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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Civil Action No. 07-CP-09-0089

Stephen Brad Wise Appellant

v

Richard Wise d/b/a Wise Services and the
South Carolina Uninsured Employers Fund Respondents

RECORD ON APPEAL
Volume II of II

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STATE OF SOUTH CAROLINA
COUNTY OF BAMBERG

COURT OF COMMON PLEAS
DOCKET NO. 2007-CP-09-0089

STEPHEN BRAD WISE,

TRANSCRIPT OF MOTION

Plaintiff,

September 2, 2008

VS.

St. Matthews, South Carolina

RICHARD WISE, et al,

Defendant.

BEFORE:

THE HONORABLE DIANE S. GOODSTEIN, Judge.

APPEARANCES:

POPE D. JOHNSON, III, ESQ.
ATTORNEY FOR THE PLAINTIFF

ROBERT M. COOK, II, ESQ.
ATTORNEY FOR THE DEFENDANT

HEATHER GAYLE BURNS, RDR
OFFICIAL COURT REPORTER
9TH JUDICIAL CIRCUIT

1 THE COURT: Okay.

2 MR. JOHNSON: If it
3 please the Court, I'm Pope
4 Johnson and we're back before
5 you on the famous case of
6 Stephen Brad Wise versus
7 Richard Wise.

8 THE COURT: Yes, sir.

9 MR. JOHNSON: It's a
10 workmen's compensation issue.

11 THE COURT: Yes, sir.

12 MR. JOHNSON: Your
13 Honor, we're here today on my
14 motion to ask the Court to
15 reconsider your order dated
16 May eighteenth. Let me begin
17 by saying that I appreciate
18 you setting matter for hearing
19 and give us an opportunity to
20 argue. Some judges don't.

21 THE COURT: Only
22 because you like disagreeing.
23 And if you weren't
24 super-great, if you weren't
25 super-great, we wouldn't be

1 here. I'd have given you one
2 of them little paragraphs
3 because I had -- let me tell
4 you what I had done. I
5 started one but only because
6 you're like super-great I'm
7 saying okay. What have I
8 missed?

9 MR. JOHNSON: Well,
10 when I was riding down here
11 thinking that nobody likes to
12 hear somebody argue why I
13 think they're wrong, but in
14 any event --

15 THE COURT: This would
16 be a pretzel case. You
17 understand that this is a
18 pretzel case?

19 MR. JOHNSON: A
20 pretzel?

21 THE COURT: It's a
22 pretzel case. Yes, sir, it
23 is. It is. It's like, it's
24 like it's been touched the
25 whole time by your super

1 brilliance and all I've tried
2 to do is "unpretzel" it.

3 MR. JOHNSON: And I
4 hopefully will give your Honor
5 an opportunity to do that with
6 this argument. Judge, our --
7 my argument is based upon
8 three fundamental principles,
9 positions. First of all, it's
10 my position that the Court
11 cannot get where the Court
12 did, make the rulings that it
13 did without doing total
14 violence to the rules that
15 govern appellate review and
16 the principles that govern
17 appellate review.

18 THE COURT: Okay.

19 MR. JOHNSON: The
20 second prong of my argument is
21 that the Court cannot review
22 on this appeal an order that
23 was issued eighteen months
24 before by the commission and
25 wasn't appealed at the time

1 the order was entered. And my
2 third point is, is that this
3 is not the typical third party
4 case, the Fisher case, the
5 Kimmer (phonetic) case that
6 you describe in your order
7 where you have the typical
8 situation of a claimant who
9 under Section forty-two one
10 five sixty, the carrier has a
11 lien, who makes the
12 determination about whether to
13 sue in comp, bring a comp
14 claim or sue the negligent
15 third party and proceed that
16 way, whether the claimant
17 elects a remedy by proceeding
18 in civil court before
19 proceeding in, in
20 compensation. That is, that,
21 that, that situation is
22 governed by statute and
23 governed by a whole host of
24 case law.

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25 We don't have that

1 here. We don't have a
2 claimant suing a negligent
3 third party. Section
4 forty-two one five sixty has
5 got nothing to do with this
6 case because we aren't
7 bringing a suit against a
8 third party. What this was a
9 suit where the claimant
10 brought a comp claim and then
11 because the commission was
12 sitting on the comp claim and
13 not ruling, the claimant then
14 proceeded against the
15 employer, the same person he
16 sued with the commission to
17 proceed in civil court and
18 that's what occurred there.
19 Now --

20 THE COURT: Any
21 additional party -- but there
22 a -- there was wasn't an
23 additional party because
24 someone you settled with
25 somebody and --

1 MR. JOHNSON: There
2 was --

3 THE COURT: And there
4 was a default with someone.

5 MR. JOHNSON: Well,
6 there was a suit against,
7 there was a suit against an
8 employer and there was a suit
9 against apparently Orangeburg
10 Public Works.

11 THE COURT: Right.
12 Right. There was an
13 additional party.

14 MR. JOHNSON: And, your
15 Honor, it's our first position
16 that you can't get here
17 without doing violence to all
18 these rules and procedures for
19 an appeal. The Court must
20 look at what came, came before
21 you and how it, how it had
22 gotten here. Okay.

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23 THE COURT: Because
24 that, because you're exactly
25 super-brilliant. Here, this

1 was the -- can't we just get
2 to it?

3 MR. JOHNSON: Sure.

4 THE COURT: Because I'm
5 afraid I'll forget. All
6 right. Here's, here's the
7 nugget or at least it was for
8 me, because this was the
9 unusual circumstance that I,
10 that I had, and I went back
11 and looked at the order
12 because when I realized where
13 this case was and I realized
14 that I had issued an order in
15 this case, it was like oh, my.
16 And when I went back and
17 looked at the order it was
18 true so far as it went. And I
19 did not have a lot of
20 discussion beyond the ruling
21 because you were right. The
22 ruling is, is that, and that
23 was the, the motion for newly
24 discovered evidence and, and
25 what, and when I ruled, the

1 ruling was true on its face.
2 But what that ruling did not
3 address was this: That at the
4 time of the resolution of the,
5 the original case before the
6 commission it had not, you
7 could not have ever
8 discovered, it wasn't newly
9 discovered evidence because
10 you could never have
11 discovered the fact that post
12 that hearing there was a
13 common pleas matter brought
14 and settled. It would be
15 impossible. And so it wasn't
16 newly discovered evidence.
17 So, so it was, it was true,
18 the order was true so far as it
19 went. What it didn't say was
20 hello. This is not newly
21 discovered evidence because I
22 don't think that was the issue
23 that was presented to the
24 Court.

1 difference for me is this. Is
2 that under your theory, the
3 theory of the claimant, you
4 could never to the Court give
5 evidence of procedure, just
6 procedure that had occurred
7 post hearing and that the, and
8 that the trouble with that was
9 that it ultimately by not
10 allowing the carrier to offer
11 evidence of procedure there's,
12 hello, there's been an action
13 that's been filed since the
14 commission has had this matter
15 and you don't allow
16 procedurally the proof to be
17 offered up as to the procedure
18 and to treat it like newly
19 discovered evidence to the
20 merits, and you don't allow it
21 to be -- in other words, you
22 could allege whatever, you
23 allege, but you can't offer
24 proof of it, then that's, the
25 law is not applicable at that

1 point.

2 And that was, that
3 made the difference for me. I
4 agreed with you on newly
5 discovered evidence. I didn't
6 think it was newly discovered
7 evidence, and I think the, the
8 ruling on the rules so far as
9 it went was correct. But, but
10 what I did not say in that
11 order which I think is
12 absolutely correct is guys,
13 this is not newly discovered
14 evidence. This is evidence of
15 the procedural advancement or
16 the procedural course that
17 this case has taken and the
18 carrier's got to be allowed to
19 offer the proof of that which
20 they allege. And that's not
21 newly discovered evidence..

22 That was the nugget
23 for me that sort of unlocked
24 the mystery for me.

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25 MR. JOHNSON: And, your

1 Honor, can I tell you where I
2 think it is?

3 THE COURT: Yeah.
4 Absolutely.

5 MR. JOHNSON: Where you
6 erred?

7 THE COURT: Absolutely.

8 MR. JOHNSON: I think
9 you erred because you may have
10 figured that that evidence
11 ought to be before you and
12 that that evidence ought to be
13 considered by the Court. But
14 the problem is if you look at
15 the statutory guidelines,
16 which you can consider on an
17 appeal from the Workers
18 Compensation case, and what
19 was -- looking at the rules
20 and what was presented in the
21 commission, what was
22 considered by them, you are
23 precluded. In other words,
24 you don't get to come at the
25 end of the day, well, let me

1 just look at everything and do
2 what I think is, should occur
3 here.

4 THE COURT: Except for
5 one -- I know. I know. I
6 thought about it. I walked
7 down, I walked down that path,
8 and here's what was in both of
9 your briefs. It was on the
10 claimant's brief. It was in
11 the insured's, in the, the
12 carrier's brief. It is not
13 disputed that procedurally
14 this is what occurred. You
15 can't have it both ways. You
16 cannot argue to the Court,
17 Court, assume that this is
18 what has occurred, but you
19 can't consider that's what's

20 occurred in order to make a
21 ruling. In other words, I, I
22 made -- I know exactly what
23 you're talking about because I
24 pondered that, too.

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25 And the question, one

1 of the questions that I had
2 was, was must I now send this
3 back to the industrial -- the
4 Workers Comp Commission. I
5 just dated myself. Back to
6 the Workers Comp Commission
7 and tell them the literal
8 procedure of it, or, and I
9 went back and looked at the
10 briefs where it said it is
11 not, it is without dispute
12 that there were
13 representations of procedure
14 made to the Court on, and that
15 basis I did not feel that in
16 the, in the, the, the
17 representation had in fact
18 been made to the Court that I,
19 I may disregard those.

20 MR. JOHNSON: Your
21 Honor, again I think you erred
22 there because I don't think
23 the Commission court never
24 becomes the fact-finder or the
25 determiner in a comp. It

1 always has to go back to the
2 commission.

3 But in this case,
4 your Honor --

5 THE COURT: How about a
6 stipulation of fact?

7 MR. JOHNSON: In, in
8 this case --

9 THE COURT: Go ahead.

10 MR. JOHNSON: In this
11 case what you have was, you
12 had the statute that allows
13 the appeal to this Court, says
14 that the Court is to consider
15 it, and this is one
16 twenty-three three eighty, the
17 Court must consider it on the
18 record. On the record. It
19 doesn't say the Court can go
20 outside the record, take
21 stipulations, take things in
22 briefs, or anything of that
23 nature.

24 The statute goes on
25 to say that if there's

1 evidence, that if one party
2 makes a motion to this Court
3 that there is evidence that
4 should be considered, the
5 Court can hear it in argument,
6 consider it, and then can, if
7 the Court agrees, remand it to
8 fact-finder to make whatever
9 findings they make based upon
10 those facts.

11 Now, where I would
12 argue you erred, your Honor,
13 is that there was no motion
14 before you to admit this
15 evidence. There was no motion
16 in, before the appellate panel
17 which is the order that came,
18 that came up to you, there was
19 no motion or petition to admit
20 this evidence not as newly
21 discovered evidence but under
22 some other theory. It was not
23 considered by the appellate
24 panel in their decision.

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25 The case came before

1 you because I appealed their
2 factual findings or I appealed
3 not their factual findings,
4 but I appealed --

5 THE COURT: Something.

6 MR. JOHNSON: Correct.
7 Correct, your Honor. It came
8 before you for this reason.
9 The commission had ruled in
10 favor of the, of the
11 defendant. We then appealed
12 it to the appellate panel on
13 the basis that the commission,
14 that the single commissioner
15 was in error about one of the
16 employers, the employees,
17 there were three, they said
18 there was the employees, one
19 said not. We appealed it to
20 the appellate panel. The
21 appellate panel considered our
22 appeal, not, they did not
23 consider this evidence because
24 it had not, it had been
25 excluded and then was appealed

1 by, by the defendants on three
2 grounds. First they said that
3 the commission should have
4 considered this statute, that
5 you can't recover in comp and
6 recover settling. Secondly,
7 they argued that the facts,
8 the commissioner got it wrong,
9 that this one employee was not
10 an employee. And, thirdly,
11 they argued that the
12 commission had erred in
13 following your order that said
14 they couldn't accept the
15 evidence as after discovered
16 evidence. Those are the three
17 issues that came before you.
18 The first issue on the statute
19 was not presented to them by
20 petition or motion. It wasn't
21 presented there or in that
22 respect before you or before
23 the commission. It comes to
24 you and they say well, wait a
25 minute. We want you to

1 consider this evidence and we
2 want to you make a ruling
3 based upon this evidence.

4 But the statute that
5 governs your authority to make
6 a decision says on the record,
7 you consider it on the record.
8 There's no nothing in the
9 record on that. Or if a
10 motion is made you then hear
11 it, hear it and send it back.
12 Now had you done that, had a
13 motion been made and had you
14 decided it ought to go back,
15 we would have had an
16 opportunity to make a full
17 record of what actually
18 transpired in connection with
19 the matter and for a Court to
20 consider what the commission
21 considered it and then some
22 subsequent court or the
23 Appellate Court to consider
24 what is the impact of all
25 those circumstances.

1 However, your Honor's
2 ruling, of course, precluded
3 that, and I don't urge that,
4 my position is this. They
5 never made the motion. If
6 they don't make the motion
7 it's not appropriate for the
8 Court to make it for them.
9 And you ought not send it
10 back. What you ought to do
11 is, is, is you send it back
12 but not under your orders, you
13 don't reverse them, and allow
14 the commission to, to go ahead
15 and hear the case and if, if
16 the evidence, if this evidence
17 should have come in at some
18 point in some fashion then the
19 Appellate Court can tell us
20 down the road, but right now
21 if you look at what the scope
22 of your authority on appeal,
23 you just can't get there.
24 That's --

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25 THE COURT: Let me ask

1 you this question. What do
2 you maintain is the record?
3 What is, what is the record?

4 MR. JOHNSON: The
5 record is the evidence that is
6 admitted, things that are
7 admitted and received in
8 evidence.

9 THE COURT: How about
10 filings with the Court?
11 Aren't they part of the
12 record?

13 MR. JOHNSON: No, your
14 Honor. You consider it.
15 Under the, the statute it's
16 the record below. You don't
17 take filings of facts or
18 affidavits or anything before
19 you that becomes part of the
20 record of the hearing.

21 THE COURT: Okay.

22 MR. JOHNSON: It would
23 be --

24 THE COURT: I
25 understand.

1 MR. JOHNSON: It would
2 be my position, it would be my
3 position --

4 THE COURT: I
5 understand.

6 MR. JOHNSON: And, your
7 Honor, if, as I say if you
8 reconsider your order and set
9 it aside and let it go back to
10 the commission then, then the
11 procedurally you'll be on
12 sound ground because -- and
13 they made the argument while
14 it was in the briefs, both
15 parties said it was
16 undisputed, should not
17 consider that, should not give
18 some effect to that.

19 Well, I would say,
20 your Honor, no, for this
21 reason. The circumstances of
22 what lead to where it is
23 haven't been vented. They
24 haven't been disclosed,
25 argued, presented, presented

1 in full in any way, shape, or
2 form. This would be, this I
3 would urge these facts or
4 circumstances, if you take
5 them as facts of what filing
6 of the civil lawsuit while the
7 commission sat on the matter
8 for three years without
9 making -- two years without
10 making a ruling on this order
11 and whether that constitutes
12 an election or remedies which
13 is an equitable concept any
14 way that would bar this matter
15 from proceeding forward, you
16 know.

17 THE COURT: So long as
18 it, so long as it existed,
19 does need to -- could always
20 be dismissed. There was the
21 case that, that the
22 determination was made that
23 there had been an election of
24 remedy in the circumstance
25 much as you described except

1 the civil case was dismissed
2 during the pendency of the
3 matter before the Workers
4 Compensation Commission. When
5 that went up, and I don't
6 remember if it's the Court of
7 Appeals or the Supreme Court,
8 made the determination that
9 that would be so, but the fact
10 that the civil matter had been
11 dismissed and all indications
12 of counsel in the record
13 meaning the, the common pleas
14 record that was before the
15 Court, that matter was still
16 pending and not dismissed
17 so. . .

18 MR. JOHNSON: So --

19 THE COURT: What
20 troubles me was in the wake of
21 the, the case that, that, the
22 name that I cannot recall on
23 that was that the matter as it
24 had been represented to the
25 Court was still, had been

1 resolved and, and by counsel.

2 It had been resolved in, in
3 common pleas.

4 MR. JOHNSON: Well,
5 your Honor, as I say, normally
6 we're trying a case before you
7 and I object on the basis of
8 authentication and the
9 objection should be hearsay.
10 You don't say wait, that
11 should be hearsay. You, you
12 rule on the objection I made.
13 I would urge the Court you got
14 to rule on the exceptions that
15 came before you. The
16 exceptions that came before
17 you on this first part was the
18 statute says you can't get
19 comp -- the commission here in
20 not considering that, when
21 that matter was not properly
22 before the commission and
23 never considered. Secondly,
24 their order is total silent
25 and only dealt with my appeal.

1 As to the appeal on the order
2 that was eighteen months old
3 in the chain and the versal of
4 the Court's rulings there was,
5 there was no, nothing I've
6 looked as far as I can, as
7 high as a judge decides to
8 reverse a prior order that's
9 issued by the Court that long
10 previously before and --

11 THE COURT: And just
12 for clarification, let me say
13 about that. That language is
14 in there, but the, the order
15 went no farther than it said.
16 And what it said was, was that
17 newly discovered evidence
18 couldn't, couldn't be raised
19 if it hadn't been raised below
20 and that was the extent of it.
21 What wasn't discussed, what
22 could have been discussed in
23 the order but what wasn't
24 discussed probably because it
25 wasn't before me, is that the

1 procedural matters that the
2 carrier was attempting to
3 raise wasn't newly discovered
4 evidence. By the definition
5 wasn't newly discovered
6 evidence as defined under the
7 law. It wasn't newly
8 discovered evidence. It
9 didn't exist at the time. It
10 could not have been discovered
11 pursuant to due diligence
12 because it didn't exist.
13 These were actually, this was
14 actually matters that arose
15 after the, what was the
16 conversation, that the single
17 commissioner hadn't done his
18 homework or the determination
19 had been made and it was on
20 appeal. So it wasn't newly
21 discovered evidence and that's
22 all the order says is that
23 it's newly -- you can't --

24 MR. JOHNSON: The
25 commission couldn't take up

1 your order. It was --

2 THE COURT: Right.

3 MR. JOHNSON: But, your
4 Honor, we're -- where we're
5 not dealing on the law is
6 under one twenty-three three
7 eighty-four is where it's
8 shown to the satisfaction of
9 the Court that the additional
10 evidence is material, before
11 the date of the hearing an
12 application to be made to the
13 Court for leave to present
14 additional evidence and it is
15 shown to the satisfaction of
16 the Court that additional
17 evidence is material and there
18 is good reasons for the
19 failure to present it in the
20 proceeding before the agency,
21 the Court may order the
22 additional evidence to be
23 taken before the agency upon
24 conditions determined by the
25 Court. The agency may modify,

1 the agency, your Honor, may
2 modify its findings and its
3 decisions by reasons of the
4 additional evidence and shall
5 follow evidence and any
6 modifications in due findings
7 with the review of the Court.

