and June 6, 2012 where mileage was ultimately paid, but not paid within 14 days?
4. Did the Single Commissioner err in finding as a matter of fact that by clear and convincing evidence the refusal to comply with the previous Order was willful and contumacious?
5. Did the Single Commissioner err in finding as a matter of fact that that, as Defendants conduct was willful and contumacious, that there was clear and convincing evidence for Defendants to be held in contempt pursuant to Section 42-3-150 and to impose sanctions under Section 42-3-175?
6. Did the Single Commissioner err in finding as a matter of fact that Defendants shall pay the Claimant's attorney's fees in the amount of \$1,500.00 pursuant to Section 42-3-175?
7. Did the Single Commissioner err in finding as a matter of fact that the Claimant's attorney's representation of the amount of time he and his staff spent on enforcing this Order to be accurate and reasonable, that the Claimant's attorney's efforts were amply documented by the emails and letters submitted to the Commission, and that the Commission has the explicit authority to Order a Defendant to pay the Claimant's attorney's fees and costs of enforcing the Order?
8. Did the Single Commissioner err in finding as a matter of fact that the Defendants were ordered to pay a penalty, at a rate of \$10.00 per day for 438 days, for non-compliance with the previous Order, and that the 438 days is based on the date of the email from the claims adjuster, with the total amount of the fine being \$4,380.00 payable to the Commission pursuant to Section 42-3-175?
9. Did the Single Commissioner err in finding as a matter of fact that that this amount is a reasonable penalty under the Statute in light of the Statute's purpose of compelling Employers to meet their obligations to provide medical treatment under the Act and to comply with the Commission's Orders?
10. Did the Single Commissioner err in finding as a matter of fact that, in assessing the penalty, due consideration was also given to the delays in filling prescriptions and provided dental and neurological treatment?
11. Did the Single Commissioner err in finding as a matter of fact that the Defendants are required to pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the attorney a written reimbursement request submitted by the Claimant, and any failure to make payment within a 14 day time period will be deemed to be willful and contumacious, subjecting Defendants to further sanctions under Section 42-3-150 and Section 42-3-175?
12. Did the Single Commissioner err in concluding as a matter of law that the award of \$1,500.00 in attorney's fees is reasonable in light of the demonstrated time spent and efforts made by the Claimant's attorney to enforce the Order?

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

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

Stephen B. Samuels, Esquire
Samuels Law Firm
Post Office Box 50349
Columbia, South Carolina 29250

on the 22nd day of October, 2012 by ☒ first class mail; ☐ personal service; ☐ certified mail.

Preparer's Signature

Attorney for Employer/Carrier
Title

October 22, 2012
Date

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

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and 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.

WCC FORM #30 REV. DATE 3/97

30

REQUEST FOR COMMISSION REVIEW.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0902416

JOHN H. HART, III,

Employee,

Claimant,

vs.

OWEN STEEL COMPANY, INC.,

Employer,

AND

OLD REPUBLIC INSURANCE COMPANY
C/O GALLAGHER BASSETT SERVICES,
INC.

Carrier,

Defendants.

**APPELLANT'S BRIEF
TO FULL COMMISSION**

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

This matter came to be heard before the Honorable T. Scott Beck pursuant to the Claimant's Motion for Order and Rule to Show Cause dated April 16, 2012. On October 10, 2012, Commissioner Beck issued a Decision and Order finding that the Defendants failure to comply with specific provisions of a prior Decision and Order of Commissioner Beck, dated September 1, 2010, was willful and contumacious. Subsequently, Commissioner Beck imposed sanctions upon the Defendants including payment of the Claimant's attorney's fees in the amount of \$1,500.00 as well as payment of \$4,380.00 to the Commission for non-compliance with the previous Decision and Order of Commissioner Beck dated September 1, 2010. On October 22, 2012, the Defendants filed a Form 30 Request for Commission Review. The

Defendants submit this brief in support of their position.

I. DID THE SINGLE COMMISSIONER ERR IN FINDING AS A MATTER OF FACT AND CONCLUDING AS A MATTER OF LAW THAT THERE WAS CLEAR AND CONVINCING EVIDENCE FOR DEFENDANTS TO BE HELD IN CONTEMPT PURSUANT TO SECTION 42-3-150 AND TO IMPOSE SANCTIONS UNDER SECTION 42-3-175 (EXCEPTIONS 1, 2, 3, 4, 5, 8, 9, 10, 11)?

The Defendants maintain that the Single Commissioner's decision, regarding the willful and contumacious conduct, was erroneous where the decision was based upon evidence that was submitted to the Single Commission in violation of Regulation 67-612 of the Act. Regulation 67-612 of the Act requires "[a] written expert's report to be admitted as evidence at the hearing must be provided to the opposing party...at least fifteen days before the scheduled hearing." Regulation 67-612 (B)(1). The Decision and Order of the Single Commissioner, dated October 10, 2012, notes that "documentary evidence" was submitted by the Claimant.¹ This statement is correct, however, the "documentary evidence" in question was provided to the Single Commissioner by the claimant's attorney at the hearing on August 23, 2012. Clearly, the documentation, which was submitted and upon which the Single Commissioner based his decision, should not have been considered by the Single Commissioner as it was not submitted in accordance with Regulation 67-612.

The Defendants also maintain that the Single Commissioner's decision, regarding the willful and contumacious conduct of the Defendants, was erroneous where the decision was based upon hearsay testimony. The Single Commissioner, in his Findings of Fact, reached a conclusion that the Defendants willfully refused to comply with previous Orders based upon e-mail correspondence from Tara Potter, who is an adjuster with Gallagher Bassett. (See Decision

¹ Arguably, the hearing before The Single Commissioner, which was not transcribed, was conducted in violation of Section 42-3-170 which states "[h]earings before the Commission shall be open to the public and shall be stenographically reported." See S.C. Code Ann. § 42-3-170.

and Order of Commissioner Beck, pp. 5-7). Not only was this submission not provided to the Commission in accordance with the Administrative Procedures Act and/or Regulation 67-611, but e-mail correspondence, without testimony to authenticate the preparation of such correspondence, would clearly be hearsay testimony. See Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (S.C. 1967) (It is error for the Commission to take unsworn testimony from a portion of the witnesses and to rely upon the testimony as a basis for its findings). Claimant also submitted into evidence e-mail correspondence between the attorney for the Claimant and the attorney for the Defendants. Such e-mail correspondence would be hearsay without testimony from the attorney for the Claimant and the attorney for the Defendants. Neither attorney is a party to the action, and communication between attorneys would not be subject to an exception to the hearsay rule. Furthermore, the e-mail correspondence in question was more prejudicial than probative, and was used in an attempt by the Claimant to portray the Defendants, and, in particular, the attorney for the Defendants, in a negative manner. While the merits of the Claimant's Motion for Order and Rule to Show Cause should be addressed by this Commission, that Motion should be addressed in a procedurally correct manner in accordance with the requirements of the provisions of the South Carolina Workers Compensation Act.

The Defendants would also direct the Panel to Regulation 67-215 of Act addressing Motions to be heard before the Commission. Regulation 67-215 does not provide for the submission of information, including medical records and/or other documentation, at a hearing scheduled before the Commission pursuant to a Motion. Most notably, Regulation 67-215 states that, following submission of the Motion "[n]o further memoranda are allowed, unless requested by a Commissioner." Regulation 67-215(F). The Defendants are unable to locate any

communication from the Single Commissioner, prior to the hearing, requesting memoranda, medical evidence, and/or any additional documentation from the parties. Therefore, the Defendants respectfully maintain that the documentation, upon which the Single Commissioner based his decision, should not have been considered by the Single Commissioner as was submitted in violation of Regulation 67-215.

The Single Commissioner found "by clear and convincing evidence that the [Defendants'] refusal to comply with the previous Orders was willful and contumacious." (See Decision and Order of Commissioner Beck, pp. 6). Clearly, the Single Commissioner's decision was not based upon the Exhibits, which were included in the Claimant's Motion for Order and Rule to Show Cause dated April 16, 2012, but was based on documentation submitted in violation of Regulation 67-215 and Regulation 67-612 of the Act. Furthermore, the Finding of Fact, regarding the Defendants being held in contempt, is inconsistent with the tenants of Section 42-3-150 as there is no evidence that the Defendants' conduct, in the present case, was indicative of the conduct defined by Section 42-3-150. For the foregoing reasons, the Defendants respectfully request that the Full Commission vacate the Decision and Order of the Single Commissioner.

II. DID THE SINGLE COMMISSIONER ERR IN FINDING AS A MATTER OF FACT AND CONCLUDING AS A MATTER OF LAW THAT DEFENDANTS SHALL PAY THE CLAIMANT'S ATTORNEY'S FEES IN THE AMOUNT OF \$1,500.00 PURSUANT TO SECTION 42-3-175 (EXCEPTIONS 6, 7, 12)?

The Defendants maintain that the Single Commissioner erred in awarding the Claimant's attorney fees in the amount of \$1,500.00 where such an award was based upon the self-serving declaration of the Claimant's attorney at the hearing, and not calculated in accordance with Regulation 67-1205 of the Act. Should the Panel review the Decision and Order of the Single

Commissioner, they, like the Defendants, would be unable to identify the basis for the award of attorney's fees provided by the Single Commissioner. Based on a review of the Decision and Order of the Single Commissioner, the Defendants are only able to presume that the calculation of the Claimant's attorney's fee was apparently based upon information provided by the Claimant's attorney at the hearing before the Single Commissioner on August 23, 2012. While the Defendants do not dispute that Section 42-3-175 provides for an award of "claimant's attorney's fees and costs of enforcing the order," the statute provides no guidance as to what information should be considered prior to entering such an award. The Single Commissioner, in rendering his decision, notes that the "Claimant's attorney's representation of the amount of time he and his staff spent on enforcing this order to be accurate and reasonable." (See Decision and Order of Commissioner Beck, p. 7).

However, the Decision and Order of the Single Commissioner makes no mention of the hourly rate, which the Claimant's attorney maintained he was entitled to, nor does the Decision and Order provide any basis as to how the Single Commissioner settled upon \$1,500.00 as proper attorney's fee in the present case. In addition, the Defendants would maintain that a close review of the Claimant's Motion for Order and Rule to Show Cause, dated April 16, 2012, is quite similar to the Claimant's Motion for Order and Rule to Show Cause dated October 14, 2010. (See Claimant's Motion for Order and Rule to Show Cause dated April 16, 2012, pp. 4-6; Claimant's Motion for Order and Rule to Show Cause dated October 14, 2010, pp. 4-6). The Decision and Order of The Single Commissioner is silent on what additional action was necessary on behalf of the Claimant's attorney to substantiate the award of attorney's fees in the amount of \$1,500.00. Therefore, the Defendants would respectfully maintain that awarding the Claimant's attorney fees in the amount of \$1,500.00 would be arbitrary and capricious based on

the absence of information to substantiate that such an award is founded upon any information other than the self-serving declarations of the Claimant's attorney at the hearing, and was not calculated in accordance with Regulation 67-1205 of the Act. For the foregoing reasons, the Defendants respectfully request that the Full Commission vacate the Decision and Order of The Single Commissioner.

CONCLUSION

The Defendants maintain that the Single Commissioner's decision, regarding the willful and contumacious conduct of the Defendants, was erroneous where the decision was in violation of Section 42-3-150, Regulation 67-215, and Regulation 67-612 of the Act. In addition, the Defendants maintain that the Single Commissioner erred in awarding the Claimant's attorney fees in the amount of \$1,500.00 where such an award was based upon the self-serving declaration of the Claimant's attorney at the hearing, and not calculated in accordance with Regulation 67-1205 of the Act. For the foregoing reasons, the Defendants respectfully request that the Full Commission vacate the Decision and Order of the Single Commissioner.



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Columbia, South Carolina
January 3, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant/Respondent,)

WCC FILE NO. 0902416

-vs-

Owen Steel Company,)
Employer,)

BRIEF OF CLAIMANT/RESPONDENT

and)

Old Republic Insurance Company,)
Carrier,)
Defendants/Appellants)

The Claimant, John Hart, by and through his undersigned attorney, hereby submits his Respondent's Brief to the Full Commission.

STATEMENT OF THE CASE

This appeal by the Defendants arises out of a Rule to Show Cause hearing held before Commissioner Scott Beck on October 10, 2012. The hearing was set pursuant to a Motion for Order and Rule to Show Cause filed by the Claimant, John Hart, on April 16, 2012.

Hart was employed with Owens Steel as a welder. He was injured on March 16, 2009 when an air tool he was using exploded, sending the metal baseplate flying into his face, breaking several teeth, and knocking him unconscious. He suffers from problems with his teeth (most of which he lost as a result of the accident); chronic headaches; jaw and facial pain; depression; and mild cognitive deficits.

At the time the Motion was filed, Hart needed ongoing treatment from an oral surgeon, a neurologist, and a psychiatrist. Defendants had been providing sporadic dental treatment, but no real progress had been made in solving the problems – due in large part to manipulation and interference by a nurse case manager. Hart suffered persistent mouth and jaw pain, along with his prosthetics not fitting and breaking at frequent intervals.

Hart had been treating with a neurologist in Ladson, Dr. Ashley Kent. Dr. Kent closed his practice and moved out of state on April 26, 2011. Defendants refused to provide a replacement neurologist, nor did they provide any doctor who could have written the necessary prescriptions. Hart was out of two prescription medications prescribed by Dr. Kent and cannot obtain refills or new prescriptions because he had no authorized treating neurologist and psychiatrist.

Several treating doctors had referred Hart to a psychiatrist for causally-related depression. Defendants refused to provide this treatment.

This was not the first time Claimant was forced to file a **Motion for Rule and Order to Show Cause**. Commissioner Beck previously found these same Defendants in violation of the Commission's Order, noting specifically that they had failed to timely pay \$1,377.00 in medical mileage reimbursements. He ordered:

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. **Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.**

Claimant filed the instant **Motion for Rule and Order to Show Cause** on April 16, 2012.

He requested:

Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission; to be ordered to provide a treating neurologist, neuropsychologist, psychiatrist and oral surgeon of Claimant's choosing; to be reported to the Department of Insurance; and further to pay to Claimant an appropriate amount for attorney's fees and costs associated with this Motion, and for such other sanctions as the Commission finds appropriate to ensure enforcement of its Order.

The case was originally set for a **Rule to Show Cause Hearing** on May 30, 2012 before Commissioner Beck. Before the actual hearing, the attorneys reached an agreement on the issues – which was confirmed by e-mail. [Exhibit 1]. The parties advised Commissioner Beck that a Consent Order would be forthcoming and the case was removed from the docket.

Unfortunately, Defense Counsel refused to sign a Consent Order. Claimant's counsel notified Commissioner Beck that the hearing would need to be reset. The **Rule to Show Cause Hearing** was tried on August 23, 2012.

At the hearing (which was not transcribed), Defense Counsel stipulated to the previous agreement to provide treatment through Dr. Berger (dentistry) and Dr. Rogers (neurology), along with a psychological and psychiatric evaluation by Post Trauma Resources. Defendants presented no evidence. Claimant entered into evidence various materials as shown in the Order. These included e-mails and correspondence between the attorneys, their staffs, and the adjuster.

The Commissioner issued the Order on October 10, 2012. Defendants have provided treatment through Dr. Berger (although they have not paid him); treatment through Dr. Rogers, and an evaluation with Post Trauma Resources. They have paid Claimant the \$227.76 in previously unpaid mileage. They have not paid the \$4,380.00 fine to the Commission, nor the \$1,500.00 in attorney's fees, nor \$1,190.00 to reimburse Claimant for the cost of the initial evaluation by Dr. Berger.

ARGUMENT

I. The Single Commissioner correctly held there was clear and convincing evidence to hold defendants in contempt and to impose sanctions under § 42-3-175.

Defendants do not dispute the truth and accuracy of Commissioner Beck's findings, nor that those findings are supported by the evidence in the record. Their appeal is limited to whether the evidence relied on was properly admitted.¹

As shown below, there are no legal errors regarding admission of evidence. Nonetheless, the Appellate Panel should also keep in mind the history of repeated abuses by Defendants in this case. At the first Form 50 hearing before Commissioner Beck on July 28, 2010, there had been a dispute over Defendants' refusal to pay mileage. Commissioner Beck specifically "ORDERED that Employer shall promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers." Despite this Order, Defendants refused to pay the mileage, resulting in the first Rule to Show Cause hearing on November 19, 2010. At that hearing Defendants were ordered to pay attorney's fees and to pay any future mileage reimbursements within 15 days.

Commissioner Back added the proviso that: "Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further

¹In a footnote, Defendants also state: "Arguably, the hearing before The Single Commissioner, which was not transcribed, was conducted in violation of Section 42-3-170." This argument is not preserved as it was mentioned in a conclusory manner in a footnote. That being said, Claimant agrees that the hearing should have been transcribed. This was a Rule to Show Cause hearing held pursuant to Regulation 67-1404. However, as a practical matter, the Commission does on occasion rule entirely on documentary evidence, as the Commissioner did here. As no testimony was taken, Defendants cannot show any prejudice from the failure to transcribe the hearing. As such, this is not a grounds to vacate the Order.

sanctions under § 42-3-150 and § 42-3-175.” It is this provision that the adjuster expressly ignored.

However, there are multiple *documented* examples of the Defendants flouting the requirements of the previous Orders by: (1) refusing outright to pay legitimate mileage reimbursement; (2) paying mileage later than 14 days; (3) illegally conducting ex parte communication with doctors; (4) rewriting doctor’s reports; and (5) refusing outright to provide medical treatment ordered by authorized treating physicians and by the Commission.

A. Application of Regulation 67-612.

Defendants first contend the evidence should not have been admitted because “it was provided to the Single Commissioner by the claimant’s attorney on August 23, 2012.” [Brief of Appellants, page 2]. They contend this violated Regulation 67-612 (B)(1). However, the regulation applies only to “written expert reports.” Reg. 67-612 (B)(1). Only one of the exhibits was a written expert report: Dr. Berger’s report of May 7, 2012. [Exhibit 2]. The technical violation would be that Claimant’s attorney did not file a proof of service with the Commission when he sent the report to Defense counsel. See Reg. 67-612 (C).

Even if admitted in error, the admission of Dr. Berger’s report was harmless error. Defendants stipulated: “Dr. Berger is designated as the authorized treating physician to provide all dental care to Claimant. Defendants agree to reimburse Claimant for the cost of Dr. Berger’s initial evaluation.” [Order, page 2]. “When counsel enter into an agreed stipulation of fact as a basis for decision by the court, both sides will be bound by such agreed stipulation, and the court will not go beyond such stipulation to determine the facts upon which the case is to be decided.” Belue v. Fetner, 251 S.C. 600, 164 S.E.2d 753 (1968). Dr. Berger’s report made no difference on the stipulation. The argument has no merit and should be rejected.

B. Hearsay.

Defendants argue the “Commissioner’s decision, regarding the willful and contumacious conduct of the Defendants, was erroneous where the decision was based upon hearsay testimony.” [Brief of Appellants, page 2]. This objection is a reference to (1) e-mails from the adjuster refusing to pay mileage which she characterized as “excessive;” (2) and e-mails between the attorneys confirming the stipulations regarding medical treatment. [Exhibits 1 and 5].

The Commissioner relied on Exhibit 1 to make this finding:

Defendants failed to comply with the specific provisions of the September 1, 2010 order to “promptly and without delay reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers.” Defendants, based on the June 3, 2011 e-mail from Tara Potter, willfully refused to pay \$227.76 mileage for a trip to the pharmacy on April 29, 2011. There are also two documented instances on December 20, 2011 and June 6, 2012, where mileage was ultimately paid, but not paid within 14 days.

The e-mails from the adjuster are not hearsay because they are an “Admission by Party-Opponent.” [Rule 801 (d)(2), SCRE]. The statements made within the e-mails were “offered against a party and is . . . the party’s own statement in either an individual or representative capacity.” [Id.]. Moreover, defense counsel admitted the authenticity of the e-mails, including acknowledging that the unpaid mileage was for a trip to the pharmacy for a prescription prescribed by an authorized treating physician.

Furthermore, hearsay is admissible in workers' compensation proceedings when corroborated by facts, circumstances, or other evidence. Hamilton v. Bob Bennett Ford, 339 S.C. 68, 528 S.E.2d 667 (2000). Even if the e-mails were hearsay, they were corroborated by the admissions of defense counsel as well as confirmed by Hart’s attorney and his paralegal. The e-mails were properly admitted and relied on by the Single Commissioner.

As to the second set of e-mails, these e-mails document discussions between the attorneys regarding the provision of medical treatment. The Appellate Panel will recall that the Rule to Show Cause hearing was originally set for May 30, 2012. It was cancelled based on statements by Defense Counsel that the medical treatment would be provided by certain specified doctors. However, Defense Counsel refused to sign the Consent Order, thus requiring the hearing to be reset for August 23, 2012. The e-mails were relevant to show (1) the diligent efforts by claimant's counsel to resolve the issues; (2) the purported agreement between the parties; and (3) the fact Defendants refused to honor the agreement to provide treatment, thus proving the wilful and contumacious nature of the refusal. Statements of parties and attorneys which would not be admissible in a Form 50 hearing, are exactly what a court or commission relies on in a Rule to Show Cause hearing. A party seeking a contempt finding for violation of a court order must show the order's existence and facts establishing the other party did not comply with the order. Hawkins v. Mullins, 359 S.C. 497, 501, 597 S.E.2d 897, 899 (Ct. App. 2004). The nature of the hearing as an enforcement matter requires reliance on such evidence.

In the brief, Defense counsel never once states that he had not sent these e-mails nor does he dispute their authenticity.² Instead, he makes the argument that "the e-mail correspondence in question was more prejudicial than probative, and was used in an attempt by the Claimant to portray the Defendants, and, in particular, the attorney for the Defendants, in a negative manner." [Brief of

²At the hearing, Defense counsel stated he had not previously seen the proposed Consent Order drafted by Claimant's counsel until receiving a printed copy at the hearing. However, the e-mails proved that counsel had not only seen the proposed Consent Order, but had even reviewed it and made an objection to one of its provisions. Presumably, this is the "attempt . . . to portray . . . the attorney for the Defendants, in a negative manner" referenced in Defendants' brief. [Brief of Appellants, page 3].

Appellants, page 3].

It may be that the e-mails ultimately had such an affect, if so, this was due to the simple fact that Defendants repeatedly made empty promises to comply with the Commission's orders. Had Defendants done what both the law and the Commission commanded – as well as what common decency requires – none of this would have been necessary.

There is no error by the Commissioner in admitting the e-mails into evidence. The e-mails were not inadmissible hearsay, and it was well within the Commissioner's discretion to admit such evidence.

C. Application of Regulation 67-215.

Defendants also refer to Regulation 67-215 as grounds for reversal. Defendants allege documentation is not allowed per Regulation 67-215. This argument has no merit, as the governing statute requires admission of evidence. See S.C.Code Ann. § 42-3-150 (2007).

Regulation 67-215 governs *motions*. This hearing, while requested by motion, was not a motion hearing; it was a **Rule to Show Cause Hearing**. The motion requested "Defendants be Ordered to Appear and Show Cause for their failure to comply with the Order of the Commission." The motion was granted when the Commission sent out a hearing notice for the **Rule to Show Cause Hearing**. However, the merits were not addressed until the hearing itself. The actual hearing was the next step in the process.

The parties stipulated, "This matter came before the Commission on a Motion for Rule and Order to Show Cause and *pursuant to Regulation 67-1404*." [Order, Stipulation 4, page 2 (emphasis added)]. The Regulation states: "The Commission may issue an Order and Rule to Show Cause requiring an appearance before a Commissioner." Regulation 67-1404. As such, this hearing was

governed by Regulation 67-1404; not Regulation 67-215. The governing authority for the regulation specifically requires the person ruled in "to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation." S.C.Code Ann. § 42-3-150 (2007). The statute explicitly anticipates production of documentary evidence and the taking of testimony.

D. Application of § 42-3-150.

Defendants contend the finding of contempt "is inconsistent with the tenants [sic] of 42-3-150 as there is no evidence that the Defendants' conduct, in the present case, was indicative of the conduct defined by Section 42-3-150." [Brief of Appellants, page 4]. This is simply incorrect.

The plain language of the statute shows it was properly applied by Commissioner Beck to the facts of this case:

In case of contumacy by any person . . . , the Commission may issue to such person an order requiring him to appear before the Commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the Commission may be punished as a contempt thereof.
S.C.Code Ann. § 42-3-150 (2007).

Here, there was an existing Order explicitly requiring Defendants to provide various benefits to Claimant within a specific time frame. Claimant filed a Motion alleging and documenting that Defendants were disobeying the Order, i.e., committing "contumacy." The Commission then issued an order requiring Defendants to appear before the Commission to give evidence. Commissioner Beck heard the case, received evidence, and found by clear and convincing evidence that Defendants' wilfully disregarded the previous Orders of the Commission. This is a completely correct and appropriate application of the contempt statute.

Furthermore, the Commission should be mindful of the posture of this case. There had

already been a previous Order stating "Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175." The undisputed fact that the Adjuster unilaterally refused to pay medical mileage for authorized treatment warrants the contempt finding in and of itself.

The Single Commissioner acted within his discretion in admitting evidence at the hearing. There are no procedural errors, violations of due process, or any other grounds for reversing or vacating the Order. As such, the Appellate Panel should affirm the Decision and Order in its entirety.

II. The Single Commissioner correctly ordered Defendants to pay attorney's fees to Claimant's counsel as payment of attorney's fees and costs is mandatory.

Defendants appeal the Single Commissioner's order requiring Defendants to pay attorney's fees to Claimant in the amount of \$1,500.00. Defendants do not appeal the ruling that they must pay the attorney's fees; their appeal contests the amount awarded.

Defendants argue that the fees were "not calculated in accordance with Regulation 67-1205 of the Act." [Brief of Appellants, page 2]. This argument is incorrect, as the regulation governs the reasonableness of fees paid by a client to an attorney. It has no bearing on attorneys's fees paid by an opposing party as a sanction for compensatory contempt under § 42-3-150 or, as here, under § 42-3-175.

At the hearing itself, the Commission asked Claimant's counsel what his hourly rate was and how much time had been spent on this issue. Counsel stated his firm's hourly rates were \$300.00 for attorney time and \$75.00 for paralegal time. He also acknowledged that he was retained on a

contingent fee basis, thus time records were not kept.³ He made an estimate of the time involved by him and his staff attempting to obtain medical treatment and mileage reimbursements; negotiating with opposing counsel; drafting and filing the motion with the exhibits; drafting the proposed Consent Order; preparing for the hearing; travel to and from the hearing site; and conducting the hearing itself. He offered to submit an affidavit documenting actual time spent. The Commissioner declined to accept an affidavit. Instead, he reviewed the file and ordered Defendants to pay \$1,500.00 for attorney's fees.

Per Mapquest, it takes 1 hour and 13 minutes to drive from Claimant's attorney's office to the hearing site. The hearing itself took approximately an hour, along with waiting time. The \$1,500.00 is obviously based on 5 hours at \$300.00 per hour. The Commissioner plainly awarded attorney's fees strictly based on time directly involved with the hearing itself – and nothing more. He did not include time for the attorney's paralegal (who attended the hearing), nor for time spent in the myriad other tasks necessary for "enforcing the order." He also did not award costs. Should the Appellate Panel revisit the attorney's fee issue, the Panel should accept an affidavit from Claimant's counsel and order Defendants to pay the full "attorney's fees and costs of enforcing the order." S.C. Code Ann. § 42-3-175 (2007).

Should the Appellate Panel vacate the award of attorney's fees, the ruling would have to be based on a lack of substantiation of the hourly rate and time involved by counsel and his staff. As

³The fact the attorney fee agreement between Hart and his attorney was on a contingent fee basis does not prevent the Commission from requiring Defendants to pay attorney's fees to Claimant's counsel calculated on an hourly basis. See Kiriakides v. School Dist. of Greenville County, 675 S.E.2d 439, 382 S.C. 8 (2009)(adopting rule that "the recovery of attorneys' fees in such a situation is not barred by the existence of a contingency fee agreement between the [claimant] and the [claimant's] attorney, rejecting the contention that the contingent nature of the agreement meant that fees were not 'incurred' by the [claimant] and thus not recoverable.")

the hearing was not transcribed, the Panel can only rely on the representations of counsel. See Tritech Elec., Inc. v. Frank M. Hall & Co., 540 S.E.2d 864, 343 S.C. 396 (Ct. App. 2000)(court can infer existence and contents of materials not in the record by other documents in the record, the lower court's order, and representations of counsel). If the Order is deemed insufficient, the remedy is to accept an Affidavit from Claimant's counsel. Claimant agrees with Defendants that the amount of attorney's fees would need to be recalculated based on the Affidavit.

CONCLUSION

For the foregoing reasons, the Appellate Panel should **affirm in part** the Decision and Order of the Single Commissioner. The Appellate Panel should vacate the award of \$1,500.00 in attorney's fees, and remand to Commissioner Beck to accept an Affidavit from Claimant's counsel and recalculate the attorney's fee to include the full "attorney's fees and costs of enforcing the order," as required by S.C. Code Ann. § 42-3-175 (2007).

Respectfully Submitted,



Stephen B. Samuels
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Columbia, SC 29250
(803) 779-4000

Columbia, South Carolina
January 18, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)

WCC FILE NO. 0902416

Claimant,)

-vs-)

Owen Steel Company,)

AFFIDAVIT

Employer,)

and)

Old Republic Insurance Company,)

Carrier,)

Defendants.)

The undersigned, being duly sworn, makes the following representations:

My name is Stephen Samuels. I am an attorney in good standing and admitted to practice in the State of South Carolina. I was admitted to the South Carolina Bar on May 11, 1997. My primary area of practice is worker's compensation. I represent John Hart in the above-referenced case.

On September 1, 2010, Commissioner Beck issued an Order in the case requiring Defendants to provide certain medical treatment and to pay temporary total disability compensation.

On October 14, 2010, Claimant filed a Motion for Rule and Order to Show Cause concerning Defendants failure to reimburse Claimant for travel expenses at the current statutory mileage rate for medical treatment to and from his home in Georgia to authorized medical providers. After a hearing on November 19, 2010, Commissioner Beck issued an Order assessing costs and attorney's fees. Commissioner Beck did not find the failure to pay mileage to be wilful. However, he did explicitly order that "Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175."

On April 26, 2011, Claimant's treating neurologist, Dr. Ashley Kent, closed his office. Dr.

Kent had recommended Mr. Hart to continue in the care of a neurologist and written several prescriptions. Defendants refused to provide a replacement neurologist, nor did they provide any doctor who could have written the necessary prescriptions. Hart was out of two prescription medications prescribed by Dr. Kent and cannot obtain refills or new prescriptions because he had no authorized treating neurologist and psychiatrist.

After informal requests to obtain treatment for Mr. Hart failed, I filed the instant **Motion for Rule and Order to Show Cause** on April 16, 2012.

The case was originally set for a **Rule to Show Cause Hearing** on May 30, 2012 before Commissioner Beck. Before the actual hearing, I believed I had reached an agreement on the issues with opposing counsel – which was confirmed by e-mail. [Exhibit 1]. By e-mail, I advised Commissioner Beck that a Consent Order would be forthcoming and the case was removed from the docket.

Both myself and my paralegal, Angi O'Connell, spent time attempting to obtain the benefits for Mr. Hart. We also spent time obtaining proof of the Defendants' contumacy. We spent time preparing for and conducting the hearing. I was required to draft an Order. I was further required to file a brief and appear at oral argument when Defendants filed their appeal of Commissioner Beck's Order. My time is documented.

Unfortunately, opposing Counsel refused to sign a Consent Order. I then notified Commissioner Beck that the hearing would need to be reset. During this period before the hearing, Defendants refused to provide neurological or dental treatment. Additionally, there was one outright refusal to pay mileage from a time before the motion was filed and two other instances where mileage was not paid within the 14 days ordered by Commissioner Beck.

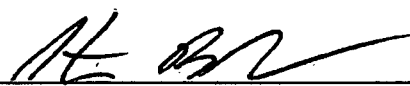
The **Rule to Show Cause Hearing** was tried on August 23, 2012. The hearing was set in North August, South Carolina. Per Mapquest, this location is approximately 1 hour and 13 minutes from my office. As I presumed testimony would be taken, I prepared my client for the hearing (1 hour). I also took my paralegal, Angi O'Connell, as I believed she would be a necessary witness to authenticate documents as well as testify to the time and effort she spent in trying to resolve these issues. We waited over an hour for the hearing to start. The hearing itself took approximately an hour.

Both myself and my paralegal, Angi O'Connell, spent time attempting to obtain the benefits for Mr. Hart. This involved numerous communications by e-mail and letter with opposing counsel and the adjuster. Most of these e-mails were submitted to Commissioner Beck as evidence at the hearing. We also spent time obtaining proof of the Defendants' contumacy. We spent time preparing for and conducting the hearing. I was required to draft an Order. I was further required to file a brief and appear at oral argument when Defendants filed their appeal of Commissioner Beck's Order. The time is documented on the attached time sheets.

Although the vast majority of my practice is on a contingent fee basis, my listed hourly rate is \$300.00. My paralegal, Angi O'Connell bills at a rate of \$75.00 per hour. Per the attached timesheets I spent 19.0 hours on efforts to have Defendants comply with Commissioner Beck's previous Orders. At my hourly rate of \$300.00, this is \$5,700.00. My paralegal spent 9.1 hours. At her hourly rate of \$75.00, this is \$682.50.

The costs chargeable to my client are \$25.00 for the filing fee.

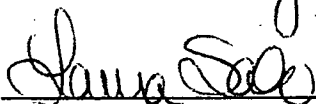
As of this writing, Defendants have paid Claimant the \$227.76 in previously unpaid mileage. They have not paid \$1,190.00 to reimburse Claimant for the cost of the initial evaluation by Dr. Berger despite their stipulation.



Stephen B. Samuels

SWORN to before me this 25

day of February, 2013.



Notary Public

My Commission Expires: 3/20/2018

Laura Sabo
Notary Public State of South Carolina
My commission expires March 20, 2018.

Time Sheet

Client: John H. Hart
File #: 92.00

TIMEKEEPER	HOURLY RATE
Stephen Samuels	\$300.00

DATE	TASK	TIME
4/22/11	Read e-mail from Jason Lockhart	.1
4/22/11	Write e-mail to Jason Lockhart	.3
6/3/11	Write e-mail to Tara Potter (adjuster)	.2
6/3/11	Write e-mail to Jason Lockhart	.2
8/2/11	Letter to Jason Lockhart	.4
9/30/11	Write e-mail to Jason Lockhart	.1
9/30/11	Read e-mail from Jason Lockhart	.1
9/30/11	Write e-mail to Jason Lockhart	.1
9/30/11	Read e-mail from Jason Lockhart	.1
4/16/12	Letter to Jason Lockhart	.3
4/16/12	Draft Motion for Order to Show	.7
4/25/12	Read e-mail from Jason Lockhart	.1
4/25/12	Write e-mail to Jason Lockhart	.1
4/25/12	Read e-mail from Jason Lockhart	.1
4/25/12	Write e-mail to Jason Lockhart	.2
5/25/12	Read e-mail from Jason Lockhart	.1
5/25/12	Write e-mail to Jason Lockhart	.2
5/29/12	Write e-mail to Jason Lockhart	.1
5/29/12	Read e-mail from Jason Lockhart	.1
5/29/12	Write e-mail to Jason Lockhart	.1

5/29/12	Read e-mail from Jason Lockhart	.1
7/11/12	Draft proposed Consent Order	.4
7/11/12	Write e-mail to Jason Lockhart	.1
7/12/12	Read e-mail from Jason Lockhart	.1
7/12/12	Write e-mail to Jason Lockhart	.1
7/16/12	Letter to Commissioner Beck	.2
8/14/12	Letter to Commissioner Beck	.3
8/23/12	Travel Time to Hearing/Wait time	2.0
8/23/12	Trial	1.5
8/23/12	Travel Time from hearing	1.3
9/25/12	Draft Proposed Order	3.0
9/25/12	E-mail Proposed order to Jason Lockhart	.1
10/1/12	Read e-mail from Jason Lockhart	.1
1/18/13	Draft Brief to Appellate Panel	4.5
2/20/13	Travel time to appeals hearing	.2
2/20/13	Trial and wait time	1.1
2/20/13	Travel time from appeals hearing	.2
	Total Time:	19.0

Time Sheet

Client: **John H. Hart**
File #: **92.00**

TIMEKEEPER	HOURLY RATE
Angi O'Connell	\$75.00

DATE	TASK	TIME
05/31/2011	Write e-mail to Tara Potter	.1
09/28/2011	Write e-mail to Tara Potter	.1
01/09/2012	Write e-mail to Tara Potter	.1
01/10/2012	Write e-mail to Katie Morris	.1
01/11/2012	Write e-mail to Tara Potter	.1
04/16/2012	Review of file for documents needed as exhibits; Preparation of cover letter to Comm. Beck filing Motion, Certificate of Service; Copied and mailed original Motion with copies to Jason Lockhart and client	1.0
04/25/2012	Write e-mail to Amy Bracy w/SCWCC	.1
05/09/2012	Review and respond to e-mail from Amy Bracy	.2
05/11/2012	Write e-mail to Amy Bracy	.1
05/25/2012	Email to Jason Lockhart w/records	.1
05/30/2012	Write e-mail to Amy Bracy	.1
06/25/2012	Write e-mail to Katie Morris	.1
07/16/2012	Write e-mail to Amy Bracy	.1
07/16/2012	Copy and mail letter to Commissioner Beck	.1
07/25/2012	Write e-mail to Katie Morris	.1
07/25/2012	Write e-mail to Amy Bracy	.1
08/14/2012	Write e-mail to Amy Bracy	.1
08/14/2012	Review and respond to e-mail from Amy Bracy	.1

08/15/2012	Review and respond to e-mail from Amy Bracy	.1
08/23/2012	Travel Time to Hearing/Wait Time	2.0
08/23/2012	Hearing before Comm. Beck	1.5
08/23/2012	Travel Time from Hearing	1.3
11/27/2012	Write e-mail to Katie Morris	.1
11/28/2012	Review and respond to e-mail from Katie Morris	.1
11/30/2012	Write e-mail to Katie Morris	.1
01/18/2013	Preparation of cover letter to Ms. Crocker filing Appellant's Brief and Certificate of Service; Copied and mailed original with copies to Mr. Lockhart and client	.50
01/29/2013	Write e-mail to Katie Morris	.1
01/29/2013	Review and respond to 2 e-mails from Katie Morris	.2
02/05/2013	Write e-mail to Jason Lockhart	.1
02/05/2013	Review and respond to e-mail from Katie Morris	.1
02/05/2013	Review and respond to e-mail from Tara Potter	.1
Total Time:		9.1

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION FULL COMMISSION
WCC No. 0902416

John Hart,)
)
Claimant/Appellant,)
)
v.)
)
Owens Steel Company,)
)
Employer/Respondent,)
)
and)
)
Old Republic Insurance Company,)
)
Carrier/Respondent.)
-----)

(COPY)

FULL COMMISSION HEARING

Wednesday, February 20, 2013
9:01 a.m. - 9:28 a.m.

The Full Commission Hearing before Commissioners Avery B. Wilkerson, Jr.; Melody L. James; and Susan S. Barden, Chair, was taken at 1333 Main Street, Suite 500, Columbia, South Carolina on the 20th day of February, 2013 before Cassandra E. Vance, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Jason W. Lockhart, Esquire
 McAngus, Goudelock & Courie, LLC
 Post Office Box 12519
 Meridian, 10th Floor
 1320 Main Street
 Columbia, South Carolina 29201
 Attorney for the Defendants/Appellants

Stephen B. Samuels, Esquire
 Samuels Law Firm, LLC
 1320 Richland Street
 Post Office Box 50349
 Columbia, South Carolina 29201
 Attorney for the Claimant/Respondent

Also Present:
 John Hart, Claimant

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1 **THE COURT REPORTER:** Today is Wednesday,
2 February 20, 2013. This is South Carolina
3 Workers' Compensation Case Number 0902416.
4 This is the case of John Hart, Claimant, versus
5 Owens Steel Company, Employer, and Old Republic
6 Insurance Company, Carrier.

7 The Appellant is the Defendant represented by
8 Jason Lockhart. The Respondent is represented
9 by Stephen Samuels.

10 Each side is allowed ten minutes for oral
11 argument and the Appellant three minutes in
12 reply. You are requested to argue the grounds
13 of exception and stay within the record.

14 **COMMISSIONER BARDEN:** Mr. Lockhart.

15 **ARGUMENT BY MR. LOCKHART:**

16 **MR. LOCKHART:** Your Honor, may it please the
17 Commission. I am here this morning on behalf
18 of Owens Steel and the Carrier in this case,
19 Old Republic Insurance Company and their TPA,
20 Gallagher Bassett.

21 This matter came before Commissioner Beck
22 pursuant to a Motion for Order and Rule to Show
23 Cause filed by the Claimant in this case.

24 In October of this year, Commissioner Beck
25 issued a decision granting the relief requested

1 by the Claimant, in particular awarding \$1500
2 in attorney's fees to Mr. Samuels, ordering
3 that my client make payment to the Commission
4 of approximately \$4,380 for noncompliance with
5 a previous order of Commissioner Beck from
6 September of 2010. And, in turn, we have filed
7 an appeal, which brings me before you here this
8 morning.

9 Before I get to the merits of the two issues
10 that are the primary subject of my appeal, I do
11 feel compelled to point out to the Commission
12 that my client, based on recent conversations
13 with them within the last probably 24 hours,
14 has agreed to pay the fine assessed against
15 them to the Commission.

16 So while my brief raised the issue of the fine
17 itself, they have agreed to pay that fine;
18 however, I do feel compelled to bring to the
19 Panel my concerns about how that fine was
20 assessed, not necessarily for the result of
21 this case, but perhaps for the result of future
22 issues that may come before you involving
23 similar facts.

24 And why I say that is because, the decision in
25 this case we feel was based upon procedural

1 errors committed by Commissioner Beck at this
2 hearing that took place in the fall of last
3 year.

4 If you look at the order in this case, it
5 appears to be based upon evidence -- at least
6 we would argue -- that wasn't submitted within
7 the purview of Regulation 67-612.

8 There are a number of written documents that
9 Commissioner Beck based his decision upon.
10 Those documents were not submitted to the
11 Defendants by the Claimant in accordance with
12 Regulation 67-612 of the Act.

13 As a matter of fact, those documents, that
14 information, much of which was the basis for
15 Commissioner Beck's decision, was offered up by
16 the Claimant through his lawyer at the hearing
17 itself, at which point the Defendants were then
18 required to respond to information that, again,
19 wasn't submitted in accordance with the
20 regulations.

21 I would also point out to the Panel, if you
22 read Commissioner Beck's decision, you'll see
23 that -- that he based his decision to levy
24 fines and penalties upon the -- upon the
25 Carrier based on email correspondence from the

1 adjuster, which, you know, again, at the time
2 we argued would not be admissible.

3 Unfortunately, we don't have a record in this
4 case, so -- of the actual hearing itself. But
5 as I point in my brief, the Supreme Court in a
6 case called *Green versus Raybestos-Manhattan*
7 said that it would be error for the Commission
8 to take unsworn testimony from a portion of a
9 witness and then reply upon that testimony as
10 a basis for its findings.

11 If you look at Commissioner Beck's decision, he
12 says in no uncertain terms that he's basing it
13 upon email correspondence from the adjuster.

14 Again, that seems problematic to me from the
15 standpoint of what's required by the
16 regulations and by the holding of this
17 particular case in *Green*.

18 Also, this matter came before the Commissioner,
19 we argue, per a motion. And Regulation 67-215
20 governs motion practice before the Commission.
21 And the regulation is pretty clear in what's
22 allowed to be submitted as part of a motion.

23 There's language in the regulation about no
24 further submission of memoranda -- and I'll get
25 the quote from the regulation for you here in

1 a moment. But it's very clear that that
2 additional information is not accepted unless
3 it's requested by the Commissioner that the
4 motion is being heard in front of.

5 And in this particular case, I can't seem to
6 locate a record of any request from the
7 Commissioner for information prior to the
8 actual hearing itself taking place.

9 The only information submitted -- and you'll
10 see this when you look at the order itself --
11 was information provided by the Claimant
12 through his lawyer at the hearing.

13 And so, again, the -- the manner in which this
14 hearing was conducted, the mechanism by which
15 the Commissioner procured information upon
16 which he based his decision seems problematic.

17 And so I said at the outset --

18 **COMMISSIONER WILKERSON:** Mr. Lockhart, let me ask
19 you a question. So would you suggest that we
20 have the adjuster come and testify on all these
21 cases?

22 **MR. LOCKHART:** Your Honor, if --

23 **COMMISSIONER WILKERSON:** That's where the information
24 came from. I'm willing to do that. I think
25 that's great, to have the adjusters come in and

1 testify to their practices.

2 **MR. LOCKHART:** Your Honor, I -- you know, from a
3 pragmatic standpoint, there may be some merit
4 to that in certain situations. And I'm not
5 going to stand here and tell you that my
6 clients don't sometimes probably need to
7 experience the process, to a certain extent.

8 But what I'm -- what I have a bigger issue with
9 is the fact that we have regulations that
10 govern how these hearings are to be conducted.
11 And you all are aware of those, as are the
12 lawyers who practice before you.

13 And while the result of this hearing may very
14 well have been correct -- and I'm going to stay
15 silent on that, quite frankly -- but from a
16 philosophical standpoint, the result may have
17 been very well correct, but the manner in which
18 the result was reached is what I find
19 problematic.

20 And, again, you know, my client has made it
21 clear that they're going to -- they've informed
22 me, again, that they're going to make payment
23 of this fine, but they -- they asked me to come
24 before you on the issue of how the fine was
25 arrived at.

1 **COMMISSIONER BARDEN:** Well, that -- just so the
2 Panel understands -- I understand what you're
3 saying. You're conceding that y'all are going
4 to pay the fine. There is an attorney fee
5 awarded in here, as well, and you haven't
6 mentioned that.

7 **MR. LOCKHART:** Your Honor, yes, and I was actually
8 getting to that right now, Your Honor.

9 **COMMISSIONER BARDEN:** Okay.

10 **MR. LOCKHART:** That portion of our appeal we are
11 still here asking you to consider today. We
12 think that the Commissioner's order lacks
13 specific information as to the basis for the
14 fees that were awarded in this particular case.
15 They were awarded under 42-3-175, but I would
16 encourage the Panel to take a look at the
17 statute and, perhaps, understand our argument,
18 that the statute provides no basis, no specific
19 guidance on how fees are to be awarded.
20 And the decision in this particular case, based
21 on my reading of Commissioner Beck's order --
22 and I know you all will read it yourself -- but
23 it appears to be based on representations made
24 by Claimant's counsel at the actual hearing.
25 And, again, we don't have a transcript, so all

1 we have is the order to rely upon, which
2 doesn't give us specific guidance as to the
3 basis for the fees that were awarded.

4 The motion that was the subject of this
5 particular hearing, this motion that was filed
6 in April of 2012, is very similar to a motion
7 that was filed in this same case in October of
8 2010.

9 So what, I guess, my client's having a hard
10 time of discerning is what additional -- what
11 information was offered up at the hearing to
12 support an attorney fee of the amount that was
13 awarded in this particular case.

14 And, again, I think our brief lays out our
15 concerns about, again, how that -- that relief
16 was arrived at.

17 So, again, for the reasons outlined, we would
18 ask the Panel to address the issues that we
19 raised per our appeal, specifically on the
20 attorney's fee issue, with the understanding
21 that my client will make payment of the fine to
22 the Commission as outlined in Commissioner
23 Beck's order.

24 **COMMISSIONER WILKERSON:** Let me ask you one
25 question.

1 **MR. LOCKHART:** Yes, Your Honor.

2 **COMMISSIONER WILKERSON:** One is, I think additionally
3 you've indicated that maybe not in this order,
4 but looking at it in other situations, how --
5 how do we as a Commission and/or a
6 Commissioner, whom orders have not been
7 properly handled --

8 **MR. LOCKHART:** Yes, Your Honor.

9 **COMMISSIONER WILKERSON:** -- how do we get the
10 attention of the professionals who are not
11 paying the orders on a timely basis?

12 **MR. LOCKHART:** Yes, sir. That's an excellent
13 question, Your Honor, because I think that
14 that's a problem that 42-3-175 was -- was
15 crafted to address.

16 I guess -- and, again, I'm just speaking freely
17 here. If we're faced with a situation where we
18 have a motion similar to this one that's been
19 filed and it appears on the face of the motion
20 that there are exhibits or attachments that
21 include correspondence from the adjuster
22 themselves, then I think if -- I think when
23 that motion is in your office or it's in the
24 judicial department and it appears that there's
25 communication from the adjuster that's going to

1 be at the center of the issues raised by a
2 motion, then I think at that point, I think the
3 Commission would utilize its authority to,
4 perhaps, subpoena that person or call them to
5 testify at the hearing.

6 **COMMISSIONER WILKERSON:** And you know the problem
7 with it is, the defense throws up "Oh, they're
8 out of state. I'm not sure you have the
9 authority to do that."

10 **MR. LOCKHART:** Sure, sure. That is an argument that
11 I'm aware is made, Your Honor, but I think
12 that, perhaps, there needs to be a situation
13 where you bring an adjuster down here to
14 testify.

15 **COMMISSIONER WILKERSON:** Well, I've done so.

16 **MR. LOCKHART:** And then let the court -- and then
17 let the courts -- I mean, I hopefully don't
18 want to be the subject of one of these cases,
19 but maybe the courts need to speak to that.
20 Maybe the courts -- the appellate courts need
21 to look at 42-3-175 and determine if it's
22 necessary for adjusters to be present at
23 hearings and then give you all the right
24 through common law or some other means to allow
25 you to do that.

1 Philosophically, I don't disagree with anything
2 that you're saying and I don't -- and I think
3 there are situations where that -- that should
4 be necessary. But I -- again, my issue in this
5 particular case is, not the result necessarily
6 but the manner in which it was arrived at.

7 **COMMISSIONER JAMES:** Well, I have a question, too.

8 And maybe it's because we don't have an actual
9 hearing record here, but is there any way where
10 the Commissioner indicates where his time --
11 where the time is broken out and how he's
12 determined -- he's calculated attorney's fees?

13 Because, you know, in other -- in other
14 venues -- and this has to do the same with this
15 venue; in fact, it was part of the origination
16 of this Form 61-A or whatever the name is on
17 it -- is to, you know, hourly rate, time
18 involved, benefit to the client.

19 What -- I mean, I see in the order it says,
20 "Fees in the amount of" -- and it says,
21 "Claimant's attorney's representation and the
22 amount of time he and his staff spent enforcing
23 this are accurate and reasonable."

24 Am I missing something with regards to the
25 actual detail of what was put in this?

1 **MR. LOCKHART:** Your Honor, with all due respect to
2 Commissioner Beck, I think all we have is his
3 order to rely upon. And I think that their --
4 again, my position here this morning being
5 there's lack of specificity as to how the
6 calculations were arrived at.

7 But, again, that kind of goes back to maybe the
8 bigger issue I raised at the outset, which is
9 the manner in which the relief in this case was
10 provided.

11 **COMMISSIONER JAMES:** Because I think the case law
12 requires there be some -- I mean, the basis --
13 I see there may be a basis of foundation, but
14 it's not spelled out.

15 **MR. LOCKHART:** And that would be our contention as
16 outlined in our brief and in our Form 30, Your
17 Honor.

18 **COMMISSIONER JAMES:** Okay.

19 **COMMISSIONER BARDEN:** Mr. Samuels.

20 **ARGUMENT BY MR. SAMUELS:**

21 **MR. SAMUELS:** May it please the Commission.
22 Fundamentally, I think at the heart of this
23 appeal is the challenge of the authority of the
24 Commission to enforce its orders.
25 I want to address some of the procedural issues

1 raised and also talk about the attorney's fees.

2 Let me briefly address the attorney's fees.

3 At the hearing, I had offered to Commissioner
4 Beck to prepare an affidavit documenting the
5 time that I and my staff spent on enforcing the
6 order. He declined to accept an affidavit.

7 We spent a lot more time, if you consider all
8 of the emails, the proposed consent order that
9 was rejected by Defendants, advising the
10 Commission that the hearing was off and then
11 advising the Commission the hearing was back on
12 because of the dispute over the consent order,
13 numerous efforts to try to do these things,
14 including the drafting of the motion and filing
15 the motion.

16 And I emphasize that there's a real pattern of
17 abuse in this particular case. This is the
18 third time we have had to come before the
19 Commission dealing with issues of milage and
20 non-provision of medical treatment.

21 And in particular in this case, Mr. Hart went
22 months without prescriptions prescribed by a
23 neurologist because they refused to supply him
24 with a neurologist.

25 He's gone without milage paid, he's gone

1 without prescriptions, he's gone with late
2 checks. He still has medical treatment. We've
3 got a 50 pending that he needs, but they won't
4 provide. And there's a long, long pattern of
5 this.

6 So I know Counsel sounds very reasonable today,
7 but if you look at the record, you know,
8 Commissioner Beck has had to deal with this
9 thing on three different occasions.

10 I digressed a little away from the attorney's
11 fees.

12 I -- what I believe the proper thing to do
13 would be to accept an affidavit from my office
14 documenting the time and make the attorney's
15 fee based on that. What I do think
16 Commissioner --

17 **COMMISSIONER JAMES:** That's what's done in other
18 courts, family court and whatnot. That was my
19 question. I'm not saying whether there
20 shouldn't be an attorney's fee. My question
21 is, I think there has to be a basis for it.
22 There's -- there has to be something in the
23 record.

24 **MR. SAMUELS:** I think that's correct. If this body
25 would accept an affidavit, I'd be happy to

1 provide one.

2 I would say that what I think Commissioner Beck
3 did is he said, "All right, the hourly rate
4 \$300 an hour," and this hearing was held in, I
5 think, North Augusta, so he basically took the
6 travel time, waiting time and the time at the
7 hearing and said that's five hours, so \$1500.

8 **COMMISSIONER BARDEN:** I guess it's speculation, but
9 most likely the reason he didn't require an
10 affidavit is because he had personal experience
11 with this case for the few to several times he
12 had to deal with it. Am I correct about that?
13 So he didn't -- he had seen your efforts
14 before, so he didn't need to be apprised by
15 them by a document, which is -- I guess is why
16 he didn't require one.

17 **MR. SAMUELS:** I think so, Your Honor. But I'll be
18 candid, I don't think he ordered enough given
19 the time involved, but I'm not appealing it.
20 I didn't dispute it. I mean --

21 **COMMISSIONER JAMES:** Did you have to drive
22 somewhere?

23 **MR. SAMUELS:** We have to drive to North Augusta from
24 Columbia --

25 **COMMISSIONER JAMES:** Okay.

1 **MR. SAMUELS:** -- which is about an hour and 20
2 minutes, so round trip about --

3 **COMMISSIONER JAMES:** Round trip --

4 **MR. SAMUELS:** -- three hours. We were at the
5 hearing, between waiting time and the actual
6 hearing itself, about two hours, so it was
7 about five hours of time directly associated
8 with the hearing itself.

9 **COMMISSIONER JAMES:** Okay.

10 **MR. SAMUELS:** So I think that would be, I think, the
11 basis for it. But as I said, whichever --

12 **COMMISSIONER BARDEN:** Can we as a Panel accept an
13 affidavit at this point? I mean, obviously, he
14 would have the right to respond to such an
15 affidavit. But then don't we end up being sort
16 of a -- put ourselves in like a Hearing
17 Commissioner posture?

18 **MR. SAMUELS:** I think the regulations do allow the
19 Appellate Panel to accept additional evidence,
20 if you find that necessary for the decision in
21 the case. I think it's pretty clear in the
22 statute and the regulations.
23 So you can do that or you can affirm, I think,
24 based on -- you can figure out -- if you're
25 able to discern as a body that, "Yeah, it looks

1 like five hours; we think that's reasonable,"
2 I think you can do it either way.

3 **COMMISSIONER JAMES:** I don't know that we can assume
4 for a record where you drove from. We can see
5 where the venue was and then just -- I don't
6 think we can go, "Oh, well, Mr. Samuels' office
7 is in Columbia; he came from Columbia," and
8 start making up facts ourselves. I think
9 even -- it's sort of like I may know something,
10 but there has to be a record in this particular
11 case for it, so ...

12 **MR. SAMUELS:** But I --

13 **COMMISSIONER WILKERSON:** Mr. Lockhart, would you
14 accept that affidavit?

15 **MR. LOCKHART:** Your Honor, I would agree with
16 Mr. Samuels. I think that the regulations
17 provide the Commission with the authority --
18 the Commission as in the Panel sitting as the
19 ultimate Finder of Fact in a case would allow
20 you to accept that information.

21 **COMMISSIONER WILKERSON:** So let me ask the question.
22 If his office does an affidavit and it's nine
23 hours, y'all are going to pay that, right?

24 **MR. LOCKHART:** Your Honor, I think that's -- that's
25 a decision that lies with you all as the

1 ultimate Finder of Fact.

2 **COMMISSIONER WILKERSON:** I mean, you leave that
3 open, so be careful.

4 **COMMISSIONER JAMES:** Well, there's one other thing.

5 An affidavit is sworn testimony and he's
6 standing here as an officer of the Court now
7 telling us that he went there and went back.
8 I mean, he's here arguing in support of this.
9 So it seems like the thing that's missing is
10 this affidavit.

11 He, as an officer of the Court, sworn or
12 unsworn, I think can give us that information.
13 And if that's acceptable to you,
14 Mr. Lockhart --

15 **COMMISSIONER BARDEN:** Which is why --

16 **COMMISSIONER JAMES:** -- which we can go ahead -- we
17 can go ahead and be able to dispose of this
18 matter without further, you know, efforts on
19 either party's behalf.

20 I mean, an affidavit is a sworn statement,
21 so ...

22 Is that acceptable or do y'all -- would y'all
23 prefer to go back and do an affidavit?

24 It sounds like the affidavit itself, if we
25 concur with the fact that the Commissioner

1 issued -- correctly issued attorney's fees,
2 then it sounds like the affidavit itself could
3 even be more than what's been awarded.

4 **MR. SAMUELS:** Your Honor, I brought my paralegal.
5 We have to bill for her time. We spent a lot
6 of time preparing this and trying to enforce
7 it. So I think the proper thing is for this
8 body to look at the affidavit and say, "Yeah,
9 we think this is appropriate under the statute,
10 and maybe some of it isn't; maybe some of it
11 is." I think that's probably the proper way to
12 do it.

13 Candidly, I don't think Commissioner Beck
14 ordered the full amount of attorney's fees. I
15 think --

16 **COMMISSIONER JAMES:** Was that appealed on your
17 behalf?

18 **MR. SAMUELS:** I did not appeal it, Your Honor.

19 **COMMISSIONER JAMES:** So then -- so then aren't we
20 really stuck with looking at the \$1500?

21 **MR. SAMUELS:** Well, no, I think it's --

22 **COMMISSIONER WILKERSON:** I don't think you are, if
23 you're going to get an affidavit.

24 **COMMISSIONER JAMES:** But he didn't appeal the
25 amount --

1 **MR. SAMUELS:** I didn't appeal anything.

2 **COMMISSIONER JAMES:** -- so ...

3 **MR. SAMUELS:** But my point is, if Mr. Lockhart
4 appeals it -- you know, there are times when we
5 appeal a permanency award because we thought it
6 was too low and the Appellant Panel comes back
7 lower. I mean, that's the risk you take, you
8 know.