8 THE COURT: I got it.
9 I got it. I'm listening.

10 MR. JOHNSON: And there
11 motion, there was no
12 application, your Honor.
13 None. Nada. And in the
14 absence of an application,
15 it's just like anything else.

16 THE COURT: I agree
17 with you a hundred per cent.
18 I got you. Let me hear from
19 him. I got you. Yes, sir.

20 MR. COOK: May it
21 please the Court?

22 THE COURT: Yes, sir.

23 MR. COOK: I'm Robert
24 Cook for the uninsured
25 employers fund. I guess I get

1 to say I get to be in the
2 position of saying how
3 brilliant I thought your
4 ruling was in this matter.
5 But, but, your Honor, you know
6 the thing is when we came here
7 last to argue before you, that
8 was the point in time that
9 sort of crystalized and what
10 this really was at heart when
11 you, when you separate the
12 substance from the form of
13 what was trying to be done,
14 was that at heart this was a
15 motion to put before the
16 commission a rule to get a
17 ruling on election of remedies
18 and in your order you make
19 that clear, the order that is
20 now being, sought to be
21 amended. That's where it's
22 made clear. Forget the
23 styling of the order, that it
24 was a motion for additional
25 evidence and to dismiss. That

1 motion, the basis of that
2 motion was there has been a
3 tort suit filed without
4 notice, there had been a
5 settlement without approval
6 supported by affidavit and it
7 requested that the commission
8 rule on the effect of the
9 filing of that lawsuit.
10 That's exactly what it was.
11 So to, to, to try to fit it
12 into affidavit, you know, it
13 has to be required as after
14 discovered evidence. I think
15 finally at that point that was
16 the realization that what this
17 was was a request that the
18 commission and then the Court
19 rule on the election of
20 remedies. And what was -- the
21 only thing that was pertinent
22 to the election of remedies
23 was the existence of the tort
24 judgment and the tort suit.

25 The, the very same

1 statute that Mr. Johnson is
2 relying upon to talk about
3 what the record is, one
4 twenty-three three thirty
5 which is in that same the
6 Administrative Procedures Act,
7 number four says that you can
8 take notice of judicially
9 cognizable facts. I mean
10 that, that is what a tort
11 judgment is. That is what the
12 suit is. These are records on
13 file at the courthouse. They
14 were attached to the affidavit
15 in support of the motion.
16 And, and, your Honor, that
17 that is exactly what this
18 really is completely about.

19 It -- the record that
20 Mr. Johnson wants to, to limit
21 in a way so as to exclude the,
22 the tort filings really is the
23 record on the underlying
24 workers compensation case.
25 This is a matter that is only

1 relevant to that case insofar
2 as there's an election of
3 remedies. As you noted, this
4 pertains to things that were
5 done after the initial
6 hearing, after testimony was
7 taken, after documents were
8 submitted. The, that record
9 is completely distinct from
10 the record upon which the
11 ruling was made. I would
12 submit to you that the proper
13 record was the affidavit and
14 the motion which ultimately
15 were the documents that you
16 used to make the ruling that
17 you did.

18 So I, I would, would
19 ask that you not amend or
20 alter your initial ruling.
21 Thank you.

22 THE COURT: I will
23 think about it. And I just, I
24 anticipated your motion. I
25 just wish I had done it that

1 day.

2 MR. JOHNSON: Your
3 Honor, I must ask if you, I
4 think rule requires me to ask,
5 I didn't argue every ground
6 that I've, that I've put here,
7 but I would ask the Court
8 respectfully to rule on the
9 issues that I've raised by the
10 motion so that I don't get
11 trapped by not, you know,
12 specifically saying something.

13 MR. COOK: That would
14 be all seventeen grounds?

15 MR. JOHNSON: That
16 would be all seventeen
17 grounds.

18 THE COURT: Wonderful.

19 MR. JOHNSON: I'm not
20 arguing, but I'm not sure you
21 want me to --

22 THE COURT: Absolutely.
23 Well, here's what I'm going to
24 do. I'm going to let you both
25 know by letter is what I'm

1 going to do. And you all can
2 draft me a proposed order.
3 Address all seventeen. How
4 about that?

5 MR. JOHNSON: That
6 would be great, your Honor.

7 THE COURT: Thank you.

8 MR. JOHNSON: Thank
9 you, your Honor.

10 THE COURT: Thank you
11 so much, both of you.

12 (Whereupon, the
13 matter was concluded.)

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STATE OF SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
CASE NUMBER - 0128289

STEVEN WISE,	)	
	)	
CLAIMANT,	)	FULL COMMISSION HEARING
	)	
VS.	)	BEFORE
	)	
RICHARD WISE, D/B/A	)	PANEL A
WISE SERVICES,	)	
	)	
EMPLOYER,	)	
	)	
UEF,	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	

COPY

WORKERS' COMPENSATION FULL COMMISSION HEARING
TAKEN BEFORE SARA L. QUATTLEBAUM, A NOTARY PUBLIC IN
AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE
HOUR OF 1:32 PM ON WEDNESDAY, MARCH 28, 2007, AT
WORKERS' COMPENSATION COMMISSION, 1612 MARION STREET,
COLUMBIA, SOUTH CAROLINA.

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QUATTLEBAUM COURT REPORTING
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1 COURT REPORTER: Today's date is March 28, 2007.
2 This is South Carolina Workers' Compensation Case File
3 No. 0029119. This is the case of Steven Wise,
4 Claimant, versus Richard Wise, Employer and the UEF is
5 the Carrier.

6 The Appellant is the Claimant who is represented
7 by Pope Johnson. And the Respondent is represented by
8 the UEF, Mr. Robert Cook.

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

13 MR. JOHNSON: May it please the Commission. I
14 represent the Claimant. On October the 30th, 2000, my
15 Client, along with four or five other individuals,
16 began working for a man named Richard Wise moving a
17 building over in Orangeburg.

18 In the process of moving the building he
19 contacted high voltage electrical lines. My client
20 was placed on top of the building that was being taken
21 down the street, and as he moved down, he somehow -
22 his responsibility, his work assignment was to lift
23 with sticks the energized electrical lines. They
24 slipped down and burned him.

25 He spent several weeks at the burn center in

1 Augusta. There were terrible pictures there. He lost
2 toes on his left foot. He has scarring on his right
3 arm. He has some very serious injuries. It was lucky
4 he wasn't killed.

5 Richard Wise, the man he was working for, did not
6 carry insurance, Workers' Comp insurance. There was
7 no dispute there was an accident; no dispute that my
8 client was an employee of Richard Wise. The dispute
9 was over whether Richard Wise was obligated to carry
10 Workers' Compensation insurance and whether he
11 employed, on a regular basis, four or more employees.

12 We provided evidence that he employed four people
13 on a regular basis as a side of pick up labor and
14 other people who worked there on a regular basis. The
15 single Commissioner, without stating really why she
16 reached this conclusion, reached the conclusion that
17 one of those four people we offered evidence on, a guy
18 named Richard Hine, a guy who worked regularly as a
19 mechanic at Wise's shop and who had worked for him for
20 two years, who was working on that day with him on the
21 building, he was an independent contractor and not an
22 employee. As a result she denied the claim.

23 It is our position she erred in this, she didn't
24 follow the standard, the applicable law and that she
25 should be reversed.

1 To understand this case you've got to understand
2 a little bit about Richard Wise. He is one of these
3 people, he operates under the radar screen outside the
4 scope of the law. He operated an auto repair in St.
5 Matthews, ran a wrecker service, moved buildings, did
6 back hoe work, did cleanup work and a series of things
7 like this.

8 It's undisputed that he had a female who ran his
9 office. He had a high school kid that he worked
10 regularly. He had my client who the Commissioner
11 knows worked regularly. And he had Ross Hine, who
12 worked there regularly as an employee. He would pick
13 up labor from time to time and do the wrecker and give
14 him \$10. But this guy, what would you expect from
15 someone like him? Paid all in cash, paid all of them
16 in cash, no social security withholdings, no employee
17 withholdings, no W2's, no accounting records to prove
18 a paper trail of who was working for what.

19 This accident was just the kind of accident you
20 would think would happen with a jack legged crew like
21 this. This man, Wise, he had, as part of his business
22 moving buildings, sent my guy on top of the building
23 with a stick to hold up wires when they went under.

24 And of course he got hurt.

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25 The only question on this appeal is whether the

1 Commissioner was right or wrong in concluding that
2 Russ Hine was an independent contractor. We say she
3 disregarded the law and she disregarded the facts that
4 established that he was an employee.

5 This is the law on the issue. In South Carolina,
6 the South Carolina policy literally construes the Act
7 in favor of coverage. The question of whether someone
8 is an employer or an independent contractor or whether
9 there is an employment relationship is a
10 jurisdictional issue. It is South Carolina's policy
11 to resolve jurisdictional doubt in favor of coverage
12 for employers and employees so that we bring people
13 within the Act.

14 Now, the test as to whether Hine was an employee
15 or whether he was an independent contractor is simple
16 and straightforward. It is the right to control.
17 It's not the actual control exercise but whether there
18 is evidence that the party employer had that right to
19 control. There is a four-point test, four factors
20 that case law says you look at. That is direct
21 evidence of right of control, furnishing of equipment,
22 right to fire, method of payment.

23 What is interesting about the four-point test is
24 that proving any one of the factors proves employment
25 while failing to prove one is not evidence of

1 anything. In other words, it's part and parcel of
2 this policy of bringing people within the Act.

3 In this case out of the four elements we clearly
4 proved without question one of the elements. One of
5 them is furnishing of equipment. The evidence is
6 undisputed that they were moving this building, they
7 were using i-beams, they were using lead trucks, they
8 were using wreckers, they were using dollies; all of
9 which were furnished by Richard Wise.

10 Richard Wise also testified that at the shop he
11 provided all of the equipment. This guy, Hine, worked
12 at the shop. In regard to what else he did, that
13 element alone would prove that he was an employee.
14 There was other evidence that he was an employee.
15 Hine had worked for him for two years. He was the
16 mechanic in Wise's auto repair shop. Wise testified
17 that he provided all the equipment there. Hine
18 testified that although he thought he was self-
19 employed and he paid his own taxes, he got a salary.
20 And on Page 21 of his testimony he said he got kind of
21 like a salary. He didn't get paid just by the hour
22 but separate. He testified that the day the accident
23 happened he got paid for working out there moving the
24 building. And this is on Page 27 of his testimony.
25 Basically I was - "I was basically on salary."

1 There is also evidence that Wise, of course,
2 controlled Hine. The testimony was he got out there
3 to move the buildings, didn't have enough people; got
4 on the phone; called back to the shop and said you've
5 got to come drive one of the vehicles, we've got to do
6 something. And that's why Hine and the woman, Amaker,
7 was on the site.

8 So you only have to prove three - one element,
9 which we did, we think we proved three. But if you
10 look at South Carolina's policy, which is resolved out
11 in favor of coverage, this is the very kind of case
12 that this Commission ought to be interested in in
13 finding coverage so that we don't encourage people to
14 have employees, not carry coverage, not do the things
15 that good employers do, and we end up with people like
16 this who get badly hurt.

17 Now, Richard - excuse me, Brad, who is no kin to
18 Richard, is here because he's got serious
19 disfigurement and all that that goes with it. But
20 what we're asking is that you remand it for the
21 finding that is covered for another hearing to take
22 place to determine the period of disability, temporary
23 disability, the extent and nature of disability,
24 because there is no evidence. At the time we had the
25 hearing there was no conclusion that he had reached

1 maximum medical improvement.

2 So that's what this case is about. If there are
3 any questions, I'll answer it. And we ask that you
4 reverse the single Commissioner on that point and find
5 there is coverage and send it back for the rest of the
6 issues to be decided.

7 COMMISSIONER HUFFSTETLER: Thank you, sir.

8 Mr. Cook.

9 MR. COOK: May it please the Commission, my name
10 is Robert Cook. I represent the Uninsured Employers'
11 Fund in this case. As it has been usual with the UEF,
12 during this period of time several different lawyers
13 had their hands on this case at various times. So I
14 remember, years ago, going to Orangeburg with
15 Mr. Johnson. And we didn't have the hearing then.
16 And then I left the UEF and Brook Shields took it over
17 for the UEF.

18 One of the things that perplexed me, and I want
19 to make it clear to the Full Commission. It does not
20 appear Mr. Shealy, who had the case when Mr. Johnson's
21 initial appeal was filed, ever filed a response to
22 memorandum. Of course, you're not required to, it's
23 permissive, not mandatory. So there never was an
24 opportunity, once that was done, that opportunity came
25 and went several years ago. So there is no responsive

1 memorandum in the file.

2 This case has a very problematic procedural
3 history. Mr. Johnson and I have been in Circuit Court
4 at least two times. And I think there may have been
5 one other time on this case in Circuit Court.

6 And that dealt with an issue of Election of
7 Remedies and in a sense finally comes back down on
8 complete remand for a hearing on the merits of whether
9 or not the employer was subject to the Act.

10 But in researching and reviewing my files last
11 night in preparation for the hearing today it occurred
12 to me that there is still an issue out there that
13 doesn't necessarily go to the merits of the case, but
14 needs to be brought to the Commission's attention.
15 And that is the issue of whether or not this
16 Commission has subject matter jurisdiction to
17 entertain the claim that has been brought by
18 Mr. Johnson on behalf of his client.

19 There is no dispute - well, let me say this, the
20 South Carolina Supreme Court has indicated that the
21 issue of subject matter jurisdiction can be raised at
22 any time even on appeal. And I would cite to the
23 Commission that GNOC Corp versus the Estate of Rhyne
24 case, which is a 1994 Supreme Court case. The reason
25 why I mention that is in preparing for the hearing

1 last night, I looked back through my statute book and
2 ran across 42-5-40, which is a part of the Workers'
3 Comp Act. The Commission, I think, is more familiar
4 with that, and that is one of the sections that gives
5 you all the authority to fine employers who are
6 required to have insurance but didn't. But that
7 statute also says that when you have somebody who has
8 not got the insurance but should have gotten the
9 insurance "he should be liable during the continuance
10 of such refusal or neglect to an employee either for
11 compensation under this title or at an action in lump
12 - in an action instituted by the employee or his
13 personal representative to recover damages for
14 personal injury."

15 You can do one or the other, but you can't do
16 both. The reason why that is significant is part of
17 the reason this case got off track from the very
18 beginning was after the initial hearing was held
19 another attorney on behalf of the Claimant filed a
20 tort action against Mr. Wise in, I think, either the
21 County or City of Orangeburg and collected or received
22 a \$900,000 default judgment against Mr. Wise, the
23 Employer in this case. There is no question that the
24 Claimant holds a \$900,000 judgment against Mr. Wise.
25 Our Supreme Court, in 1999, in the case of Harold

1 versus Pineland Plantation, Limited stated in the
2 opinion "the Defense is correct that the Act prohibits
3 an Employee from recovering both Workers' Compensation
4 and a tort judgment from an Employer who fails to
5 secure compensation."

6 MR. JOHNSON: Can I note an objection to the
7 argument outside the record?

8 MR. COOK: Okay.

9 MR. JOHNSON: I just didn't want to be silent.

10 COMMISSIONER HUFFSTETLER: He's arguing
11 jurisdiction. Make the argument and I'll try to keep
12 your objection in mind.

13 MR. COOK: The tort judgment itself is part of
14 the record on the remand back to the Commission. And
15 of course it is a judicial act. I mean, it's a public
16 record that he had the judgment. I don't think they
17 deny that they got a tort judgment against this
18 gentleman.

19 COMMISSIONER HUFFSTETLER: Let me stop you for
20 just a minute, because maybe I didn't understand the
21 objection correctly. If I understand it and as I
22 think about it is it your objection that the fact that
23 whether or not there was a tort action is not part of
24 the record?

25 MR. JOHNSON: My objection is this, Commissioner.

1 We went up and back to the Circuit Court about two or
2 three times where the Circuit Court said that they
3 couldn't supplement the record with what had occurred
4 after a hearing. And what he's talking about now
5 occurred after the hearing. And there is no basis for
6 -

7 COMMISSIONER HUFFSTETLER: We have already denied
8 the motion. The Full Commission denied the motion for
9 additional evidence.

10 MR. JOHNSON: That's right. At the same time -

11 MR. COOK: Sir, the - can I be heard on that,
12 Your Honor?

13 The issue that has gone up and back several
14 times, it was initially framed by the UEF when they
15 found out about this tort judgment, that the Claimant
16 had elected his remedy under 42-1-540 by the -

17 COMMISSIONER HUFFSTETLER: Is this the same issue
18 that we already ruled on?

19 MR. COOK: No, sir; it's not.

20 COMMISSIONER HUFFSTETLER: Is there any evidence
21 in the record that there is or has been a tort action
22 and a default judgment? How do we know that other
23 than you telling us that right now?

24 MR. COOK: Well, the order of remand that the
25 Commission is hearing this on today from Judge

1 Schafer, I believe, says on Page 2, it says, "The new
2 evidence that the Fund sought to have considered
3 consists of the record showing that the Appellant had,
4 subsequent to the hearing before the single
5 Commissioner, commenced a civil action against the
6 alleged Employer and had obtained a judgment by
7 default against the alleged Employer in Circuit Court.

8 COMMISSIONER HUFFSTETLER: And that's the
9 evidence that was part of the motion that we denied.

10 MR. COOK: And it's been part of the pleading in
11 front of Circuit Court.

12 COMMISSIONER HUFFSTETLER: Is that right?

13 MR. COOK: I'm not sure. I think you're correct
14 in that, Your Honor. My response to that would be
15 that the Commission always has jurisdiction to
16 determine whether it has subject matter jurisdiction.

17 COMMISSIONER HUFFSTETLER: But this is not an
18 objection about jurisdiction. It's an objection about
19 whether the information that you want to discuss that
20 goes to that is part of the record.

21 MR. COOK: And, Your Honor, I would submit that
22 it is part of the record. You've gotten everything
23 that has been held in Circuit Court. You know -

24 COMMISSIONER HUFFSTETLER: Where is it in the
25 record other than the Court's order? Is that what you

1 want -

2 MR. COOK: Yeah, it's been in the Circuit Court
3 pleadings. I mean, it was not introduced at the
4 original trial, but that's -

5 COMMISSIONER HUFFSTETLER: The fact is it can't
6 be in the record. It's never been made a part of the
7 record; is that right?

8 MR. COOK: I don't know that I would agree with
9 that. I would agree it was not a part of the record
10 at the initial hearing, I would concede that; yes,
11 sir, because it had not occurred then.