9 This body has to revisit that issue entirely.
10 And if the basis of the appeal is it's got to
11 be supported by evidence and that -- and only
12 evidence, of course, would be an affidavit,
13 then it's up to this body, you know, I think to
14 accept the affidavit and rule based on the
15 affidavit whether it's more or less or the
16 same.

17 **COMMISSIONER JAMES:** Here's the other thing. If we
18 do that, then we -- there is an opportunity for
19 questioning of that affidavit as to whether
20 certain of those amounts were spent on this
21 issue or on a separate issue. So are we not
22 setting ourselves up for a Single Commissioner
23 hearing?

24 **MR. SAMUELS:** Well, alternatively, you could remand
25 it back to Commissioner Beck to accept the

1 affidavit and that means if there's a dispute
2 over his ultimate ruling, then the parties can
3 come back before the Appellate Panel, another
4 Form 30.

5 **COMMISSIONER WILKERSON:** Let me ask you -- I think I
6 know the answer, but you said there were three
7 separate occasions. I'm guessing based on --
8 Mr. Lockhart was only at the last one; is that
9 fair? Or you were at all three.

10 **MR. SAMUELS:** Mr. Lockhart was only at the last one.
11 It was a previous attorney at the first two.
12 There's been a change of attorney by the
13 Defendant.

14 **COMMISSIONER WILKERSON:** And I think that was the
15 key issue.

16 **COMMISSIONER BARDEN:** All these have been in front
17 of Commissioner Beck, correct?

18 **MR. SAMUELS:** And he's retained jurisdiction.
19 I would add, attorney's fees were ordered also
20 after the first Rule to Show Cause.

21 **COMMISSIONER JAMES:** Okay. So this is just for the
22 third ...

23 **MR. SAMUELS:** This is just for the third.

24 **COMMISSIONER JAMES:** All right.

25 **MR. SAMUELS:** Yes, Your Honor.

1 **COMMISSIONER JAMES:** So just the time for the third
2 one.

3 **MR. SAMUELS:** Yeah. For me, Your Honor, I know my
4 time is probably going to run out --

5 (Simultaneous speaking.)

6 **COMMISSIONER WILKERSON:** It's our problem.

7 **MR. SAMUELS:** Because, if I may be allowed a little
8 bit of additional time just to talk about the
9 procedural aspects of this --

10 **COMMISSIONER BARDEN:** Sure. Go ahead.

11 **MR. SAMUELS:** -- I think it's an important issue.

12 This hearing was set and there's a stipulation
13 in the order that the hearing was held pursuant
14 to the motion and the Regulation 67-1404; that
15 is the Commission's authority to hold a Rule to
16 Show Cause hearing.

17 So, in effect, procedurally what you have is,
18 Claimant filed a motion for Rule and Order to
19 Show Cause. A hearing notice was issued, which
20 is essentially granting the motion and then we
21 have a hearing.

22 So this is not -- does not come under
23 Regulation 67-215; it's not a motion. It is a
24 hearing.

25 Now, there is a --

1 **COMMISSIONER BARDEN:** Go ahead.

2 **MR. SAMUELS:** -- I think a fair question as to
3 whether or not 58's and APA's should be done.
4 And neither party did them for this hearing.
5 That's a fair question whether they should be
6 done.

7 But, in any case, in any hearing the Regulation
8 67-612 governs expert reports only. So the
9 evidence that came in, one was an expert
10 report -- that was a report from Dr. Berger --
11 that came in improperly. It was harmless error
12 because the Defendants stipulated that he would
13 become the authorized treating dentist.

14 Everything else that came in was properly
15 admitted; it was properly authenticated. Then
16 the only defense against it would be that it
17 was hearsay.

18 Well, it's not hearsay because it's an
19 admission of a party opponent. It's an
20 adjuster.. That's not hearsay because an
21 adjuster is a party opponent. So it was proper
22 to introduce all of that. It was a properly
23 admitted evidentiary basis.

24 I will say that I agree with Mr. Lockhart. It
25 would have been better had the hearing been

1 transcribed, but we've all been to plenty of
2 hearings where Your Honors have said, "I'm
3 going to rule on the paper record and
4 representations of counsel," so it's not that
5 unusual to not have a -- have the hearing
6 itself transcribed. Essentially all that went
7 on was arguments of counsel. There was no
8 testimony.

9 So I think this case is actually a blueprint
10 for how to handle these hearings and I think
11 everything was done properly. I think perhaps
12 Your Honors might even want to announce to
13 everybody out there that maybe we're going to
14 require prehearing briefs and Form 58's in
15 these hearings and transcribe them.

16 But I do think this was not a motion hearing.
17 It was properly held. I think the order is
18 properly affirmed with, of course, the issue
19 about the attorney's fees that we've already
20 discussed.

21 **COMMISSIONER BARDEN:** Thank you.

22 Mr. Lockhart.

23 **REPLY BY MR. LOCKHART:**

24 **MR. LOCKHART:** Your Honor, just very briefly in
25 reply. Again, I think I've given you my

1 thoughts on the receiving affidavit by the
2 Panel. I think the Panel is well within their
3 statutory right to do that; however, I would
4 respectfully disagree with the calculation of
5 the fee. I think that's the law of the case.
6 It was unappealed. And I think the receipt of
7 the affidavit would be for purposes of
8 determining the appropriateness of the fee that
9 was awarded. So I think that -- I think that
10 would be the Defendant's position on that
11 issue.

12 Mr. Samuels says that this was a blueprint for
13 how these hearings should be conducted. I
14 really couldn't disagree with him more.

15 In his brief, he argues that the hearing
16 addressed the merits of this case. Well, if
17 this was a merits hearing, then one would seem
18 to believe that the regulations that govern how
19 evidence is to be submitted before this Panel
20 would have some application.

21 And if you look again at the issues addressed
22 and ruled upon by the Commissioner, if you look
23 at the merits of the case and how the evidence
24 came into the record to allow him to reach the
25 merits of the issues before him, that evidence

1 did not come in properly. And I think that
2 that's problematic.

3 But, again, I appreciate the Panel's time this
4 morning and thank you for giving me an
5 opportunity to bring these issues to your
6 attention.

7 **COMMISSIONER BARDEN:** Thank you. This concludes
8 this proceeding.

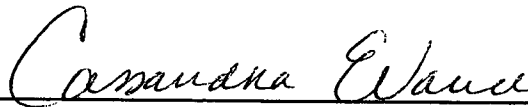
9 (The proceedings concluded at 9:28 a.m.)
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CERTIFICATE

This is to certify that the within hearing consisting of Twenty-eight (28) 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 Stenotype 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 May 20, 2013.



Cassandra E. Vance
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 26, 2018

Christina Barna

From: Christina Barna [christina@samuelslawfirm.net]
Sent: Wednesday, August 11, 2010 2:34 PM
To: 'CGfeller@nexsenpruet.com'
Cc: 'Stephen Samuels'
Subject: John Hart v. Owen Steel, Your File No.: 19427-230

JournalPM: J

Cherry,

I am hoping you can help me with a problem that has arisen in the above-captioned matter. Mr. Hart tells me there are several mileage submissions for which he has yet to be reimbursed by the Carrier. They are as follows:

On May 12, 2010, we submitted a mileage record for travel dates 5/7/10 – 5/12/10 totaling 1200 miles.

On June 8, 2010, we submitted a mileage record for travel dates 5/14/10 – 6/07/10 totaling 1374 miles.

On June 15, 2010, we submitted a mileage record for travel dates 6/11/10 – 6/15/10 totaling 650 miles.

On July 7, 2010, we **resubmitted** mileage record for 5/14/10 – 6/7/10 and 6/11/10 – 6/15/10 because our client had STILL not been reimbursed.

On July 14, 2010, we submitted a mileage record for travel dated 7/7/10 – 7/12/10 totaling 654 miles.

Mr. Hart now has a new mileage sheet to submit, but is quite concerned about the lack of reimbursement for medical treatment related mileage incurred to date. Will you please check with your adjuster and let me know why Mr. Hart's mileage has not been paid? If there is some problem with the submissions, please let us know so that we may address them.

Thank you for your assistance in this matter. I look forward to your prompt response.

Angi O'Connell
Paralegal to Stephen B. Samuels
SAMUELS LAW FIRM, LLC
1527 Blanding Street (29201)
Post Office Box 50349
Columbia, South Carolina 29250
803-779-4000 (DIRECT)
803-779-4004 (FAX)
Christina@SamuelsLawFirm.net

Angi O'Connell

From: Christina Barna [christina@samuelslawfirm.net]
Sent: Thursday, August 12, 2010 3:44 PM
To: 'CGfeller@nexsenpruet.com'
Cc: 'Stephen Samuels'
Subject: John Hart v. Owen Steel, Your File No.: 19427-230

JournalPM: J

Cherry:

This email follows the voice mail I just left for you in follow up on my email of yesterday, August 11, 2010, inquiring as to the status of Mr. Hart's outstanding mileage reimbursements.

Our client calls us every day asking when he may expect to receive his mileage checks. We need to know the status of these submissions in order to give Mr. Hart an accurate update. Upon your receipt of this email, please let me know when Mr. Hart may expect to receive reimbursement for his multiple outstanding mileage submissions.

Thank you so much for your help. I look forward to hearing from you as soon as possible.

Angi O'Connell
Paralegal to Stephen B. Samuels
SAMUELS LAW FIRM, LLC
1527 Blanding Street (29201)
Post Office Box 50349
Columbia, South Carolina 29250
803-779-4000 (DIRECT)
803-779-4004 (FAX)
Christina@SamuelsLawFirm.net

Tracking:



Stephen B. Samuels, Attorney at Law

P.O. Box 50349 • Columbia SC 29250-0349
1527 Blanding Street • Columbia SC, 29201
803-779-4000 office, 803-779-4004 facsimile
www.SamuelsLawFirm.net

August 26, 2010

Rusty Infinger, Esquire
NEXSEN PRUET
Post Office Box 10648
Greenville, South Carolina 29603

RE: EMPLOYEE: John Hart
EMPLOYER: Owen Steel Company
WCC FILE #: 0902416
OUR FILE #: 92.00
CLAIM #: 002979-010519-WC-01

Dear Mr. Infinger:

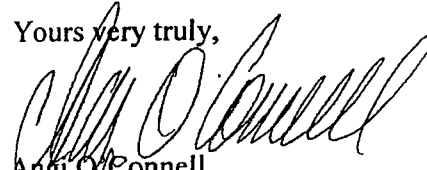
Enclosed please find mileage slips reflecting travel incurred by Mr. Hart seeking authorized, causally-related medical treatment in the above referenced claim. Mr. Hart traveled a total of 996 miles from August 2, 2010 - August 23, 2010. At the rate of .50 per mile, Mr. Hart is entitled to reimbursement in the amount of \$498.00. Please have your adjuster issue a check payable to Mr. Hart in the amount of \$498.00 and send it to our client as soon as possible.

Please note that Mr. Hart is still waiting to be reimbursed for causally-related medical mileage incurred for travel dates May 7, 2010 - July 12, 2010, totaling 3878 miles. Please advise our office as to when Mr. Hart may expect to be reimbursed for this long outstanding mileage.

Thank you for your assistance in this matter. If there are any questions, please do not hesitate to contact us.

With kindest regards, I am

Yours very truly,



Angi O'Connell
Paralegal to Stephen B. Samuels

/aro
Enclosures

cc: Mr. John Hart

PICK UP THE PHONE | YOU'RE NOT ALONE

Date: 8-2-10

EMPLOYEE: John Hart

EMPLOYER: Owen Steel Inc

CARRIER: Gallagher Bassett

WCC FILE #: _____ CLAIM#: 242-17-2181

DATE OF INJURY: 3-16-09

I HEREBY CERTIFY THAT I FURNISHED MY OWN TRANSPORTATION
FOR MEDICAL TREATMENT FOR AN ACCIDENT ARISING ON THE
ABOVE DATE. *Agustin*
Calu *Calu* *Agustin*

[illegible]

John Hartman
EMPLOYEE SIGNATURE

EMPLOYEE: John Hart

EMPLOYER: Owen Steel Inc.

CARRIER: Gallagher Bassett Serv.

WCC FILE #: _____ CLAIM#: 247-17-2181

DATE OF INJURY: 3-16-09

4 quarts
Cola

Calix Agustin

[illegible]

EMPLOYEE SIGNATURE



Stephen B. Samuels, Attorney at Law

P.O. Box 50349 • Columbia SC 29250-0349
1527 Blanding Street • Columbia SC, 29201
803-779-4000 office, 803-779-4004 facsimile
www.SamuelsLawFirm.net

September 1, 2010

Russell Thomas Infinger, Esquire
Nexsen Pruet, LLC
Post Office Box 10648
Greenville, South Carolina 29603

Re: John Hart v. Owens Steel Company
W.C.C. File Number: 0902416

Dear Rusty:

I am writing concerning several issues in follow-up to the hearing held on July 28, 2010.

The immediate problem is your clients' failure to pay medical mileage. As you know, Mr. Hart has filed for mileage reimbursement numerous times, both individually and through my office. At one point before I became involved, the adjuster stopped paying mileage because Mr. Hart had moved to Georgia. The issue was explained to the adjuster and mileage payments resumed. Then, the adjuster again stopped paying mileage for the exact same reason. In Mr. Hart's deposition, you specifically asked Mr. Hart questions about his home address and medical travel. You then told me his answers were satisfactory and the mileage payments would be forthcoming. At the July 28th hearing, you stipulated that your client would pay the mileage and there was no longer any concern over Mr. Hart's mileage claims. It is now September 1, 2010. The mileage has still not been paid. From conversations between our respective paralegals, apparently the adjuster is not responding to your e-mails and phone calls. I know you are a man of your word and I have no doubt the problem does not lie in your office. Nonetheless, we have a stipulation and will shortly have an Order directing mileage to be paid in a timely manner. I must therefore formally request that the mileage be paid immediately. If not, I will have no option but to file a Motion for Order and Rule to Show Cause. Please do not force me to do this.

The second issue concerns the referral to a neurologist. I have not heard anything about this appointment being scheduled, despite it also being stipulated to at the hearing. Please let me know when Mr. Hart will be receiving his neurological evaluation and treatment.

Thirdly, as you know, Mr. Hart and the owner of Owens Steel had a conversation outside the Commission after the hearing. You, Myron Samuels, and I all witnessed that conversation. Mr. Hart has been a long time, loyal employee of Owens Steel. He wants nothing more than to heal from his injuries and return to work at Owens Steel in his former job as a welder. The remarks made to him about being returned to the Tool Room because of anger over the Commissioner's decision were

Page 2

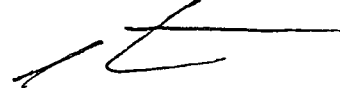
Russell Thomas Infinger, Esquire

disturbing. There is no reason Owens Steel should have any such hostility towards Mr. Hart. Mr. Hart is fully aware of his obligations to accept suitable employment. However, Owens Steel has a mutual obligation to ensure that any offer of suitable employment is a good faith effort to rehabilitate Mr. Hart. If he were returned to work for the purpose of punishing him, harassing him or constructively discharging him, we would consider such acts a prima facie violation of § 41-1-80 and the Americans with Disabilities Act.

I want to emphasize my continued good will towards you and my hopes for an amicable resolution to all these issues. I trust these delays are no more than administrative problems. Nonetheless, I am compelled to document the delays, as if they are not taken care of expeditiously, I will be forced to seek further relief by filing a Motion with the Commission.

With kindest regards, I am

Yours very truly,

A handwritten signature in black ink, appearing to be "S. B. Samuels", written over a horizontal line.

Stephen B. Samuels

SBS/aro

cc: Mr. John Hart

Angi O'Connell

From: Infinger, Russell T. [RInfinger@nexsenpruet.com]
Sent: Tuesday, September 14, 2010 5:06 PM
To: Angi O'Connell
Cc: 'Stephen Samuels'
Subject: RE: John Hart - mileage [IWOV-NPGVL1.FID577892]

I've forwarded this to the adjuster. I'll let you know what I can find out on this issue.

From: Angi O'Connell [mailto:angi@samuelslawfirm.net]
Sent: Tuesday, September 14, 2010 4:48 PM
To: Infinger, Russell T.
Cc: 'Stephen Samuels'
Subject: John Hart

Mr. Infinger:

On 9/8/10, we received a check from Gallagher Bassett Svcs. payable to our client in the amount of \$687.00, representing payment of mileage for 05/14/10 - 06/07/10.

There are still multiple remaining outstanding mileage submissions as follows:

On May 12, 2010, we submitted a mileage record for travel dates 5/7/10 - 5/12/10 totaling 1200 miles.

On June 15, 2010, we submitted a mileage record for travel dates 6/11/10 - 6/15/10 totaling 650 miles.

On July 14, 2010, we submitted a mileage record for travel dated 7/7/10 - 7/12/10 totaling 654 miles.

On September 14, 2010 we submitted a mileage record for travel dated 8/2/10 - 8/23/10 totaling 996 miles.

Thank you for your help in seeing that Mr. Hart is appropriately reimbursed by the Carrier.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.com

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Stephen B. Samuels, Attorney at Law

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1527 Blanding Street • Columbia SC, 29201
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www.SamuelsLawFirm.net

September 22, 2010

Russell Thomas Infinger, Esquire
Nexsen Pruet, LLC
Post Office Box 10648
Greenville, South Carolina 29603

Re: John Hart v. Owens Steel Company
W.C.C. File Number: 0902416

Dear Mr. Infinger:

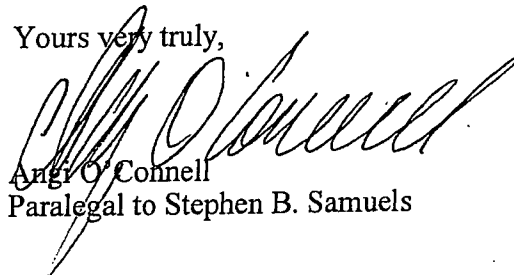
Enclosed please find a Mileage sheet reflecting mileage sustained by Mr. Hart traveling to Dr. Ashley Kent for authorized examination and treatment on Tuesday, September 21, 2010. Mr. Hart traveled a total of 454 miles round trip. At the rate of .50 cents per mile, he is entitled to reimbursement for this trip in the amount of \$227.00.

Please forward this mileage submission to your adjuster in order that Mr. Hart may be appropriately reimbursed. Also, please note that the mileage we submitted on Mr. Hart's behalf for the dates and amounts listed below remain outstanding:

1. Travel dates 5/7/10 - 5/12/10 totaling 1200 miles;
2. Travel dates 6/11/10 - 6/15/10 totaling 650 miles;
3. Travel dated 7/7/10 - 7/12/10 totaling 654 miles; and
4. Travel dated 8/2/10 - 8/23/10 totaling 996 miles.

Thank you for your assistance in seeing that Mr. Hart is reimbursed for all outstanding mileage as soon as possible.

Yours very truly,


Angie O'Connell
Paralegal to Stephen B. Samuels

/aro

Enclosure

cc w/encl.: Mr. John Hart

Date: 9-21-10

EMPLOYEE: John Hart

EMPLOYER: Owen Steel Inc.

CARRIER: Gallagher Bassett

WCC FILE #: 0902146 CLAIM#: 247-17-2181

DATE OF INJURY: 3-16-09

I HEREBY CERTIFY THAT I FURNISHED MY OWN TRANSPORTATION
FOR MEDICAL TREATMENT FOR AN ACCIDENT ARISING ON THE
ABOVE DATE.

DATE	FROM	TO	ROUND TRIP MILES
9-21-10	Dr. Kent - Ladso SC.		454

John Hart
EMPLOYEE SIGNATURE



Stephen B. Samuels, Attorney at Law

October 6, 2010

P.O. Box 50349 • Columbia SC 29250-0349
1527 Blanding Street • Columbia SC, 29201
803-779-4000 office, 803-779-4004 facsimile
www.SamuelsLawFirm.net

Russell Thomas Infinger, Esquire
Nexsen Pruet, LLC
Post Office Box 10648
Greenville, South Carolina 29603

Re: John Hart v. Owens Steel Company
W.C.C. File Number: 0902416

Dear Mr. Infinger:

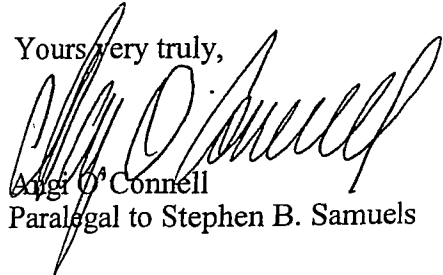
Enclosed please find a Mileage sheet reflecting mileage sustained by Mr. Hart traveling to Dr. Zetz, Dr. Campbell and Dr. Kent for authorized examination and treatment on September 29 and September 30, 2010. Mr. Hart traveled a total of 682 miles round trip. At the rate of .50 cents per mile, he is entitled to reimbursement for these trips in the amount of \$341.00.

Please forward this mileage submission to your adjuster in order that Mr. Hart may be appropriately reimbursed. Also, please note that the mileage we submitted on Mr. Hart's behalf for the dates and amounts listed below remain outstanding:

1. Travel dates 5/7/10 - 5/12/10 totaling 1200 miles;
2. Travel dates 6/11/10 - 6/15/10 totaling 650 miles;
3. Travel dated 7/7/10 - 7/12/10 totaling 654 miles; and
4. Travel dated 8/2/10 - 8/23/10 totaling 996 miles.

Thank you for your assistance in seeing that Mr. Hart is reimbursed for all outstanding mileage as soon as possible.

Yours very truly,


Angie O'Connell
Paralegal to Stephen B. Samuels

/aro

Enclosure

cc w/encl.: Mr. John Hart

Date: 10-10-10

EMPLOYEE: John Hart

EMPLOYER: Owen Steel Inc.

CARRIER: Gallagher Bassett Serv.

WCC FILE #: 0902146 CLAIM#: 242-17-2181

DATE OF INJURY: 3-16-09

I HEREBY CERTIFY THAT I FURNISHED MY OWN TRANSPORTATION
FOR MEDICAL TREATMENT FOR AN ACCIDENT ARISING ON THE
ABOVE DATE.

Begun / Cala *Cala / Heroin*

DATE	FROM	TO	ROUND TRIP MILES
9-29-10	Dr. Zet2		312
9-30-10	Dr. Campbell		342
9-30-10	Dr. Kent -	C.U.S. Two notes	
	"prescription - Dr. Kent wanted		
	sample to be taken before I		
	filled prescription -		28
		Total -	682

John Hart
EMPLOYEE SIGNATURE



Stephen B. Samuels, Attorney at Law

P.O. Box 50349 • Columbia SC 29250-0349
1527 Blanding Street • Columbia SC, 29201
803-779-4000 office, 803-779-4004 facsimile
www.SamuelsLawFirm.net

October 11, 2010

Russell Thomas Infinger, Esquire
Nexsen Pruet, LLC
Post Office Box 10648
Greenville, South Carolina 29603

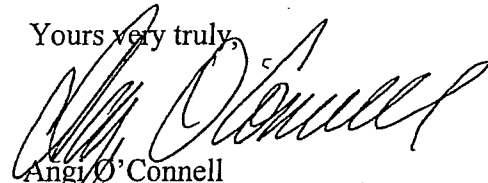
Re: John Hart v. Owens Steel Company
W.C.C. File Number: 0902416

Dear Mr. Infinger:

Enclosed please find a Mileage sheet reflecting mileage sustained by Mr. Hart traveling to Dr. Kent for authorized examination and treatment on October 7, 2010. Mr. Hart traveled a total of 454 miles round trip. At the rate of .50 cents per mile, he is entitled to reimbursement for these trips in the amount of \$227.00.

Please forward this mileage submission to your adjuster in order that Mr. Hart may be appropriately reimbursed. If there are any questions or if further information is needed, please feel free to contact us.

Yours very truly,



Angi O'Connell
Paralegal to Stephen B. Samuels

/aro

Enclosure

cc w/encl.: Mr. John Hart

Date: OCT - 10 - 10

EMPLOYEE: John Hart

EMPLOYER: Owen Steel Inc.

CARRIER: Gallagher Bassett

WCC FILE #: 0902146 CLAIM#: 247-17-2181

DATE OF INJURY: 3-16-09

I HEREBY CERTIFY THAT I FURNISHED MY OWN TRANSPORTATION
FOR MEDICAL TREATMENT FOR AN ACCIDENT ARISING ON THE
ABOVE DATE.

[illegible]

EMPLOYEE SIGNATURE *Jah Hunt*

590 Lone Tree Drive, Suite 103
Mount Pleasant, SC 29464


Neurology Consultants of Charleston

9551 Highway 78, Bld. 700, Suite 102
Ladson, SC 29456

Note for John Hart on 4/26/2011 - Chart 139247

Re: John Hart.
DOB: 08/07/1962

To whom it may concern. I am the treating neurologist for this gentleman who received a blow to the face and head while on the job. He sustained loss of consciousness and amnesia for the event. He has continued to suffer from facial and head pain which has not responded to multiple medications. His diagnosis is posttraumatic stress disorder and tension headaches. He has not improved whatsoever to what I have done. He will need another neurologist as I am leaving the area. In addition he will need Neuropsychological evaluation either by Drs. Randy Waid or Sheldon Levin, PhD to see if he received brain injury. He will need psychiatric and psychological referrals for continued care. He has not reached MMI and will remain out of work at this time.

Sincerely,

Ashley D. Kent, M.D.

Signed by



Ashley D. Kent



Stephen B. Samuels, Attorney at Law

P.O. Box 50349 • Columbia SC 29250-0349
1527 Blanding Street • Columbia SC, 29201
803-779-4000 office, 803-779-4004 facsimile
www.SamuelsLawFirm.net

August 2, 2011

Jason Lockhart, Esquire
McAngus, Goudelock & Courie, LLC
Post Office Box 12519
Columbia, South Carolina 29211

Re: John Hart v. Owen Steel Company
W.C.C. File Number: 0902416
Claim Number: 002979 010519 WC 01

Dear Jason:

I am writing concerning two pending issues in John Hart's case.

John's treating neurologist, Dr. Ashley Kent, is no longer practicing in South Carolina. As such, John is going untreated for his neurological symptoms. Dr. Kent made various recommendations before he left, a copy of which is enclosed. Please let me know whether your client will authorize this testing and treatment. Please also let me know if they have selected a replacement neurologist, or if John should find his own physician.

The adjuster advised us several months ago that the carrier will not pay mileage to and from John's home in Georgia to the pharmacy in Columbia. Unfortunately, John is having to make repeated trips to the pharmacy because of delays in authorization – which apparently are due to the nurse case manager. He takes three medications. As treatment is provided per the Commission's Order, the medications should be automatically approved. Instead, each medication has to be individually approved each time. John will go to the pharmacy to pick up all three, only to find one of the three has not yet been approved. This makes no sense as these medications are on an automated refill program. The Carrier should have preauthorized the prescriptions before John is called to come and pick them up. Yet somehow this is not occurring, as month after month John receives a call saying his medications are ready, only to arrive at the pharmacy and be told the Carrier has not authorized all three medications.

We want to fix the prescription problem. If the prescriptions were pre-approved (or at least automatically approved when written or refills needed), then John could get all three together – possibly on the same day as the doctor writes the prescriptions. This would save him a trip and would save your client from paying the mileage. Or, he could be given the option of picking up the medicines in either Georgia or South Carolina – although I understand that creates a logistical problem for the pharmacy which may rule it out. Regardless of the ultimate solution for the

Exhibit 2

Jason Lockhart, Esquire

August 2, 2011

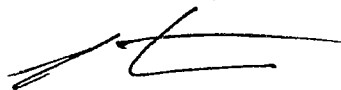
Page Two

prescription problem, your client is legally required to pay the mileage for past trips. If they do not agree, I will be forced to file another Motion for Rule and Order to Show Cause.

Please let me know your position on the neurological treatment and on the prescription/mileage issues. I look forward to hearing from you as soon as possible.

With kindest regards, I am

Yours very truly,



Stephen B. Samuels

SBS/aro

Enclosure

cc w/encl.: Mr. John Hart

Exhibit 2

590 Lone Tree Drive, Suite 103
Mount Pleasant, SC 29464


Neurology Consultants

9551 Highway 78, Bld. 700, Suite 102
Ladson, SC 29456

Note for John Hart on 4/26/2011 - Chart 139247

Re: John Hart.
DOB: 08/07/1962

To whom it may concern. I am the treating neurologist for this gentleman who received a blow to the face and head while on the job. He sustained loss of consciousness and amnesia for the event. He has continued to suffer from facial and head pain which has not responded to multiple medications. His diagnosis is posttraumatic stress disorder and tension headaches. He has not improved whatsoever to what I have done. He will need another neurologist as I am leaving the area. In addition he will need Neuropsychological evaluation either by Drs. Randy Waid or Sheldon Levin, PhD to see if he received brain injury. He will need psychiatric and psychological referrals for continued care. He has not reached MMI and will remain out of work at this time.

Sincerely,

Ashley D. Kent, M.D.

Signed by  Ashley D. Kent

Exhibit 2

Angi O'Connell

From: Katie F. Morris [kmorris@mgclaw.com]
Sent: Monday, February 13, 2012 6:04 PM
To: Angi O'Connell
Cc: Stephen Samuels
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Angi and Samuel:

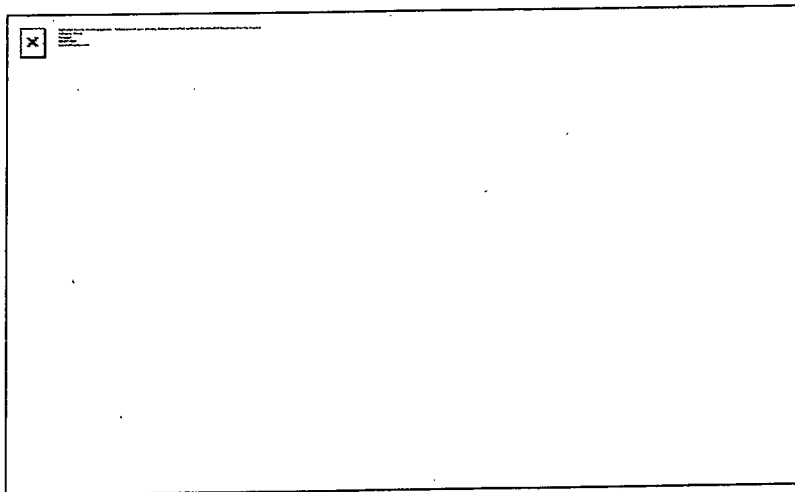
I have the answer we are looking for but puzzled me since your message this afternoon. The medication, Wellbutrin, is and will be authorized. However, the prescription sitting at CVS is old/out of date. Mr. Hart needs to obtain a new one from the doctor. That is all and it has ended up being an insurance issue that is completely unrelated to workers' compensation.