12 COMMISSIONER HUFFSTETLER: If I may ask the same
13 question I've asked twice already.

14 Is this the same evidence that was the motion for
15 additional evidence that the Full Commission
16 denied?

17 MR. COOK: It's the same judgment; yes, sir. The
18 judgment itself is the same.

19 But my point is this, Your Honor.

20 COMMISSIONER HUFFSTETLER: Give us a minute to
21 talk about it. If you all would step outside for a
22 minute.

23 (OFF THE RECORD)

24 COMMISSIONER HUFFSTETLER: Let's go back on the
25 record. We've had the opportunity to discuss the

1 objection and we've looked at the file, and we find
2 in the file, and we can go back to the transcript, but
3 I don't know anybody who doesn't make the file a part
4 of the record when they open the hearing. But in the
5 file is a copy of the order from January, 2004 where
6 that default judgment was made. It's already a part
7 of the record. So in that regard I'm going to
8 overrule your objection and allow Mr. Cook to make his
9 argument.

10 MR. JOHNSON: Are we off the record?

11 COMMISSIONER HUFFSTETLER: We are on the record.

12 MR. JOHNSON: Can I just point this out? The
13 judgment that's been filed as part of the brief that
14 was filed by the UEF is the evidence that the Circuit
15 Court said could not be considered. This hearing was

16 -

17 COMMISSIONER HUFFSTETLER: You're saying that
18 order is an attachment -

19 MR. JOHNSON: That order is an attachment to a
20 motion by the UEF when this case came up on review the
21 first time. The hearing in this case was in 2002.
22 The order was entered - I'll give you the date. And
23 all of that is after this. And what went up and back
24 to the Circuit Court was whether - they made a motion
25 to add it to the record as after discovered evidence.

1 have four or more regularly, to me it's an
2 interesting question what you're getting at and
3 sometimes we litigate that. But I think what the
4 Commissioner found was that he had three regular
5 employees that -

6 COMMISSIONER LYNDON: Which one of the tests, the
7 right to control - which one of the four did he not
8 meet or - apparently he didn't meet any of the four as
9 far as you're concerned.

10 MR. COOK: I think that's right. And without
11 conceding the point I don't know that I have a great
12 disagreement of how Mr. Johnson found the applicable
13 law about right to control.

14 Clearly, he was not paid, you know, by the hour,
15 which is, you know, with Larson's Workers' Comp, by
16 the hour he says it's dispositive with being an
17 employee in this case. You know, if the fellow gets
18 paid whether he works or not, and that was the
19 testimony, and nobody said anything to the contrary,
20 how much control does an alleged employer have over
21 someone that they pay if he doesn't even show up? You
22 know, it doesn't - you don't look at just a few things
23 of control, you look at the overall issue of control
24 of the actual exercise or the right to exercise
25 control. And if you're paying somebody who - I mean,

1 MR. COOK: Now, in response to that I would
2 just, for the record, for the purpose the record
3 becomes important I will remark that I thought it was
4 my understanding that anybody - any adjudicative body
5 has the opportunity and the right to always look to
6 issues and subject matter jurisdiction.

7 COMMISSIONER HUFFSTETLER: But this is not about
8 jurisdiction. It is about the evidence of whether
9 it's in the file. And I'm trying to be clear on the
10 record. Because, as you said, the record is important
11 in this. The ruling we have given you is not whether
12 we could take up jurisdiction at any time. We're
13 talking about what evidence is in the record and what
14 is not in the record. It appears that that order was
15 issued after the hearing, after the order and has
16 never been made a part of the record. That's the
17 basis for sustaining the objection.

18 MR. COOK: With regard to the subject to the Act
19 issue, Russ Hine was found by Commissioner Chavis to
20 be an independent contractor and thus did not count
21 for a total of four or more necessary to be subject to
22 the Act. He stated on Page 18 of the transcript that
23 he himself - of course he wasn't making the claim, he
24 himself considered himself to be a self-employed
25 independent contractor, which, you know, you hear that

1 have four or more regularly, to me it's an
2 interesting question what you're getting at and
3 sometimes we litigate that. But I think what the
4 Commissioner found was that he had three regular
5 employees that -

6 COMMISSIONER LYNDON: Which one of the tests, the
7 right to control - which one of the four did he not
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17 employee in this case. You know, if the fellow gets
18 paid whether he works or not, and that was the
19 testimony, and nobody said anything to the contrary,
20 how much control does an alleged employer have over
21 someone that they pay if he doesn't even show up? You
22 know, it doesn't - you don't look at just a few things
23 of control, you look at the overall issue of control
24 of the actual exercise or the right to exercise
25 control. And if you're paying somebody who - I mean,

1 if you have somebody who you pay whether he shows up
2 or not I would argue that that's indicative of a very
3 low level of control, if any control, Your Honor.

4 COMMISSIONER HUFFSTETLER: He has three folks
5 named in the order as employees that are not appealed.

6 MR. COOK: Yes, sir. That's correct.

7 COMMISSIONER HUFFSTETLER: So it's really a
8 matter of whether this fourth person they've been
9 talking about was an employee, so you cross the
10 threshold -

11 MR. COOK: I think that's a dispositive question
12 with regard to subject to the Act; yes, sir, is
13 Mr. Russ Hine. There was other people mentioned.
14 They have appealed on the basis of those other people,
15 but he didn't specifically mention those in his
16 argument, but I've talked about them. But I think
17 it's also significant that Mr. Hine testified he
18 wasn't paid for doing anything that particular day.
19 His normal work was doing mechanical work, you know,
20 auto mechanic-type work. I think it certainly could
21 have been construed that what was going on that day
22 was he was just helping this person out.

23 Thank you, Your Honor.

24 COMMISSIONER HUFFSTETLER: Thank you.

25 Mr. Johnson.

1 MR. JOHNSON: It would seem to me that this body
2 ought to be zealous about this kind of case where
3 you've got somebody who is not complying with
4 anything, paid people with cash and all that sort of
5 stuff.

6 But it also seems to me that it's very simple if
7 you look at the law. The law says we construe
8 liberally in favor of bringing people in. The law
9 says if we have one out of the four elements, and
10 that, in essence, is sufficient. In this case, on
11 Page 68 of the - Richard Wise testified in terms of
12 equipment that was being used to move this building,
13 who supplied that? I did, sir, Richard Wise. He was
14 providing the equipment. That's one test, and all
15 we're got to meet.

16 COMMISSIONER HUFFSTETLER: Can I back you up on
17 that?

18 MR. JOHNSON: Yeah.

19 COMMISSIONER HUFFSTETLER: The testimony earlier
20 has been that the gentleman, Hine, I think it is,
21 worked in the shop. So his normal work was the
22 evidence of who provided the equipment.

23 MR. JOHNSON: That was my next point. He also
24 testified, Richard Wise, and I'll give you the page,
25 that he supplied all the equipment in the shop. it's

1 - just one minute. This is on Page 60, "I run my
2 shop so I would provide everything. Tell me a few
3 things. I do everything but front-end alignment.
4 Tell me some of the equipment you have in your shop
5 that you use by whoever is working as a mechanic
6 there. You may use a lift, a floor jack, brake
7 blades, reference books, cards. You may ever pick up
8 the phone and call the dealership and ask them
9 questions."

10 So he supplied the equipment at
11 the shop. He supplied equipment on the job where they
12 were working. This is a guy - this guy, Hine, worked
13 regularly 40 hours a week. He had worked for him for
14 several years. When the people came in they paid
15 Richard Wise for the work that was done. If Richard
16 Hine could be considered an independent contractor
17 word shouldn't get out because every repair shop will
18 just tell their employees, their auto mechanics, look,
19 we're going to call you, Richard Hine, an independent
20 contractor, and you know, we won't have four or more
21 employees and we will avoid this expensive comp
22 coverage.

23 We would say that the Commissioner just missed it
24 on the - really, I thought the other probably had more
25 problems with him. I thought he was my ace in the

1 hole, my one employee I absolutely had.

2 COMMISSIONER HUFFSTETLER: Russ Hine is his name?

3 MR. JOHNSON: Russ Hine.

4 COMMISSIONER LYNDON: Is it Hines or Hine,

5 H-I-N-E?

6 MR. JOHNSON: Hine, I'm sorry. I've been saying
7 Hines. And so we would ask that you find he is an
8 employee, find there were four or more and simply
9 remand it back. I won't try to show you the scarring
10 and all that because it's not really a place to do it.

11 COMMISSIONER HUFFSTETLER: Thank you. That
12 concludes the hearing.

13 (The hearing concluded at 2:05 PM.)

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

STEVEN BRAD WISE,
CLAIMANT/EMPLOYEE,

VS.

RICHARD WISE D/B/A WISE SERVICES)
DEFENDANT/EMPLOYER,

AND

UNKNOWN,
CARRIER.

COPY

TRANSCRIPT
OF
TESTIMONY
W.C.C. FILE NUMBER: 0029119

A HEARING WAS HELD IN ST. MATTHEWS, SOUTH CAROLINA BEFORE
COMMISSIONER LISA D. CHAVIS ON MAY 2, 2002.

APPEARANCES

ON BEHALF OF THE CLAIMANT/EMPLOYEE:

POPE JOHNSON, III, ESQUIRE
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POST OFFICE DRAWER 11209
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ON BEHALF OF THE DEFENDANT/EMPLOYER:

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
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PROCEEDINGS

1
2 COMMISSIONER CHAVIS: TODAY'S DATE IS MAY THE
3 2ND OF 2002. THIS IS WORKERS' COMPENSATION CASE
4 NUMBER 0029119. THE CLAIMANT IS MR. STEVEN B.
5 WISE BEING REPRESENTED BY MR. POPE JOHNSON. THE
6 EMPLOYER IS RICHARD WISE DOING BUSINESS AS WISE
7 SERVICES BEING REPRESENTED BY MR. JOHN FELDER.
8 MR. BROOKS SHEALY IS ALSO PRESENT AND
9 REPRESENTING THE UEF. THE DATE OF ACCIDENT IS
10 10/30 OF 2000. THIS IS A DENIED CLAIM. THE
11 AVERAGE WEEKLY WAGE AND COMPENSATION RATE ARE
12 IN DISPUTE. THE CLAIMANT SEEKS A DETERMINATION
13 OF COMPENSABILITY. A DETERMINATION THAT THE
14 EMPLOYER WAS SUBJECT TO THE ACT AND THAT HE WAS
15 AN EMPLOYEE OF THE DEFENDANT. THE CLAIMANT
16 FURTHER SEEKS FURTHER MEDICAL TREATMENT. THE
17 CLAIMANT CONTENDS THE AVERAGE WEEKLY IS \$100.00
18 PER DAY FOR A FIVE DAY PERIOD, PER WEEK AND
19 THAT THE EXTENT OF ANY PERMANENT PARTIAL
20 DISABILITY IS PREMATURE AT THIS TIME. IS THAT
21 CORRECT, MR. JOHNSON?

22 MR. JOHNSON: CORRECT.

23 COMMISSIONER CHAVIS: THE DEFENDANT RICHARD WISE
24 ADMIT THE INJURY, HOWEVER, THEY CLAIM THAT THE
25 CLAIMANT WAS NOT AN EMPLOYEE OF THE COMPANY BUT

1 AN INDEPENDENT CONTRACTOR. THE DEFENDANT,
2 RICHARD WISE FEELS THAT HE IS NOT SUBJECT TO
3 THE ACT AND HE CONTENDS THAT THE CLAIMANT WAS
4 PAID \$100.00 PER JOB IN CASH. IS THAT CORRECT,
5 MR. FELDER?

6 MR. FELDER: YES, MA'AM.

7 COMMISSIONER CHAVIS: IT'S THE UEF'S POSITION IS
8 BASICALLY THE SAME AS DEFENDANT, RICHARD WISE
9 BUT IN REGARD TO THE AVERAGE WEEKLY WAGE, THEY
10 CONTEND THAT IT SHOULD GO TO THE NUMBER OF DAYS
11 THAT THE CLAIMANT WORKED VERSUS THE AMOUNT OF
12 CASH PAID OUT. AND THEY FURTHER CONTEND THAT
13 SINCE THE CLAIMANT HAS NOT FILED THE STATUTORY,
14 HE SHOULD BE SUBJECT TO THE MINIMUM
15 COMPENSATION RATE OF \$75.00. IS THAT CORRECT,
16 MR. SHEALY?

17 MR. SHEALY: YES, MA'AM.

18 COMMISSIONER CHAVIS: IS THERE ANY OBJECTION TO
19 JURISDICTION OR VENUE?

20 MR. FELDER: COMMISSIONER, JUST FOR THE RECORD,
21 I THINK THAT'S WHAT WE ARE HERE TO DECIDE,
22 WHETHER THE COMMISSION HAS JURISDICTION.

23 COMMISSIONER CHAVIS: YES. NO OBJECTIONS TO
24 VENUE. WITHOUT OBJECTION, THE COMMISSION FILE
25 BECOMES A PART OF THE RECORD, WITH THE

1 EXCEPTION OF ANY SELF-SERVING DECLARATIONS AND
2 UNSTIPULATED MEDICAL REPORTS. MR. JOHNSON, YOU
3 CAN CALL YOUR FIRST WITNESS.

4 MR. JOHNSON: THANK YOU. WE WILL CALL CARLA
5 AMAKER.

6 (WHEREUPON THE WITNESS, CARLA AMAKER, WAS SWORN BY
7 COMMISSIONER LISA CHAVIS)

8 DIRECT EXAMINATION - CARLA AMAKER

9 BY MR. JOHNSON:

10 Q WOULD YOU STATE YOUR NAME AND AGE FOR THE RECORD, PLEASE
11 MA'AM.

12 A CARLA DEAN AMAKER, 24.

13 Q WHERE DO YOU RESIDE?

14 A [REDACTED] (INAUDIBLE), ORANGEBURG.

15 Q WERE YOU SUBPOENAED BY ME TO BE HERE TODAY?

16 A YES, SIR.

17 Q MS. AMAKER, DID YOU WORK FOR RICHARD WISE IN THE YEAR
18 2000?

19 A YES, SIR.

20 Q WERE YOU WORKING FOR RICHARD WISE ON THE DAY OF THE
21 ACCIDENT INVOLVING BRAD WISE?

22 A YES, SIR.

23 Q WERE YOU PRESENT WHEN THAT ACCIDENT OCCURRED?

24 A YES, SIR.

25 Q HAD YOU WORKED FOR RICHARD WISE, THE DEFENDANT IN THIS

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

1 CASE BOTH BEFORE AND AFTER THAT ACCIDENT INVOLVING BRAD
2 WISE?

3 A YES, SIR.

4 Q NOW, HOW WERE YOU NORMALLY PAID FOR THE WORK THAT YOU DID
5 FOR RICHARD WISE?

6 A WE WROTE CHECKS AND CASHED THEM AT THE LOCAL BANK.

7 Q HOW WOULD YOU GET YOUR MONEY?

8 A CASH.

9 Q DID MR. RICHARD WISE TAKE OUT NORMAL EMPLOYEE WITHHOLDINGS
10 FROM YOUR PAY?

11 A NO.

12 Q AT THE END OF THE YEAR 2000, DID YOU RECEIVE ANY W-2 FROM
13 MR. WISE?

14 A NO.

15 Q WHERE DID YOU NORMALLY WORK FOR MR. WISE?

16 A AT WISE SERVICES, THE SHOP.

17 Q WHERE IS WISE SERVICES AND WHAT IS AT THAT ADDRESS? WHAT
18 ADDRESS IS IT?

19 A [REDACTED].

20 Q ST. MATTHEWS?

21 A ST. MATTHEWS.

22 Q WHAT TYPE BUSINESS IN OPERATED FROM THERE?

23 A A TOWING SERVICE AND CAR REPAIR SHOP.

24 Q WHAT IS IT CALLED?

25 A WISE SERVICES.

1 Q WHAT DID YOU NORMALLY DO FOR WISE SERVICES?

2 A ANSWER THE TELEPHONE, GO GET PARTS, MAKE DEPOSITS, WRITE
3 UP TICKETS.

4 Q NOW, IN ADDITION TO DOING THAT WORK, DID YOU HELP RICHARD
5 WISE WITH OTHER TASKS LIKE YOU WERE DOING ON THE DAY OF
6 THE ACCIDENT?

7 A WHEN HE NEEDED ESCORTS, WE RODE OUT WITH HIM.

8 Q WHAT WERE YOU DOING IN THE DATE OF THE ACCIDENT? WHAT WAS
9 YOUR JOB AND YOUR TASK?

10 A I WAS DRIVING THE COMPANY VEHICLE.

11 Q AS AN ESCORT?

12 A AN ESCORT.

13 (WHEREUPON THE FOLLOWING DOCUMENTS WERE
14 MARKED AS CLAIMANT'S EXHIBIT #1)

15 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS CLAIMANT'S
16 EXHIBIT ONE, WHICH ARE A SERIES OF PHOTOGRAPHS, DO YOU
17 RECOGNIZE THESE PHOTOGRAPHS OR WHAT THESE PHOTOGRAPHS
18 SHOW?

19 A YES, SIR.

20 Q WHAT DO THEY SHOW?

21 A THE BUILDING THAT WE MOVED.

22 Q WHO WAS MOVING THAT BUILDING?

23 A RICHARD.

24 Q RICHARD WISE?

25 A UH-HUH. (AFFIRMATIVE RESPONSE)

1 Q NOW, DID RICHARD WISE AS A PART OF HIS NORMAL OCCUPATION
2 OR TRADE MOVE BUILDINGS FROM TIME TO TIME?

3 MR. FELDER: OBJECT TO THE QUESTION,
4 COMMISSIONER. HE'S ASKING FOR A LEGAL
5 CONCLUSION ON WHAT MR. WISE'S NORMAL TRADE
6 AND BUSINESS WAS.

7 MR. JOHNSON: WELL, LET ME REPHRASE IT.

8 MR. JOHNSON CONTINUING:

9 PRIOR TO MOVING THIS BUILDING, HAD MR. WISE TO YOUR
10 KNOWLEDGE MOVED BUILDINGS FROM TIME-TO-TIME, OTHER
11 BUILDINGS?

12 A YES, SIR.

13 Q HAD YOU WORKED AS AN ESCORT DRIVER ON THE OTHER MOVES?

14 A NO, THIS WAS THE FIRST ONE THAT I WORKED.

15 (WHEREUPON THE FOLLOWING DOCUMENTS WERE
16 MARKED AS CLAIMANT'S EXHIBIT #2).

17 Q FIRST ONE. I WANT TO SHOW YOU SOME PHOTOGRAPHS THAT HAVE
18 BEEN MARKED -- A SERIES OF PHOTOGRAPHS THAT HAVE BEEN
19 MARKED AS EXHIBIT TWO, CLAIMANT'S TWO. DO YOU RECOGNIZE
20 THOSE BUILDINGS, ANY OF THOSE BUILDINGS? LOOK AT THOSE
21 PHOTOGRAPHS.