He may be able to call the doctor and have the doctor call it in to the pharmacy. I don't know if the doctor will do it by telephone; I am only bringing that up as a possibility.

Once CVS has a fresh prescription, there should not be any problem with Mr. Hart's getting his medicine. I think that is what Ashley at CVS may have been trying to explain to him (just a thought).

Let know if there are any further problems.

Katie



From: Angi O'Connell [mailto:angi@samuelslawfirm.net]
Sent: Monday, February 13, 2012 1:49 PM
To: Katie F. Morris
Cc: 'Stephen Samuels'
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01
Importance: High

Katie:

Exhibit 3

You asked me to let you know if there were further problems with Mr. Hart's Wellbutrin. Mr. Hart called CVS on Sunday and was told to come pick up the medicine. When he got there about 20 minutes later, they looked for the RX and were not able to find it. Now Ashley at CVS tells Mr. Hart his Wellbutrin has not been authorized.

Any suggestions?? He has been out of this authorized medication for over a week now. Why are all three of his medications not authorized for refill on the same schedule?

Angi O'Connell

Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

From: Katie F. Morris [<mailto:kmorris@mgclaw.com>]

Sent: Friday, February 10, 2012 4:00 PM

To: Angi O'Connell

Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

You, too.

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]

Sent: Friday, February 10, 2012 3:48 PM

To: Katie F. Morris

Cc: 'Stephen Samuels'

Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Thank you, Katie! I will be happy to contact you in the future concerning this claim. Have a nice weekend.

Angi O'Connell

Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Exhibit 3

From: Katie F. Morris [<mailto:kmorris@mgclaw.com>]
Sent: Friday, February 10, 2012 3:44 PM
To: Angi O'Connell
Cc: Stephen Samuels
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Angi:

Good afternoon and I hope this finds you doing well. The problem with Mr. Hart's Wellbutrin has been resolved. The carrier has contacted First Scripts and they will call CVS to release the prescription. I would recommend Mr. Hart wait a few minutes and/or call CVS to confirm they have received authorization prior to going to pick it up. Please let me know if there are any more problems with this medication.

In the future, please contact us regarding this claim and we will pass it along to our client.

Thank you and have a great weekend.

Katie

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]
Sent: Friday, February 10, 2012 2:47 PM
To: [Tara Potter@gbtpa.com](mailto:Tara_Potter@gbtpa.com)
Cc: Jason Lockhart; Katie F. Morris; 'Stephen Samuels'
Subject: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

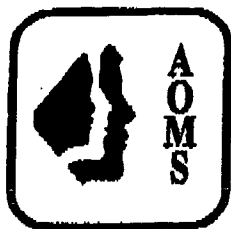
Ms. Potter:

On 02/06/12, Mr. Hart went to CVS to pick up auto refills of his three (3) routine prescriptions after receiving a phone call from the pharmacy stating his medications were ready. He takes Depakote, Wellbutrin and Elavil. When he arrived at the pharmacy, Mr. Hart was advised his Depakote and Elavil were ready but the Wellbutrin had not been authorized by the Carrier. As of today, this has not changed.

Is there some reason why his Wellbutrin is being denied? Mr. Hart is out of this medication and has been for a few days now.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Exhibit 3



Associates in Oral and Maxillofacial Surgery, PA

I.E. Davis, III, D.M.D.

James E. Mercer, D.D.S.

Charles M. Miyaji, D.M.D.

Scott C. Wietecha, D.M.D.

Diplomates, American Board of Oral and Maxillofacial Surgery

Fellows, American Association of Oral and Maxillofacial Surgeons

Fellows, American College of Oral and Maxillofacial Surgeons

- Corrective Jaw Surgery • Dentoalveolar Surgery • Facial Cosmetic and Laser Surgery •
- Facial Trauma • Implant and Reconstructive Surgery •

February 23, 2012

Progress Note

Re: John Hart

Mr. Hart presented today to review his ICAT scans as well as to discuss future treatment. Upon reviewing the ICAT scan, I did not see any clear evidence of a fracture of the maxillary teeth. I told John that this does not preclude the chance that he could have microscopic fractures but there were no obvious fractures from the scans. He states that he is continuing to have pain through his midface, behind his nose and eyes. He also states that he does not like the way his upper bridge is positioned. He feels that his teeth were not like this prior to his accident and he does not like the over jet and overbite of his incisal teeth. He also complains that the lower teeth are sensitive to percussion as well. He feels that his upper teeth have decay in them and are "rotting". He states that he is very discouraged about the problems he has been having with his bridge.

Upon examination, I told John that I felt his results cosmetically were very good from the bridges. I could not explain his pain other than he could either have some fractured teeth that have not yet presented or he could have some neurological pain from the actual injury to his nerves. I explained that I did not place the implants that he now has present, although the implants look fine. Otherwise, I told John that from my stand point, he still has a mixture of problems where it may actually be neurological or dental and removing all of his teeth on the upper may not relieve the pain. He asked me about removing all of his teeth and placing implants in that area and I told him that at this time I do not feel like that is a good plan. I also suggested that he see a neurologist. He explained to me that he had seen a neurologist in the past at MUSC and the medications they prescribed did seem to help with some of the pain he has been experiencing.

In conclusion, I am not convinced that all of his pain is from an odontogenic source. I would not remove his teeth unless there is clear evidence of a fractured tooth. I would at this time encourage him to see a neurologist and see if his pain issues can be resolved from that end of things. I feel that I do not have anything from a surgical stand point to offer Mr. Hart at this time.

Sincerely,

I.E. Davis, III, DMD

CC: Chart

IED/asd

Exhibit 4

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

John Hart,)
Claimant,)

WCC FILE NO. 0902416

-vs-)

Owen Steel Company,)
Employer,)

CONSENT ORDER

and)

Old Republic Insurance Company,)
Carrier,)
Defendants.)

This matter came before the undersigned Commissioner on a Motion for Order and Rule to Show Cause filed by the Claimant. Claimant seeks to enforce a previous Order of the Commission dated September 1, 2010. Claimant requested Defendants be held in contempt for failure to comply with the Order, plus an appropriate award of attorney's fees for compensatory contempt. Alternatively, Claimant seeks relief under § 42-3-175. Claimant further requested that the Commission order Defendants to provide treatment through a neurologist, psychiatrist and oral surgeon chosen by Claimant. Alternatively, Claimant requested the treating physicians be selected by the Commission pursuant to S.C. Code Ann. § 42-17-30 and § 42-15-60.

It appears the parties have reached an agreement regarding the issues. The undersigned Commissioner approves the Agreement and it is so Ordered.

IT IS ORDERED that the hearing scheduled for May 30, 2012 is cancelled and the file

returned to the general files;

IT IS FURTHER ORDERED that the undersigned Commissioner will retain jurisdiction with respect to any further proceedings involving penalties, sanctions, contempt and enforcement of any previous Orders in this case;

IT IS FURTHER ORDERED that Dr. Robert F. Berger, D.D.S. and Berger Dental Group, P.A., are designated as the authorized treating physicians for the provision of dental treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that Dr. David Rogers is designated as the authorized treating physicians for the provision of neurological treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that Post Trauma Resources is designated as the authorized

treating physicians for the provision of psychological and psychiatric treatment. Defendants shall pay for past causally-related medical treatment and shall provide to Claimant causally related medical treatment until Claimant reaches Maximum Medical Improvement and then so long as such treatment will tend to lessen his period of disability. Defendants shall immediately and without delay authorize and pay for all medical and surgical treatment prescribed or recommended by the authorized treating physician related to Claimant's injury, including prescriptions, testing, physical therapy and all other treatment including treatment rendered by other providers to whom Claimant is referred.

IT IS FURTHER ORDERED that in the event any of the above providers is unable or unwilling to act as Claimant's treating physician, that the parties shall agree upon an authorized treating physician, and if the parties are unable to agree, the undersigned Commissioner will designate the authorized treating physician.

IT IS FURTHER ORDERED that the Employer and Carrier shall pay all future mileage reimbursements within 14 days of actual receipt by the Carrier and/or the Attorney of written reimbursement requests submitted by the Claimant. Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

AND IT IS SO ORDERED.

Date: _____

T. Scott Beck, Commissioner

I so move: _____
Attorney for Claimant

I consent: _____
Attorney for Employer/Carrier

Stephen Samuels

From: Jason Lockhart [JLockhart@mgclaw.com]
Sent: Wednesday, April 25, 2012 5:13 PM
To: Stephen Samuels
Cc: angi@samuelslawfirm.net
Subject: RE: John H. Hart, III v. Owen Steel Co., Inc.

Stephen - Thanks for the information. Here is what I propose:

Medication Issue

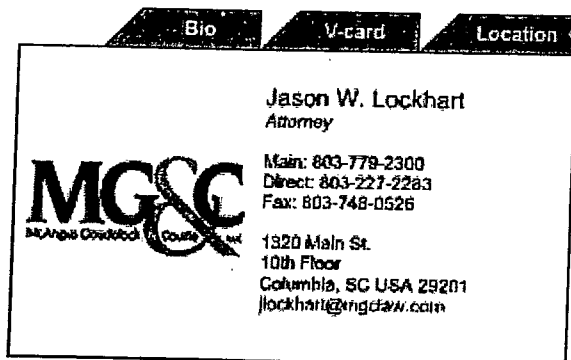
1. We (you or I) contact office of Dr. Jervy to see if he will write the prescription.
2. If Dr. Jervy will not write the prescription, does your client have a general practitioner who would do so until we can find a neurologist to see him?
3. If neither option will work, then we reconvene and figure out some other solution.

Dental Issue

1. We (you or I) schedule a meeting and/or telephone conference with us and Dr. Raman so we can get a clear treatment plan.
2. Once we meet with Dr. Raman, we will then work together to implement the treatment plan and insure that it is carried out with minimal to no interference from Express Dental.

Does this seem like a reasonable plan?

Jason



Please consider the environment
before printing this email.

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Wednesday, April 25, 2012 4:59 PM
To: Jason Lockhart
Cc: angi@samuelslawfirm.net
Subject: RE: John H. Hart, III v. Owen Steel Co., Inc.

Jason:

I am fine with contacting Dr. Jervey to see if he will write the prescription in the interim. Other than that, I don't know that there is a way to solve the immediate problem – which is that John cannot fill his prescriptions because he has no treating neurologist and psychiatrist. I hope the Commissioner will solve that problem.

The dental issues are not so straightforward. It's hard to put together a clear picture of how things went so wrong. It looks as if the orthodontists and dentists are working at cross-purposes – each trying to do different things. They seem frustrated by dealing with the NCM and Express Dental – in that their recommendations are modified or disallowed, and that they have to get authorization every time John breaks a tooth (which is nearly every week). At this moment, I do not believe there is a clear treatment plan. The impression I have is that the NCM and Express Dental have basically told the doctors that it's time to wrap it up -- so they're trying to slap in some false teeth and call it quits. I understand their frustration – no one imagined it would take this long and cost this much – but no one is more frustrated than John. He wants to be out of pain, be able to eat without fear of breaking a tooth, get over his depression, and get back to work at Owens Steel.

I know that doesn't quite answer your question about solving the dentistry problem. Dr. Davis had a plan, but that got vetoed and now Dr. Davis is too aggravated with the whole thing to take over treatment – especially since John's mouth has been screwed up by the other docs. Dr. Davis also recently wrote a report on this – which in my mind should be the blueprint for treatment, provided we can find doctors who will carry it out.

It's a good idea for us to meet jointly with Dr. Raman – it will at least help you and me understand the medicine and better advise our clients. I am also trying to educate myself about this whole thing.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Jason Lockhart [mailto:JLockhart@mgclaw.com]
Sent: Wednesday, April 25, 2012 12:49 PM
To: stephen@samuelslawfirm.net
Cc: angi@samuelslawfirm.net
Subject: Re: John H. Hart, III v. Owen Steel Co., Inc.

I am requesting a solution not the identification of the issues.

How do you propose we solve this problem?

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Wednesday, April 25, 2012 12:42 PM
To: Jason Lockhart
Cc: 'Angi O'Connell' <angi@samuelslawfirm.net>
Subject: RE: John H. Hart, III v. Owen Steel Co., Inc.

Jason:

I have no idea whether contacting Jervey will work or not – at best it's a temporary solution. Dr. Jervey is not a treating physician, so I cannot imagine he will write any prescriptions. Please make sure I am copied on any communication with Dr. Jervey

John does not need another IME; he needs a treating neurologist and a treating psychiatrist.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

-----Original Message-----

From: Jason Lockhart [<mailto:JLockhart@mgclaw.com>]
Sent: Wednesday, April 25, 2012 11:24 AM
To: Stephen@Samuelslawfirm.net
Subject: John H. Hart, III v. Owen Steel Co., Inc.

Stephen - I am in receipt of your correspondence dated April 16, 2012 as well as your Motion for Order and Rule to Show Cause. I have provided the above-referenced information to my client, and requested that they either (1) contact the office of Dr. Jervey and request that he provide a prescription for the refill of your client's Depakote and Elavil; or, in the alternative, (2) provide your client with an evaluation with a neurologist who may provide the prescriptions, which you are requesting. If you have an alternative solution to addressing the medication issue, I will be glad to speak with you in order that we may resolve this issue.

With regards to the status of your client's dental treatment, perhaps you and I should speak with Dr. Raman, either in person or by telephone, in order that we may both obtain clarification as to his treatment plan as this may ensure that your client receives appropriate and timely dental treatment.

If you have any questions, please let me know. Thanks. Jason

<http://mm1.lettermark.net/mgclaw/card/EXMA_6.map>

Jason W. Lockhart Attorney 803-227-2283

jlockhart@mgclaw.com<http://mm1.lettermark.net/mgclaw/card/EXMA_6.gif>

Stephen Samuels

From: Stephen Samuels [stephen@samuelslawfirm.net]
Sent: Tuesday, May 29, 2012 5:35 PM
To: 'Jason Lockhart'
Cc: 'Angi O'Connell'
Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

JournalPM: J

Jason:

Then we have an agreement. We will advise Commissioner Beck in the morning that the issues for hearing are resolved and a Consent Order will follow.

STEPHEN B. SAMUELS
SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
P.O. Box 50349
COLUMBIA, SC 29250

(803) 779-4000
FAX: (803) 779-4004

From: Jason Lockhart [mailto:JLockhart@mgclaw.com]
Sent: Tuesday, May 29, 2012 5:20 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Stephen - With regards to your comments below, the carrier would be responsible for any causally-related treatment recommended by either of the providers indicated below. Therefore, it would appear that the hearing will not be necessary.

If this is the case, please confirm so that I may determine if I need to drive to Greenville or not.

Jason

Bio	V-card	Location
 Jason W. Lockhart Attorney Main: 803-779-2300 Direct: 803-221-2283 Fax: 803-748-0526 1320 Main St. 10th Floor Columbia, SC USA 29201 jlockhart@mgclaw.com		



Please consider the environment
before printing this email.

From: Stephen Samuels [<mailto:stephen@samuelslawfirm.net>]
Sent: Tuesday, May 29, 2012 4:44 PM
To: Jason Lockhart; stephen@samuelslawfirm.net
Cc: 'Angi O'Connell'
Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Jason:

Just got back in the office and saw your e-mails. It looks like we can resolve this with a consent order, so we can advise the commissioner the hearing is off if you can agree as below.

Regarding Post Trauma, we need to agree that if the initial eval results in a treatment recommendation related to the injury, then the treatment will be authorized and the injury admitted.

Regarding the neurologist, we need the same agreement – to wit, if treatment is recommended, it will be authorized.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Jason Lockhart [<mailto:JLockhart@mgclaw.com>]
Sent: Tuesday, May 29, 2012 2:47 PM
To: stephen@samuelslawfirm.net
Subject: FW: John Hart v. Owen Steel Company, WCC File Number: 0902416

Stephen - Where do we stand regarding the hearing for tomorrow? I have several hearings throughout the state and am trying to determine if we are going to Greenville or not.

If you have any questions, please let me know. Thanks. Jason

From: Jason Lockhart
Sent: Tuesday, May 29, 2012 10:22 AM
To: 'stephen@samuelslawfirm.net'
Subject: Re: John Hart v. Owen Steel Company, WCC File Number: 0902416

Stephen - I have no objection to having Dr. Berger designated as the authorized provider. I will speak with them this morning regarding this issue.

With regards to a neurologist, I have no problem with Dr. Rogers, but we (the parties) cannot force anyone to treat your client until an initial evaluation takes place.

With regards to the psychological issue, I see no problem with Post-Trauma, but I would remind you that there has never been a finding by the Commission that your client's psychological condition is compensable.

I have no objection to #2 and #3.

Jason

From: Stephen Samuels [<mailto:stephen@samuelslawfirm.net>]
Sent: Tuesday, May 29, 2012 10:14 AM
To: Jason Lockhart
Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Jason:

You can presume whatever you want. I was in mediation training all last week. I sent you the report from Dr. Berger as I said I would. My request is that Dr. Berger be named the authorized treating physician. He has a plan to treat John and get him to MMI in a reasonable period of time. This is far better than the piecemeal approach taken so far – which has cost your client \$120,000 and gotten us nowhere.

Regarding medication and a treating neurologist, the only solution is to designate a *treating* neurologist. As you know, Dr. Jervey does not treat – he does IME's only.

We also need a treating psychiatrist.

Lastly, regarding discovery and any evidence you plan to produce, I would request that you provide me with these materials pursuant to the continuing duty to update the subpoena previously served. Please have them hand delivered or emailed today.

We can avoid the hearing by:

Designating authorized treating physicians:

- a. Dr. Berger as dentist.
- b. Dr. Rogers (Greenville) or Dr. Healy (Florence) as neurologist (only other ones I know of are Dr. Alhatou and Dr. Ogburu – neither one of which should be considered).
- c. Designate a psychiatrist – perhaps Dr. Deal at Post Trauma Resources.
- d. Provide the neuropsychological exam by a neutral examiner by mutual agreement – perhaps Nick Lind at Post Trauma Resources.

Provide for immediate authorization of all recommended treatment and prescriptions without delays from nurse case managers.

Solve the medication authorization issues – such that John does not have to make multiple trips to the pharmacy.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Jason Lockhart [<mailto:JLockhart@mgclaw.com>]
Sent: Friday, May 25, 2012 2:14 PM
To: Angi O'Connell

Cc: Stephen Samuels

Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Stephen - Thanks for the update. I am presuming that you are sending this information to me on the Friday before a holiday since you just received the documents yourself as opposed to providing them to me within a short period of time prior to the scheduled hearing in order to limit my ability to respond to them, if necessary.

Nevertheless, I am attaching a copy of an e-mail, which I sent to you, with my offer for you and I to work together to resolve the issues that are the subject of your motion. Considering that I did not receive a response from you, I am presuming that you have no interest in trying to resolve the issues prior to the hearing. If you have a suggestion, which regards to resolution, please let me know, and I will be glad to speak with my client.

If we do plan on proceeding forward with the hearing, I will, also, plan on introducing evidence. More specifically, I have a copy of a deposition that your client provided in October 2011 (in the context of his unrelated liability suit) indicating that he has essentially lived in Columbia, not in Georgia, for the last 30 years. In this deposition, your client makes no mention of residing in Fayetteville, Georgia.

Let me know if we can avoid the need to go forward with the hearing.

Jason

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]

Sent: Friday, May 25, 2012 1:18 PM

To: Jason Lockhart

Cc: 'Stephen Samuels'

Subject: John Hart v. Owen Steel Company, WCC File Number: 0902416

Mr. Lockhart:

Please see the attached report of Dr. Robert Berger concerning Mr. John Hart. Mr. Samuels asked me to let you know that he intends to submit Dr. Berger's report at the upcoming Motions hearing in this matter, along with selected documents from the Express Dental subpoena response. Please let us know if you have any questions. Thank you and have a nice holiday weekend!

Angi O'Connell

Paralegal to Stephen B. Samuels

Samuels Law Firm

Post Office Box 50349

Columbia, SC 29250-0349

(803) 779-4000 Phone

(803) 779-4004 Fax

angi@samuelslawfirm.net

Stephen Samuels

From: Bracy, Amy [abracy@wcc.sc.gov]
Sent: Wednesday, May 30, 2012 9:22 AM
To: Angi O'Connell
Cc: 'Jason Lockhart'; 'Stephen Samuels'
Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Thanks, I'll cancel the hearing. Please email the order to me once signed. Amy

From: Angi O'Connell [mailto:angi@samuelslawfirm.net]
Sent: Wednesday, May 30, 2012 9:21 AM
To: Bracy, Amy
Cc: 'Jason Lockhart'; 'Stephen Samuels'
Subject: John Hart v. Owen Steel Company, WCC File Number: 0902416
Importance: High

Amy:

The above claim is scheduled for a hearing before Commissioner Beck at 10:15 this morning in Greenville on our Motion of April 16, 2012. Please be advised that the parties have now reached an agreement concerning the issues raised in our motion. Therefore, the hearing scheduled to determine the issues in the motion at 10:15 a.m. will not be necessary. Please remove this hearing from Commissioner Beck's calendar and note that a Consent Order will be forthcoming for his signature.

Thank you for your time and assistance. Please contact us if any further information is needed to remove the May 30, 2012 (10:15 a.m.) Motions Hearing in the above matter from the Commission's docket.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Stephen Samuels

From: Jason Lockhart [JLockhart@mgclaw.com]
Sent: Tuesday, June 19, 2012 1:48 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: John Hart v. Owen Steel

Stephen - I will forward your e-mail to my client, and request that they authorize a follow-up visit with Dr. Barger.

Jason



*Please consider the environment
before printing this email.*

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Tuesday, June 19, 2012 11:34 AM
To: Jason Lockhart
Cc: 'Angi O'Connell'
Subject: John Hart v. Owen Steel

Jason:

I am working on the Consent Order in this case. I should have it to you in a day or two. In the meantime, can you go ahead and have your people authorize Dr. Berger? I want to keep this case moving along if we can.

STEPHEN B. SAMUELS
SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
P.O. Box 50349
COLUMBIA, SC 29250

(803) 779-4000
FAX: (803) 779-4004

Stephen Samuels

From: Jason Lockhart [JLockhart@mgclaw.com]
Sent: Thursday, July 12, 2012 3:05 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: John Hart

Stephen - My client is in communication with Dr. Berger's office as well speak. Will have confirmation shortly. Jason

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Thursday, July 12, 2012 2:54 PM
To: Jason Lockhart
Cc: 'Angi O'Connell'
Subject: RE: John Hart

Jason:

To be clear, I need more than confirmation that the requests will be honored. You and your client agreed to this nearly two months ago and haven't honored it yet. I've already set out below what needed to happen.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Jason Lockhart [mailto:JLockhart@mgclaw.com]
Sent: Thursday, July 12, 2012 2:22 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: John Hart

Stephen - I have left 2 messages with my client and sent them an e-mail just moments ago to get confirmation that the requests below will be honored. As soon as I receive a response from my client, I will let you know. I will continue to follow-up with them throughout the afternoon if I do not receive a response from them within the next hour or so.

If you have any further questions, please let me know. Thanks. Jason

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Wednesday, July 11, 2012 10:49 AM
To: Jason Lockhart
Cc: 'Angi O'Connell'
Subject: John Hart

Jason:

I left you a voice mail earlier this morning. I need to speak with you about John Hart's case. As you know, we had filed a Motion in this case over multiple issues including late mileage, refusal of medical treatment, prescription problems, improper contact with treating doctors, etc. You had agreed to authorize Dr. Berger, Dr. Rogers and Post Trauma Resources as the treating physicians along with providing all treatment they recommended.

On June 19, 2012, you sent me this e-mail:

Stephen - I will forward your e-mail to my client, and request that they authorize a follow-up visit with Dr. Barger.

Jason

Since then, your client has not authorized Dr. Berger nor anyone else. They have also not paid past due mileage which is now more than 30 days late.

My client is understandably pissed off. He wants to go before Commissioner Beck over this because he – with good reason – does not believe your client will honor the agreement. The refusal by your client to comply with the agreement as well as the previous orders of the Commission has reached the point of jeopardizing my relationship with my client – as he blames me for entering into an agreement that he perceives to be worthless.

I am still hopeful we can do this by Consent Order, but I need some things to happen on your end and I need them to happen immediately. Here is the bottom line. We need the three doctors authorized and appointments set today. We need the late mileage check overnighted to my office today. I will need confirmation from both your client and the providers that the appointments have been set.

In the meantime, I will forward the Consent Order to you later today. If I receive the confirmation noted above, I am hopeful it will resolve these issues. However, I have very specific instructions from my client to go before Commissioner Beck as he believes it is the only way for him to receive treatment.

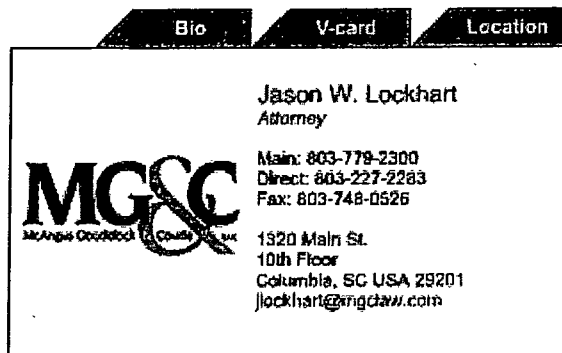
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1527 BLANDING STREET
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COLUMBIA, SC 29250

(803) 779-4000
FAX: (803) 779-4004

Stephen Samuels

From: Jason Lockhart [JLockhart@mgclaw.com]
Sent: Thursday, July 12, 2012 3:34 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: Hart Consent Order

Thanks for your consideration.



*Please consider the environment
before printing this email.*

From: Stephen Samuels [mailto:stephen@samuelslawfirm.net]
Sent: Thursday, July 12, 2012 2:55 PM
To: Jason Lockhart
Cc: 'Angi O'Connell'
Subject: RE: Hart Consent Order

I will not make that change. The language you want changed is taken verbatim from Commissioner Beck's previous Order. Your client is currently in violation of that Order. I am certainly not going to weaken language from an order which is already in place.

Stephen B. Samuels
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P.O. Box 50349
Columbia, SC 29250

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Fax: (803) 779-4004

From: Jason Lockhart [mailto:JLockhart@mgclaw.com]
Sent: Thursday, July 12, 2012 2:16 PM
To: Stephen Samuels
Cc: Angi O'Connell
Subject: RE: Hart Consent Order

Stephen - I would respectfully request that you remove the following sentence:

Any failure to make payment within the 14 day time period will be deemed to be wilful and contumacious, subjecting Defendants to further sanctions under § 42-3-150 and § 42-3-175.

I would request that you replace with this sentence:

Any failure to make payment within the 14 day time period will subject Defendants to further sanctions under § 42-3-150 and § 42-3-175.

If you have any questions, please let me know. Thanks. Jason

From: Stephen Samuels [<mailto:stephen@samuelslawfirm.net>]

Sent: Wednesday, July 11, 2012 5:07 PM

To: Jason Lockhart

Cc: 'Angi O'Connell'

Subject: Hart Consent Order

Jason,

Please find attached the Consent Order in the above-referenced case. Please execute it and return to me so I can file it with Commissioner Beck.

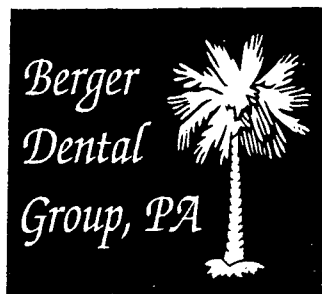
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Robert F. Berger, D.D.S.
Marc F. Berger, D.M.D.
Deidre B. Crockett, D.M.D.
Dmitriy V. Denissenko, D.M.D.

Periodontics
Milton L. Adams, D.D.S.

Oral Surgeon
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General Dentistry, Periodontics, Implants, TMJ, Aesthetic Dentistry

May 7, 2012

Stephen B. Samuels, Attorney at Law
P.O. Box 50349
Columbia, SC 29201

Dear Mr. Samuels:

I examined your client, John H. Hart, III, on May 2, 2012. Mr. Hart presented with dental work that had been performed since his accident. We made panoramic and CAT Scan x-rays.

The issue that is bothering Mr. Hart the worst is the pain. He has some sort of a residual trigeminal nerve condition in which all of his remaining teeth are in pain. The only areas where he isn't experiencing pain in his mouth are where he has dental implants.

I tested his teeth for percussion discomfort in tooth numbers 4, 6, 7, 8, 9, 10, 11 and 12 (his remaining upper teeth) and in tooth numbers 21, 22, 23, 24, 25, 26, 27 and 28 (his remaining lower teeth). I also tested the implanted teeth, which include the sites of tooth numbers 20, 29 and 13. The bone structures in the mandible and maxilla appear normal on both the panoramic x-ray and the CAT scan, although the panoramic does show some flattening in the condylar area.

I examined all of Mr. Hart's dental records as well as his neurologic records. After examining the records and Mr. Hart's mouth, I called a colleague and respected Columbia neurologist, Dr. Davit Mrelashvili. I asked Dr. Mrelashvili some questions about the case, and he said Mr. Hart has a residual trigeminal pain syndrome. He said it would be reasonable that the implanted teeth would experience no pain, but all of the others would. He said that sometimes the drug Tegretol as well as the drug Trileptal would help in relieving the residual trigeminal pain.

Mr. Hart has had his crowns break completely on teeth numbers 11 and 12. There are also fractures in at least three other crowns (8, 9 and 10). The crowns were created using a porcelain-like material, which is not as strong as crowns with porcelain fused to metal. The patient's pain and erratic movements due to the pain would increase the chances of fractures in the crowns. The CAT Scan shows that there is enough room and adequate bone to place implants in the remaining teeth, should that option be taken.

After Dr. Mrelashvili realized that this case was Workman's Comp-related, he stated that his practice does not accept Workman's Compensation patients. My first suggestion would be to have Mr. Hart see a neurologist and to bring along a copy of this letter. If a neurologist sees Mr. Hart and concludes that he can use medication to ease the pain, then that would lead toward treatment to redo some of the crown work and other troubled areas.

However, if the pain is not alleviated with medication, my suggestion would be to extract the remaining upper teeth and replace them with implants. We would place implants in the areas of tooth numbers 4, 5, 6, 7, 8, 9, 10, 11 and 12. Mr. Hart would wear a denture while the implants are healing. Within five or six months, we would place abutments and crowns. If, after these procedures, the upper teeth show no signs of pain, I would suggest proceeding to work on Mr. Hart's lower teeth in the same manner.

I suggest that Mr. Hart first see a neurologist to see if the pain can be alleviated in another way, whether through the use of medications or other means. I see no reason to retreat the broken crowns until the neurological condition is either satisfied or is found impossible to treat.

I have been placing implants for some 23 years and currently teach at the Medical University of South Carolina's College of Dental Medicine on Friday mornings. I instruct senior dental school students in implant restoration. I am quite capable of the extensive implant work that Mr. Hart may need at some point in the future, should this be requested.

I am available to answer any questions you may have regarding Mr. Hart's case. I look forward to the opportunity to continue in the treatment of Mr. Hart if it is deemed necessary. The opinions stated in this report rise to a high degree of medical certainty as to the condition of Mr. John Hart, III.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'R. Berger', with a long, sweeping horizontal line extending to the right.

Robert F. Berger, D.D.S.

DATE	TOOTH	SERVICE RENDERED	CHARGE
5-2 2012		EXTENSIVE EVALUATION AND RECOMMENDATIONS FOR MR JOHN HART III. He is IN SEVERE PAIN WITH HIS TEETH. ONLY TOOTH LINE STRUCTURES THAT DO NOT HURT ARE HIS DENTAL IMPLANTS. ALL TEETH ARE ++ PERCUSSION SEN- SITIVE. PATIENT HAD A SEVERE "ON THE JOB" ACCIDENT WHEN AN AIR CHIPPER EXPLODED SENDING THE BACK PLATE OF THE CHIPPER INTO HIS FACE. THIS ACCIDENT OCCURRED 3/16/2009. HE HAS HAD EXTENSIVE DENTAL SERVICES, BUT IS IN SEVERE PAIN & DIFFICULTY. AFTER EXAMINING MR HART, 11/11/12, SPOKE WITH A NEUROLOGIST WHO STATED THAT THIS TRIGEMINAL NERVE CONDITION WOULD AFFECT SUCH ROOT CANAL TREATED TEETH, BUT NOT IMPLANTS. BONY STRUCTURES AS SHOWN BY THE PANORAMIC XRAY AND CONE-BEAM CAT SCAN XRAY SHOWS A DEQUATE BONE TO COMPLETE HIS TREATMENT WITH IMPLANTS & CROWN RES- Toration SHOULD NEUROLOGICAL	

DATE	TOOTH	SERVICE RENDERED	CHARGE
		Treatment Fail To Alleviate his pain. He has completely broken & lost the crown to teeth #'s 11, 12 and has broken crown on #8, #9, & #10. He has other issues with breaking down (chipping) some of the other crowns. I will send a letter out- lining the need for neurological treatment. The neurologist mentioned tegretol & trileptal as meds. I, of course, will not prescribe these meds, but will mention their possible efficacy in my report. Should the pain not be alleviated by neurologist means, I would suggest full upper implant placement followed by full lower implant placement after success on the upper is assured. TMS exam is negative. <i>UPPER</i>	
5/8/14		Letter sent to Mr. S. Samuel	

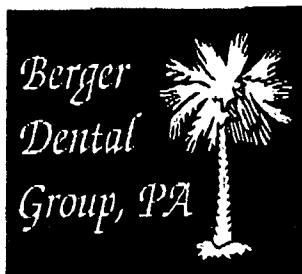
Robert F. Berger, D.D.S.
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May 9, 2012 *General Dentistry, Periodontics, Implants, TMJ, Aesthetic Dentistry*

John Hart, III
3946 Webb Ct
Columbia, SC 29204

Dear Mr. Hart:

I would recommend for you to see Dr. David Stephen Rogers, M.D., to evaluate your pain prior to performing more dental services. Dr. Rogers is a neurologist. After speaking with a local neurologist we feel that some medications could at least help with your pain, although it may not alleviate it completely. If the pain does not get resolved, we certainly will recommend the implant therapy. If the pain is resolved, we will need to redo some of your work that has failed. That decision needs to be made following treatment by Dr. Rogers. I am enclosing Dr. Rogers contact information and sending a copy of this letter to Mr. Samuels.

David Stephen Rogers, M.D.
Oaktree Medical Center
115 Brushy Creek Road
Easley, South Carolina 29642
Telephone: 864-855-1633
Facsimile: 864-855-1323

Respectfully Submitted,

Robert F. Berger, D.D.S.

Cc: Mr. Samuels

12 at 8:30 am. I will forward the authorization for the ICAT as soon as i receive it. If you have any questions please give me a call.

thank you, Call Complete
 Confirmed with Provider's Office that Patient showed up for appointment: Yes
 Inquired about upcoming appointments: Yes
 Records were requested from the Provider: Yes
 Provider was reminded to send claim to Fax line: Yes
 Called claimant to see how appointment went: Yes
 Contacted Adjuster to update regarding appointment: Yes
 Contacted NCM updated regarding appointment: Yes

Note Type: **General** [Mark Note as Mistake]

1/30/2012 8:47:43 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 spoke to Dr. Davis and he said that he was wanting the claimant to have an ICAT at his facility. He said he will be sending the auth to me for this soon. He also stated that he had some concerns as to the dr doing endo on him so quickly. I explained to him that the claimant complained a great deal and would not allow us to wait. He said he understood. And stated that this is how the IE is. We then talked about possible treatment and he said that the IE will probably not want to do a conventional denture and he will probably want to do a implant supported denture. I explained to him that the claimant is not in charge of his tx, and cannot dictate what is to be done. He understood, but said that he might be a good candidate for the implant denture. I explained to him that he can submit to me 2 tx plans with both options and then we can review and i told him to put all of his opinions of what would be best in a narrative with each tx plan. He seemed to agree with this, and said he will get the dictation for the ICAT right to me so we can get approval. He said that he would have a better idea of what tx plan would be best after that...

sent to the adj and ncm.....

Hi Ladies,

I just spoke to Dr. Davis on John's treatment. He has an ICAT machine in his office that he would like for the claimant to have one of these done in order for him to determine if any of the teeth have fractures, and what the bone looks like. I did speak to him in regards to a conventional upper denture, and he said that he isn't sure that John would go for this. I explained that John is not in charge of the treatment and that we need to do some sort of treatment that will put him back at MMI and that would not fail. I explained to him that we have spent a lot of money trying to make John happy and it seems that every time we turn around something is going wrong. He definitely understood and will do his best to go along with the plan. He said he will have a better understanding of what the case will be after reviewing the ICAT. The doctor will be sending the request for the ICAT to me later today or tomorrow and then I will send the authorization to you for us to move forward. If you have any questions please give me a call.

Thank you,

Note Type: **Billing** [Mark Note as Mistake]

1/30/2012 8:24:31 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 Billing Note: Sharon Crofoot - TMJ & Implant Care Coordinator 1/30/2012 8:24:31 AM
 DOS: 1/11/2012
 Provider: Isaac Edwards Davis, III Anna

yes please process. this is approved. This is a complicated case with several drs involved and we might not get notes for a bit on this until all drs are in touch.
 thanks

Rea, Is this alright to pay?

Sent to: kjohnson@expresshealthservices.com, rimbruglia@expresshealthservices.com

Appointment

Note Type: **Billing** [Mark Note as Mistake]

1/26/2012 9:15:06 AM : Kara Johnson - Billing Specialist
 Billing Note: Kara Johnson - Billing Specialist 1/26/2012 9:15:06 AM
 DOS: 1/11/2012
 Provider: Isaac Edwards Davis, III Anna

1/4/2012 2:35:37 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
 Authorization checked:
 Appt Date: 1/27/2012
 Provider: Michael R. Zetz, Jr.
 Link: [Appt](#)

Note Type: **General** [[Mark Note as Mistake](#)]

1/4/2012 2:31:58 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
 CONFIRMATION CALL – DAY AFTER

Provider: Michael R. Zetz, Jr. Kim/Leslie

Dos: 1/3/2012

spoke to Lisa at providers office and the claimant did make it to the appointment and is to come back on 1-27-12 at 9:15 am...

sent to the adj and ncm...

Hi there,

I wanted to let you know that the claimant did make it to Dr. Zetz appointment yesterday. He is to return to his office on 1-27-12 at 9:15 am. As soon as i receive the notes from this appointment i will forward them to you. If you have any questions please give me a call.

thank you, Call Complete

Confirmed with Provider's Office that Patient showed up for appointment: Yes

Inquired about upcoming appointments: Yes

Records were requested from the Provider: Yes

Provider was reminded to send claim to Fax line: Yes

Called claimant to see how appointment went: Yes

Contacted Adjuster to update regarding appointment: Yes

Contacted NCM updated regarding appointment: Yes

Note Type: **General** [[Mark Note as Mistake](#)]

1/3/2012 2:59:22 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

reply from the adj....

I;m in total agreement getting this man a set of dentures would have been less expensive in the beginning....

Tara Potter
 Gallagher Bassett Services
 8731 Red Oak Blvd.
 Suite 240
 Charlotte, NC 28217
 Direct # (704) 405-6685
 Main # (704) 547-1586
 Toll Free # 800- 227-4837
 Fax # (866) 999-1631
tara_potter@gbtpa.com

Note Type: **General** [[Mark Note as Mistake](#)]

1/3/2012 1:28:21 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

spoke to the ncm in great detail on this file. Marty the ncm, is back on this file and does not feel as though we should do an implant supported denture. She believes that this will be a poor prognosis and the implants will fail. I agreed with her and told her that i will talk to Dr. Davis and see what he says, and that i am not a dentist and that we will see if we can get him to agree with us. Marty said that the claimants attorney is who is pushing for the implant dentures

Note Type: **General** [[Mark Note as Mistake](#)]

1/3/2012 1:25:57 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

my reply to ncm and to adj...

Hi Marty and Tara,

I wanted to let you know that I have spoken to Marty on this Tara. We have both agreed as we did before, that this is getting out of hand. We are suggesting to Dr. Davis that we do a conventional Denture for the upper and not an Implant Supported Denture as John's attorney has requested. We believe this could be a poor prognosis. We are going to present this to Dr. Davis and ask his professional opinion and as soon as we have the plan of treatment, I will forward this to you. If you have any questions please give me a call.

Thank you,

reply from the ncm....

Tara, Sorry I was out of work several weeks in Nov-Dec. I am back but they are not giving my files back to me except for Mr. Hart. I understand there are MORE issues with him. I left a message with Sharon asking her to call me to give me an update. Let me know what I can do for you.

Note Type: **General** [Mark Note as Mistake]

1/3/2012 11:46:28 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Angie from the law firm for claimant and she said that the claimant could not go to the appt, because he had not received a check from the ins. She said he received a check today from them and can go to the appt. Angie said she will call to schedule and call me back to let me know claimant will be there and when it is. I told her that the eval with Dr. Davis is approved

Note Type: **General** [Mark Note as Mistake]

12/30/2011 11:27:47 AM : Jessica Alicea - Implant & TMJ Care Coordinator
Covering NCM added to file

Note Type: **General** [Mark Note as Mistake]

12/30/2011 11:22:33 AM : Jessica Alicea - Implant & TMJ Care Coordinator
Rcvd call from covering NCM Kevin Moore; she requested that we add her to the contacts as she needs to be aware of what is going on with this file. Also requested a report on the progress of his tx.

Note Type: **General** [Mark Note as Mistake]

12/29/2011 12:23:43 PM : Jessica Alicea - Implant & TMJ Care Coordinator
CONFIRMATION CALL - DAY AFTER
Provider: Isaac Edwards Davis, III Anna
Dos: 12/28/2011
Spoke to Anna who stated that client no showed to the appt.

Updated adj

From: Jessica Alicea
Sent: Thursday, December 29, 2011 12:23 PM
To: 'tara_potter@gbtpa.com'; 'marty.mackey@genexservices.com'
Subject: Re: John Hart Claim Nbr:002979010519WC01

Good afternoon,

I am helping Sharon Crofoot with her file today and the claimant did not keep his dental appt with the Oral Surgeon; we will try to get him rescheduled and when we have a date we will be sure to keep you updated.

Thank you!

Call Complete

Confirmed with Provider's Office that Patient showed up for appointment: Yes

Contacted Adjuster to update regarding appointment: Yes

Note Type: **General** [Mark Note as Mistake]

12/27/2011 3:59:02 PM : Dana Toole - Implant & TMJ Care Coordinator
CONFIRMATION CALL - DAY PRIOR
Provider: Isaac Edwards Davis, III Anna
Dos: 12/28/2011
Faxed appt letter to IW's attorney's office. Angie confirmed he will be there. dtCall Complete
Claimant Confirmed: No
Provider Appt Confirmed: Yes
Provider Auth has been requested: Yes
Payer Auth has been requested: Yes

Note Type: **General** [Mark Note as Mistake]

12/27/2011 3:14:27 PM : Dana Toole - Implant & TMJ Care Coordinator
Regarding Provider: Isaac Edwards Davis, III Anna DOS: 12/28/2011

Emailed adj/ncm/asst.....

My name is Dana and I'm covering for Sharon while she is out of the office on medical leave. I received a call from Mr. Hart's attorney's office on 12/22 and ended up speaking directly to Mr. Hart via conference call with he and his attorney's paralegal, Angie.

Apparently Mr. Hart is very frustrated with his lack of dental progress and his on-going pain in the upper teeth and TMJ's. His Endodontist, Dr. Fred Sykes diagnosed all the remaining upper teeth with a "fair" prognosis, and while treatment has been on-going his level of pain has increased along with mobility and "flaring out" of the upper teeth when the claimant closes his teeth together (occludes). Dr. Sykes states that the IW has increased pain and that his TMJ's have pain bilaterally.

Mr. Hart has complaints that his current providers, Drs. Campbell (General Dentist) and Raman (Orthodontist) have had differing opinions prior to, and while under treatment that is very disturbing to the claimant. He has basically lost faith and is wanting to see Dr. I. E. Davis (Oral surgeon) for his opinion on how best to proceed. Tara has given auth to see Dr. Davis tomorrow at 3pm'ish which the IW has agreed to go.

Our hopes is to have Dr. Davis the current condition of the upper teeth, evaluate the symptoms of "pain and nerve pain" and determine if related to the injury, to the teeth that are mobile and/or if there is an underlying problem not yet addressed or possibly worsened while in treatment.

Dr. Davis has been requested to evaluate the uppers, determine the best course of action considering the IW's continued complaints of on-going pain, nerve issues and lack of cohesion with his current providers, Drs. Campbell and Raman. Our goal is to obtain a successful approach to resolving his problems, restoring his occlusion and function, resolving his on-going pain and gain treatment as needed for the complaints of nerve pain.

I will be forwarding Dr. Davis's recommendations for your review after the visit along with any new treatment plans to overcome these issues/complaints. Thanks, Dana

Note Type: **General** [Mark Note as Mistake]

12/27/2011 2:25:36 PM : Dana Toole - Implant & TMJ Care Coordinator

The following fax document has been successfully delivered.

Start Time : 12/27/2011 Tue, 14:08

Subject : re: John Hart - approval and re=eval

Name : Dr. Davis and staff

Fax/E-Mail : 8039575290 (1-803-957-5290)

User : dtoole

Pages : 5

Fax-ID : 231609

Export File : d:\program files\activefax\Export\00231609.tif

Status : OK

Appt Date: 12/28/2011

Provider: Isaac Edwards Davis, III

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

12/27/2011 2:24:25 PM : Dana Toole - Implant & TMJ Care Coordinator

Good afternoon Angie,

Attached is the appt letter for Mr. John Hart. The patient saw this provider for the left side extractions in the past and the provider has been instructed to evaluate the upper teeth to determine if extractions should be considered along with dental implants. Dr. Davis has also been requested to evaluate the lowers, the complaints of unresolved nerve pain and the patient's complaints of on-going, generalized "pain" since the injury.

We have requested Dr. Davis provide input regarding obtaining a dentist and/or specialist that he routinely works with in the area in place of using the current providers on this file. This will cut down on miscommunications between the providers and allowing the patient to feel not part of the team decision process.

Please let me know if John can go to tomorrow's visit, if not it will most likely need to be scheduled around the first of the year.

Thanks, Dana

Appt Date: 12/28/2011

Provider: Isaac Edwards Davis, III

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

12/27/2011 2:11:11 PM : Dana Toole - Implant & TMJ Care Coordinator

Document Attached: Appt letter - John Hart - OS eval 12-28-11 [\[View\]](#)

Provider: Isaac Edwards Davis, III Anna

DOS: 12/28/2011

Service: Eval - Upper ext

Note Type: **General** [Mark Note as Mistake]

12/27/2011 2:09:00 PM : Dana Toole - Implant & TMJ Care Coordinator

Hi everyone,

Attached is your auth for Mr. Hart's upcoming evaluation. Please note that the claimant is interested in upper extractions (due to continued pain and nerve issues), bone grafting and upper implants for either a implant overdenture or implant supported fixed crown and bridge. He

would like to have the uppers evaluated because he is tired of his current treatment which is not delivering the results he thought he would have at this time.

He has also lost faith in both Drs. Campbell (GD) and Dr. Katz/Raman (Orthodontist) because they have been working against each other causing more delays in treatment and more pain.

Mr. Hart is complaining of possible "nerve" pain in the upper jaw/teeth. He does not know if it is related to the teeth and their mobility or if it is nerve damage therefore as part of his exam please look at this and let us know your thoughts. If you believe it to be true nerve pain please refer him to a Neurologist so we can get that going and help relieve his discomfort, lastly if you believe he will benefit from pain management please also request a referral for this is this is an area that should be explored.

The return the attached documentation completed and your treatment recommendations regarding his upper and/or lower teeth. Mr. Hart has expressed a desire for treatment to be swift and final therefore implants may be his only option to attain this goal. Thanks, Dana

Appt Date: 12/28/2011

Provider: Isaac Edwards Davis, III

Link: [Appt](#)

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 2:02:42 PM : Dana Toole - Implant & TMJ Care Coordinator

Document Attached: Staffing pw - Dr. Isaac E Davis OS Eval[\[View\]](#)

Provider: Isaac Edwards Davis, III Anna

DOS: 12/28/2011

Service: Eval - Upper ext

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 12:43:23 PM : Electronic Authorization

Document Attached: Payer Auth Signed (Electronic), Eval, DOS 12-28-2011, Isaac Edwards Davis, III Anna[\[View\]](#)

Provider: Isaac Edwards Davis, III Anna

DOS: 12/28/2011

Service: Eval - Upper ext

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 12:41:50 PM : Electronic Authorization

Person: Tara Potter

The eAuth has been approved, appt date 12/28/2011 for \$541.75.

Notes from adjuster/ncm:

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 12:31:05 PM : Dana Toole - Implant & TMJ Care Coordinator

Good morning Tara,

Your claimant is scheduled to see Dr. Isaiah E. Davis (oral surgeon) to evaluate the mobility (movement) of the upper teeth and to determine if his "pain" is related to the movement of the teeth or if it is a "nerve" issue that has not been previously addressed, or addressed but worsened while in treatment for his work related injury. The claimant will be evaluated for possible upper tooth removal, bone grafting (if needed) and possible upper implant(s). Please review this auth request and return your approval if I can go forward with giving his attorney's office the ok to schedule. A tentative appt is scheduled for tomorrow at 3pm. Thanks, Dana

Appt Date: 12/28/2011

Provider: Isaac Edwards Davis, III

Link: [Appt](#)

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 12:30:48 PM : Dana Toole - Implant & TMJ Care Coordinator

Electronic Auth Request

Debra Gray,

Below is a link to an Express Dental electronic authorization for John Hart.
Please review the information provided at the link and either approve or deny the authorization.

https://eauths.expresshealthservices.com/Auths/102546_238180_55163_uFcFgXzyyc6lHenKi20sU2UlemtkYWNbERMjD2qwt6k.aspx
If the link above is not clickable you can simply copy the above line and paste it into you web browser.

Thank You

Sharon Crofoot - TMJ & Implant Care Coordinator

Note Type: **General** [\[Mark Note as Mistake\]](#)

12/27/2011 12:30:36 PM : Dana Toole - Implant & TMJ Care Coordinator

Electronic Auth Request

Marty Mackey,

Below is a link to an Express Dental electronic authorization for John Hart.
Please review the information provided at the link and either approve or deny the authorization.

https://eauths.expresshealthservices.com/Auths/69651_238180_55162_uFcFgXzyyc6lHenKi20sUyuuYNmINXaJaA6xfHL3Jdg.aspx
If the link above is not clickable you can simply copy the above line and paste it into you web browser.

Thank You
Sharon Crofoot - TMJ & Implant Care Coordinator

Note Type: **General** [Mark Note as Mistake]
12/27/2011 12:30:25 PM : Dana Toole - Implant & TMJ Care Coordinator
Electronic Auth Request
Tara Potter,

Below is a link to an Express Dental electronic authorization for John Hart.
Please review the information provided at the link and either approve or deny the authorization.

https://eauths.expresshealthservices.com/Auths/59314_238180_55161_uFcFgXzyyc6lHenKi20sU3SUAPDRNdsBHHqW8l4cWgM.aspx
If the link above is not clickable you can simply copy the above line and paste it into you web browser.

Thank You
Sharon Crofoot - TMJ & Implant Care Coordinator

Note Type: **General** [Mark Note as Mistake]
12/26/2011 1:25:34 PM : Rea Imbruglia - Dental Program Manager
Dana - Yes, please contact the carrier and advise them of your conversation with the IW and attorney. See how they would like to proceed.
Thanks
Sent to: dtoole@expresshealthservices.com,

Note Type: **General** [Mark Note as Mistake]
12/22/2011 12:50:50 PM : Dana Toole - Implant & TMJ Care Coordinator
Lm for Marty -ncm to call me. dt

Note Type: **Billing** [Mark Note as Mistake]
12/22/2011 12:48:26 PM : Dana Toole - Implant & TMJ Care Coordinator
Billing Note: Dana Toole - Implant Care Coordinator 12/22/2011 12:48:26 PM
DOS: 12/28/2011
Provider: Isaac Edwards Davis, III Anna

Pls price for auth , po not contracted, does not discount.dt

Sent to: llevy@expresshealthservices.com

Appointment

Note Type: **General** [Mark Note as Mistake]
12/22/2011 12:44:15 PM : Dana Toole - Implant & TMJ Care Coordinator
Appt Added:
Provider: Isaac Edwards Davis, III
Speciality: Oral Surgery
Appt: 12/28/2011
Short Desc: Eval - Upper ext

Note Type: **General** [Mark Note as Mistake]
12/22/2011 12:33:06 PM : Dana Toole - Implant & TMJ Care Coordinator
Rea - see conversation with IW and his attorney's office today. They want to be referred to OS - eval for upper extractions for implant supported teeth and/or implant over-denture. He is asking to see a Neurologist for his facial pain, PM to control his pain and a dentist to make the new upper teeth since he has lost faith in current providers. Please let me know if I can suggest this to the adj/ncm to get auth, etc? Thanks,
Sent to: rimbruglia@expresshealthservices.com,

Note Type: **General** [Mark Note as Mistake]

12/22/2011 11:59:33 AM : Dana Toole - Implant & TMJ Care Coordinator

Rec'd call from Angie at Iw's attorney's office. She called to ask if IW can change providers because Dr. Campbell (GD) is not in agreement with Dr. Raman/Zatz (Orthodontist). She said that her client is extremely frustrated and upset that neither the GD or Ortho believe he is in pain, that he still have pain on the upper teeth and that he has nerve pain that he believes is related to the upper teeth being mobile. While speaking with Angie she asked if we could do a 3 way "conference" call with the IW, I told her that would be best so I can better understand his specific complaints and how I can best help him while Sharon is out of the office.

She tried to conference him in but ended up hanging up on me, so I conferenced John in and connected Angie to the call.

John said that he is extremely frustrated, he is very angry that both the GD and Ortho are not working together and that more often than not the GD does his thing, against the Ortho's wishes, and visa versa. He said the Ortho is not moving the teeth and that his bite is still off and now he has a large space between the two lower teeth and that the Ortho told him he would close the space with a "metal" bar that would be glued to the back of his lower teeth. The IW absolutely refuses to accept this type of treatment because it was not what he had prior to the injury and he will not accept this for after the injury.

John went on to say that the extractions done have caused his jaws to lock, and that he has no choice but to wear the partials made for the missing teeth (result of injury). He said that the Ortho Dr. Raman/Zetz told him that the partials are ill fitting and he should throw them away. Thus adding more confusion to his case and his lack of faith with both doctors.

The iw complains of facial pain which the Endo told him is a result of the teeth being mobile even with the ret in place. The endo told him that they will never tighten up and that he will always have pain in these teeth due to the nerves in the gum tissues. He is more frustrated.

He says that his jaw is off, bite is off and occlusion is not right and he wears holes in the partials because of the bite being off and that he bites his lips and tongue as a result of this. He also said that both the Ortho and GD fight over who is doing what and often find out that what they do is wrong and have to start all over again.

Most of all when the IW complains of the pain that both dentists refuse to acknowledge his pain and that it is real. Both dentists say to take Motrin which makes him sick and then state to do nothing and that in a few days "he'll get over it". John said he refuses to be disrespected anymore from these doctors, and that they don't listen to him or help him when in need/pain. He has lost total faith and has requested we move him to another provider.

After reviewing the file it appears that an OS, Prosthodontist, Neurologist and Pain management may be needed to properly treat his needs. I plan to talk to Rea to get guidance then speak with both adj/nrm to determine if we can move him to the OS, Prostho, Neuro, PM and go from there. Explained to John and Angie my plans and told them that the holidays will slow this process but I hope to have news after Xmas. Also explained that John would have to consider getting rid of his teeth and going with implant supported prosthesis. He is open to anything that will help him feel better, he just doesn't want to continue with a direction that makes no sense and no one believes him that he is really in pain.

IW asked if he should still see providers on file. Suggested he see the Ortho, then we will delay Campbells appt since IW doesn't want final upper crowns put on because it will cause pain on his upper teeth/gums. Told him we should have some answers before then. dt

Note Type: **General** [Mark Note as Mistake]

12/22/2011 11:39:20 AM : Dana Toole - Implant & TMJ Care Coordinator

Authorization checked:

Appt Date: 1/9/2012

Provider: Christopher W. Campbell

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

12/22/2011 11:38:40 AM : Dana Toole - Implant & TMJ Care Coordinator

Authorization checked:

Appt Date: 1/3/2012

Provider: Michael R. Zetz, Jr.

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

12/22/2011 10:50:34 AM : Dana Toole - Implant & TMJ Care Coordinator

Changed Status on appt on 12/13/2011 from AppointmentPending to AppointmentKept

Note Type: **General** [Mark Note as Mistake]

12/22/2011 10:50:34 AM : Dana Toole - Implant & TMJ Care Coordinator

Authorization checked:

Appt Date: 12/13/2011

Provider: Michael R. Zetz, Jr.

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

12/15/2011 4:19:39 PM : Paula Mays - Plan of Treatment Coordinator

From: Mackey, Marty [mailto:Marty.Mackey@genexservices.com]

recvd a call from Angie at Attorney Samuels office stating that i was on speaker phone and John would like to speak to me. He then began to tell me that he is upset that on the 9-20 appt, Dr. Campbell was unable to place the perm crowns, because the teeth on the lower are still in the wrong position. I explained to him that the lowers need to be positioned just right in order not to break the perm bridge. He seemed to understand that part, but said that his concern is that Dr. Raman is not listening to him when he says his lower teeth are severly hurting. I told him that they are going to be tender, due to the braces, and he said its more then that. I then asked him if he let Dr. Raman know this and he said yes, he said he has told him this for a long time and he feels like the dr is not listening to him. He said that Dr. Raman basically told him that its all in his head. He said he is to go back to Dr. Raman on 10-10-11 and he said he wanted me to find another provider for the braces. I explained to him that because his case is so extreme, that it would be hard to throw another dr in at this point. I then tried to calm him down and said to him that i wanted him to at least go back into Dr. Raman on the 10-10 and see what he says. The Attorney's asst Angie spoke up and said " I think that sounds reasonable sharon" I told them that i would call both Campbell and Raman and discuss with them questions that we have and that i would send a letter. They agreed and thanked me for the help....

I tried to call the adj but could not get hold of her.

I called Marty, NCM, and let her know all that was said and let her know that the lower teeth might have nerves that are dying and that we might have to pay for these as well.

Her and i then discussed the different tx that maybe would keep the lower teeth positioned where they will not harm the perm bridge.
--Dentures- pull all the teeth

--Extract a few teeth in front, on lower, and build a bridge on them in the postion that will not hurt the upper teeth.

Marty said she was trying to go to some appts with John, but his attorney called the ins attorney and they agreed that Marty cannot go to any other appts. She is going to check on this, because i asked that she go to the appt on 10-10. She also stated that she is going to speak to Tara the adj and let her know what is going on. She said she will get back to me..