22 A NO, SIR.

23 Q YOU DON'T. ALL RIGHT, THAT'S FINE. NOW, TELL ME, IF YOU
24 WOULD, HOW MANY PEOPLE WERE WORKING WITH MR. WISE ON THE
25 DAY OF THE ACCIDENT AND WHO THEY WERE AND WHAT THEY WERE

1 DOING IN CONNECTION WITH MOVING THIS BUILDING.

2 A RICHARD --

3 Q RICHARD WISE. GIVE ME LAST NAMES TOO.

4 A RICHARD WISE, ME, CARLA AMAKER, RUSS HINE, BRANDON
5 ROBINSON, BRAD WISE AND WE HAD ONE OTHER GUY AND I DON'T
6 KNOW HIS NAME.

7 Q WHAT WAS RICHARD DOING WHEN THE ACCIDENT OCCURRED?

8 A DRIVING THE TRUCK.

9 Q WHICH TRUCK?

10 A THE ONE THAT WAS PULLING THE BANK BUILDING.

11 Q WHAT WAS BRAD WISE DOING?

12 A STANDING ON TOP OF IT LIFTING WIRES GOING UNDER.

13 Q NOW, THAT'S ONE PERSON WHO WAS INVOLVED. WHAT WAS BRANDON
14 ROBINSON DOING?

15 A THE SAME THING.

16 Q HE WAS ON TOP OF THE BUILDING?

17 A UH-HUH. (AFFIRMATIVE RESPONSE)

18 Q IS THAT YES?

19 A YES.

20 Q WHAT WAS RUSS HINE DOING, THE THIRD PERSON?

21 A DRIVING BEHIND THE BANK BUILDING.

22 Q WHAT WAS -- YOU SAID THERE WAS ANOTHER MAN WHO WAS THERE
23 HELPING MOVE.

24 A HE WAS RIDING BESIDE ME.

25 Q AS AN ESCORT?

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

11

1 A YES.

2 Q NOW, WAS THERE ANY EQUIPMENT THAT WAS BEING USED THAT WAS
3 NECESSARY IN ORDER TO MOVE THIS BUILDING. IN OTHER WORDS,
4 TRUCKS, DOLLIES, ANYTHING OF THAT NATURE? IF YOU KNOW.

5 A I WASN'T REALLY FAMILIAR WITH, YOU KNOW, WHAT ALL THEY
6 USED BUT THEY HAD THE TRUCKS THAT YOU PULLED IT WITH, THE
7 THING, I GUESS IT'S CALLED A DOLLY THAT YOU SIT THE HOUSE
8 DOWN ON.

9 Q WHOSE DOLLIES WERE THEY?

10 A RICHARD, AS FAR AS I KNOW. I MEAN, I DON'T KNOW WHERE HE
11 GOT THE EQUIPMENT HE USED TO MOVE THE STUFF FROM.

12 Q WHOSE TRUCK WAS RICHARD DRIVING?

13 A RICHARD'S.

14 Q NOW, CAN YOU TELL ME -- WELL LET ME ASK YOU THIS, DURING
15 THE PERIOD YOU WERE WORKING FOR RICHARD, DID HE DO A
16 VARIETY OF THINGS BESIDES MOVE BUILDINGS, BESIDES HAVING
17 A SHOP AND A WRECKER SERVICE? DID HE DO OTHER THINGS IN
18 HIS WORK?

19 A YES, HE DID WHATEVER SOMEBODY STOPPED BY AND ASKED HIM,
20 THAT WOULD MAKE MONEY.

21 Q AND IF HE NEEDED PEOPLE, WOULD HE GET THE PEOPLE NECESSARY
22 TO HELP HIM DO THE JOB?

23 A YES, IF HE NEEDED SOMEBODY, HE COULD ALWAYS FOUND HELP.

24 Q NOW, LET ME ASK YOU THIS, IN CONNECTION WITH HIS WRECKER
25 SERVICE, DURING THE PERIOD THAT YOU WERE WORKING FOR HIM

1 BEFORE AND AFTER -- WELL, BEFORE THIS ACCIDENT, DID HE
2 HAVE ANYONE ELSE WHO HELPED HIM RESPOND TO WRECKER CALLS?

3 A RUSS HINE, BRANDON ROBINSON, GAIL MILLHOUSE. BRAD WISE
4 WENT OUT ON A FEW OF THEM, TROY TUCKER WHEN HE WAS AROUND.
5 I MEAN, HE DIDN'T WORK THERE BUT HE WAS ROOMED WITH
6 RICHARD AND HE WOULD GO ON THEM, ANYBODY THAT WAS AROUND
7 THAT DAY, YOU KNOW, THAT WAS WILLING TO HELP OUT, WOULD.

8 Q NOW, TO YOUR KNOWLEDGE DID RICHARD PAY OTHER PEOPLE
9 BESIDES YOU IN CASH?

10 A I COULDN'T SAY THAT I SAW RICHARD PAY, YOU KNOW, HAND THEM
11 MONEY.

12 Q LET ME ASK YOU. DID YOU EVER GO TO CASH CHECKS FOR RICHARD
13 SO THAT HE COULD PAY PEOPLE?

14 A YES.

15 Q AT THE END OF THE YEAR 2000, I THINK YOU TOLD ME THAT YOU
16 DID NOT GET A W-2 FROM RICHARD.

17 A CORRECT.

18 Q WERE YOU WORKING FOR HIM REGULARLY PRIOR TO BRAD'S
19 ACCIDENT. I MEAN, SEVERAL DAYS A WEEK, AT LEAST?

20 A YES.

21 Q WAS RUSS DOING LIKEWISE?

22 A YES.

23 Q BRANDON AND BRAD?

24 A YES.

25 Q THESE OTHERS THAT YOU MENTIONED, GALE FOR EXAMPLE, SHE

1 WORKED FROM TIME TO TIME OR HELPED OUT FROM TIME TO TIME -

2 -

3 A YES.

4 Q -- AS WELL AS TROY?

5 A YES.

6 Q AND YOU CAN'T RECALL THE NAME OF THIS FIFTH PERSON WHO WAS
7 THERE HELPING TO MOVE THE VEHICLE -- TO MOVE THE BANK
8 BUILDING?

9 A NO, THAT WAS THE FIRST DAY THAT I'D EVER SEEN HIM. WE WERE
10 JUST RIDING ALONG WITH HELPING ESCORT DOWN THE ROAD.

11 MR. JOHNSON: THANK YOU. THAT'S ALL I HAVE.
12 ANSWER ANY QUESTIONS MR. FELDER MAY HAVE
13 FOR YOU.

14 COMMISSIONER CHAVIS: MR. FELDER.

15 **CROSS EXAMINATION - CARLA AMAKER**

16 **BY MR. FELDER:**

17 Q YOU DIDN'T GET A W-2 FORM AT THE END OF 2000, DID YOU?

18 A NO, SIR.

19 Q AND NONE WAS GIVEN -- DID YOU PREPARE OR GET ONE FOR BRAD
20 WISE --

21 A NO, SIR.

22 Q -- OR ANY OF THE OTHER PEOPLE YOU NAMED?

23 A NO, SIR.

24 Q DO YOU KNOW IF ANY WITHHOLDING WAS EVER DONE FOR HIM?

25 A NO, SIR.

1 Q WERE YOU THERE PRETTY MUCH THAT FULL TIME, YOU HANDLED THE
2 BOOKS, WHATEVER BOOKS THERE WERE?

3 A I TOOK THE MONEY IN AND WROTE CHECKS OUT FOR BILLS THAT
4 WERE BEING PAID BUT I DIDN'T DO ANY OF THE TAX STUFF OR
5 ANYTHING LIKE THAT.

6 Q OKAY. SO, THE CPA WOULD PROBABLY HAVE MORE KNOWLEDGE OF
7 THAT THAN YOU WOULD?

8 A YES, AND I DON'T KNOW WHO THE CPA WAS.

9 Q YOU SAID THAT THEY WERE THERE ON THE PREMISES, WERE THEY
10 THERE ON REGULAR HOURS OR THEY JUST CAME BY -- JUST KIND
11 OF FRIENDS THAT --

12 A SOME WERE SUPPOSED TO BE THERE REGULAR HOURS, SOME JUST
13 CAME BY.

14 Q WHO WAS SUPPOSED TO BE THERE REGULAR HOURS?

15 A I MEAN, I NEVER GOT A SET SCHEDULE FOR ANYBODY TO SHOW UP,
16 COME AND LEAVE BUT I, YOU KNOW, YOU KNEW WHEN THEY HAD A
17 JOB TO DO THAT WHATEVER TIME RICHARD WAS LEAVING OUT AS TO
18 WHAT TIME THEY WERE SUPPOSED TO BE THERE.

19 Q WHEN THEY HAD A JOB TO DO WOULD BE WHEN THEY WERE NEEDED
20 TO HELP RICHARD DO A JOB, IS THAT RIGHT?

21 A YES, OR WHEN WE HAD STUFF GOING ON AROUND THE SHOP.

22 Q RIGHT.

23 A SOMETIME THEY MET AT THE SHOP AND SOMETIMES THEY MET OTHER
24 PLACES.

25 Q AND IF THERE WAS NOTHING GOING ON, THEY WEREN'T NEEDED.

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

15

1 A THEN RICHARD AND THEM USUALLY WENT AND DID SOMETHING ELSE.
2 THEY DIDN'T STAY AROUND THE SHOP.

3 Q DID ANY OF THE OTHERS HAVE, LIKE BRAD HAD HIS OWN
4 BUSINESS?

5 MR. JOHNSON: OBJECT TO THE FORM.

6 MR. FELDER CONTINUING:

7 DO YOU KNOW IF MR. BRAD WISE HAD HIS OWN BUSINESS?

8 A HE HAD BUSINESS CARDS MADE UP, AS FAR AS HIM HAVING HIS
9 OWN BUSINESS, I DON'T KNOW THAT. I KNOW THAT HIM AND
10 RICHARD DID JOBS TOGETHER ALL THE TIME.

11 MR. FELDER: THANK YOU. NO FURTHER
12 QUESTIONS.

13 **CROSS EXAMINATION - CARLA AMAKER**

14 **BY MR. SHEALY:**

15 Q MS. AMAKER, YOU SAID THAT YOUR NORMAL JOB WAS TO ANSWER
16 THE PHONE, GET PARTS, GO CASH CHECKS. WHAT ELSE DID YOU
17 NORMALLY DO?

18 A RADIO RICHARD WHEN PEOPLE CALLED THE SHOP WANTING TO KNOW
19 DIFFERENT THINGS. WRITING OUT CUSTOMER'S BILLS, WRITING
20 BILLS FOR PARTS AND LIGHT BILL THAT PEOPLE USED AND STUFF
21 LIKE THAT, I WROTE THEM OUT. WHATEVER RICHARD ASKED ME TO
22 DO, I DID.

23 Q THE SHOP, WHAT GOES ON THERE?

24 A A WRECKER SERVICE AND CAR REPAIRS.

25 Q OKAY. THIS WAS THE FIRST BUILDING YOU HAD BEEN INVOLVED IN

1 --

2 A MOVING, YES.

3 Q DO YOU KNOW IF OTHER BUILDINGS WERE MOVED BEFORE THIS
4 MOVE?

5 A YES.

6 Q HOW MANY, DO YOU KNOW?

7 A I'M NOT SURE.

8 Q BRANDON ROBINSON, WAS HE AT THE SHOP ON A REGULAR BASIS?

9 A YES, SIR.

10 Q HOW MANY DAYS A WEEK WOULD HE BE THERE?

11 A FIVE.

12 Q WHAT DID HE DO?

13 A WORKED ON CARS, PLANNING THE WRECKER, WHATEVER RICHARD
14 NEEDED HIM TO DO.

15 Q DO YOU KNOW WHAT THE ARRANGEMENT BETWEEN BRANDON ROBINSON
16 AND RICHARD WISE WAS AS FAR AS HOW MR. ROBINSON GOT PAID?

17 A I WROTE DOWN HIS HOURS THAT HE WORKED AND WE PAID HIM AN
18 HOURLY RATE TIMES HIS HOURS WE WORKED.

19 Q RUSS HINE, DO YOU KNOW ANYTHING ABOUT HIM?

20 A RUSS, WE PAID HIM \$500.00 IN A CHECK AND \$200.00 IN CASH
21 WHETHER HE WAS THERE OR NOT.

22 Q FOR WHAT PERIOD OF TIME?

23 A FOR ANY MONTH.

24 Q HE GOT IT EVERY WEEK, WHETHER HE WAS THERE OR NOT?

25 A YES.

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

17

1 Q IF HE DIDN'T WORK, HE STILL GOT THE MONEY?

2 A YES.

3 Q WERE HE AND RICHARD WISE PARTNERS?

4 A NO, HE WORKED FOR HIM, BUT RUSS PAID HIS OWN TAXES THAT
5 I'M AWARE OF.

6 Q BUT RUSS GOT PAID WHETHER HE WORKED OR NOT?

7 A YES.

8 Q DO YOU KNOW A MAN BY THE NAME OF EARL SMITH?

9 A NO, SIR.

10 Q DO YOU KNOW WHAT EACH OF THESE -- THE PEOPLE THAT YOU
11 INDICATED WERE WORKING ON THE DAY THAT THE BUILDING WAS
12 BEING MOVED. WERE YOU PAID SOMETHING SPECIAL ON THAT
13 BUILDING MOVE?

14 A NO. I MEAN, I WORKED MONDAY THROUGH FRIDAY AND WHATEVER
15 RICHARD NEEDED ME TO DO, THAT'S WHAT I GOT PAID.

16 Q DO YOU KNOW WHAT BRANDON ROBINSON WAS PAID?

17 A PER HIS HOURLY RATE.

18 Q AND RUSS HINE? HE JUST GOT THE MONEY HE NORMALLY GOT?

19 A YES.

20 Q AND THE OTHER PERSON, YOU DON'T KNOW THE NAME, YOU DON'T
21 KNOW WHAT ARRANGEMENT HE HAD?

22 A HUH-UH. (NEGATIVE RESPONSE)

23 Q THAT WAS A NO?

24 A NO.

25 Q THANK YOU.

MR. SHEALY: THAT'S ALL I HAVE.

(WHEREUPON THE WITNESS, RUSS HINE, WAS SWORN BY
COMMISSIONER CHAVIS).

DIRECT EXAMINATION - RUSS HINE

BY MR. JOHNSON:

Q WOULD YOU STATE YOUR NAME AND ADDRESS AND AGE FOR THE
RECORD PLEASE.

A RUSSELL HINE, [REDACTED] (INAUDIBLE) ROAD, ORANGEBURG, SOUTH
CAROLINA.

Q YOU'RE HOW OLD?

A 40.

Q WERE YOU SUBPOENAED BY ME TO BE HERE?

A YES, SIR.

Q WERE YOU WORKING FOR RICHARD WISE AT THE TIME BRAD WISE
WAS INJURED IN A BUILDING MOVE THAT OCCURRED ON OCTO -- AN
ACCIDENT ON OCTOBER THE 30TH OF 2000?

A THAT'S WHERE I'M NOT REAL SURE ABOUT.

Q OKAY.

A I'VE WORKED ON RICHARD'S PREMISES FOR YEARS BUT I ALWAYS
CONSIDERED MYSELF SELF-EMPLOYED. SO, I DON'T KNOW HOW YOU
WOULD CLASSIFY THAT.

Q ALL RIGHT. LET'S TALK ABOUT -- WELL, FIRST OF ALL, WERE
YOU PRESENT ON THE DAY OF THE ACCIDENT?

A YES.

Q WERE YOU THERE WHEN THE ACCIDENT OCCURRED?

1 A YES, SIR.

2 Q PRIOR TO THE ACCIDENT HAD YOU WORKED AS A MECHANIC AT
3 RICHARD WISE'S SHOP?

4 A YES, SIR.

5 Q SUBSEQUENT TO THAT EXTENT DID YOU WORK AS A MECHANIC IN
6 HIS OFFICE --

7 A YES, SIR.

8 Q -- IN HIS SHOP. WHERE WAS RICHARD WISE'S SHOP?

9 A THE SHOP?

10 Q UH-HUH. (AFFIRMATIVE RESPONSE)

11 A [REDACTED]

12 Q HOW WERE YOU PAID BY RICHARD WISE FOR THE WORK THAT YOU
13 DID?

14 A CASH AND WITH CHECKS.

15 Q WHAT WAS YOUR NORMAL CASH AMOUNT YOU GOT?

16 A SOMETIMES IT WOULD DEPEND ON HOW MUCH WORK WAS DONE AROUND
17 THE SHOP. ON AVERAGE, I DON'T KNOW, MAYBE \$400.00, \$500.00
18 A WEEK.

19 Q HOW MUCH WOULD YOU NORMALLY GET BY CHECK?

20 A AGAIN, IT WOULD DEPEND ON HOW MUCH WORK WAS DONE IN THE
21 SHOP, JUST A HUNDRED DOLLARS A WEEK.

22 Q DID RICHARD WISE TAKE OUT EMPLOYEE WITHHOLDING FROM YOUR
23 PAY?

24 A NO, SIR.

25 Q WHO PAID YOUR TAXES?

1 A I DID PERSONALLY.

2 Q NOW, WHERE DID YOU WORK PRIMARILY FOR THE WORK YOU DID FOR
3 RICHARD WISE?

4 A RIGHT THERE IN THE SHOP.

5 Q OVER WHAT PERIOD OF YEARS DID YOU WORK THERE AT THE SHOP?

6 A IT WAS ON TWO DIFFERENT OCCASIONS, AS FAR AS YEARS --

7 Q MOST RECENTLY.

8 A RECENTLY, IT WAS ABOUT TWO YEARS. IT WAS TWO YEARS AGO AND
9 TWO YEARS PRIOR, SO ROUGHLY '98 TO 2000. THAT'S AN
10 ESTIMATED GUESS.

11 Q ALL RIGHT. NOW, WHEN YOU WORKED IN THE SHOP, WHAT DID YOU
12 DO? WHAT SORT OF WORK DID YOU DO?

13 A I WAS AN AUTOMOBILE MECHANIC.

14 Q CUSTOMERS WHO BROUGHT THEIR VEHICLES TO THE SHOP FOR
15 REPAIR, WHO WOULD THEY PAY? WOULD THEY PAY YOU OR WOULD
16 THEY PAY WISE SERVICES?

17 A THEY WOULD PAY ME, THEY WOULD PAY RICHARD, THEY WOULD PAY
18 CARLA. WHOEVER WAS RIGHT THERE TAKING CARE OF THE
19 CUSTOMER.

20 Q ALL RIGHT. WHAT WOULD HAPPEN WITH THE MONEY THAT THEY --
21 IF YOU GOT PAID, WHAT WOULD YOU DO WITH THE MONEY YOU
22 RECEIVED, WOULD YOU TURN IT OVER TO RICHARD?