I called Dr. Raman's office and had to LM

I called Dr. Campbell's office and had to LM

Will follow up on this on Monday

Sent to: rimbruglia@expresshealthservices.com,

Note Type: **General** [Mark Note as Mistake]

9/23/2011 3:33:46 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to adj and ncm...

Hi Ladies,

Please find the questions that I have sent to Dr. Raman to address. As soon as I receive this back I will forward to you. Let me know if you would like me to ask any other questions.

I have called and spoke to Marty on this file and if you need to call me with any questions Tara, please feel free.

Thank you.

Note Type: **General** [Mark Note as Mistake]

9/23/2011 3:28:10 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to Dr. Raman...

Hi Dr. Raman.

Please find attached the questions that we have on treatment for John Hart. He called very upset about not being able to cement the bridge on the upper. He also stated that the lower teeth are hurting him so bad that he cannot even touch his teeth together. Thus, the insurance company wanted the questions on the form answered. Please answer the questions and return to me as soon as possible. If you have any questions please give me a call.

thank you,

Sharon Crofoot EFDA
TMJ and Implant Coordinator
888-539-0577 ext 150

Note Type: **Billing** [Mark Note as Mistake]

9/23/2011 9:42:32 AM : Alisa Ragghianti - A/P Supervisor
Billing Note: Alisa Ragghianti - A/P Supervisor 9/23/2011 9:42:32 AM

8/10/2011 11:43:02 AM : Melissa Kosloski - Billing Specialist
 Billing Note: Melissa Kosloski - Billing Specialist 8/10/2011 11:43:02 AM
 DOS: 7/26/2011
 Provider: Christopher W. Campbell

It looks like pricing was never requested. If you would like to correct I will send a corrected claim to the carrier.

Sent to: llevy@expresshealthservices.com

Appointment

Note Type: **Billing** [Mark Note as Mistake]
 8/10/2011 11:16:37 AM : Leon Levy - Director of Service Operations
 Billing Note: Leon Levy - Director of Clinical Operations 8/10/2011 11:16:37 AM
 DOS: 7/26/2011
 Provider: Christopher W. Campbell

Melissa,
 Why were these invoiced out at this lower amount?

Sent to: mkosloski@expresshealthservices.com

Appointment

Note Type: **General** [Mark Note as Mistake]
 8/10/2011 11:15:13 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 spoke to Dr. Cambell and he said that he wants to use a different dr and i stated that the ins co will not put any other drs for this file. He said his access hole is always too large. I suggested to him to write a narrative. I explained to him that we have always used Dr. Sykes for all other rct. I asked for a narrative and explained that his appt is with Sykes tomorrow for this as well. He said he will not put this in writing as this would be disrespectful. He then said he would call him and explain to him that this is delicate and he needs as much tooth structure for this tooth as possible.

Spoke to Crystal at Campbells office and let her know that we will need a narrative as to why temps are used so much...She said she has temps that are authd that we never used. I told her if she could send this and a narrative and claim, then we could process.

Note Type: **General** [Mark Note as Mistake]
 8/10/2011 11:01:26 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 sent to the adj and ncm,....

HI there,

I wanted to let you know that the claimant went in today to have his bridge repaired again. This will keep breaking on this until we are able to get the bite stable. They are wanting to charge for this. I will look into this a little further and see what I can find out. I will let you know. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]
 8/10/2011 10:55:21 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 Changed Status on appt on 8/10/2011 from AppointmentPending to AppointmentKept

Note Type: **General** [Mark Note as Mistake]
 8/10/2011 7:51:44 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 recvd VM from Crystal at Dr. Campbell and wanted to know why we did not refer to the dr that her dr said..

Hi Jane,

They did not state why, but we should use Dr. Sykes again. He is familiar with this case and we could probably get away with treating the same day as well. Let me know. Its up to you.

Note Type: **General** [[Mark Note as Mistake](#)]

8/4/2011 12:36:00 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adj and ncm....

Hi there,

Please find attached the notes from the appointment with Dr. Campbell. They are referring him for evaluation with Root Canal doctor for tooth 4. They have submitted a doctor of Dr. Campbells choice. But we have used Dr. Sykes in the past for his Root Canals hes had for the other teeth. Would you like for me to set this up for him with Dr. Sykes? Or would you prefer the other doctor? Please let me know what direction you would like for me to go. If you have any questions please give me a call.

Thank you,

Note Type: **General** [[Mark Note as Mistake](#)]

8/4/2011 12:27:54 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
Authorization checked:
Appt Date: 8/2/2011
Provider: Christopher W. Campbell
Link: [Appt](#)

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 12:46:27 PM : Stacey Winchester - Customer Service Representative
Notes Received
Appt Date: 8/2/2011
Provider: Christopher W. Campbell
Link: [Appt](#)

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 12:46:24 PM : Stacey Winchester - Customer Service Representative
Document Attached: Chart Notes, DOS 7.26.11 - 8.2.11, Dr. Christopher W. Campbell [[View](#)]
Provider: Christopher W. Campbell
DOS: 8/2/2011
Service: post op--refer for endo

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 12:45:57 PM : Stacey Winchester - Customer Service Representative
Document Attached: Pt Hx, Dr. Christopher W. Campbell [[View](#)]

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 12:45:57 PM : Stacey Winchester - Customer Service Representative
Document Attached: Fax Cover, Dated 8.2.11, Dr. Christopher W. Campbell [[View](#)]

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 9:10:20 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Leann from Dr. Campbells office and she said that the claimant is in the office today and the dr feels as though the claimant will need endo on one of the teeth. I told her to send referral to me. She said that they wanted the claimant to see their endo dr, Dr. Evans and they would call. I told them that they are not to schedule any appts unless thru us. I asked that she send the referral with the suggested dr info on it. I told her that i also need notes. I then spoke to her about the temps being billed again and that we cannot pay her for this unless he wears them more then 6 months. She seemed to understand. I then asked about whether they are going to del the bridge, she said not till he is completed with braces. I asked how long she thought and she said she wasnt sure.

Note Type: **General** [[Mark Note as Mistake](#)]

8/2/2011 9:05:58 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adj and ncm....

Hi there,

Please find attached the notes from the appointment. He came in to the office today for a follow up and they are referring him for a Root Canal on one of his teeth. I have informed them that they are to send the referral to me and then we have to get permission for the Root Canal from the insurance company. As soon as I receive this, I will forward it to you. If you have any questions please give me a call.

Thank you,

7/1/2011 3:54:42 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
my reply to the ncm.....

Thanks Marty!! Do you have an appt day for Dr. Campbell then? And when is he to go back to Dr. Raman?
Thanks for all your help on this file Marty....

Have a Great Holiday Weekend!!

Note Type: **General** [Mark Note as Mistake]

7/1/2011 3:52:52 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the ncm.....

Sharon, Dr. Zetz will be leaving the practice with Dr. Raman and will be practicing in James Island, SC. Mr. Hart was not scheduled to return to see Dr. Raman. They wanted Dr. Campbell to see Mr. Hart and then would schedule him an appt. They wanted to make sure Dr. Campbell thought the braces had pulled his bottom teeth back enough for him to do his part of the treatment.

Marty Mackey RN
Medical Case Manager
cell -803-319-1971
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

6/21/2011 2:57:00 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

CONFIRMATION CALL - DAY AFTER

Provider: Christopher W. Campbell

Dos: 6/20/2011

spoke to Heather at providers office and the claimant did make it to the appointment.

sent to the adj and ncm....

Hi there,

I wanted to let you know that the providers office stated that the claimant did make it to the appointment. I will forward the notes from both doctors and the next appointment time as soon as i receive them. If you have any questions please give me a call.

thank you, Call Complete

Confirmed with Provider's Office that Patient showed up for appointment: Yes

Inquired about upcoming appointments: Yes

Records were requested from the Provider: Yes

Provider was reminded to send claim to Fax line: Yes

Called claimant to see how appointment went: Yes

Contacted Adjuster to update regarding appointment: Yes

Contacted NCM updated regarding appointment: Yes

Note Type: **General** [Mark Note as Mistake]

6/20/2011 1:40:13 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
Closed Service

Note Type: **General** [Mark Note as Mistake]

6/20/2011 1:39:45 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
Closed Service

Note Type: **General** [Mark Note as Mistake]

6/20/2011 1:38:14 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

Authorization checked:

Appt Date: 6/20/2011

Provider: Christopher W. Campbell

Link: [Appt](#)

Note Type: **General** [Mark Note as Mistake]

6/20/2011 1:36:28 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the ncm and adj.....\

Ok thanks!!

Marty, you really help me out so much with him. !!!!

I am so glad that he will almost be completed. What a hard case for all of us. I say a Red Lobster trick in the future too celebrate this...LOL.

Also, did Dr. Zetz say he had another appointment? Also, does he have another appointment scheduled with him again?

I will collect the notes and send them to you. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

6/20/2011 1:30:21 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

reply from the ncm....\

Tara, I met with Dr. Raman and Dr. Zetz yesterday after Mr. Hart's appointment. The doctor's said Mr. Hart is ready to return to Dr. Campbell to see if they have been able to move Mr. Hart's bottom front teeth back enough so he can begin the next step for temporary crowns. Dr. Raman and Dr. Zetz both feel the braces have moved the teeth as planned and said Mr. Hart is only hitting 2 teeth on the front and feel Dr. Campbell will be able to start his part of their treatment plan. Mr. Hart is scheduled to see Dr. Campbell on Monday, 6/20/11. He does not have a return appointment with Dr. Zetz/Raman until Dr. Campbell lets them know how things look and what he will plan to do. Both doctors said they feel Mr. Hart could have all the dental work complete by the end of the year.

There maybe a light at the end of this dark tunnel after all. Mr. Hart looked well and was laughing with the staff and appears to have no problems eating and maintaining his weight. He did not appear to be in any acute pain.

Tara, I am working on finding a neurologist and have sent records for review.

Marty Mackey RN
Medical Case Manager
cell -803-319-1971
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

6/14/2011 2:06:12 PM : Jasmine Ramize

CONFIRMATION CALL --

Provider:

Dos:

Re: Inv # 12004, 127245. S/w Theretha in bill review. Bills were sent back by the adjuster and pending in bill pay...F/u 06/28/2011

Note Type: **CLOSE** [Mark Note as Mistake]

6/12/2011 12:44:40 PM : Leon Levy - Director of Service Operations

CLOSED NOTES:

Completed - Subpoena/Records Request Provider: MG&C Attorney at Law

Note Type: **General** [Mark Note as Mistake]

6/6/2011 10:44:22 AM : Anna Bavaro - Provider Contracting Representative

Mailed recds out: 7010 3090 0001 9735 1404

Leon

Please close recd req. Thanks.

Sent to: llevy@expresshealthservices.com,

Note Type: **Billing** [Mark Note as Mistake]

6/1/2011 11:30:09 AM : Anna Bavaro - Provider Contracting Representative

Billing Note: Anna Walen - Dental Staffing Coordinator 6/1/2011 11:30:09 AM

DOS: 6/1/2011

Provider: MG&C

Inv please asap per subpoena. Thanks.

Sent to: lsnoles@expresshealthservices.com

Appointment

Note Type: **General** [\[Mark Note as Mistake\]](#)

6/1/2011 11:20:07 AM : Anna Bavaro - Provider Contracting Representative
 Document Attached: Sta_jhart[\[View\]](#)
 Provider: MG&C
 DOS: 6/1/2011
 Service: Subpoena

Note Type: **General** [\[Mark Note as Mistake\]](#)

6/1/2011 11:20:05 AM : Anna Bavaro - Provider Contracting Representative
 Document Attached: Sub 06-01-11[\[View\]](#)
 Provider: MG&C
 DOS: 6/1/2011
 Service: Subpoena

Note Type: **General** [\[Mark Note as Mistake\]](#)

6/1/2011 11:05:41 AM : Anna Bavaro - Provider Contracting Representative
 Appt Added:
 Provider: MG&C
 Speciality: Attorney at Law
 Appt: 6/1/2011
 Short Desc: Subpoena

Note Type: **General** [\[Mark Note as Mistake\]](#)

5/31/2011 1:03:18 PM : Jasmine Ramize
 CONFIRMATION CALL --
 Provider:
 Dos:
 Re: Inv # 120004, 127245..Adjuster emailed me back: I have resent for you

Tara Potter
 Gallagher Bassett Services
 P O Box 607
 Fort Mill, SC 29715
 Main # (803) 547-8036 x212
 Toll Free # 866- 814-1740
 Fax # (803) 547-8055
 tara_potter@gbtpa.com

...F/u 06/14/2011

Note Type: **General** [\[Mark Note as Mistake\]](#)

5/31/2011 9:23:55 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 sent to the adj and ncm....

Hi there,

I wanted to let you know that Dr. Zetz office called me and stated that they received a request for records from the claimants attorney. This is just for your information only. If I hear anything further, I will let you know.

Thanks!

Note Type: **General** [\[Mark Note as Mistake\]](#)

5/31/2011 9:21:34 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 Heather called from Dr. Zetz office stating that they recvd an Supeona from an attorneys office for the claimant.
 I told her to send all of the paperwork to me and we will send to them what they need. I also, told her that if they call in regards to this, then she can just have them call us. She thanked me for all of our help..

Note Type: **General** [\[Mark Note as Mistake\]](#)

5/24/2011 1:30:36 PM : Jasmine Ramize
 CONFIRMATION CALL --
 Provider:
 Dos:
 INVOICE # 112334, 118259, 1187229...PIF...
 Re: Inv # 120004. Bill review denied this bill stating that this is not covered under WC. Emailed adjuster with attached bill requesting it be sent to be reprocessed and paid in full
 Re: Inv # 120004. Bill was denied for Incorrect code. Emailed adjuster with attached denial requesting bill be reprocessed...F/u 05/26/2011

Note Type: **General** [\[Mark Note as Mistake\]](#)

Appt Date: 3/28/2011
 Provider: Christopher W. Campbell
 Link: [View](#)

Note Type: **General** [[Mark Note as Mistake](#)]
 3/28/2011 2:17:07 PM : Eric Marshall - Customer Service Representative
 Document Attached: Fax cover sheet from Dr. Christopher Campbell, Dated 3.28.11 [[View](#)]
 Provider: Christopher W. Campbell
 DOS: 3/28/2011
 Service: Retro - Ofc Appt

Note Type: **General** [[Mark Note as Mistake](#)]
 3/28/2011 2:17:06 PM : Eric Marshall - Customer Service Representative
 Document Attached: Chart Notes, DOS 1.19.11 - 3.28.11, Dr Christopher W. Campbell [[View](#)]
 Provider: Christopher W. Campbell
 DOS: 3/28/2011
 Service: Retro - Ofc Appt

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 2:33:02 PM : Jasmine Ramize
 CONFIRMATION CALL -
 Provider:
 Dos:
 Re: Inv # 112334, 118259, 118729...Lm for adjuster requesting claims be reprocessed and paid in full. If no call back I will contact manager for resolution...F/u 03/18/2011

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 11:20:53 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 my reply to the NCM and adj...

Hey Marty,

I just spoke to Heather over at Dr. Zetz, and she said that the new doctor did buy the practice, but Dr. Zetz will be there until June. I have asked them to please send license number over along with tax ID. We will then run a background on his license. I will keep you posted on this.

And that does not surprise me that he is stating that he is losing weight. He will try to prolong this as long as possible. But we're ahead of him and know different. His make up stories have to be backed up by providers and he wont get real far with his stories!

If you have any questions please give me a call.

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 11:15:10 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 spokt to Heather at Dr. Zetz and he did sell his practice. He is going to work until June then he will be done. He said Dr. Raman will be taking over the case now and Dr. Zetz and him have gone over his treatment plan and the new d completely understands.

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 11:14:45 AM : Eric Marshall - Customer Service Representative
 Sharon,

The documents from Raman Ortho have been attached, per your email response.
 Sent to: scrofoot@expresshealthservices.com,

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 11:13:10 AM : Eric Marshall - Customer Service Representative
 Document Attached: Tx Questionare From Genex, Dated 3.7.11, (Via Dr James W. Raman) [[View](#)]
 Provider: Michael R. Zetz, Jr. Kim/Leslie
 DOS: 3/7/2011
 Service: change wires

Note Type: **General** [[Mark Note as Mistake](#)]
 3/16/2011 11:13:09 AM : Eric Marshall - Customer Service Representative
 Document Attached: Fax cover sheet from Raman Ortho, Dated 03.16.11 [[View](#)]
 Provider: Michael R. Zetz, Jr. Kim/Leslie
 DOS: 3/7/2011
 Service: change wires

Note Type: **General** [[Mark Note as Mistake](#)]

3/16/2011 11:11:46 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the ncm.....

I wanted to make sure you received the response from the dentist. Sharon, maybe you can read what he wrote because I can't. I will need to have him tell us if this will go on another year from now. You probably know the answer. I see that Dr. Zetz is no longer treating Mr. Hart. The practice was bought by Dr. James Raman. Do you know him, Sharon?

I wanted to share something with both of you. Mr. Hart told Dr. Kent, neurologist, that he has lost weight recently because he can't eat due to his teeth. Well, this isn't true. He gained 10 pounds from January to 3/9/11----this is documented on the doctor's notes. I could look at him and see he isn't missing meals!! Teeth or no teeth he is eating.

Marty Mackey RN
Medical Case Manager
cell -803-319-1971
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

3/14/2011 11:00:44 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
The following fax document has been successfully delivered.

Start Time : 03/14/2011 Mon, 09:44
Subject : questions for John Hart
Name : Dr. Zetz office
Fax/E-Mail : 8036992652 (18037498966)
User : scrofoot
Pages : 2
Fax-ID : 172544

Export File : d:\program files\activefax\Export\00172544.tif

Status : OK

Note Type: **General** [Mark Note as Mistake]

3/14/2011 9:46:41 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adj and ncm,.....

Hi there,

I wanted to let you know that I forwarded the questions that you had for Dr. Zetz. As soon as I receive them I will forward them to you. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

3/14/2011 9:45:01 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent questions to Dr. Zetz for ncm....

Hi there,

Please find attached the questions from the nurse case manager. Please respond to her and forward the answers to the questions to me. If you have any questions please give me a call.

thank you,

Sharon Crofoot EFDA
TMJ and Implant Coordinator
888-539-0577 ext 150

Note Type: **General** [Mark Note as Mistake]

3/10/2011 4:25:52 PM : Jasmine Ramize
CONFIRMATION CALL -

Provider:

Dos:

Re: Inv # 112334, 118259, 118729...Lm for adjuster requesting claims be reprocessed and paid in full per agreement..F/u 03/14/2011

Note Type: **General** [Mark Note as Mistake]

Sent to: scrofoot@expresshealthservices.com

Note Type: **General** [Mark Note as Mistake]

3/30/2010 4:42:43 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adjuster and the NCM....

Hi there,

Please find attached the breakdown of all the dentist that the IE saw. If you need any thing else from me let me know.

Thank you,

Note Type: **General** [Mark Note as Mistake]

3/30/2010 10:21:47 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Dr. Isiah Davis (1st dr) and he said he spoke to all the other drs except for one of them. He said he will speak to him today sometime and he said that he will send me over a narrative.. he said one of the other drs will be sending me something stating that this had nothing to do with his work not being appropriate...

IE called and LM for me to call him back...

called the IE back and had to LM....

Note Type: **General** [Mark Note as Mistake]

3/29/2010 9:38:20 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to the NCM and she said that the doctor ment with her and gave her great info... she said that the IE wasnt there and she was able to speak to DR. She said it was very informative....She gave me the next appt infor.

Note Type: **General** [Mark Note as Mistake]

3/29/2010 9:19:46 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the ncm and adj.....

Tara, I spoke with you on Friday concerning my visit and I wanted to send you an e-mail update to cover more of the visit. I really liked Dr. Farrar and his staff. They were very nice and helpful. I met with Dr. Farrar and he discussed the treatment plan for John. It was helpful to me to get the time line of his treatment in writing. I better understand the dental process.
1st exam was 2/9/10 and then Dr. Farrar and Dr. Zetz's discussed the plan
3/11/10--implants for #13,#20 and #29 home care and restricted diet told to client
3/18/10---1st post op--removed sutures-restricted diet stopped
3/25/10---2nd post op--implants polished and home care discussed with client
5/13/10---10:00-- Mr. Hart will be seen for follow up
Dr. Farrar said Mr. Hart should have one more appointment after 5/13 to expose the metal and a "healing post" will be placed in the implants so the gum tissue can grow around and conform the implant. Then he will be sent to Dr. Campbell to begin the crown process. Dr. Farrar will see Mr. Hart after the crowns are done to check the implants. Dr. Farrar said he will need to see Mr. Hart yearly after that to check the implants.

I plan to meet with Laurel and Dr. Farrar following his exam on 5/13/10. We agreed to meet after Mr. Hart is gone since he gets so angry and creates a scene. I was given some good information on implants since I really don't know dental well but learning. I was also given an ICD.9 code I can use which is helpful for me. Let me know what I can do for you.

Marty Mackey RN
Medical Case Manager
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

3/25/2010 3:40:38 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the NCM....

Thanks, I'll update you tomorrow.

Marty Mackey RN
Medical Case Manager

Provider: William B. Farrar Laurel

Please pay this provider. They are asking the insurance company when to expect payment. We have surgical notes and claim form. Please process as soon as possible.

Sent to: dwarren@expresshealthservices.com, rschoonover1@expresshealthservices.com

Note Type: **General** [Mark Note as Mistake]

3/25/2010 9:24:21 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the NCM,....

Tara, I spoke with Laurel at Dr. Farrar's office this morning. John was there for his post op visit. She asked me to come tomorrow morning so I can speak with the dentist and meet with her. She will have his records so we can review. I really believe if I had been more involved some issues would not have come up and I'm sorry that I stepped back with him and didn't do my job as I should. Laurel did ask me about payments. She said she had sent the bills to Sharon and has not been paid. I told her I was not sure how that worked but would ask you and Sharon about the payment process and see if I can tell her tomorrow. I told I was not sure if she would send to Sharon or to GB office. Laurel did say John will probably come back to see them in about 6 weeks. I'll tell you more tomorrow.

Marty Mackey RN
Medical Case Manager
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

3/24/2010 4:16:10 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
CONFIRMATION CALL – DAY PRIOR
Provider: William B. Farrar Laurel
Dos: 3/25/2010
spoke to the IE and he will be at the appt....

Call Complete
Claimant Confirmed: Yes
Provider Appt Confirmed: Yes
Provider Auth has been requested: Yes
Payer Auth has been requested: Yes

Note Type: **General** [Mark Note as Mistake]

3/22/2010 9:18:00 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Ellen at Dr. Isiah Davis office, stating that she received all the notes and POTs from the different doctors. She was very upset that he went somewhere else, and not coming to them and stating that he wanted the work redone. I told her that i sent all the paperwork that i had for him, so that the dr could comment on this. She said she will get right with the dr to review and send us a statement..

Note Type: **General** [Mark Note as Mistake]

3/19/2010 10:48:47 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adjuster and NCM....

Hi there,

I wanted to let you know that the IE did make it to the appointment yesterday. He will return again on 3-25-10 at 8:30 am. I will forward the notes as soon as I receive them. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

3/19/2010 10:41:37 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
CONFIRMATION CALL – DAY AFTER
Provider: William B. Farrar Laurel
Dos: 3/18/2010
tried to call providers office and it was busy...

spoke to the IE and he said that he did make it to the appt...

Call Complete
Confirmed with Provider's Office that Patient showed up for appointment: Yes
Inquired about upcoming appointments: Yes
Records were requested from the Provider: Yes
Provider was reminded to send claim to Fax line: Yes

Note Type: **General** [Mark Note as Mistake]

2/11/2010 11:03:17 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
CONFIRMATION CALL – DAY AFTER

Provider: William B. Farrar Laurel

Dos: 2/9/2010

spoke to Laurel at providers office and she said that the IE did make it to the appt,....

told her i need everything forwarded over... tax ID.... license...

etc... Call Complete

Confirmed with Provider's Office that Patient showed up for appointment: Yes

Inquired about upcoming appointments: Yes

Records were requested from the Provider: Yes

Provider was reminded to send claim to Fax line: Yes

Called claimant to see how appointment went: Yes

Contacted Adjuster to update regarding appointment: Yes

Contacted NCM updated regarding appointment: Yes

Note Type: **General** [Mark Note as Mistake]

2/10/2010 2:07:31 PM : Anthony Lugo - Dental Staffing Team Lead

Appt Added:

Provider: William B. Farrar

Speciality: Periodontist

Appt: 2/9/2010

Short Desc: RETRO - Evaluation with Periodontist

Note Type: **General** [Mark Note as Mistake]

2/10/2010 10:30:43 AM : Sharon Crofoot - Implant & TMJ Care Coordinator

sent to the adjuster....

HI there,

I wanted to let you know that I just got off the phone with the periodontist, Dr. Ferrar and the IE did go to this appointment yesterday. Even though we cancelled this. They will be forwarding all the notes and the Plan of Treatment. I will also get a Plan of Treatment from Dr. Davis. I will forward this to you as soon as I receive them. If you have any questions please give me a call.

Thank you,

called and LM with Barbara the adjuster...

called and spoke to Tara and she said that the she would like for me to get a POT from Dr. Davis also. I told her no problem, and that i will forward it to her as soon as i receive it.

Note Type: **Billing** [Mark Note as Mistake]

2/10/2010 9:47:16 AM : Aleah Dean

Billing Note: Aleah Dean - Finance Manager 2/10/2010 9:47:26 AM

DOS: 2/4/2010

Provider: Christopher W. Campbell

Heather - how com we billed this prior to pricing? This is not the right amount

Sent to: hmercer@expresshealthservices.com

Note Type: **General** [Mark Note as Mistake]

2/10/2010 8:08:10 AM : Sharon Crofoot - Implant & TMJ Care Coordinator

reply from the NCM....

Sharon, Who is the better doctor for him to go to for this work? We direct the care and will do what is best for him.

Marty Mackey RN

Medical Case Manager

800-477-2028 x 3626

Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]

1/19/2010 2:41:05 PM : Kristin Anderson
 BILLING NOTE: Kristin Anderson - Billing Specialist 1/19/2010 2:41:17 PM
 DOS: 11/4/2009
 Provider: Michael Zetz Kim/Leslie
 ** - Diagnostics, x-rays, etc. are billed supplemental is nonbillable

Note Type: **General** [Mark Note as Mistake]
 1/19/2010 10:05:54 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 sent to the adjuster and NCM...

Hi Ladies,

I wanted to let you both know that I was able to get the IE scheduled with the Root Canal specialist for 1-21-10 at 10am. I have confirmed this with him as well. I will forward the paper work to you as soon as I receive them. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]
 1/19/2010 9:58:51 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 reply from the NCM....

Sharon, Tara can say this better but he can't direct his care. The insurance company directs his care and this is in his best interest to go back for the evaluation. I'll let Tara try to talk to him because you know I'll just make him mad if I try to talk to him. I would like to attend the next visit.

Marty Mackey RN
 Medical Case Manager
 800-477-2028 x 3626
 Fax 866-268-3974

Note Type: **General** [Mark Note as Mistake]
 1/19/2010 9:57:57 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 The following fax document has been successfully delivered.

Start Time : 01/19/2010 Tue, 09:42
 Subject : provider notes for John Hart
 Name : Lori at Dr. Sykes office
 Fax/E-Mail : 8034192974 (18034192974)
 User : scrofoot
 Pages : 16
 Fax-ID : 98574

Export File : d:\program files\activefax\Export\00098574.tif

Status : OK

Note Type: **General** [Mark Note as Mistake]
 1/19/2010 9:55:03 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 Tara, the adjuster called on speaker phone with her Supervisor, Barbara there and they said they spoke to the IE and he will go back to the RCT specialist, Dr. Sykes. They also stated that they would like for the IE to only go to the Dr. Campbell and Dr. Davis (OS) and not to go to any prosthodontist. The IE told them that he only wants these 2 doctors to do the work. He said he trust them. So they would like for me to get a POT together from the both of them and get TX moving forward. I also told them that we were going to send this for a Peer Review. She said to definately still do that, and send her our findings when we receive the paperwork. I told her that i would.

called and spoke to Lori at Dr. Sykes office (endo) and explained everything to her, and she said that they would see him, no problem. 1-21-10 at 10am. This thursday...
 i faxed over the paperwork from all other doctors to Endo office for review..

.....
 Hi there,

Please find attached the notes from all of the providers that we have. Please review these before the patient coming to the appointment. Please look at teeth 4-12. We need to make sure that these teeth do not have fractures or need to be redone. He is still having alot of discomfort in this area, and we want to be sure that these teeth dont need to be redone or dont have fractures. Please help us in determining this.
 If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

1/18/2010 8:35:27 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to the IE and he was angry that nothing has been approved yet. I told him that it takes time to get this taken care of. I explained to him that this will have to go before a review board and then get approval after that. He was not happy.

called Dr. Zetz office to see about getting a POT from them for the braces. I have also sent this to Laura to be reviewed.
Sent to: rschoonover1@expresshealthservices.com,

Note Type: **General** [Mark Note as Mistake]

1/14/2010 12:53:30 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the NCM....

Don't say anything to him at this time but this could be kept as an option maybe. How many "good" teeth did he have?

Marty Mackey RN
Medical Case Manager
800-477-2028 x 3626
Fax 866-268-3974

He has 8 left on the upper. But 7 of those are in the bridge and might have fractures. They think his pain might be coming from this area. I will wait for our review and see what they come up with. I wont say anything to the IE until we discuss this further...

Note Type: **General** [Mark Note as Mistake]

1/14/2010 12:45:47 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
my reply to the NCM....

I agree. Its getting a dentist to pull good teeth and place a denture is the hard part. Most dentist wont do that. I think in this case he would almost be better off. We could offer this. An Implant supported denture is what we could do. You want me to run this by the IE? If he says he would do it, we could get a Plan of Treatment for this as well. Let me know. I have sent this to my review board as well.

Note Type: **General** [Mark Note as Mistake]

1/14/2010 12:27:20 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the NCM<.....