23 A IT WOULD GO IN THE CASH DRAWER IN THE OFFICE.

24 Q AND THAT'S RICHARD'S CASH DRAWER?

25 A THAT WOULD BE WISE SERVICES' CASH DRAWER, YES.

1 Q NOW, IF YOU NEEDED PARTS OR SUPPLIES TO DO THE WORK THAT
2 YOU WERE DOING AT THE SHOP, WHO WOULD YOU OBTAIN THOSE --
3 IN WHAT NAME WOULD YOU PURCHASE THOSE SUPPLIES?

4 A WISE-SERVICES.

5 Q NOW, IN ADDITION TO WORKING IN THE SHOP, DID YOU EVER
6 DRIVE THE WRECKER?

7 A YES, SIR.

8 Q WERE YOU PAID FOR THAT?

9 A YES, I WAS KIND OF LIKE A SALARY, JUST THAT I DIDN'T GET
10 PAID BY THE HOUR, IT WAS JUST YOU KNOW, GOOD TIMES I GOT
11 PAID, BAD TIMES WHEN WE SLACKED OFF A LITTLE BIT. IT WAS
12 ALWAYS ABOUT THE SAME MONEY EVERY WEEK.

13 Q HOW MANY HOURS A WEEK DID YOU WORK ON AN AVERAGE?

14 A 40.

15 Q IN ADDITION TO DRIVING THE WRECKER AND WORKING IN THE SHOP
16 AS A MECHANIC, DID YOU DO OTHER WORK, OTHER TASKS IF
17 RICHARD NEEDED YOU TO HELP ON OTHER TASKS?

18 A YES, OCCASIONALLY.

19 Q HAVE YOU EVER BEEN INVOLVED IN ANY MOVING OF BUILDINGS,
20 HELPING MOVE BUILDINGS?

21 A YES, SIR.

22 Q WAS THIS THE BANK BUILDING THAT YOU ALL WERE MOVING WHEN
23 BRAD WISE GOT HURT, WAS THAT THE FIRST BUILDING THAT YOU
24 HAD HELPED MOVE?

25 A NO, SIR.

1 Q ABOUT HOW LONG HAD RICHARD BEEN MOVING BUILDINGS AS PART
2 OF HIS WORK?

3 A I GUESS, SINCE I WENT BACK TO WORK WITH HIM THE LAST TIME,
4 I GUESS -- AS FAR AS I KNOW SINCE 2000.

5 Q APPROXIMATELY HOW MANY BUILDINGS DO YOU RECALL HELPING
6 MOVE?

7 A TWO OR THREE.

8 Q LET ME ASK YOU TO LOOK AT THESE PHOTOGRAPHS THAT WE'VE
9 MARKED AS CLAIMANT'S EXHIBIT NUMBER TWO. DO YOU RECOGNIZE
10 ANY OF THOSE BUILDINGS AS BEING BUILDINGS THAT RICHARD
11 WISE MOVED.

12 A I RECOGNIZE THE BUILDINGS BECAUSE I'VE BEEN THERE TO EAT
13 SINCE THEY'VE OPENED, BUT --

14 Q WELL, LET ME ASK YOU THIS. DO YOU KNOW WHETHER RICHARD
15 MOVED ANY OF THEM?

16 A I HEARD HE MOVED THEM BUT I WASN'T INVOLVED IN MOVING OF
17 THEM.

18 Q YOU WEREN'T. WELL, WE'LL ASK SOMEBODY ELSE. NOW. YOU
19 SAID THAT YOU WERE PRESENT ON THE DAY OF THE DAY OF THE
20 ACCIDENT, WHO ALL WAS THERE IN ADDITION TO RICHARD WISE
21 HELPING MOVE THIS BUILDING?

22 A RICHARD WAS THERE, I WAS THERE, BRANDON WAS THERE, BRAD
23 WAS THERE, AND THERE -- I'M PRETTY SURE THAT THERE WAS
24 SOMEONE ELSE DRIVING ANOTHER --

25 Q ESCORT?

1 A ESCORT.

2 Q WAS CARLA AMAKER THERE?

3 A YES, CARLA WAS THERE TOO.

4 Q NOW, SO YOU HAD RICHARD WHO WAS ONE PERSON AND THEN YOU
5 HAD BRAD, YOU, BRANDON, CARLA AND THEN THIS ONE OTHER
6 PERSON WHOSE NAME YOU DID NOT KNOW.

7 A I CAN'T -- I STILL CAN'T -- WE TALKED ABOUT THAT, I STILL
8 CAN'T REMEMBER WHO THAT WAS DRIVING.

9 Q HAD CARLA BEEN WORKING -- HAD ALL OF THOSE PEOPLE, AT
10 LEAST OTHER THAN THIS ONE OTHER PERSON WHOSE NAME YOU
11 CAN'T REMEMBER, BEEN WORKING FOR RICHARD PRIOR TO THE MOVE
12 OF THE BUILDING THAT DAY?

13 A YES, EXCEPT FOR THE GUY I DON'T KNOW.

14 Q THAT WAS MOVING. WERE YOU PAID FOR YOUR WORK IN HELPING
15 TO MOVE THE BUILDING? DID YOU GET PAID FOR THAT DAY'S
16 WORK?

17 A OH, YES.

18 Q NOW, LET ME ASK YOU THIS, TO MOVE A BANK BUILDING LIKE
19 THIS, DOES IT REQUIRE SPECIALIZED EQUIPMENT AND --

20 A JUST HEAVY DUTY EQUIPMENT TO PERFORM THE CAPABILITIES.

21 Q YOU HAVE TO HAVE A TRUCK FIRST OF ALL, DON'T YOU?

22 A YES.

23 Q WHOSE TRUCK WAS BEING USED TO PULL IT? WHO SUPPLIED THE
24 TRUCK?

25 A THAT WOULD HAVE BEEN RICHARD WISE'S TRUCK.

1 Q NOW, TO MOVE A BUILDING LIKE THIS DO YOU HAVE TO JACK IT
2 UP?

3 A OH, YES.

4 Q DID RICHARD HAVE JACKS?

5 A OH, YES.

6 Q WHAT SORT OF TRAILER WAS IT BEING PULLED ON?

7 A I DON'T KNOW THE RIGHT TERMINOLOGY, IT JUST -- I THINK
8 IT'S CALLED DOLLIES, THEY'RE JUST EXTRA SUPER HEAVY DUTY
9 DOLLIES THAT YOU PUT BUILDING ON JUST LIKE ANY OTHER MOVER
10 WOULD USE.

11 Q YOU PUT I-BEAMS IN BETWEEN THEM?

12 A YES.

13 Q WHO SUPPLIED THE DOLLIES AND THE I-BEAMS?

14 A WISE SERVICES.

15 Q DO YOU HAVE TO GET A PERMIT TO MOVE A BUILDING LIKE THIS?

16 A I WOULD ASSUME SO. I DON'T --

17 Q YOU DON'T KNOW?

18 A I'VE NEVER MOVED ANYTHING --

19 Q WHERE EXACTLY WERE YOU WHEN BRAD GOT HURT?

20 A I WAS BEHIND THE BUILDING IN THE HEAVY DUTY WRECKER, WITH
21 LIGHTS AND STUFF SLOWING DOWN TRAFFIC.

22 Q YOU TOLD ME ABOUT VARIOUS PEOPLE WHO WORKED WITH RICHARD.
23 DID RICHARD OPERATE A WRECKER SERVICE OUT OF HIS SHOP?

24 A YES.

25 Q DID PERSONS OTHER THAN RICHARD ANSWER CALLS OR DRIVE THE

1 WRECKER?

2 A YES.

3 Q TELL ME THE PEOPLE YOU RECALL WHO FROM TIME-TO-TIME
4 ANSWERED WRECKER CALLS? DID YOU EVER DRIVE THE WRECKER?

5 A OH, YES.

6 Q HOW ABOUT CARLA?

7 A NO.

8 Q HOW ABOUT BRANDON?

9 A YES.

10 Q DO YOU KNOW A LADY BY THE NAME OF GAIL MILLHOUSE?

11 A YES.

12 Q DID SHE ALSO ANSWER OR DRIVE THE WRECKER FROM TIME-TO-
13 TIME?

14 A YES, THAT WAS BEFORE MY TIME THERE AND VERY LITTLE BIT
15 WHEN I WAS THERE.

16 Q HOW ABOUT BRAD, TO YOUR RECOLLECTION DID BRAD WISE EVER
17 DRIVE IT?

18 A I DON'T THINK BRAD DID MUCH WITH THE WRECKER SERVICE. HE
19 MIGHT MAYBE ONE, I DON'T --

20 MR. JOHNSON: WOULD YOU ANSWER ANY
21 QUESTIONS THAT THESE OTHER LAWYERS MAY
22 HAVE.

23 CROSS EXAMINATION - RUSS HINE

24 BY MR. FELDER:

25 Q YOU SAID THAT YOU DIDN'T -- YOU FEEL LIKE YOU ARE AN

1 EMPLOYEE, YOU FELT THAT YOU WERE A SELF-EMPLOYED, IS THAT
2 CORRECT?

3 A OH, YES.

4 Q WHEN YOU MEANT THROUGH YOUR WHOLE EMPLOYMENT FOR TWO YEARS
5 THERE, IS THAT CORRECT?

6 A OH, YES, AND PRIOR TO THAT. THAT WAS MINE AND RICHARD'S
7 AGREEMENT.

8 Q THAT YOU WERE SELF-EMPLOYED?

9 A YES, SIR.

10 Q SO, YOU INDEPENDENTLY CONTRACTED WITH HIM, IS THAT
11 CORRECT?

12 A THAT'S WHAT WE EXHIBITED. YES, BECAUSE I'VE BEEN CARRYING
13 ALONG MY OWN BUSINESS CARDS AND PAYING MY TAXES AND THAT
14 KIND OF STUFF.

15 Q DO YOU KNOW WHAT KIND OF ARRANGEMENT HE HAD WITH THESE
16 OTHER PEOPLE?

17 A NO SIR, I DON'T.

18 Q YOU DON'T KNOW WHETHER THEY HAD THE SAME KIND OF
19 ARRANGEMENT OR NOT?

20 A NO, SIR. THAT'S NOT MY BUSINESS. MY BUSINESS IS MY
21 BUSINESS.

22 Q I UNDERSTAND. I'M NOT -- WHEN MR. JOHNSON USED THE TERM,
23 WORKED WITH, DID YOU DISCUSS WITH HIM WHAT THAT MEANT?
24 DID YOU DISCUSS WITH MR. JOHNSON ABOUT THE MEANING OF,
25 WORKED WITH WISE OR --

1 A WE TOUCHED ON IT BRIEFLY WHEN WE MET A FEW WEEKS AGO, BUT
2 I TOLD MR. POPE THAT ME AND RICHARD HAD ARRANGEMENT FOR
3 YEARS THAT WAS TO HANDLE MY OWN STUFF.

4 Q SO, YOU'RE NOT HERE TODAY TO TESTIFY THAT, WORKED WITH
5 WISE, MEANT THAT THEY WERE ACTUAL EMPLOYEES OF WISE, THEY
6 WERE JUST THERE ON THAT JOB WORKING, MOVING THE BUILDING.
7 IS THAT CORRECT?

8 MR. JOHNSON: OBJECT TO THE FORM AND I
9 OBJECT THAT IT CALLS FOR A LEGAL
10 CONCLUSION IN WHETHER HE'S AN EMPLOYEE OR
11 ANYBODY'S EMPLOYEE IS A DETERMINATION BY
12 THE COMMISSIONER, NOT WHAT THE WITNESS
13 SAYS.

14 COMMISSIONER CHAVIS: I UNDERSTAND. I THINK
15 THE QUESTION HAS BEEN ANSWERED, THAT HE
16 DIDN'T KNOW WHAT OTHER ARRANGEMENTS OTHER
17 PEOPLE HAD.

18 MR. FELDER: THANK YOU. I HAVE NO OTHER
19 QUESTIONS.

20 COMMISSIONER CHAVIS: MR. SHEALY.

21 CROSS EXAMINATION - RUSS HINE

22 BY MR. SHEALY:

23 Q MR. HINE, HOW MUCH DID YOU GET PAID FOR BEING ON THAT
24 BUILDING MOVING JOB?

25 A I DIDN'T GET PAID PER THAT JOB, I WAS BASICALLY ON SALARY

1 WHETHER I WAS JUST ON THE PREMISES OR ANYTHING I NEED TO
2 DO, I GOT PAID THE SAME.

3 Q SO, IF YOU HAD NOT BEEN OUT THERE ON THE MOVING JOB, YOU
4 WOULD HAVE BEEN -- GOT THE SAME AMOUNT OF MONEY AS GOING
5 OUT THERE?

6 A YES, SIR.

7 MR. SHEALY: THAT'S ALL I HAVE.

8 MR. JOHNSON: THANK YOU.

9 (WHEREUPON THE WITNESS, BRANDON ROBINSON, WAS SWORN
10 BY COMMISSIONER CHAVIS).

11 DIRECT EXAMINATION - BRANDON ROBINSON

12 BY MR. JOHNSON:

13 Q MR. ROBIN -- YOU'RE BRANDON ROBINSON?

14 A YES, SIR.

15 Q WOULD YOU TELL THE COMMISSIONER YOUR AGE AND YOUR ADDRESS,
16 WHERE YOU LIVE?

17 A ORANGEBURG, SOUTH CAROLINA.

18 Q HOW OLD ARE YOU?

19 A 17.

20 Q IN THE YEAR 2000 WHEN BRAD WISE WAS HURT, WERE YOU PRESENT
21 WORKING THAT DAY?

22 A YES, SIR.

23 Q WHO WERE YOU WORKING FOR?

24 A RICHARD.

25 Q NOW, HAD YOU WORKED FOR RICHARD WISE PRIOR TO THE DATE OF

1 THAT ACCIDENT WHICH WAS OCTOBER THE 30TH, 2000?

2 A YES, SIR.

3 Q HOW LONG HAD YOU WORKED FOR RICHARD WISE?

4 A I BELIEVE I STARTED THAT SUMMER.

5 Q HOW OFTEN DID YOU WORK FOR HIM?

6 A EVERYDAY DURING THE SUMMER AND WHEN I GOT OUT OF SCHOOL,
7 WHEN I WAS GOING TO SCHOOL.

8 Q DO YOU KNOW WHETHER YOU WERE IN SCHOOL AT THE TIME OF THE
9 ACCIDENT OR OUT OF SCHOOL?

10 A I AIN'T SURE ABOUT THAT.

11 Q HOW WERE YOU PAID FOR YOUR WORK?

12 A IN CASH.

13 Q DID YOU GET A W-2 FROM RICHARD?

14 A NO, SIR.

15 Q DID YOU EVER GET ANY KIND OF TAX FORM FROM RICHARD
16 REFLECTING THE AMOUNT THAT YOU WERE PAID?

17 A NO, SIR.

18 Q WHAT WAS YOUR JOB -- WHAT TYPE WORK DID YOU DO FOR RICHARD
19 WISE?

20 A ALL KINDS OF STUFF, WORKING WITH CARS, MOVE HOUSES --

21 Q SLOW DOWN, NOW. MOVE -- AND SPEAK UP A LITTLE LOUDER,
22 WHAT WOULD YOU DO? YOU'D WORK ON CARS --

23 A WORK ON CARS, MOVE HOUSES AND STUFF LIKE THAT, AND MOVE
24 BUILDINGS.

25 Q DID YOU MOVE A NUMBER OR HELP MOVE A NUMBER OF BUILDINGS

1 OF HOUSES THAT RICHARD MOVED DURING THE TIME THAT YOU
2 WORKED THERE?

3 A YES, SIR, A COUPLE.

4 Q I WANT TO SHOW YOU WHAT WE'VE MARKED AS CLAIMANT'S EXHIBIT
5 TWO. DO YOU RECOGNIZE THESE PHOTOGRAPHS AS DEPICTING OR
6 SHOWING ANY BUILDINGS THAT RICHARD MAY HAVE -- RICHARD
7 WISE MAY HAVE MOVED?

8 A NONE OF THEM.

9 Q NONE OF THEM. DO YOU RECOGNIZE THESE PHOTOGRAPHS THAT HAVE
10 BEEN MARKED AS EXHIBIT ONE, SHOWING THE BUILDING THAT WAS
11 BEING MOVED AT THE TIME OF THE ACCIDENT?

12 A YES, SIR.

13 Q DESCRIBE THE OTHER BUILDINGS THAT YOU HELPED RICHARD WISE
14 MOVE. CAN YOU DESCRIBE THE TYPE BUILDINGS THEY WERE?

15 A IT WAS A WHITE HOUSE ABOUT THAT SIZE RIGHT THERE.

16 Q WHEN YOU SAY, ABOUT THAT SIZE, YOU MEAN, AS SHOWN IN THAT
17 PHOTOGRAPH EXHIBIT TWO?

18 A YES, SOMETHING ABOUT THAT SIZE.

19 Q WHAT ELSE, ANYTHING ELSE?

20 A THERE WAS ANOTHER WHITE HOUSE IN THE FIELD ONE TIME THAT
21 WE MOVED.

22 Q A WHITE HOUSE IN THE FIELD YOU WERE MOVING.

23 A AND TWO IN ORANGEBURG, BRICK HOUSES.

24 Q AND YOU MOVED TWO BRICK HOUSES IN ORANGEBURG?

25 A YES, SIR.

STEVEN WISE VS. RICHARD WISE D/B/A WISE SERVICES

31

1 Q WHEN YOU MOVED THOSE OTHER HOUSES OR BUILDINGS, DID
2 RICHARD USE BASICALLY THE SAME KIND OF EQUIPMENT THAT HE
3 WAS USING ON THE DAY -- TO MOVE THIS BANK BUILDING?

4 A YES, SIR.

5 Q DID RICHARD DO -- OPERATE A WRECKER SERVICE?

6 A YES.

7 Q DID YOU EVER DRIVE THE WRECKER?

8 A YES, SIR.

9 Q WHAT WAS YOUR RATE OF PAY, DO YOU RECALL WHEN YOU WERE
10 WORKING FOR RICHARD?

11 A \$300.00 OR SOMETHING LIKE THAT.

12 Q \$300.00 AND SOMETHING A WEEK?

13 A YES, EITHER \$300.00 AROUND THAT.

14 Q NOW, THE DAY OF THE ACCIDENT WHEN BRAD GOT HURT, TELL ME
15 THE PEOPLE WHO WERE HELPING RICHARD OR WORKING FOR RICHARD
16 HELPING MOVE THIS BANK BUILDING.

17 A ME, BRAD, CARLA AND RUSS.

18 Q WAS -- DO YOU RECALL ANY OTHER MAN BEING PRESENT DRIVING
19 AN ESCORT VEHICLE?

20 A YES, BUT I DON'T KNOW HIS NAME THOUGH.

21 Q WERE YOU BEING PAID?

22 A YES, SIR.

23 Q DID YOU GET PAID FOR THAT DAY'S WORK, IN OTHER WORDS?

24 A YES. YOU'RE TALKING ABOUT ON THAT DAY?

25 Q RIGHT. WHAT WERE YOU DOING WHEN BRAD GOT HURT?

- 1 A WE WAS UP THERE MOVING LINES ON TOP OF THE BUILDING.
- 2 Q WHO IS WE?
- 3 A ME AND BRAD.
- 4 Q WHAT WAS RICHARD DOING?
- 5 A HE WAS DRIVING THE TRUCK WE WAS ON.
- 6 Q WHAT WERE CARLA AND RUSS AND THIS OTHER MAN DOING?
- 7 A ESCORTING THE BUILDING.
- 8 Q NOW, DURING THE TIME YOU WORKED FOR RICHARD, DID YOU HELP
- 9 TEAR DOWN OR CLEAN UP OR HAUL, CLEAN UP LOTS OR BUILDINGS
- 10 OR DO ANYTHING OF THAT NATURE?
- 11 A YES, SIR.
- 12 Q DURING THE TIME THAT YOU WORKED FOR RICHARD DID CARLA,
- 13 RUSS AND BRAD WORK FOR RICHARD?
- 14 A YES, SIR.
- 15 Q IF RICHARD NEEDED SOMEONE TO HELP HIM DO SOMETHING OTHER
- 16 THAN YOU, RUSS, CARLA OR BRAD, WOULD HE HIRE PEOPLE OR GET
- 17 EXTRA PEOPLE TO HELP HIM?
- 18 A YES.
- 19 Q DO YOU RECALL THAT OCCURRING FROM TIME-TO-TIME?
- 20 A YES.
- 21 Q DO YOU KNOW THE GENTLEMAN WHO WAS OUT THERE, TROY?
- 22 A YES.
- 23 Q DID TROY DO WORK OR CLEAN UP WORK FOR RICHARD FROM TIME-
- 24 TO-TIME?
- 25 A YES, SIR.

1 Q DO YOU KNOW TROY'S LAST NAME?

2 A TUCKER.

3 MR. JOHNSON: THANK YOU. WOULD YOU ANSWER
4 ANY QUESTIONS THESE LAWYERS HAVE.

5 COMMISSIONER CHAVIS: MR. FELDER.

6 CROSS EXAMINATION - BRANDON ROBINSON

7 BY MR. FELDER:

8 Q MR. ROBINSON, HOW OLD WERE YOU IN 2000?

9 A 16.

10 Q WERE YOU IN SCHOOL?

11 A YES, SIR.

12 Q WHAT GRADE WERE YOU IN?

13 A TENTH.

14 Q TENTH GRADE. WHERE DID YOU GO TO SCHOOL?

15 A EDISTO.

16 Q EDISTO IS LOCATED A PRETTY GOOD WAYS FROM HERE.

17 A DOWN IN ORANGEBURG.

18 Q WHEN WOULD YOU GET OUT OF SCHOOL IN EDISTO?

19 A ABOUT 12:00.

20 Q AT 12:00. AND YOU WOULD THEN -- WHAT WOULD YOU DO, DID YOU
21 GO TO WORK EVERYDAY OR WOULD YOU GO OVER THERE TWO OR
22 THREE TIMES A WEEK?

23 A I'D GO TO WORK EVERYDAY.

24 Q EVERYDAY. WERE YOU NEEDED EVERYDAY AT WISE SERVICES?

25 A YES, SIR.

1 Q WOULD THERE BE DAYS THAT YOU DIDN'T DO ANYTHING THERE?

2 A HUH-UH. (NEGATIVE RESPONSE)

3 MR. JOHNSON: WAS THAT A NO?

4 WITNESS CONTINUING:

5 NO.

6 Q ARE YOU PAID A SET AMOUNT?

7 A NO, SIR.

8 Q HOW WERE YOU PAID?

9 A IT WAS DIFFERENT EVERY WEEK.

10 Q IT WAS DIFFERENT EVERY WEEK?

11 A YES, SIR.

12 Q WHY WAS THAT?

13 A IT DEPENDS ON WHAT WE'D DO, IF WE MOVE A HOUSE OR NOT.

14 Q SO, YOU WERE PAID DIFFERENT EVERY WEEK. WAS IT BECAUSE YOU
15 WORKED A CERTAIN AMOUNT OF HOURS EVERY WEEK. YOU DIDN'T
16 GET PAID FOR HOURS YOU DIDN'T WORK?

17 A IF WE WAS WORKING ON CARS OR SOMETHING, IT WOULD BE LOWER
18 THAN IF WE MOVED A HOUSE.

19 Q I SEE. DID YOU GET PAID FOR HOURS WHEN YOU WERE DOING
20 NOTHING?

21 A NO, SIR. THERE WASN'T NO TIME WHEN WE WEREN'T DOING
22 NOTHING.

23 Q YOU WERE BUSY ALL THE TIME?

24 A YES, SIR.

25 Q SO, YOU WERE THERE WORKING DURING SCHOOL EVERY DAY?

1 A TRYING TO WHEN I GOT OUT AT 12:00.

2 MR. FELDER: THANK YOU.

3 COMMISSIONER CHAVIS: MR. SHEALY.

4 MR. SHEALY: NOTHING, COMMISSIONER.

5 MR. JOHNSON: MR. TROY TUCKER.

6 (WHEREUPON THE WITNESS, TROY TUCKER, WAS SWORN BY
7 COMMISSIONER CHAVIS).

8 DIRECT EXAMINATION - TROY TUCKER

9 BY MR. JOHNSON:

10 Q YOU'RE TROY TUCKER?

11 A THAT'S RIGHT.

12 Q TELL US YOUR NAME AND YOUR AGE AND YOUR OCCUPATION.

13 A TROY TUCKER, 33 YEARS OLD, INVESTIGATOR FOR THE RICHLAND
14 COUNTY SHERIFF'S OFFICE.

15 Q MR. TUCKER, IN ADDITION TO YOUR WORK AS A -- LET ME ASK
16 YOU THIS. IN ADDITION TO YOUR WORK WITH THE SHERIFF'S
17 DEPARTMENT, HAVE YOU DONE WORK FROM TIME-TO-TIME WITH
18 RICHARD WISE?

19 A WE'VE DONE SOME THINGS TOGETHER.

20 Q TELL US, IF YOU WOULD, THE WORK THAT YOU'VE DONE WITH OR
21 TOGETHER WITH RICHARD WISE.

22 A I'VE NEVER ACTUALLY WORKED FOR RICHARD.

23 Q TELL ME WHAT YOU'VE DONE WITH HIM.

24 A OKAY. TORE DOWN THE MILLER COMPANY BUILDING, RIGHT NEXT
25 DOOR HERE AND DISPOSED OF IT. THAT'S MAINLY THE BIGGEST

1 PART OF IT.

2 Q WHEN WAS THAT? WELL, LET ME ASK YOU, WAS IT BEFORE BRAD
3 GOT HURT OR AFTER BRAD GOT HURT?

4 A I THINK IT WAS DURING THE SAME TIME, IF I'M CORRECT.

5 Q DESCRIBE FOR ME WHAT THAT JOB CONSISTED OF.

6 A WELL, IT WAS AN EXISTING -- I THINK IT WAS LIKE A SIX BAY
7 GRAIN MILL, PROBABLY TWO STORIES HIGH AND A BUILDING OR
8 HALF OF IT WAS TAKEN DOWN AND THEN THE GRAIN MILL WAS TORE
9 DOWN AND EVERYTHING WAS HAULED TO THE DUMP.

10 Q WHO HAD THE CONTRACT TO DO THAT WORK?

11 A RICHARD DID.

12 Q WHO GOT PAID TO DO THAT WORK BY THE OWNER?

13 A RICHARD DID.

14 Q DID HE PAY YOU?

15 A YES, SIR.

16 Q DID ANY OTHER PERSONS HELP IN THAT JOB BESIDES YOU AND
17 RICHARD? DID RUSS HINES, CARLA AMAKER, BRAD WISE, BRANDON
18 ROBINSON DO ANY WORK IN CONNECTION WITH THAT JOB?

19 A BRAD WAS OVER THERE AT ONE POINT WITH THE BACKHOE AT ONE
20 TIME WHEN WE FIRST STARTED OR WHEN THEY FIRST STARTED. I
21 ACTUALLY DIDN'T START IT WITH THEM, I BROUGHT MY LOADER
22 OVER THERE, WHICH IS A BULLDOZER AFTER IT STARTED AND I
23 THINK JIMMY DROVE A TRACTOR-TRAILER WITH A DUMP TRAILER ON
24 IT A COUPLE OF TIMES.

25 Q JIMMY IS WHO?

1 A I'M NOT SURE WHAT JIMMY'S LAST NAME IS.

2 Q WHOSE DUMP TRUCK DID HE DRIVE OVER THERE?

3 A I HAD MY TRUCK OVER THERE AND THEN RICHARD HAD HIS DUMP
4 TRAILER.

5 Q DUMP TRAILER?

6 A RIGHT. IT'S A TRACTOR-TRAILER WHERE THE TRAILER ACTUALLY
7 DUMPS.

8 Q WHO DROVE THAT?

9 A I DROVE IT SOME, RICHARD DROVE IT SOME AND JIMMY DROVE IT
10 SOME.

11 Q NOW, LET ME ASK YOU THIS, HOW WERE YOU PAID BY RICHARD FOR
12 THE WORK THAT YOU DID?

13 A WE TRADED IT OUT.

14 Q DID YOU GET A W-2?

15 A NO, SIR.

16 Q DID YOU GET A 1099?

17 A NO, SIR.

18 Q DID YOU GET ANY RECORDS SHOWING WHAT YOU WERE COMPENSATED
19 FOR THAT WORK FROM RICHARD WISE?

20 A NO, SIR. WE JUST TRADED OUT, ME AND RICHARD HAVE BEEN
21 FRIENDS FOR A LONG TIME. WE JUST TRADED IT OUT.

22 Q DO YOU KNOW A LADY BY THE NAME OF GAIL MILLHOUSE?

23 A SURE.

24 Q TO YOUR KNOWLEDGE, DURING THIS TIME DID SHE FROM TIME-TO-
25 TIME DRIVE THE WRECKER FOR RICHARD?

1 A I DON'T KNOW ABOUT DRIVING -- YES, I MEAN, I THINK SHE
2 HAULED POOLS ONE TIME?

3 MR. JOHNSON: YOU CAN'T ASK HIM.

4 Q JUST YOUR BEST RECOLLECTION.

5 A YES, I MEAN, BUT I DON'T KNOW AS FAR AS WORKING WRECKS, I
6 DON'T THINK SHE EVER WORKED WRECKS.

7 Q BUT SHE DROVE IT FOR OTHER PURPOSES?

8 A YES, SIR.

9 Q HAULING STUFF?

10 A YES, SIR. SOMETIMES, IF I REMEMBER RIGHT GAIL WASN'T EVER
11 DEPENDABLE. I MEAN, SHE WOULD BE THERE SOMETIMES AND
12 SOMETIMES SHE WOULDN'T.

13 MR. JOHNSON: WOULD YOU ANSWER ANY
14 QUESTIONS THESE FELLOWS HAVE.

15 CROSS EXAMINATION - TROY TUCKER

16 BY MR. FELDER:

17 Q MR. TUCKER, YOU CONSIDER YOURSELF AND RICHLAND COUNTY
18 CONSIDERS YOU A FULL-TIME INVESTIGATOR, DON'T THEY?

19 A YES, SIR.

20 Q AND SO WHAT YOU DID, THIS WAS JUST ON THE SIDE?

21 A YES, SIR.

22 Q IT WAS JUST DONE LIKE YOU SAID, AS A TRADE OUT AS A
23 FRIEND?

24 A YES, SIR.

25 MR. FELDER: THANK YOU. NO OTHER QUESTIONS.

COMMISSIONER CHAVIS: MR. SHEALY.

CROSS EXAMINATION - TROY TUCKER

BY MR. SHEALY:

Q THE BULLDOZER IS YOUR BULLDOZER?

A YES, SIR.

Q DID ANYBODY ELSE DRIVE IT?

A JIMMY DROVE SOME AND I THINK RICHARD DROVE IT SOME.

Q RICHARD, DIDN'T HAVE TO TELL YOU HOW TO --

A I DON'T --

Q I'M SORRY, GO AHEAD.

A I BELIEVE BRAD DROVE IT SOME WHENEVER THEY -- ORIGINALLY, THEY CAME OVER AND THEY TOOK A BACKHOE AND TORE HALF OF THE BUILDING DOWN, THE GRAIN MILLS WERE STANDING AND I TORE THOSE DOWN MYSELF AND THEN I BROUGHT MY LOADER OVER BECAUSE HE HAD A BULLDOZER OVER THERE AT ONE TIME. I THINK HE HAD MESSED UP -- WE BROUGHT MY LOADER OVER THERE AND WITH ME WORKING AT THE SHERIFF'S OFFICE, I'M NOT ABLE -- I WORK FULL-TIME FOR THEM SO I'M NOT ABLE TO BE THERE ALL THE TIME. I KNOW IT WAS USED. I KNOW THAT RICHARD RAN IT SOME AND I THINK BRAD DID. I'M NOT -- I CAN'T SWEAR TO THAT. I KNOW THAT JIMMY DID SOME.

Q SO, YOU SUPPLIED THE EQUIPMENT?

A YES, SIR.

MR. SHEALY: THAT'S ALL I HAVE.

MR. JOHNSON: THANK YOU, TROY.

REDIRECT EXAMINATION - TROY TUCKER

BY MR. JOHNSON:

Q BY THE WAY, WERE YOU SUBPOENAED BY ME TO BE HERE?

A YES, SIR. TWICE.

(WHEREUPON THE WITNESS, SANDY GARRETT, WAS SWORN BY
COMMISSIONER CHAVIS).

DIRECT EXAMINATION - SANDY GARRETT

BY MR. JOHNSON:

Q WOULD YOU STATE YOUR NAME, PLEASE MA'AM.

A MY NAME IS CASSANDRA LEE GARRETT.

Q MS. GARRETT, WHAT RELATION ARE YOU TO BRAD WISE?

A COMMON LAW WIFE.

Q HOW LONG HAVE YOU AND HE BEEN IN A -- HOW LONG HAVE YOU
BEEN HIS COMMON LAW WIFE?

A GOING ON FOUR YEARS.

Q SO, YOU WERE HIS COMMON LAW WIFE -- WERE YOU LIVING WITH
HIM BEFORE HE GOT IN THE ELECTRICAL ACCIDENT?

A YES.

Q DO YOU RECALL BRAD GOING TO WORK FOR RICHARD WISE?

A YES, SIR.

Q DO YOU RECALL ABOUT WHEN HE WENT TO WORK FOR RICHARD WISE?

A IT WAS AROUND MAY BECAUSE WE WENT BIKE WEEK AND RICHARD
STAYED AT OUR HOUSE.

Q NOW, WAS THAT MAY OF 2000, THE SAME YEAR HE GOT HURT?

A UH-HUH. (AFFIRMATIVE RESPONSE)

1 Q IS THAT YES?

2 A YES, SIR.

3 Q HOW LONG WERE YOU ALL GONE, YOU AND BRAD GONE TO BIKE
4 WEEK.

5 A WE LEFT ON A THURSDAY NIGHT OR FRIDAY MORNING AND CAME
6 BACK SUNDAY NIGHT.

7 Q AFTER YOU GOT BACK FROM BIKE WEEK, DID BRAD CONTINUE TO
8 WORK FOR RICHARD UNTIL HE GOT HURT?

9 A YES, SIR.

10 Q DO YOU KNOW THAT OF YOUR OWN OBSERVATION?

11 A YES, SIR.

12 Q WHEN YOU WANTED TO FIND YOUR HUSBAND -- WHERE DID BRAD GO
13 IN THE MORNINGS, GENERALLY?

14 A GENERALLY, MOST TIMES HE'D GO TO THE SHOP BUT A LOT OF
15 TIMES THEY WOULD LEAVE FROM OUR HOUSE AND GO TO THE JOB
16 SHOP -- TO WHERE EVER THEY WERE DOING ANY WORK BECAUSE
17 THEY WERE MOVING A LOT OF BUILDINGS AT THAT POINT AND
18 RICHARD WOULD BE AT OUR HOUSE IN THE MORNINGS ANYWAY.
19 RICHARD WOULD STAY THE NIGHT.

20 Q IF HE WANTED TO REACH BRAD DURING THE DAY, DID RICHARD
21 HAVE RADIO SERVICE OR ANYTHING OR PHONE SERVICE WHERE YOU
22 COULD TRACK HIM DOWN?

23 A HE HAD A RADIO AT THE SHOP BUT HE HAD A CELL PHONE THAT I
24 KIND OF RUNG OFF THE HOOK.

25 Q ID YOU GO TO VARIOUS JOB SITES WHERE THEY WOULD EITHER BE

1 MOVING A HOUSE OR WORKING FROM TIME-TO-TIME TO SEE IF THEY
2 WERE THERE?

3 A YES, SIR.

4 Q IF YOU WANTED YOUR HUSBAND DURING THE WEEK, WHERE WOULD
5 YOU GO TO LOOK FOR HIM?

6 A THE SHOP.

7 Q WAS THAT A CONTINUOUS ARRANGEMENT UP UNTIL THE TIME OF THE
8 ACCIDENT?

9 A YES, SIR.

10 Q DID BRAD WORK REGULARLY FOR RICHARD?

11 A YES, SIR.

12 Q AT THE END OF THE WEEK DID BRAD EVER COME HOME WITH CASH
13 MONEY?

14 A YES, SIR.

15 Q DID HE NORMALLY HAVE ABOUT THE SAME AMOUNT OF CASH FROM
16 EACH WEEK?

17 A NORMALLY, YES SIR.

18 Q DO YOU RECALL ABOUT HOW MUCH THAT AMOUNT WOULD HAVE BEEN?

19 A PROBABLY ABOUT -- IT WAS PROBABLY TWO, TWO FIFTY,
20 SOMETIMES \$300.00, RIGHT AROUND THAT RANGE.

21 Q WERE YOU PRESENT WHEN BRAD GOT HURT ON OCTOBER THE 30TH,
22 2000?

23 A I WASN'T THERE AT THE SITE, NO SIR.

24 Q DID YOU GO TO THE SITE?

25 A NO, SIR.

1 MR. JOHNSON: THAT'S ALL I HAVE.

2 COMMISSIONER CHAVIS: MR. FELDER

3 MR. FELDER: JUST A COUPLE OF QUESTIONS.

4 CROSS EXAMINATION - SANDY GARRETT

5 BY MR. FELDER:

6 Q DID YOU AND BRAD IN THE YEAR 2000, DID YOU ALL FILE JOINT
7 TAX RETURNS?

8 A NO, SIR.

9 Q DID YOU FILE YOURS INDIVIDUALLY?

10 A YES, SIR.

11 Q DO YOU KNOW IF HE FILED ANY?

12 A NO, SIR.

13 Q HE DIDN'T HAVE ANY W-2 OR ANYTHING.

14 A HE DIDN'T HAVE A W-2 OR ANYTHING TO FILE. DID YOU HAVE A
15 W-2?

16 A YES, SIR.

17 Q WHERE YOU WORKED AND EVERYTHING, IS THAT RIGHT?

18 A YES, SIR.

19 Q YOU HAVE A DEPENDENT? YOU HAVE A CHILD?

20 A YES, SIR.

21 Q IS IT YOUR CHILD?

22 A YES, SIR.

23 Q I UNDERSTAND. I KNOW ABOUT THAT. DO YOU CLAIM IT AS A
24 DEPENDENT ON YOUR TAX RETURN?

25 A IN 2000 I DID, NOW IN 1999 BRAD CLAIMED ONE OF MY

1 CHILDREN.

2 Q BUT ON 2000 --

3 A I CLAIMED.

4 Q BUT HE DIDN'T CLAIM ANY OF THEM?

5 A SO, YOU NEVER SAW ANY W-2 OR ANYTHING LIKE THAT --

6 A NO, SIR.

7 Q -- FROM WISE SERVICES OR RICHARD WISE?

8 A NO, SIR.

9 MR. FELDER: THANK YOU.

10 **CROSS EXAMINATION - SANDY GARRETT**

11 **BY MR. SHEALY:**

12 Q WHERE DOES BRAD WORK NOW?

13 A NOW?

14 Q YES.

15 A HE'S HELPING OUT AT ROY'S MACHINE SHOP.

16 Q ROY'S MACHINE SHOP?

17 A YES, SIR.

18 Q HOW MUCH DOES HE MAKE THERE?

19 A TO TELL YOU THE TRUTH, I THINK HE WORKS OVER THERE LIKE
20 THREE OR FOUR HOURS A DAY AND IT MIGHT BE THREE DAYS A
21 WEEK, MAYBE FOUR, IT'S NOT ALL WEEK.