Sharon, I don't have a lot of dental knowledge but is it not possible to just have all teeth removed and dentures given. I know this probably isn't the most cosmetic best but this man didn't have great dental care in the first place from what I was told. I might be wrong on his pre injury dental care but let me know. If he didn't have great teeth before then why do we give him so much more. Let me know so I can better understand the dental part. Thanks.

Marty Mackey RN
Medical Case Manager
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **Billing** [Mark Note as Mistake]

1/14/2010 12:25:02 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
Billing Note: Sharon Crofoot - TMJ & Implant Care Coordinator 1/14/2010 12:25:15 PM
DOS: 1/1/1980
Provider: Christopher Campbell

spoke to Crystal at providers office and the doctor will not give any discounts...

Sent to: llevy@expresshealthservices.com

Note Type: **Billing** [Mark Note as Mistake]

1/14/2010 11:37:01 AM : Leon Levy - Director of Service Operations
Billing Note: Leon Levy - Director of Clinical Operations 1/14/2010 11:37:14 AM
DOS: 1/1/1980
Provider: Christopher Campbell

Sharon,

Yeah it is. They want to redo his whole mouth. Just to restore his bite to make him comfortable. Please understand that we need to make sure that this is all injury related and not pre-existing. I will send this to my review board and we will figure it all out and make sure this is compensable.

Note Type: **General** [Mark Note as Mistake]

1/11/2010 10:34:09 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
The following fax document has been successfully delivered.

Start Time : 01/11/2010 Mon, 10:21

Subject : John Hart narrative.

Name : Crystal at Dr. Campbells office

Fax/E-Mail : 18038080891

User : scrofoot

Pages : 2

Fax-ID : 97438

Export File : d:\program files\activefax\Export\00097438.tif

Status : OK

Note Type: **General** [Mark Note as Mistake]

1/11/2010 10:33:05 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adjuster and NCM....

Hi there,

Please find attached the notes that I have so far for the IE. I just spoke to their office and I told them that I need a breakdown of the codes and fees for everything that they think needs to be done. I just want you to know that we are probably talking at least \$50,000.00 dollars for all they are stating that will need to be done. This will all definitely need to be reviewed by our review board. I did speak to the IE and let him know that this will take some time to sort out and asked him to please be patient. I told him that we are waiting on some more paperwork from the provider and that this is a long process that can and will not be approved over night. He seemed to understand and said he would wait to hear from me. I will stay on this providers office until I receive this Plan of Treatment from them. As soon as I receive this I will forward this to you. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

1/11/2010 10:24:22 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Crystal at Dr. Campbells office and let her know i need codes and fees for the POT from them. And that we pay them for this for the evaluation appt. She said she will send it right over. She also stated that the adjuster has called her. I told her that she should refer the adj back to me and i will handle this. I told her that she will be dealing with me and only me, and that Crystal Mobley was helping me, because i was on vacation, but from here on it will be me..... She seemed to understand and said she would send the POT right over to me as soon as they finished this.

resent the narrative with the changes i needed on it....

Hi Crystal,

Here is the narrative and what we need taken out per our discussion. Please forward this back to me when corrections are made and the Plan of Treatment as well. We will try to make this as easy on you as possible. If you have any questions please give me a call.

thank you,

Sharon Crofoot EFDA
TMJ and Implant Coordinator
888-539-0577 Ext. 150

Note Type: **General** [Mark Note as Mistake]

1/8/2010 2:14:19 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
ERROR: Busy Signal Detected (BUSY)

The following fax document could NOT be delivered.

Start Time : 01/08/2010 Fri, 11:12
 Subject : report for John Hart for changes
 Name : Dr. Campbell's office
 Fax/E-Mail : 18038080891
 User : scrofoot
 Pages : 2
 Fax-ID : 97275

Export File : d:\program files\activefax\Export\00097275.tif

Status : Error

Note Type: **General** [Mark Note as Mistake]

1/8/2010 2:05:33 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
 called Dr. Campbells office to confirm the fax number and had to LM....

Note Type: **General** [Mark Note as Mistake]

1/8/2010 10:57:21 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
 sent narrative back to Dr. Campbell to have him re-type this without fees in it....

Hi there,

Please find attached the narrative that you sent to us for the patient. We need you to please re-type this and take out what i crossed out. We will handle all of the fees and such. No fees should be on the narratives only on claim forms or proposed treatment plans. I appreciate your help in this matter.

We also need the codes and fees for what your doctor will be doing in his office. This must be on a separate Plan Of Treatment form. We need it broke down into this please.

Please forward all the information i have requested as soon as possible. If you have any questions please give me a call.

Thank you,

Sharon Crofoot EFDA
 TMJ and Implant Coordinator
 888-539-0577 Ext. 150

Note Type: **General** [Mark Note as Mistake]

1/7/2010 3:58:15 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
 spoke to the adjuster and she wondered about all the paperwork. I told her that i dont have it all right now.

called the IE and he is very upset and i told him that this all needs to go to review. this is something that we need to review and the insurance company too. I told him that all this work was done and now that these doctors are stating that this needs to be redone, we need to be able to prove this is injury related and that the work that was done needs to be redone....

Note Type: **General** [Mark Note as Mistake]

1/6/2010 5:14:27 PM : Eric Marshall - Customer Service Representative
 Document Attached: Fax cover sheet from Dr. Christopher Campbell, Dated 01-06-10[View]
 Provider: Christopher Campbell
 DOS: 12/17/2009
 Service: Retro- eval other dentist work

Note Type: **General** [Mark Note as Mistake]

1/6/2010 5:14:27 PM : Eric Marshall - Customer Service Representative
 Document Attached: Chart Notes, DOS 12-15-09 to 01-04-10, Dr Christopher Campbell[View]
 Provider: Christopher Campbell
 DOS: 12/17/2009
 Service: Retro- eval other dentist work

Note Type: **Billing** [Mark Note as Mistake]

1/4/2010 3:45:35 PM : Angelica Pullara
 Billing Note: Angelica Pullara - Billing Administrative Assistant 1/4/2010 3:45:51 PM
 DOS: 12/17/2009
 Provider: Christopher Campbell

Notes attached, put claim back through for processing.

Sent to:

Note Type: **General** [[Mark Note as Mistake](#)]

1/4/2010 2:29:07 PM : Susan Fernandez - Customer Service Representative

Notes Received Appt Date: 12/17/2009

Provider: Christopher Campbell

Link: [View](#)

Note Type: **General** [[Mark Note as Mistake](#)]

1/4/2010 2:29:01 PM : Susan Fernandez - Customer Service Representative

Document Attached: Fax cover sheet from Dr. Christopher Campbell [[View](#)]

Provider: Christopher Campbell

DOS: 12/17/2009

Service: Retro- eval other dentist work

Note Type: **General** [[Mark Note as Mistake](#)]

1/4/2010 2:29:01 PM : Susan Fernandez - Customer Service Representative

Document Attached: Dictation DOS 12-17-09, Dr. Christopher Campbell [[View](#)]

Provider: Christopher Campbell

DOS: 12/17/2009

Service: Retro- eval other dentist work

Note Type: **General** [[Mark Note as Mistake](#)]

12/24/2009 9:21:26 AM : Sharon Crofoot - Implant & TMJ Care Coordinator

sent to the adjuster....and NCM.....

Hi there,

I wanted to let you know that the IE did make it to the appointment. As soon as receive the report I will forward it to you. I spoke to the Office Manager while John was at the appointment yesterday. I'm pretty sure that they understand what we need. I sent them evaluation form to fill out as well.

I will forward all the information as soon as I receive it. If you have any questions please give me a call.

Thank you,

Note Type: **General** [[Mark Note as Mistake](#)]

12/24/2009 9:08:48 AM : Sharon Crofoot - Implant & TMJ Care Coordinator

CONFIRMATION CALL - DAY AFTER

Provider: Isaac Edwards Davis, III Anna

Dos: 12/23/2009

spoke to the IE and he said he made it to the appt....

spoke to anna at providers office...

Call Complete

Confirmed with Provider's Office that Patient showed up for appointment: Yes

Inquired about upcoming appointments: Yes

Records were requested from the Provider: Yes

Provider was reminded to send claim to Fax line: Yes

Called claimant to see how appointment went: Yes

Contacted Adjuster to update regarding appointment: Yes

Contacted NCM updated regarding appointment: Yes

Note Type: **General** [[Mark Note as Mistake](#)]

12/23/2009 3:00:08 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

The following fax document has been successfully delivered.

Start Time : 12/23/2009 Wed, 14:18

Subject : notes for John Hart for right after the injury

Name : Anna at Dr, Davis office

Fax/E-Mail : 8039575290 (18039575290)

User : scrofoot

Pages : 2

Fax-ID : 92577

Sharon, please attach signed auth. Thanks

Sent to: scrofoot@expresshealthservices.com,llevy@expresshealthservices.com

Note Type: **General** [Mark Note as Mistake]

12/18/2009 1:50:49 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the adjuster....

I have these need Dr Campbell's notes from 12-17-09... Hold off on the peer review

Tara Potter
Gallagher Bassett Services
P O Box 607
Fort Mill, SC 29715
Main # (803) 547-8036 x212
Toll Free # 866- 814-1740
Fax # (803) 547-8055
tara_potter@gbtpa.com

Note Type: **General** [Mark Note as Mistake]

12/18/2009 1:44:49 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent narrative to the adjuster and the NCM....

Hi there,

Please find attached the narrative from the appointment. I will forward any other notes as soon as I have them. Did you want us to set him up with a peer review? Let me know how to proceed. If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

12/18/2009 1:03:26 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
ncm sent this to the adjuster after our conversation...

Tara, Sharon called me late today and told me Mr. Hart was being referred for implants which will probably cost 50-60 thousand dollars. I really want to talk to you about this. She recommends a peer review on this recommendation because she does not feel 100% sure this would be injury related. The call is yours but I think it is worth the time for the review, This would mean that he could not keep the appointment he made for 12/23 with a dental surgeon for the implants. I do believe if he had done as he should have and worn the partials/dentures he would not be at this point. Sharon said she has not received all of the notes from the dentist who recommended this to Mr. Hart. Call me tomorrow when you can. I'll be on the road very early for an appointment at 7:45. Call me on my cell 803-319-1971. I hope to be out of that appointment by 8:30.

Marty Mackey RN
Medical Case Manager

reply from the adjuster to the NCM....

Marty:

Yes I agree a peer review is needed. We need another opinion before ax implants. The only apointment that was authorized was his appointment on 12-17-09 with Dr Campbell.

Question do we need to approve an evaluation with the oral surgeon to get his recommendations and then conduct the peer review ?

Tara Potter
Gallagher Bassett Services

Note Type: **General** [Mark Note as Mistake]

12/17/2009 5:53:36 PM : Heather Mercer
Document Attached: ZetzMichael EOB DOS 12-1-09 No Auth[View]

Provider: Michael Zetz Kim/Leslie
 DOS: 12/1/2009
 Service: Retro

Note Type: **Billing** [Mark Note as Mistake]
 12/17/2009 5:40:04 PM : Heather Mercer
 Billing Note: Heather Mercer - Billing Specialist 12/17/2009 5:40:23 PM
 DOS: 12/1/2009
 Provider: Michael Zetz Kim/Leslie

Sharon, please have signed auth for f/u visit attached. Thanks

Sent to: scrofoot@expresshealthservices.com,llevy@expresshealthservices.com

Note Type: **Billing** [Mark Note as Mistake]
 12/17/2009 5:38:24 PM : Heather Mercer
 Billing Note: Heather Mercer - Billing Specialist 12/17/2009 5:38:42 PM
 DOS: 11/10/2009
 Provider: Michael Zetz Kim/Leslie

Sharon, was IE seen on both 11/4 and 11/10?

Sent to: scrofoot@expresshealthservices.com,llevy@expresshealthservices.com

Note Type: **General** [Mark Note as Mistake]
 12/17/2009 4:25:18 PM : Rea Imbruglia - Dental Program Manager
 Reviewed file with Sharon C.

This claimant had root canals, bridge, and crowns placed on the upper arch due to his trauma. The carrier approved upper and lower partials to help support the occlusion so the new restorations would not fail.

After treatment was completed the claimant still complains of pain and a twitching sensation in the upper anterior area.

The claimant was referred to a TMJ specialist. The GD did not feel the claimant was being compliant in wearing his partials to support the occlusion.

The TMJ provider would like to re-do all of the existing crowns and replace the partials with implants.

Sharon has already requested the TMJ provider to submit a new POT and why he feels the work completed by the general dentist is not satisfactory. We may need to request our money back from the provider for the crown. We also need to find out why the claimant is now in need of implants and how this is related to the injury. What medical reason supports the need for implants and not partials.

Note Type: **General** [Mark Note as Mistake]
 12/17/2009 4:24:29 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
 spoke to the IE and he said he spoke to the supervisor over the adjuster, a Mrs. Robinson. She said it was alright to go ahead with TX at the new Dr. Davis office OS... he said he has an appt for 12-23-09 at 2 pm. I told him that he needs to wait until we have approval. he said the insurance company already gave him approval...
 i told him to please wait. I also let him know that we will need the NCM to go with him to these appts....

called the adjuster and had to LM...

called and spoke to the NCM and she said hold up until she speaks to the adjuster or the supervisor of the adjuster....

sent to the adjuster and NCM.....

Hi there,

I need to speak to you in regards to this IE. I just spoke to Marty the NCM and she said she would be calling and speaking to you about this IE. He is scheduled at an Oral surgeons office on 12-23-09 at 2 pm. For gum surgery. He said a Ms. Robinson said he had authorization for this. I told him that we would be getting back with him.

I also let the IE know that the NCM will need to be at the appointments for me, to ask the questions that I will need asked. I also told him that he really didn't have a choice as to who goes to the appointments with him, because the insurance company is paying for all of it and I

DOS: 10/13/2009
Service: eval tooth 12

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 11:46:01 AM : Tiffany Larry
Document Attached: Signed Pt records Release, (10.13.09), Dr. Fred Sykes [\[View\]](#)
Provider: Fred Sykes Lori
DOS: 10/13/2009
Service: eval tooth 12

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 11:45:55 AM : Tiffany Larry
Document Attached: Letter from Dr. Fred Sykes, dated 10.14.09 (with x-ray) [\[View\]](#)

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 11:41:22 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
Changed Status on appt on 10/21/2009 from AppointmentPending to AppointmentKept

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 11:40:18 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the NCM.....

Thank you so much.

Marty Mackey RN
Medical Case Manager
800-477-2028 x 3626
Fax 866-268-3974

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 10:54:28 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adjuster.....

Hi Ladies,

I just spoke to the IE and he did have the root canal on 12 done. He will need to go to Dr. Davis office for the final fill on this tooth. I have explained to him that we will try this TMJ specialist first before the neurologist. He seemed to think this was a good idea. I will let you know as soon as we have him set up with a TMJ provider. If you have any questions please give me a call.

Thank you.,

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 10:52:08 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to the IE and he said he went to the RCT specialist. He wanted to know what he should do from here.... I explained to him that we will need to get the final fill on that tooth from Dr. Davis office.
He said he will call there and get this done before he goes to the TMJ eval. I told him that we will see if the TMJ dr can help him and then if not maybe see about going to the neuro. He was fine with this... He said he really appreciated me and all i do...

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/21/2009 10:36:44 AM : Madelyn Verde
Document Attached: ProvClaim DOS 10-13-09 Dr. Sykes 2 [\[View\]](#)
Provider: Fred Sykes Lori
DOS: 10/13/2009
Service: eval tooth 12

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/20/2009 1:22:05 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Marty the NCM and she said that the IE was very disrespectful with Dr. Davis. She said the IE told Dr. Davis that he did not want the NCM in the room with him while he is being seen. She said he has blocked her number from calling him. she wondered if Dr. Davis office would please discuss the case with her. I told her that i would try to speak to their office and go from there. She thanked me for all my help with this...

called Dr. Davis office and they are at lunch right now. will call back after 2 pm.

Note Type: **General** [\[Mark Note as Mistake\]](#)
10/20/2009 12:19:58 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Yolanda at Dr. Davis office and told her that he has been approved for the eval with TMJ specialist. I told her i would let her know who it is with...

I will send the paper work as soon as I receive it.
thanks

Note Type: **General** [Mark Note as Mistake]
10/6/2009 12:02:34 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the adjuster....

Yes I can ax the splint..

Tara Potter
Gallagher Bassett Services

Note Type: **General** [Mark Note as Mistake]
10/6/2009 11:53:34 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
reply from the adjuster....

I have assigned a NCM to Mr. Harts claim to assist with neuro and he has been very ugly to her and will not cooperate so until he does I do not intend to ax a visit to the Neuro.

Tara Potter
Gallagher Bassett Services

Note Type: **General** [Mark Note as Mistake]
10/6/2009 11:40:04 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
sent to the adjuster.....

Hi Tara,

I wanted to let you know that the IE did make it to his appointment today. The providers office would like for him to go to a neurologist to see why he has twitching in his face. The doctor thought that by finishing the dental work he wouldn't need it, but he still is having it, so we need to send him. Also, they would like to do a bite splint. I will forward all of this information as soon as I receive it. Can I go ahead and start looking for a neurologist for him?
Please advise.

If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]
10/6/2009 11:37:04 AM : Sharon Crofoot - Implant & TMJ Care Coordinator
spoke to Ellen at GD office and the IE will need a splint and to go see a neurologist...I told her i need narrative on the splint and the referral to neuro. She will send them right over....

Note Type: **General** [Mark Note as Mistake]
10/5/2009 2:30:43 PM : Sharon Crofoot - Implant & TMJ Care Coordinator
CONFIRMATION CALL - DAY PRIOR
Provider:Isiah Davis Valerie
Dos:10/6/2009
spoke to the IE and he will be at the appt...

Call Complete
Claimant Confirmed: Yes
Provider Appt Confirmed: Yes
Provider Auth has been requested: Yes
Payer Auth has been requested: Yes

Note Type: **General** [Mark Note as Mistake]
10/1/2009 4:18:00 PM : Yara Garay
Call Created: 81428 i called gallagher and per rep pam .. clm denied in error.. for invalid TXid#.. she will send clm back.. problem in their system was fixed.. f/u 10/30/09

Note Type: **General** [Mark Note as Mistake]
10/1/2009 4:15:42 PM : Laura Snogles - Billing Specialist
Document Attached: EOR- Dos 9-16-09 Treating provder[View]
Provider: Isiah Davis Valerie
DOS: 9/16/2009
Service: cleaning-see dr after -try in upper

Invoice #80252 dos 3/24 & 4/2/09- she gave bill to her supervisors Tammy and Claudia to review and research, she said that she or one of her supervisors will get back to me on why this bill keeps getting rejected.

Topic ID #127955479

Invoice #81428 dos 4/22-5/6/09- bill not on file, mailed to Tucson

Invoice #85027 dos 6/2/09- mailed recon to Tucson

Invoice #85159 dos 6/22/09- mailed recon to Tucson

Note Type: **General** [Mark Note as Mistake]

8/3/2009 3:05:50 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

spoke to the IE and he is very upset and would like for someone to do something about the twitching and the studdering that he has had for 6 months. I told him that i would call the providers office and speak to someone to see if we could get a referral to a dr that specializes in this. He also stated that the Dr. VanDam the perio doctor will not work on him again. He said he does not like her. I told him that he would like to see someone else.

called and spoke to Ellen and had her change the appt with the perio doctor to someone else.

Appt: 8-12-09 del night guard

8-19-09 cleaning with hygiene-not Doctor

9-3-09 try in del upper partial

i also spoke to her about the twitching and the studdering. She said it has nothing to do with the teeth. I then asked her to please give me a refferal for a doctor that could help him with this. She said she will send referral over along with the notes.../.

called and spoke to IE and let him know that i have new appt days for him. He said he will call back when he gets to work to write all the appts down...

Note Type: **General** [Mark Note as Mistake]

8/3/2009 2:54:03 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

Changed Status on appt on 8/11/2009 from AppointmentPending to ApptCancelled

Note Type: **General** [Mark Note as Mistake]

8/3/2009 2:46:16 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

Changed Status on appt on 8/3/2009 from AppointmentPending to AppointmentKept

Note Type: **General** [Mark Note as Mistake]

8/3/2009 2:45:00 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

sent to the adjuster.....

Hi Tara,

I received a call from the IE. He is upset about the twitching in his face and the studdering that he now does. I told him that I would call the provider to see if we could get a referral for this to another doctor.

He said he cant take it anymore and is getting very self conscious of it, when he goes out to eat or talks in front of a crowd of people. Let me know if there is anything I should do.

If you have any questions please give me a call.

Thank you,

Note Type: **General** [Mark Note as Mistake]

7/28/2009 4:54:33 PM : Madelyn Verde

Document Attached: ProvClaim DOS 04-22-09 Dr. Salter 2[View]

Provider: Richard B. Salter Betsy

DOS: 4/22/2009

Service: continue with tx

Note Type: **General** [Mark Note as Mistake]

7/28/2009 4:53:58 PM : Madelyn Verde

Document Attached: ProvClaim DOS 04-13-09 Dr. Salter 2[View]

Provider: Richard B. Salter Betsy

DOS: 4/13/2009

Service: Retro--crn 9-10-11

Note Type: **General** [Mark Note as Mistake]

7/28/2009 1:10:02 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

IE called and let me know about the appts he has coming up. I asked how he is feeling, and he said that the teeth are still hurting and a little mobile. he said he talked to the doctor about it and the doctor told him they are getting better and that over time the teeth will stop hurting as much. With the new bridge the doctor feels as though the bite will take some of the pressure off of the teeth that hurt him.

Note Type: **General** [Mark Note as Mistake]

7/28/2009 12:06:38 PM : Sharon Crofoot - Implant & TMJ Care Coordinator

PREMIER ENDODONTICS
DR. FRED SYKES, ENDODONTIST
DR. CHANDRA SYKES, ENDODONTIST
7024 BROOKFIELD ROAD
COLUMBIA, SOUTH CAROLINA 29223
PHONE (803) 419-1327
FAX (803) 419-2974

TO: Express Dental A/HM Sharon Crofoot
TELEPHONE NUMBER: 888-539-0577 extension 150
FAX: 1-888-539-0579
FROM: Dr. Fred Sykes / Laurie
DATE: 22 Aug 11 pages to follow 1
☒ as you requested ☐ as discussed
☐ original(s) being mailed ☐ for your files
☐ please respond ☐ for your signature
☐ please call me about this ☐ call to confirm received
☐ please handle appropriately ☐ _____

Information faxed is CONFIDENTIAL. If you receive this fax in error, please contact this office immediately. The message is intended for the use of the individual or entity to which it is addressed, and may contain information that is privileged, CONFIDENTIAL, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

SPEEDY NOTE:

08/18/2011 Thu 07:48

Sharon Crofoot

ID: #209190 Page 2 of 2



8/18/2011

RE: Claimant: John Hart
DOB: 8/7/1962
DOI: 3/16/2009

Please assist us to determine the causality of John Hart's dental treatment pertaining to his Worker's Compensation injury of date of injury noted above.

CAUSALITY

1. Are teeth 21 and 28 related to the injury?

I do not know for sure!!

I believe they are as part of the overall treatment connected to the injury and subsequent therapy.

2. Do you think 21 and 28 are needing root canals because of the braces?

Not directly

because of braces but due to breaks in

the dental enamel

I do not have pie of radiographs prior to trauma

Provider's Name: Fred L. Sykes DMD Physician's signature: Fred L. Sykes Date: 18 Aug 11

Provider's Address: 7024 Brookfield Road Columbia, SC 29223 Provider's Specialty: Endodontist



Privacy Office
One CVS Drive
Woonsocket, RI 02895

PRIVATE & CONFIDENTIAL
INTENDED FOR ADDRESSEE ONLY



2360941
SAMUELS LAW FIRM, LLC
1527 BLANDING ST
PO BOX 50349
COLUMBIA SC 29250

000010

05/09/2012

Re: JOHN HART

Enclosed, please find the patient prescription profile obtained using the information as specified per your request.

To cover the expense of processing these records, please remit a payment of or the amount as applicable by state statute to: CVS/pharmacy, Privacy Office, One CVS Drive, Woonsocket, RI 02895. The Federal Tax ID number is 05-03-40626.

If you have questions regarding this report you may contact the Privacy Office at 1-800-287-2414 or e-mail us at PrivacyOffice@cvs.com.

Sincerely,
CVS/Pharmacy Privacy Office

INVOICE

CVS Caremark is currently reviewing processing standards with regard to the disclosure of Protected Health Information (PHI) performed at the request of our patients.

SAMUELS LAW FIRM, LLC

Request Nbr	Date	Amount Due:	Payment Amount:
2360941	05/09/2012		\$ _____

Payment Due Upon Receipt

Mail payment to:

CVS/pharmacy
Privacy Office
One CVS Drive
Woonsocket, RI 02895

Make Checks Payable to: CVS/pharmacy
Include Request Number and customer
name on check.



2360941



P208



CVS PHARMACY
Patient Prescription Record
09/21/2010 THRU 05/07/2012
PHARMACY # 4628

PAGE: 1 of 3
RUN DATE: 05/09/2012
REQUEST NBR: 2360941

PHARMACY NAME:
ADDRESS: 500 KNOX ABBOTT DR.
CITY, ST, ZIP: CAYCE SC 29033

PATIENT KEY: 4628696810
PATIENT NAME: HART JOHN
ADDRESS: 613 KNOX ABBOT DRIVE
CITY, ST, ZIP: COLUMBIA SC 29204

TELEPHONE: 803-394-3001
BIRTHDATE: 08/07/1962

ALLERGIES:
None communicated by the patient

CONDITIONS:
None communicated by the patient

RX	RFL	NDC	DRUG DESCRIPTION	PRESCRIBER NAME	DATE	RPH	QUANT	TOTAL	PATIENT	PAYER	PAYER	TP AUTHORIZATION
NUMBER		NUMBER			FILLED	INT	DISP.	PRICE	PD AMT	#	PD AMT	#
580718	0	00378262510	AMITRIPTYLINE HCL 25 MG T	KENT,ASHLE D	01/27/2011	NM	90	12.50	.00	4000	12.50	OQNWWAC
580719	0	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	01/27/2011	NM	30	24.68	.00	4000	24.68	Y3WNRTN
580719	1	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	03/29/2011	PP	30	24.68	.00	4000	24.68	071R9LM
580719	2	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	04/24/2011	CJ	30	24.68	.00	4000	24.68	YNLXXEP
580719	3	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	05/24/2011	AM	30	24.68	.00	4000	24.68	07N9K33
580719	4	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	06/27/2011	PP	30	24.68	.00	4000	24.68	0DRE79X
580719	5	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	08/01/2011	PP	30	24.68	.00	4000	24.68	HL7N9WD
585479	0	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	03/09/2011	AM	60	55.37	.00	4000	55.37	YFPNKEK
585479	1	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	04/24/2011	CJ	60	55.37	.00	4000	55.37	0TRRH7W
585479	2	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	05/23/2011	TR	60	55.37	.00	4000	55.37	F9L93XE
585479	3	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	06/27/2011	AR	60	55.37	.00	4000	55.37	S1LW7R
585479	4	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	08/01/2011	PP	60	55.37	.00	4000	55.37	SAW7AFP
588428	0	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	04/07/2011	AM	30	6.14	.00	4000	6.14	R3LQHOT
588428	1	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	04/29/2011	SS	30	6.14	.00	4000	6.14	7CW3XRD
588428	2	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	05/23/2011	TR	30	6.14	.00	4000	6.14	F9L93TL
588428	3	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	06/20/2011	SS	30	6.14	.00	4000	6.14	SXRXWWR
588428	4	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	07/24/2011	SS	30	6.14	.00	4000	6.14	SAA7T73
605647	0	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	09/25/2011	DM	30	24.68	.00	4000	24.68	ULLIXNF
605647	1	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	10/26/2011	MB	30	24.68	.00	4000	24.68	OWQTRK
605647	2	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	11/28/2011	EW	30	24.68	.00	4000	24.68	03QKXFF
605647	3	00378341201	BUPROPION SR 150 MG TABLE	KENT,ASHLE D	01/06/2012	AT	30	24.68	.00	4000	24.68	9QQHKCD
605648	0	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	09/25/2011	DM	60	55.37	.00	4000	55.37	5QXLNKK
605648	1	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	10/26/2011	MB	60	55.37	.00	4000	55.37	YHKE39K
605648	2	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	11/28/2011	EW	60	55.37	.00	4000	55.37	WXMHD3
605648	3	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	01/06/2012	AT	60	55.37	.00	4000	55.37	NCH937X
605648	4	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	02/02/2012	SS	60	55.37	.00	4000	55.37	9R9377L
605648	5	00378047301	DIVALPROEX SOD ER 500 MG	KENT,ASHLE D	03/04/2012	SS	60	55.37	.00	26920	55.37	XCA7CA1
605649	0	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	09/25/2011	CJ	30	6.14	.00	4000	6.14	HTEH7FT
605649	1	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	10/26/2011	MB	30	6.14	.00	4000	6.14	MRRPMFT
605649	2	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	11/28/2011	EW	30	6.14	.00	4000	6.14	53HNEA9
605649	3	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	01/06/2012	AT	30	6.14	.00	4000	6.14	FD3NTNR

CVS PHARMACY
 Patient Prescription Record
 09/21/2010 THRU 05/07/2012
 PHARMACY # 4628

PAGE: 2 OF 3
 RUN DATE: 05/09/2012
 REQUEST NBR: 2360941

PHARMACY NAME:
 ADDRESS: 500 KNOX ABBOTT DR.
 CITY, ST, ZIP: COLUMBIA SC 29033

PATIENT KEY: 4628696810
 PATIENT NAME: HART JOHN
 ADDRESS: 613 KNOX ABBOT DRIVE
 CITY, ST, ZIP: COLUMBIA SC 29204

TELEPHONE: 803-394-3001
 BIRTHDATE: 08/07/1962

<u>RX</u>	<u>RFL</u>	<u>NDC</u>	<u>DRUG DESCRIPTION</u>	<u>PRESCRIBER NAME</u>	<u>DATE</u>	<u>RPH</u>	<u>QUANT</u>	<u>TOTAL</u>	<u>PATIENT</u>	<u>PAYER</u>	<u>PAYER</u>	<u>TP AUTHORIZATION</u>
<u>NUMBER</u>		<u>NUMBER</u>			<u>FILLED</u>	<u>INT</u>	<u>DISP.</u>	<u>PRICE</u>	<u>PD AMT</u>	<u>#</u>	<u>PD AMT</u>	<u>#</u>
605649	4	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	02/02/2012	SS	30	6.14	.00	4000	6.14	RILPCEX
605649	5	00378268501	AMITRIPTYLINE HCL 100 MG	KENT,ASHLE D	03/04/2012	SS	30	6.14	.00	26920	6.14	SFCEA9W

CVS #10110-018261006 00059 00055 CVS#001 000002360941



CVS PHARMACY
Patient Prescription Record
09/21/2010 THRU 05/07/2012
PHARMACY # 4628

PAGE: 3 of 3
RUN DATE: 05/09/2012
REQUEST NBR: 2360941

PHARMACY NAME:
ADDRESS: 500 KNOX ABBOTT DR.
CITY, ST, ZIP: CAYCE SC 29033

PATIENT KEY: 4628696810
PATIENT NAME: HART JOHN
ADDRESS: 613 KNOX ABBOT DRIVE
CITY, ST, ZIP: COLUMBIA SC 29204

TELEPHONE: 803-394-3001
BIRTHDATE: 08/07/1962

SCRIPT COUNT: 33

TOTAL AMOUNT: 935.91

TOTAL PATIENT PAID: .00

TOTAL AGENCY PAID: 935.91

Stephen Samuels

From: Katie F. Morris [kmmorris@mgclaw.com]
Sent: Monday, February 13, 2012 6:04 PM
To: Angi O'Connell
Cc: Stephen Samuels
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Angi and Samuel:

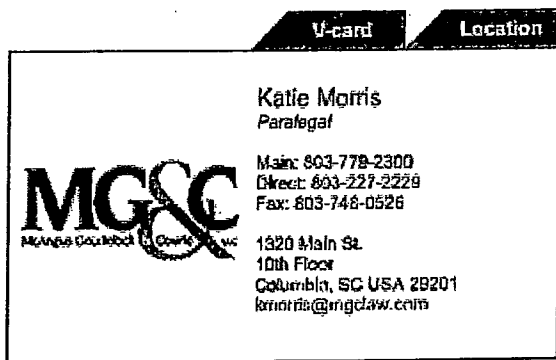
I have the answer we are looking for but puzzled me since your message this afternoon. The medication, Wellbutrin, is and will be authorized. However, the prescription sitting at CVS is old/out of date. Mr. Hart needs to obtain a new one from the doctor. That is all and it has ended up being an insurance issue that is completely unrelated to workers' compensation.

He may be able to call the doctor and have the doctor call it in to the pharmacy. I don't know if the doctor will do it by telephone; I am only bringing that up as a possibility.

Once CVS has a fresh prescription, there should not be any problem with Mr. Hart's getting his medicine. I think that is what Ashley at CVS may have been trying to explain to him (just a thought).

Let know if there are any further problems.

Katie



*Please consider the environment
before printing this email.*

From: Angi O'Connell [mailto:angi@samuelslawfirm.net]
Sent: Monday, February 13, 2012 1:49 PM
To: Katie F. Morris
Cc: 'Stephen Samuels'
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01
Importance: High

Katie:

You asked me to let you know if there were further problems with Mr. Hart's Wellbutrin. Mr. Hart called CVS on Sunday and was told to come pick up the medicine. When he got there about 20 minutes later, they looked for the RX and were not able to find it. Now Ashley at CVS tells Mr. Hart his Wellbutrin has not been authorized.

Any suggestions?? He has been out of this authorized medication for over a week now. Why are all three of his medications not authorized for refill on the same schedule?

Angi O'Connell

Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

From: Katie F. Morris [<mailto:kmorris@mgclaw.com>]

Sent: Friday, February 10, 2012 4:00 PM

To: Angi O'Connell

Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

You, too.

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]

Sent: Friday, February 10, 2012 3:48 PM

To: Katie F. Morris

Cc: 'Stephen Samuels'

Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Thank you, Katie! I will be happy to contact you in the future concerning this claim. Have a nice weekend.

Angi O'Connell

Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

From: Katie F. Morris [<mailto:kmorris@mgclaw.com>]
Sent: Friday, February 10, 2012 3:44 PM
To: Angi O'Connell
Cc: Stephen Samuels
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Angi:

Good afternoon and I hope this finds you doing well. The problem with Mr. Hart's Wellbutrin has been resolved. The carrier has contacted First Scripts and they will call CVS to release the prescription. I would recommend Mr. Hart wait a few minutes and/or call CVS to confirm they have received authorization prior to going to pick it up. Please let me know if there are any more problems with this medication.

In the future, please contact us regarding this claim and we will pass it along to our client.

Thank you and have a great weekend.

Katie

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]
Sent: Friday, February 10, 2012 2:47 PM
To: Tara.Potter@gbtpa.com
Cc: Jason Lockhart; Katie F. Morris; 'Stephen Samuels'
Subject: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Ms. Potter:

On 02/06/12, Mr. Hart went to CVS to pick up auto refills of his three (3) routine prescriptions after receiving a phone call from the pharmacy stating his medications were ready. He takes Depakote, Wellbutrin and Elavil. When he arrived at the pharmacy, Mr. Hart was advised his Depakote and Elavil were ready but the Wellbutrin had not been authorized by the Carrier. As of today, this has not changed.

Is there some reason why his Wellbutrin is being denied? Mr. Hart is out of this medication and has been for a few days now.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Angi O'Connell

From: Angi O'Connell [angi@samuelslawfirm.net]
Sent: Tuesday, December 20, 2011 12:16 PM
To: 'Tara_Potter@gbtpa.com'
Cc: 'Stephen Samuels'; 'Jason Lockhart'
Subject: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01
Attachments: Hart mileage 12.20.11

JournalPM: J

Ms. Potter:

Please see the attached mileage sheet which we are submitting for reimbursement on behalf of our client, Mr. John Hart, for travel dates 12/05/2011 – 12/13/2011. Mr. Hart traveled a total of 900 miles and is entitled to reimbursement in the amount of \$454.50. Please issue a reimbursement check payable to Mr. Hart in the amount of \$454.50 and mail the check to our office within 14 days.

If there are any questions or concerns regarding the attached request for reimbursement, please contact our office. Otherwise, we look forward to receiving Mr. Hart's reimbursement check **no later than January 3, 2012**. Thank you for your cooperation. Happy holidays!

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

DATE OF INJURY: 03-16-09

Stephen Samuels

From: Tara_Potter@gbtpa.com
Sent: Wednesday, January 11, 2012 4:07 PM
To: Angi O'Connell
Cc: 'Jason Lockhart'; 'Stephen Samuels'
Subject: RE: FW: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

My direct fax number is 866-999-1631

Tara Potter
Gallagher Bassett Services
8731 Red Oak Blvd.
Suite 240
Charlotte, NC 28217
Direct # (704) 405-6685
Main # (704) 547-1586
Toll Free # 800- 227-4837
Fax # (866) 999-1631
tara_potter@gbtpa.com

"Angi O'Connell" <angi@samuelslawfirm.net>

01/11/2012 04:03 PM

To <Tara_Potter@gbtpa.com>

cc "Stephen Samuels" <stephen@samuelslawfirm.net>, "Jason Lockhart"
<JLockhart@mgclaw.com>

Subject RE: FW: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Ms. Potter:

Mr. Lockhart just told me today that you haven't been able to open the attachment. I didn't realize it because we can open it on this end. I will just fax the mileage to you from now on to prevent this problem in the future. If I had been aware of the problem sooner I would have corrected it long before now. Thank you!

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

From: Tara_Potter@gbtpa.com [mailto:Tara_Potter@gbtpa.com]
Sent: Wednesday, January 11, 2012 3:50 PM
To: Tara_Potter@gbtpa.com
Cc: Angi O'Connell; 'Jason Lockhart'; 'Stephen Samuels'
Subject: Re: FW: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Ms. Potter:

We have not received Mr. Hart's mileage check for mileage submitted to you on 12/20/11 via email. **This mileage is now past due as it was to be paid within 14 days of your receipt per Commissioner Beck's Order of 01/04/2011.** Please let me know when we may expect to receive Mr. Hart's check. I look forward to your prompt reply. Thank you.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]
Sent: Tuesday, December 20, 2011 12:16 PM
To: 'Tara_Potter@gbtpa.com'
Cc: 'Stephen Samuels'; 'Jason Lockhart'
Subject: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Ms. Potter:

Please see the attached mileage sheet which we are submitting for reimbursement on behalf of our client, Mr. John Hart, for travel dates 12/05/2011 – 12/13/2011. Mr. Hart traveled a total of 900 miles and is entitled to reimbursement in the amount of \$454.50. Please issue a reimbursement check payable to Mr. Hart in the amount of \$454.50 and mail the check to our office within 14 days.

If there are any questions or concerns regarding the attached request for reimbursement, please contact our office. Otherwise, we look forward to receiving Mr. Hart's reimbursement check **no later than January 3, 2012.** Thank you for your cooperation. Happy holidays!

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Gallagher Bassett Services, Inc.

This email and any attachments are confidential, solely for the use of the intended recipient and may contain privileged material. If you are not the intended recipient, please return or destroy it immediately. Thank you.

* * * Communication Result Report (Jan. 11. 2012 4:12PM) * * *

1}
2}

Date/Time: Jan. 11. 2012 4:05PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
0355 Memory TX	18669991631	P. 2	OK	

Reason for error

E. 1) Hang up or line fail
E. 3) No answer
E. 5) Exceeded max. E-mail size

E. 2) Busy
E. 4) No facsimile connection

SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
POST OFFICE BOX 50349
COLUMBIA, SOUTH CAROLINA 29250
(803) 778-4000 FAX (803) 929-0927

FAX

01/11/2012

TO: ATTN: Tara Potter FROM: Angi O'Connell, Paralegal
GALLAGHER BASSETT SERVICES PAGES: 2 (including this page)
FAX: 866.999.1631 FAX: 803.929.0927
PHONE: 704.405.6685 PHONE: 803.778.4000

CC:
RE: John Hart v. Owens Steel Company; Claim No.: 002976 010519 WC 01

COMMENTS:

Please see the attached mileage sheet which we are submitting for reimbursement on behalf of our client, Mr. John Hart, for travel dates 12/05/2011 - 12/13/2011. Mr. Hart traveled a total of 900 miles and is entitled to reimbursement in the amount of \$454.50. Please issue a reimbursement check payable to Mr. Hart in the amount of \$454.50 and mail the check to our office.

I emailed this mileage submission to you on 12/20/2011 but just learned from defense counsel today that you were apparently unable to open the attachment. Please let us know right away if there are any problems with this fax. Thank you.

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or work product doctrine. If you have received this message in error, please reply to the sender and destroy this message.

- ☐ Urgent
☒ Please review
☒ Please comment
☐ For your records

SAMUELS LAW FIRM, LLC
1527 BLANDING STREET
POST OFFICE BOX 50349
COLUMBIA, SOUTH CAROLINA 29250
(803) 779-4000 ♦ FAX (803) 929-0927

FAX

01/11/2012

TO: ATTN.: Tara Potter

FROM: Angi O'Connell, Paralegal

GALLAGHER BASSETT SERVICES

PAGES: 2 (including this page)

FAX: 866.999.1631

FAX: 803.929.0927

PHONE: 704.405.6685

PHONE: 803.779.4000

CC:

RE: John Hart v. Owens Steel Company; Claim No.: 002979 010519 WC 01

COMMENTS:

Please see the attached mileage sheet which we are submitting for reimbursement on behalf of our client, Mr. John Hart, for travel dates 12/05/2011 – 12/13/2011. Mr. Hart traveled a total of 900 miles and is entitled to reimbursement in the amount of \$454.50. Please issue a reimbursement check payable to Mr. Hart in the amount of \$454.50 and mail the check to our office.

I emailed this mileage submission to you on 12/20/2011 but just learned from defense counsel today that you were apparently unable to open the attachment. Please let us know right away if there are any problems with this fax. Thank you.

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or work product doctrine. If you have received this message in error, please reply to the sender and destroy this message.

- ☐ Urgent
- ☒ Please review
- ☒ Please comment
- ☐ For your records

Stephen Samuels

From: Tara_Potter@gbtpa.com
Sent: Friday, June 03, 2011 12:25 PM
To: Stephen Samuels
Cc: 'Angi O'Connell'; 'Jason Lockhart'
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Mr. Samuels:

Marty was not aware that Mr. Hart was living in Ga so of course she would have told him to use a CVS in Columbia.. Your office did not make her aware. of where he was living during that conversation. .. Mileage is excessive and I do not intent to cover it. Mr Hart and your office knew this would be excessive and if there was an issue or question your office could have called Jason or myself.

Authorization for prescription come from first script if a prescription needs my authorization the pharmacy lets them know and then I receive an e-mail to authorize... Location of the pharmacy is not the issue..

Unless I can confirm that Mr.Hart had an appt with one of the Dr in Columbia on the day that he uses a CVS in Columbia I will not cover the mileage...

Tara Potter
Gallagher Bassett Services
P O Box 607
Fort Mill, SC 29715
Main # (803) 547-8036 x212
Toll Free # 866- 814-1740
Fax # (803) 547-8055
tara_potter@gbtpa.com

"Stephen Samuels" <stephen@samuelslawfirm.net>

06/03/2011 12:02 PM

To <Tara_Potter@gbtpa.com>
cc "Angi O'Connell" <angi@samuelslawfirm.net>, "Jason Lockhart"
<JLockhart@mgclaw.com>
Subject RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Tara:

Thank you for your response. We did receive the check dated May 26, 2011, but not the ones dated May 23, 2011. Hopefully this is simply a problem with the post office. Angi will let you know one way or the other if they come in with Monday's mail.

As to the mileage to CVS, we all agree that it would be easier on John to be able to fill his prescriptions at a pharmacy closer to his home when they do not coincide with a doctor's visit. However, John was instructed by Marti Mackey to use the CVS on Knox-Abbott Drive in Columbia – or if that one does not have the prescriptions (as it sometimes does not), he is to use the CVS on Two Notch Road. Angi specifically asked Ms. Mackey about this on May 23rd. Ms. Mackey told Angi she did not realize John was living in Georgia, but would get with you to see about being able to use a Georgia pharmacy. We have not heard anything about this since then. As such, John must be reimbursed for the trips to the Columbia CVS until the other arrangements are authorized. I think the best solution would be to authorize both the Columbia and Georgia CVS, so he can either have a short trip from home or combine it with a doctor's visit in Columbia.

Also, to give you a heads up, John has two more visits to the Columbia CVS on his next mileage report. The second visit was needed because authorization was delayed for one of the prescriptions, so he had to make a second trip the next day to pick it up.

Stephen B. Samuels

Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Tara_Potter@gbtpa.com [mailto:Tara_Potter@gbtpa.com]
Sent: Friday, June 03, 2011 11:45 AM
To: Stephen Samuels
Cc: 'Angi O'Connell'; 'Jason Lockhart'
Subject: RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

IS RP 0000556829 0085966963 05 30 11 384.35 HART, JOHN
* IND 001 * 1 Wks 0 Days 5/28/11 - 6/03/11 TEMPOR *
IS CP 0000554663 0085906409 05 26 11 384.35 HART, JOHN
* IND 001 * REPLACEMENT OF CHECK 0085673741 *
IS RP 0000553054 0085819937 05 23 11 384.35 HART, JOHN
* IND 001 * 1 Wks 0 Days 5/21/11 - 5/27/11 TEMPOR *
IS CP 0000552277 0085820154 05 23 11 384.35 HART, JOHN
* IND 001 * REPLACEMENT OF CHECK# 0085531178 *

Mr. Hart has another check that will be issued on 06-06-11 and will mail to atty office on 06-07-11..

As far as the mileage to CVS this was excessive as there are plenty of CVS in GA where Mr. Hart lives that he can obtain his medication at.

Tara Potter
Gallagher Bassett Services
P O Box 607
Fort Mill, SC 29715
Main # (803) 547-8036 x212
Toll Free # 866- 814-1740
Fax # (803) 547-8055
tara_potter@gbtpa.com
"Stephen Samuels" <stephen@samuelslawfirm.net>

06/03/2011 11:32 AM

To "Jason Lockhart" <JLockhart@mgclaw.com>
cc <Tara_Potter@gbtpa.com>, "Angi O'Connell" <angi@samuelslawfirm.net>
Subject RE: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01

Jason:

We never received a response to the e-mail below.

This is the current situation regarding temporary total:

1. No TTD check received for week of May 21-27, 2011.

2. No TTD check receive for week of May 28-June 3, 2011.
 3. Replacement check for check number 0085531178 not received.
- The Carrier is now 3 weeks behind in paying TTD.

Regarding mileage, mileage to CVS on April 29, 2011 was not included in the last mileage reimbursement check. No explanation was given for not making this reimbursement.

My client is extremely upset over these ongoing problems with his payments and wants me to file another motion. We had thought that with you taking over the case from the previous attorney that such problems were a thing of the past. Unfortunately, they are continuing. We really need your assistance in getting this straightened out today. Would you please get with the adjuster, get this fixed, and let us know when the checks have been sent?

Thanks for your help on this.

Stephen B. Samuels
Samuels Law Firm, LLC
1527 Blanding Street
P.O. Box 50349
Columbia, SC 29250

(803) 779-4000
Fax: (803) 779-4004

From: Angi O'Connell [<mailto:angi@samuelslawfirm.net>]
Sent: Tuesday, May 31, 2011 10:09 AM
To: Tara_Potter@gbtpa.com
Cc: 'Jason Lockhart'; 'Stephen Samuels'
Subject: John Hart v. Owens Steel Company; Claim Number: 002979 010519 WC 01
Importance: High

Ms. Potter:

Today we received Check No. 0085848583 payable to John Hart in the amount of \$233.31 paying mileage reimbursement for May 16, 2011. This appears to be for his trip to Dr. Zetz on May 16, 2011. However, reimbursement for his trip to CVS on April 29, 2011 is not included on this check. Was a separate check issued for Mr. Hart's mileage of April 29, 2011 or were those 451 miles not reimbursed? **Please advise as to the status of Mr. Hart's reimbursement for his trip to CVS on 4/29/11.**

Also, we received Check No. 0085906409 payable to John Hart in the amount of \$384.35 which is replacing Check No. 0085673741. When I spoke to Jason Lockhart on May 23, 2011, he advised that two checks had been issued that day replacing the two made payable to Mr. Samuels. However, we have only received one replacement check. When may we expect to receive the replacement for Check No. 0085531178?

Lastly, we did not receive Mr. Hart's TTD check for the period of May 21 – May 27, 2011. Please provide us with the info as to when it was mailed so we will know when we may expect to receive it.

Thank you very much for your cooperation. We look forward to your prompt response.

Angi O'Connell
Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax

Gallagher Bassett Services, Inc.

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Angi O'Connell

From: Angi O'Connell [angi@samuelslawfirm.net]
Sent: Wednesday, June 06, 2012 4:17 PM
To: 'Katie F. Morris'
Cc: 'Stephen Samuels'
Subject: John Hart v. Owen Steel Company, WCC File Number: 0902416
Attachments: Mileage 06.06.12.pdf

JournalPM: J

Katie:

Please see the attached mileage sheet which we are submitting for reimbursement on behalf of our client, Mr. John Hart, for travel dates March 6, 2012 – May 22, 2012. Mr. Hart traveled a total of 216 miles seeking authorized medical treatment and is entitled to reimbursement in the amount of \$109.08. Please have the adjuster issue a reimbursement check payable to Mr. Hart in the amount of \$109.08 and mail the check to our office within 14 days.

If there are any questions or concerns regarding the attached request for reimbursement, please contact our office. Otherwise, we look forward to receiving Mr. Hart's reimbursement check. Thank you for your cooperation.

Angi O'Connell

Paralegal to Stephen B. Samuels
Samuels Law Firm
Post Office Box 50349
Columbia, SC 29250-0349
(803) 779-4000 Phone
(803) 779-4004 Fax
angi@samuelslawfirm.net

Date: 5-22-12

EMPLOYEE: John Hord

EMPLOYER: Owen Steel Inc

CARRIER: Gallagher Bassett

WCC FILE #: 0902416 CLAIM#: 0002979010519 wc 01

DATE OF INJURY: 3-16-09

I HEREBY CERTIFY THAT I FURNISHED MY OWN TRANSPORTATION
FOR MEDICAL TREATMENT FOR AN ACCIDENT ARISING ON THE
ABOVE DATE.

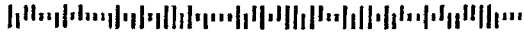
DATE	FROM ^{217 peachwood}	TO	ROUND TRIP MILES
3-6-12		Dr. Campbell	27
3-14-12		Dr. Ramon	27
3-20-12		Dr. Campbell	27
3-21-12		Dr. Ramon	27
3-28-12		Dr. Ramon	27
4-2-12		Dr. Campbell	27
4-3-12		Dr. Ramon	27
5-22-12		Dr. Campbell	27
			216 x .505 =
			\$109.08

John Hord
EMPLOYEE SIGNATURE

GALLAGHER BASSETT-CHARLOTTE
8731 RED OAK BLVD
SUITE 240
CHARLOTTE NC 28217

002979

PAGE 1 OF 1 006700



MDG2009 00001519 1 MB 0404 1

SAMUELS LAW FIRM
PO BOX 50349
COLUMBIA SC 29250



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JUL 17 2012

BY: _____

Visit www.mygbclaim.com to obtain up to the minute Claim status and payment information 24 hours a day, 7 days a week.

GALLAGHER BASSETT SERVICES INC
FOR OLD REPUBLIC INS OF PA

DIRECT CHECK INQUIRIES TO:
PHONE: 704-547-1586
GALLAGHER BASSETT-CHARLOTTE
8731 RED OAK BLVD
SUITE 240
CHARLOTTE NC 28217

CLAIM NO.: 002979 010519 WC 01 (1W3668001)

BRANCH NO.: 059

NO.: 0094837818

CLAIMANT: JOHN HART

ACC DATE: 16Mar09

VN: 0000829991

DESCRIPTION: MILEAGE REIMBURSEMENT

DATE: 12Jul12

DATES OF SERVICE: 06Mar2012 THRU 22May2012

AMOUNT: 109.08

BENEFIT PERIOD: THRU

DETACH AND RETAIN THIS STUB FOR YOUR REFERENCE

C 0001519 001697 001 001

THE FACE OF THIS DOCUMENT HAS A BLUE BACKGROUND - THE BACK HAS AN ARTIFICIAL WATERMARK

GALLAGHER BASSETT SERVICES INC
FOR OLD REPUBLIC INS OF PA

CHECK NO. 0094837818
VN 0000829991
DATE 12Jul12

006700

62-20/311

CLAIM NO.: 002979 010519 WC 01 (1W3668001)

BRANCH NO.: 059

PAY ONE HUNDRED NINE AND 08/100 DOLLARS

TO THE ORDER OF JOHN HART
1624 OGDEN STREET
COLUMBIA SC 29204

NOT VALID AFTER 90 DAYS
PAY EXACTLY
\$ 109.08

AUTHORIZED SIGNATURE

CTIBANK, N.A.
ONE PENN'S WAY
NEW CASTLE, DE 19720



0094837818 0311002091

400749011

Field	Value
Record Type	E
Date	02/26/2013
Time	11:06:00 AM
Duration	0:00:00
Status	U
Description	
Client ID	92.00
Contact	
User ID	(BLANK)
Sent/Received	S
To/From	JLockhart@mgclaw.com, angi@samuelslawfirm.net, klove@wcc.sc.gov
Subject	RE: John Hart v. Owen Steel Company, WCC File Number: 09024
Spoke With	N
Returned Call	N
Left Message	N
Voice Message	N
First Date	mm/dd/yyyy
Last Date	mm/dd/yyyy
First Time	hh:mm:ss AM
Last Time	hh:mm:ss AM
Duration	
Research URL	
Research File	
E-mail Body	Kristi:

Please forward my response below to Commissioners Barden, James and Wilkerson.

Regarding point 1, my understanding is that I was to submit an affidavit substantiating an award of attorney's fees pursuant to S.C. Code Ann. § 42-3-175. The statute provides that an insurer "must pay the claimant's attorneys' fees and costs of enforcing the order." I understand Mr. Lockhart makes the argument that the attorney's fees are limited to \$1,500 because that was Commissioner Beck's ruling and only the Defendants appealed. However, I made it clear in the Respondent's Brief and at oral argument that once the amount of attorney's fees are at issue on appeal, the Appellate Panel has both the authority and the duty to set the amount based on the actual time spent at the particular attorney's hourly rate. The risk one takes in appealing any award is that the Appellate Panel is free to increase or decrease the amount as it interprets the law and evidence. You don't get a free second bite at reducing an award merely because the other side did not appeal. I therefore submitted an affidavit documenting the total time for attorney's fees spent by myself and my paralegal enforcing the order.

Field	Value
	Regarding point 2, Mr. Lockhart is correct that the time sheet includes time after the Rule to Show Cause hearing. It includes travel time back to my office from North Augusta immediately after that hearing, time spent drafting the proposed Order per Commissioner Beck's instructions, and time spent briefing and arguing the appeal. I believe all of these items are appropriately included as "attorneys' fees and costs of enforcing the order." My time spent in responding to an appeal is clearly part of enforcing the order time which would not have been required had Defendants simply complied. The law is well-established that an award of attorney's fees from an opposing party necessarily includes attorney time spent responding to motions, appeals, and other actions taken by counsel. Furthermore, Defendants have still not fully complied with the Order despite their admission at oral argument that they were abandoning all issues except the award of attorney's fees. Stephen B. Samuels Samuels Law Firm, LLC 1527 Blanding Street P.O. Box 50349 Columbia, SC 29250 (803) 779-4000 Fax: (803) 779-4004 From: Jason Lockhart [mailto:JLockhart@mgclaw.com] Sent: Monday, February 25, 2013 4:50 PM To: Angi O'Connell; klove@wcc.sc.gov Cc: Stephen Samuels Subject: RE: John Hart v. Owen Steel Company, WCC File Number: 0902416

Field	Value
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Kristi I am in receipt of the affidavits submitted this afternoon to Commissioner Barden. I am writing to provide 2 objections to the affidavits that were submitted:

1. Following the hearing before the Full Commission, it was my understanding that claimant's counsel was to submit an affidavit substantiating the \$1,500.00 attorney's fee provided by Commissioner Beck. The affidavits submitted this afternoon would seem to suggest that claimant's counsel is now requesting attorney's fees in excess of those fees awarded by Commissioner Beck. The amount of the attorney's fee was not appealed by claimant's counsel to the Full Commission.
2. Based on a review of the affidavits submitted, there appears to be documentation of fees for activities performed after the hearing before Commissioner Beck, including activities related to the hearing before the Full Commission Panel. I am not aware of any directive from the Full Commission Panel that claimant's counsel was to submit a request for (or information related to) payment of fees for activities performed following the hearing before Commissioner Beck. Furthermore, I am unaware of any request on the part of claimant's counsel that he sought fees for activities related to the hearing before the Full Commission.

If you have any questions, please let me know. Thanks. Jason

From: Angi O'Connell [mailto:angi@samuelslawfirm.net]
Sent: Monday, February 25, 2013 4:22 PM
To: klove@wcc.sc.gov
Cc: 'Stephen Samuels'; Jason Lockhart
Subject: John Hart v. Owen Steel Company, WCC File Number: 0902416

Kristi:

We have attached an Affidavit concerning our time spent pursuing and enforcing the Motion for Rule and Order to Show Cause in the matter referenced above. This Affidavit was requested by Commissioner Barden at the Full Commission Hearing on February 20, 2013.

Field	Value
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Thank you for your assistance.

Angi O'Connell

Paralegal to Stephen B. Samuels

Samuels Law Firm

Post Office Box 50349

Columbia, SC 29250-0349

(803) 779-4000 Phone

(803) 779-4004 Fax

angi@samuelslawfirm.net

E-mail Attachments

To

From

CC

3CC

Phone #

image001.gif

JLockhart@mgclaw.com, angi@samuelslawfirm.net, klove@wcc.sc.gov

Stephen Samuels <stephen@samuelslawfirm.net>

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,



Stephen B. Samuels
Samuels Law Firm, LLC
1320 Richland Street
Columbia, South Carolina 29201
(803) 779-4000
Stephen@SamuelsLawFirm.net

Attorney for Appellant

Columbia, South Carolina

December 3, 2013

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DEC 04 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
DEC 04 2013

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

SC Court of Appeals

Susan S. Barden, Melody L. James and Avery B. Wilkerson, Jr., Commissioners

WCC File No. 0902416

John Hart, Employee, ... Appellant,

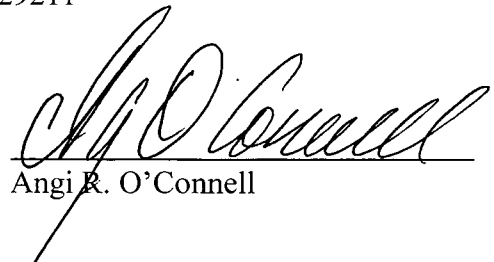
v.

Owen Steel Company, Employer, and Old Republic Insurance Company, Carrier, ...
..... Respondents.

PROOF OF SERVICE

I certify that I am the paralegal to Stephen B. Samuels and I have served the **Record on Appeal** upon the Respondents by mailing a copy of the same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on **December 4, 2013**, addressed as follows:

Jason W. Lockhart, Esquire
Weston Adams, III, Esquire
M. McMullen Taylor, Esquire
Attorneys for Respondents
McAngus, Goudelock & Courie, LLC
Post Office Box 12519
Columbia, South Carolina 29211


Angi R. O'Connell

Columbia, South Carolina
December 4, 2013