22 Q IS THAT MORE OR LESS THAN HE WORKED WITH RICHARD WISE?

23 A THAT'S A LOT LESS.

24 Q DO YOU KNOW HOW MUCH HE WAS PAID -- WHAT HE WAS SUPPOSED
25 TO BE PAID WORKING FOR RICHARD WISE?

1 A NO SIR, I DON'T KNOW WHAT THE DEAL WAS. I KNOW THAT IT
2 VARIED FROM JOB-TO-JOB CONTINGENT ON WHAT THEY DID AND HOW
3 MUCH MONEY THEY'D MAKE FROM THE JOB AND I THINK IT KIND OF
4 VARIED FROM THAT.

5 Q HE WAS MAKING A HUNDRED DOLLARS A DAY AND YOU SAID HE WAS
6 BRINGING HOME \$250 TO \$300 A WEEK, THAT WOULD INDICATE
7 HE'S WORKING TWO AND HALF TO THREE DAYS A WEEK, WOULDN'T
8 IT?

9 A YES, SIR.

10 Q DOES THAT SOUND ABOUT RIGHT?

11 A YES, SIR. RICHARD ALSO WOULD HELP US OUT DOING DIFFERENT
12 THINGS, HE WOULD ONLY HAVE \$300.00 HERE AND THERE BUT IF
13 BRAD WALKED UP TO HIM AND SAID, YOU KNOW, "I NEED THIS. I
14 NEED AN EXTRA HUNDRED DOLLARS" AND RICHARD WOULD
15 SAY, "OKAY. I'LL GIVE IT TO YOU THIS WEEK." YOU KNOW, IT
16 WAS ALWAYS THE SAME AMOUNT PRETTY MUCH BUT IT WAS ALWAYS
17 I OWE YOU THIS, I OWE YOU THIS.

18 Q RICHARD WOULD LOAN HIM MONEY, IS THAT WHAT YOU'RE SAYING?

19 A KIND OF OWE HIM THE OTHER MONEY BUT HE WOULD ONLY GIVE HIM
20 A CERTAIN AMOUNT.

21 Q WHO OWED WHO?

22 A RICHARD OWED BRAD.

23 Q OKAY. HOW LONG HAS BRAD BEEN WORKING AT ROY'S MACHINE
24 SHOP?

25 A PROBABLY A MONTH, MONTH AND HALF, TWO MONTHS. I'M NOT

1 EXACTLY SURE.

2 MR. SHEALY: THAT'S ALL I HAVE. THANK YOU,
3 COMMISSIONER.

4 MR. JOHNSON: THANK YOU. WE CALL THE
5 CLAIMANT, BRAD WISE. COMMISSIONER, WE'VE
6 TALKED A LITTLE BIT ABOUT THE ACCIDENT AND
7 EVERYBODY SAYS THAT IT WAS A D M I T T E D
8 ACCIDENT, DO YOU NEED ANY TESTIMONY ABOUT
9 THAT?

10 MR. FELDER: WE DON'T, YOUR HONOR.

11 MR. SHEALY: NO, MA'AM. WE'RE NOT DISPUTING
12 THE ACCIDENT.

13 MR. JOHNSON: ALL RIGHT.

14 (WHEREUPON THE WITNESS, BRAD WISE, WAS SWORN BY
15 COMMISSIONER CHAVIS).

16 **DIRECT EXAMINATION - BRAD WISE**

17 **BY MR. JOHNSON:**

18 Q ARE YOU BRAD WISE?

19 A YES, SIR.

20 Q HOW OLD ARE YOU?

21 A 25.

22 Q WHAT'S YOUR EDUCATION?

23 A GED.

24 Q HOW FAR DID YOU GO IN SCHOOL?

25 A TO THE 11TH GRADE.

1 Q WHERE ARE YOU CURRENTLY RESIDING?

2 A [REDACTED].

3 Q DID YOU WORK FOR RICHARD WISE FROM SOMETIME IN MAY OF 2000
4 UNTIL YOU WERE INJURED IN OCTOBER OF 2000?

5 A YES, SIR.

6 Q DURING THAT PERIOD OF TIME HOW MANY DAYS A WEEK DID YOU
7 AVERAGE WORKING?

8 A FIVE DAYS A WEEK.

9 Q HOW MUCH WERE YOU TO BE PAID BY RICHARD PER DAY?

10 A USUALLY ABOUT A HUNDRED DOLLARS A DAY?

11 Q DID YOU NORMALLY GET PAID FOR THE ENTIRE WEEK AT THE END
12 OF THE WEEK OR DID YOU -- HOW WAS THE PAY HANDLED?

13 A HE WOULD PAY ME EVERY SO MANY DAYS HE WOULD GIVE ME SOME
14 MONEY.

15 Q WERE THERE PERIODS WHEN HE WOULD OWE YOU?

16 A YES.

17 Q NOW, DURING THE TIME YOU WORKED FOR HIM DESCRIBE FOR THE
18 COMMISSIONER THE TYPE -- FIRST OF ALL, WHAT SORT OF HOURS
19 DID YOU WORK? WHAT TIME DID YOU GO TO WORK, WHAT TIME DID
20 YOU NORMALLY GET OFF?

21 A WHEN HE NEEDED SOMETHING DONE, HE USUALLY NEEDED IT TO BE
22 DONE IN A HURRY AND WE WORKED FROM DAYLIGHT TO DARK, EARLY
23 IN THE MORNING UNTIL LATE IN THE EVENING.

24 Q WHERE WOULD YOU NORMALLY REPORT TO WORK?

25 A AT RICHARD'S SHOP.

1 Q NOW, WHAT TYPE WORK DID YOU DO FOR RICHARD DURING THIS
2 PERIOD OF FOUR OR FIVE MONTHS BEFORE YOU GOT HURT?

3 A A LITTLE BIT OF EVERYTHING.

4 Q WHAT IS A LITTLE BIT OF EVERYTHING.

5 A MECHANIC WORK, HELP MOVE BUILDINGS.

6 Q DID YOU DRIVE THE WRECKER?

7 A YES, SIR.

8 Q DID YOU HELP ON CLEAN-UP JOBS? TEAR DOWN BUILDINGS, THAT
9 SORT OF THING?

10 A THIS ONE OVER HERE, YES SIR.

11 Q WHICH ONE OVER HERE?

12 A RIGHT ACROSS THE ROAD.

13 Q WHAT DID YOU DO ON THAT JOB?

14 A HELPED THEM TO LOAD THAT STUFF ON THE TRUCK.

15 Q WHAT TYPE MECHANIC WORK DID YOU DO?

16 A ALL KIND OF MECHANIC WORK.

17 Q SUCH AS? DID YOU CHANGE THE OIL?

18 A CHANGE THE OIL, CHANGE BRAKES, PUT SOME CLUTCH IN TRUCK.

19 Q DID YOU DO THAT AT WISE SERVICES' SHOP?

20 A YES, SIR.

21 Q NOW, I WANT TO SHOW YOU THESE PHOTOGRAPHS MARKED AS
22 EXHIBIT TWO. DO YOU RECOGNIZE ANY OF THE BUILDINGS IN
23 THOSE PHOTOGRAPHS AS BUILDINGS THAT RICHARD WISE MOVED
24 PRIOR TO YOUR ACCIDENT, THAT YOU HELPED HIM MOVE?

25 A YES, SIR.

1 Q WHERE ARE YOU CURRENTLY RESIDING?

2 A [REDACTED].

3 Q DID YOU WORK FOR RICHARD WISE FROM SOMETIME IN MAY OF 2000
4 UNTIL YOU WERE INJURED IN OCTOBER OF 2000?

5 A YES, SIR.

6 Q DURING THAT PERIOD OF TIME HOW MANY DAYS A WEEK DID YOU
7 AVERAGE WORKING?

8 A FIVE DAYS A WEEK.

9 Q HOW MUCH WERE YOU TO BE PAID BY RICHARD PER DAY?

10 A USUALLY ABOUT A HUNDRED DOLLARS A DAY?

11 Q DID YOU NORMALLY GET PAID FOR THE ENTIRE WEEK AT THE END
12 OF THE WEEK OR DID YOU -- HOW WAS THE PAY HANDLED?

13 A HE WOULD PAY ME EVERY SO MANY DAYS HE WOULD GIVE ME SOME
14 MONEY.

15 Q WERE THERE PERIODS WHEN HE WOULD OWE YOU?

16 A YES.

17 Q NOW, DURING THE TIME YOU WORKED FOR HIM DESCRIBE FOR THE
18 COMMISSIONER THE TYPE -- FIRST OF ALL, WHAT SORT OF HOURS
19 DID YOU WORK? WHAT TIME DID YOU GO TO WORK, WHAT TIME DID
20 YOU NORMALLY GET OFF?

21 A WHEN HE NEEDED SOMETHING DONE, HE USUALLY NEEDED IT TO BE
22 DONE IN A HURRY AND WE WORKED FROM DAYLIGHT TO DARK, EARLY
23 IN THE MORNING UNTIL LATE IN THE EVENING.

24 Q WHERE WOULD YOU NORMALLY REPORT TO WORK?

25 A AT RICHARD'S SHOP.

1 Q NOW, WHAT TYPE WORK DID YOU DO FOR RICHARD DURING THIS
2 PERIOD OF FOUR OR FIVE MONTHS BEFORE YOU GOT HURT?

3 A A LITTLE BIT OF EVERYTHING.

4 Q WHAT IS A LITTLE BIT OF EVERYTHING.

5 A MECHANIC WORK, HELP MOVE BUILDINGS.

6 Q DID YOU DRIVE THE WRECKER?

7 A YES, SIR.

8 Q DID YOU HELP ON CLEAN-UP JOBS? TEAR DOWN BUILDINGS, THAT
9 SORT OF THING?

10 A THIS ONE OVER HERE, YES SIR.

11 Q WHICH ONE OVER HERE?

12 A RIGHT ACROSS THE ROAD.

13 Q WHAT DID YOU DO ON THAT JOB?

14 A HELPED THEM TO LOAD THAT STUFF ON THE TRUCK.

15 Q WHAT TYPE MECHANIC WORK DID YOU DO?

16 A ALL KIND OF MECHANIC WORK.

17 Q SUCH AS? DID YOU CHANGE THE OIL?

18 A CHANGE THE OIL, CHANGE BRAKES, PUT SOME CLUTCH IN TRUCK.

19 Q DID YOU DO THAT AT WISE SERVICES' SHOP?

20 A YES, SIR.

21 Q NOW, I WANT TO SHOW YOU THESE PHOTOGRAPHS MARKED AS
22 EXHIBIT TWO. DO YOU RECOGNIZE ANY OF THE BUILDINGS IN
23 THOSE PHOTOGRAPHS AS BUILDINGS THAT RICHARD WISE MOVED
24 PRIOR TO YOUR ACCIDENT, THAT YOU HELPED HIM MOVE?

25 A YES, SIR.

1 Q WHICH ONES, FOR EXAMPLE. CAN YOU SHOW THE COMMISSIONER AND
2 TELL HER WHERE THOSE BUILDINGS WERE MOVED TO AND FROM.

3 A WE MOVED THAT BUILDING FROM -- THIS BUILDING FROM IN
4 BETWEEN HERE AND SANTEE TO SANTEE.

5 Q THAT'S THE ONE THAT'S GOT A THING THAT SAYS, SOCIAL HOUSE
6 ON IT. IS THAT CORRECT?

7 A YES, SIR.

8 Q NOW, YOU HEARD TESTIMONY THAT THERE WERE SOME BRICK
9 BUILDINGS MOVED. DID YOU HELP MOVE ANY BRICK BUILDINGS IN
10 ORANGEBURG?

11 A NO, SIR.

12 Q WHAT OTHER BUILDINGS DID YOU HELP MOVE?

13 A I HELPED JACK THIS BUILDING UP AND PUT BEAMS UNDER IT AND
14 ALMOST TO SWANSEA MOVED IT -- A LITTLE FARTHER --

15 Q IS THAT THE ONE THAT IS SHOWN HERE IN SOME TREES?

16 A YES, SIR.

17 Q AS PART OF EXHIBIT TWO. DID YOU HELP MOVE THE BANK
18 BUILDING THAT'S SHOWN IN THE PHOTOGRAPHS OF EXHIBIT ONE?

19 A YES, SIR.

20 Q WHEN YOU MOVED THE BUILDING, WHEN YOU WORKED FOR RICHARD
21 MOVING A BUILDING, DID YOU GET PAID FOR IT?

22 A IT'S NORMAL LIKE EVERYDAY.

23 Q OKAY. YOU GOT YOUR REGULAR PAY?

24 A YES, SIR.

25 Q DID IT REQUIRE SPECIALIZED EQUIPMENT TO MOVE THESE

1 BUILDINGS?

2 A YES, SIR.

3 Q WHAT WOULD YOU HAVE TO DO TO GET THE BUILDING UP WHERE YOU
4 COULD MOVE IT.

5 A JACK IT UP, PUT BEAMS UNDER IT, PUT DOLLIES UNDER IT.

6 Q WHOSE JACKS WERE USED?

7 A RICHARD.

8 Q WHOSE BEAMS?

9 A RICHARD.

10 Q DOLLIES?

11 A RICHARD.

12 Q TRUCK TO PULL IT?

13 A RICHARD.

14 Q ON THE DAY OF THE ACCIDENT WHO WAS WORKING FOR RICHARD
15 HELPING RICHARD MOVE THIS BANK BUILDING?

16 A CARLA AMAKER, RUSS HINE, RICHARD WISE, ME --

17 Q BRANDON?

18 A BRANDON. THEY SAID THAT THEY HAD SOMEBODY ELSE ESCORTING
19 BUT I DON'T KNOW WHO.

20 A NOW, OTHER THAN GOING TO WORK -- LET ME ASK YOU ABOUT YOUR
21 -- YOUR WIFE TESTIFIED THAT YOU'VE STARTED WORKING A
22 COUPLE OF HOURS A WEEK FOR SOME EMPLOYER, WHO IS THAT?

23 A ROY KIZER IN ORANGEBURG.

24 Q WHAT ARE YOU DOING FOR ROY KIZER?

25 A WASHING ENGINE BLOCKS AND STUFF, MECHANIC WORK, NOT A

1 LITTLE BIT OF MECHANIC WORK.

2 Q HOW MANY HOURS -- WHEN DID YOU START WORKING FOR HIM?

3 A IT'S BEEN LIKE TWO AND A HALF MONTHS AGO, THREE MONTHS
4 MAYBE.

5 Q HOW MANY HOURS A WEEK WERE YOU WORKING?

6 A PROBABLY 25 HOURS A WEEK.

7 Q WHAT'S YOUR RATE OF PAY?

8 A \$7.50, I THINK HE PAID ME AN HOUR.

9 Q OKAY. OTHER THAN THAT, HAVE YOU BEEN WORKING ANYWHERE
10 SINCE YOU GOT HURT?

11 A NO, SIR.

12 Q DO YOU WANT THE COMMISSIONER IF SHE FINDS THAT THIS CASE
13 IS COVERED BY THE -- TO AUTHORIZE FURTHER MEDICAL CARE FOR
14 YOUR ARM THAT THE DOCTOR HAS RECOMMENDED?

15 A WOULD YOU ASK ME AGAIN?

16 Q DO YOU WANT THE FURTHER TREATMENT FROM THE DOCTOR --

17 A YES, I WANT --

18 Q -- THAT THE DOCTOR HAS RECOMMENDED?

19 A -- I WOULD LIKE TO GET MY THUMB FIXED.

20 Q WOULD YOU SHOW THE COMMISSIONER AND LET HER DESCRIBE FOR
21 THE RECORD THE INJURIES THAT YOU GOT IN THIS ACCIDENT.

22 A I HIT A POWER LINE AND IT WENT IN THIS HAND AND OUT OF MY
23 FOOT.

24 Q YOU NEED TO HOLD IT OVER TO WHERE SHE CAN SEE IT, NOT ME.
25 POINT TO HER WHERE YOU'RE TALKING ABOUT.

1 A THE POWER LINE WENT IN THE PALM OF MY HAND AND CAME OUT IN
2 MY LEFT FOOT.

3 Q SLOW DOWN JUST A SECOND BRAD. THE SCAR ON YOUR HAND, THE
4 PALM OF YOUR RIGHT HAND, DID THAT OCCUR IN THE ACCIDENT?

5 A YES, SIR.

6 Q THEN YOU HAVE A SCAR THAT RUNS FROM YOUR WRIST, ACTUALLY
7 RIGHT AROUND YOUR WRIST DOWN, ALMOST CLOSE TO YOUR ELBOW -

8 -

9 A YES, SIR.

10 Q -- WAS THAT A SCAR THAT RESULTED FROM THIS ACCIDENT?

11 A YES, SIR.

12 Q AND THEN THERE'S ONE ON THE BACK SIDE OF YOUR ARM THAT
13 SORT OF JAGGED ONE WAY OR THE OTHER, IS THAT A SCAR?

14 A YES, SIR.

15 Q THEN ON THE OPPOSITE SIDE OF YOUR -- ON THE BACK SIDE OF
16 YOUR FOREARM, IS THERE ALSO A DEEP SCAR?

17 A YES, SIR.

18 Q DID THAT COME AS A RESULT OF THIS ACCIDENT?

19 A YES, SIR.

20 Q NOW, YOU SAID THAT YOU CANNOT MOVE YOUR -- SOME MEMBERS OF
21 YOUR HAND?

22 A MY THUMB.

23 Q YOUR RIGHT THUMB?

24 A YES, SIR.

25 Q NOW, DID YOU GET OTHER INJURIES, BURN INJURIES IN THIS

1 ELECTRICAL ACCIDENT?

2 A YES, SIR. I CAN'T FEEL MY HAND, THERE'S NO NERVE LEFT IN
3 IT. MY LEFT FOOT IS MISSING TWO TOES AND I CAN'T MOVE ONE
4 OF MY TOES AND THE TOP OF MY FOOT IS GONE. I HAD TO
5 REPLACE IT WITH THIS ARM AND MY HIP.

6 Q YOU'RE POINTING TO A SCAR ON YOUR -- ON THE INSIDE OF YOUR
7 LEFT FOREARM, DID THEY TAKE A GRAFT THERE?

8 A THEY TOOK THE ARTERIES AND STUFF OUT OF THIS ARM AND PUT
9 IT IN MY FOOT.

10 Q DID THEY ALSO TAKE SOMETHING FROM YOUR HIP?

11 A YES, SIR.

12 Q HOW MANY TOES ARE YOU MISSING?

13 A TWO.

14 Q WHICH ONES ARE THEY?

15 A MY PINKY TOE AND THE ONE NEXT TO IT AND THE OTHER TWO FROM
16 THAT WON'T MOVE, IT JUST CAN'T, IT'S JUST DEAD.

17 Q IN ANY EVENT, DO YOU ASK THAT YOU GET SOME FURTHER MEDICAL
18 CARE?

19 A YES, SIR.

20 Q WHEN YOU WORKED FOR RICHARD THAT FOUR OR FIVE MONTHS, DID
21 HE GIVE YOU A W-2 AT THE END OF THE YEAR?

22 A NO, SIR.

23 Q DID HE GIVE YOU A 1099?

24 A NO, SIR.

25 Q DID HE GIVE YOU ANY RECORD OF WHAT HE HAD PAID YOU SO THAT

1 YOU COULD FILE YOUR STATE AND FEDERAL INCOME TAX RETURNS?

2 A NO, SIR.

3 Q WERE YOU ALWAYS PAID IN CASH?

4 A YES, SIR.

5 Q OR ALMOST ALWAYS?

6 A YES, SIR.

7 Q DID YOU FILE YOUR TAX RETURN FOR THE YEAR 2000?

8 A NO, SIR, I WAS IN THE HOSPITAL AND I DIDN'T THINK ABOUT.

9 I HADN'T HAD TIME TO DO IT AND BY THE TIME I GOT OUT, I'D

10 LOST A GOOD BIT OF STUFF AND HADN'T GOTTEN AROUND TO IT.

11 MR. JOHNSON: THANK YOU. THAT'S ALL I HAVE.

12 ANSWER ANY QUESTIONS THESE GUYS HAVE.

13 COMMISSIONER CHAVIS: MR. FELDER.

14 CROSS EXAMINATION - BRAD WISE

15 BY MR. FELDER:

16 Q MR. WISE, WHERE YOU'RE WORKING NOW, DO YOU GET PAID WITH

17 A CHECK?

18 A NO, SIR.

19 Q YOU DON'T. HOW DO YOU GET PAID THERE?

20 A CASH.

21 Q CASH. IS HE GOING TO GIVE YOU A W-2 FOR THIS YEAR?

22 A YES, SIR.

23 Q HE IS?

24 A UH-HUH. (AFFIRMATIVE RESPONSE)

25 Q DOES HE WITHHOLD ANYTHING FROM YOUR CASH?

1 A YES, SIR.

2 Q SO, AT THE HOURLY RATE YOU'RE PAID, HOW MUCH ARE YOU PAID
3 WHERE YOU ARE NOW?

4 A I'M NOT SURE. IT EQUALS UP TO -- I JUST GUESS \$750.00, IT
5 EQUALS UP TO AROUND \$300.00, IF WERE TO BE THERE 30 HOURS,
6 IT'S ABOUT \$300.00.

7 Q IS HE GOING TO FILE WHAT'S CALLED A 1099 OR A W-2?

8 A I'M NOT SURE. HE JUST RECENTLY SAID THAT HE WANTED TO TAKE
9 OUT TAXES OR HE WOULD PAY THE TAXED OR WHATEVER, OR TAKE
10 THEM OUT OR HOWEVER THAT STUFF WORKS.

11 Q SO, WHEN YOU WENT TO WORK FOR HIM --

12 A IT WAS PART-TIME, ONE DAY A WEEK.

13 Q ONE DAY A WEEK. AS FAR AS YOU KNOW NO WITHHOLDING HAS
14 BEEN DONE ON YOUR JOB AT THIS POINT?

15 A NO, SIR.

16 Q WHILE YOU WERE WORKING WITH WISE SERVICES DID YOU HAVE
17 BUSINESS CARDS PRINTED UP?

18 A BEFORE I DID, YES SIR.

19 Q WHAT KIND OF BUSINESS WAS THAT?

20 A BACKHOE BUSINESS, PUTTING IN SEPTIC TANKS AND DIGGING UP
21 STUMPS.

22 Q DID YOU DO THAT TOO WHILE YOU WERE DOING WORK FOR WISE
23 SERVICES?

24 A RICHARD HELPED ME GET THE BACKHOE -- WHEN I QUIT TO GET MY
25 OWN EQUIPMENT, RICHARD HELPED ME GET A BACKHOE TO WORK FOR

1 MYSELF. I DONE THAT FOR ABOUT TWO MONTHS AND IT DIDN'T
2 WORK AND I WAS GOING TO SEND THE BACKHOE BACK AND RICHARD
3 WANTED TO USE IT, HE SAID, WE WOULD KEEP IT AND I COULD
4 FIND SOMETHING TO DO WITH IT. AFTER THAT, IT WAS HIS
5 PAYMENT, IT WASN'T MINE.

6 Q SO, HE MADE A PAYMENT ON YOUR BACKHOE?

7 A NO, SIR. THAT'S THE ONE HE PAID.

8 Q PARDON ME.

9 A HE RENTED IT IN HIS NAME TO HELP ME OUT FOR MY JOB TO
10 START WITH. THIS WAS LONG BEFORE MAY.

11 Q AND THEN YOUR BACKHOE BUSINESS DIDN'T WORK SO --

12 A IT DIDN'T WORK.

13 Q RIGHT. SO, THEN YOU WORKED WITH HIM WHEN YOU WERE NEEDED
14 AND YOU WERE PAID IN CASH?

15 A YES, SIR,

16 MR. FELDER: THANK YOU. I DON'T HAVE ANY
17 OTHER QUESTIONS.

18 CROSS EXAMINATION - BRAD WISE

19 BY MR. SHEALY:

20 Q MR. WISE, DID YOU WORK EVERYDAY OF EVERY WEEK FROM MAY
21 UNTIL YOU GOT HURT IN OCTOBER?

22 A I CAN'T SAY I DID BUT I WAS PRETTY CLOSE TO IT.

23 Q WAS YOUR AVERAGE FOUR DAYS A WEEK OR MORE?

24 A AT LEAST, YES.

25 Q AT LEAST FOUR DAYS A WEEK. SO, YOUR POSITIVE YOU MADE

1 \$400.00 A WEEK?

2 A YES, SIR.

3 Q AND YOU DIDN'T PAY ANY TAXES ON ANY OF THAT MONEY?

4 A NO, SIR.

5 Q YOU HAVEN'T FILED A TAX RETURN?

6 A NO, SIR.

7 Q YOU DON'T HAVE ANY WRITTEN RECORD OF WHAT YOU MADE?

8 A SOMEWHERE.

9 Q WHERE?

10 A I HAD SOME WROTE DOWN WHERE -- THAT WAS BEFORE THE -- THAT
11 WAS BEFORE MAY, I GOT WROTE DOWN, WITH THE BACKHOE.

12 Q YOU DON'T HAVE ANY WRITTEN RECORDS OF WHEN --

13 A NO, SIR.

14 Q -- YOU WERE GETTING THIS MONEY FROM RICHARD WISE?

15 A NO, SIR.

16 Q THE DATES THAT YOU WORKED FOR MR. WISE, WHO WORKED WITH
17 YOU OTHER THAN RICHARD WISE?

18 A IT DEPENDS. SOME DAYS BRANDON DID, BRANDON WOULD HELP,
19 RUSS. SOME DAYS, IF HE NEEDS SOMETHING DONE IN THE SHOP,
20 I'D HELP HIM DO IT IN THE SHOP. RUSS WAS THERE, CARLA WAS
21 THERE.

22 Q WAS RUSS AT THE SHOP EVERYDAY?

23 A YES, SIR.

24 Q WAS CARLA THERE EVERYDAY?

25 A YES, SIR.

1 Q HOW ABOUT BRANDON, WAS HE THERE EVERYDAY?

2 A YES, SIR, EXCEPT FOR WHEN HE WAS IN SCHOOL.

3 Q DO YOU KNOW HOW THEY WERE PAID?

4 A NO, SIR.

5 Q DO YOU KNOW THE NAME OF THE OTHER PERSON THAT NOBODY KNOWS
6 HIS NAME THAT WAS ON THE ESCORT JOB THE DAY YOU GOT HURT?

7 A NO, SIR. I WAS ON TOP OF THE BUILDING AND I NEVER SEEN
8 HIM.

9 Q OKAY.

10 MR. SHEALY: THANK YOU. THAT'S ALL I HAVE.

11 COMMISSIONER CHAVIS: ANY REDIRECT?

12 MR. JOHNSON: NONE. THANK YOU. WE CALL
13 RICHARD WISE.

14 (WHEREUPON THE WITNESS, RICHARD WISE, WAS SWORN BY
15 COMMISSIONER CHAVIS).

16 **DIRECT EXAMINATION - RICHARD WISE**

17 **BY MR. JOHNSON:**

18 Q MR. WISE, YOU DO BUSINESS UNDER THE NAME OF WISE SERVICES,
19 DO YOU NOT?

20 A YES, SIR.

21 Q YOU HAVE A SHOP THAT'S BEEN DESCRIBED WHERE YOU DO
22 MECHANIC WORK?

23 A AND TOWING SERVICE.

24 Q AND YOU HAVE A WRECKER?

25 A YES, SIR.

1 Q AND YOU HAVE OTHER EQUIPMENT THAT YOU USE IN VARIOUS TYPE
2 WORK, DON'T YOU?

3 A YES, SIR.

4 Q IN THE YEAR 2000 YOU HAD A TRACTOR, DOLLIES AND I-BEAMS
5 AND JACKS THAT YOU USED TO MOVE BUILDINGS, DIDN'T YOU?

6 A YES, SIR.

7 Q YOU HAVE BEEN IN THE BUSINESS AND HAVE MOVED BUILDINGS FOR
8 A NUMBER OF YEARS, HAVEN'T YOU?

9 A BEEN IN THE BUILDING -- THE STORAGE BUILDING, MOVING EVER
10 SINCE I HAD MY ROLLBACK, SINCE '93 AND GOT INTO THE LARGER
11 UPSCALE HOUSE MOVING TYPE DEAL IN THE FIRST PART OF 2000.

12 Q OKAY. IN OTHER WORDS, YOU STARTED OUT WITH A ROLLBACK
13 MOVING UTILITY TYPE BUILDINGS --

14 A YES, SIR, WRECKER SERVICE.

15 Q -- AND THEN YOU MOVED INTO MOVING BUILDINGS LIKE THIS BANK
16 BUILDING?

17 A YES, SIR.

18 Q THESE PHOTOGRAPHS THAT WE HAVE HERE THAT ARE MARKED
19 EXHIBIT TWO, DO THEY SHOW BUILDINGS THAT YOU MOVED?

20 A YES, SIR. THE SOCIAL HALL, I MOVED FROM VANCE TO SANTEE
21 WHICH WAS A DINING AREA. THAT'S THE SAME PICTURE, SIR.
22 AND SIR, THE LAST PHOTO COULD BE RIGHT BECAUSE WE MOVED A
23 BUILDING OUT OF SWANSEA THAT WAS ALREADY BEAMED FROM A
24 PREVIOUS HOUSE MOVER. I MOVED IT TO -- THAT WAS LOW FALLS
25 LANDING AND IF THAT'S THE HOUSE, IT DOESN'T LOOK LIKE THE

1 HOUSE WE MOVED BUT WE DID MOVE ONE. BOTH OF THESE HOUSES
2 HAVE BEEN REMODELED.

3 Q NOW, YOU HAD THE CONTRACT TO MOVE THE BANK BUILDING THAT
4 WAS BEING MOVED WHEN BRAD WISE GOT HURT, IS THAT CORRECT?

5 A YES, SIR.

6 Q AND IT'S SHOWN IN EXHIBIT ONE?

7 A YES, SIR.

8 Q THE SIGN HERE THAT SAYS WISE SERVICES AND GIVES A NUMBER
9 AND SAYS, WE MOVE THINGS. IS THAT A BUSINESS SIGN THAT YOU
10 PUT ON THE BUILDING?

11 A SIR, I HAD THOSE MADE UP ESPECIALLY FOR THAT BANK BUILDING
12 BECAUSE WE KNEW IT WAS GOING THROUGH TO ORANGEBURG AND I
13 WANTED THE ADVERTISEMENT.

14 Q THE OTHER SIGN, THE LARGER SIGN, THE BANNER THAT SAYS, WE
15 MOVE THINGS, IS THAT SOMETHING THAT YOU --

16 A BOTH SIDES AND THE REAR, SIR. THERE WERE THREE OF THEM.

17 Q NOW, THERE WAS TESTIMONY EARLIER ABOUT MOVING A COUPLE OF
18 BRICK HOUSES. DID YOU ALSO MOVE SOME BRICK HOUSES?

19 A I MOVED THOSE IN MARCH AND APRIL OF 2001.

20 Q SO, YOU MOVED BUILDINGS BEFORE AND AFTER BRAD GOT HURT?

21 A SIR, I MOVED THREE AFTER THIS INCIDENT SO FAR, TWO BRICK
22 ONES AND ONE OTHER ONE.

23 Q NOW, TELL ME THE SPECIALIZED EQUIPMENT THAT -- FIRST OF
24 ALL, WHAT WERE YOU BEING PAID, WHAT WAS YOUR CONTRACT FOR
25 MOVING THE BANK BUILDING? HOW MUCH WERE YOU BEING PAID TO

1 DO THAT?

2 A IT IS MY RECOLLECTION SIR THAT IT WAS PAID IN CASH AND IT
3 WAS \$6500.00 OR \$6800.00.

4 Q NOW, TO MOVE A BUILDING LIKE A BANK BUILDING, DO YOU HAVE
5 TO GET A PERMIT?

6 A YES, SIR.

7 Q DO YOU HAVE TO COORDINATE IT WITH THE UTILITY PERSONNEL?

8 A YES, SIR.

9 Q AS PART OF YOUR PERMITTING REQUIREMENT, DO YOU HAVE TO
10 HAVE A CERTAIN NUMBER OF ESCORT VEHICLES INVOLVED IN THE
11 MOVE AS WELL?

12 A YES, SIR. BY SOUTH CAROLINA LAW ANYTHING OVER 24 FEET, TWO
13 FRONT ESCORTS AND ONE REAR.

14 Q TWO --

15 A ANYTHING OVER 24 FEET TAKES TWO FRONT ESCORTS AND ONE
16 REAR.

17 Q NOW, WAS RUSS HINE AND CARLA AMAKER WORKING ON THE DAY
18 BRAD WISE GOT HURT, HELPING MOVE THIS BUILDING?

19 A SIR, I CALLED THEM FROM THE SHOP. WE HAD TROUBLE WITH DPU
20 GETTING DPU THERE ON TIME. WE PULLED OUT GETTING READY TO
21 GO. I HAD TO CALL RUSS AND CARLA IN TO GET IT BECAUSE WE
22 WEREN'T REALLY SURE IF WE WERE GOING TO MOVE IT THAT DAY.
23 DPU, BY SOUTH CAROLINA LAW IN THE STATE STATUTES UNDER
24 HOUSE MOVING, YOU CAN NOTIFY THEM IN THREE DAYS AND THEY
25 ARE SUPPOSED TO GET -- ONCE YOU NOTIFY THEM WITHIN THREE

1 DAYS, THEY ARE SUPPOSED TO BE THERE. SIR, THEY WERE
2 NOTIFIED APPROXIMATELY TWO WEEKS, TEN DAYS AND THEN ALSO
3 FIVE DAYS BEFORE THIS MOVE AND THEY WEREN'T THERE.

4 Q MY QUESTION WAS MR. WISE, DID CARLA AMAKER AND RUSS HINE
5 WORK DRIVING ESCORT VEHICLES --

6 A YES, SIR.

7 Q -- IN CONNECTION WITH THIS MOVE --

8 A YES, SIR. ESCORT VEHICLE.

9 Q -- ON THE DAY THAT BRAD WAS HURT?

10 A YES, SIR.

11 Q WERE BRANDON AND BRAD ON TOP OF THE BUILDING?

12 A YES, SIR.

13 Q DID YOU HAVE ANOTHER INDIVIDUAL WHO WAS DRIVING ANOTHER
14 ESCORT VEHICLE WHO WOULD HAVE BEEN IN FRONT?

15 A YES SIR, BY LAW I DID.

16 Q WHO WAS THAT?

17 A THAT WAS MR. EARL SMITH, JR.

18 Q NOW, DID YOU PAY RUSS HINE FOR THAT DAY'S WORK?

19 A HE GOT PAID THROUGH THE SHOP, SIR.

20 Q DID HE GET PAID THROUGH -- THAT DAY'S WORK?

21 A HE GOT PAID THAT FRIDAY, YES SIR.

22 Q DID YOU PAY CARLA AMAKER FOR THAT DAY'S WORK?

23 A YES, SIR.

24 Q DID YOU PAY BRANDON FOR THAT DAY'S WORK?

25 A THAT FRIDAY, I'M SURE ALL OF THEM GOT PAID.

1 Q DID YOU PAY MY CLIENT, BRAD FOR THAT DAY'S WORK?

2 A NO, SIR.

3 Q DID YOU INTEND TO PAY HIM AND YOU JUST DIDN'T?

4 A WELL, AT THAT TIME BRAD WAS HURT SIR AND HE WAS IN THE
5 HOSPITAL. NO SIR, HE DIDN'T GET PAID.

6 Q IS THAT THE REASON HE DIDN'T GET PAID WAS SIMPLY BECAUSE
7 HE WAS HURT?

8 A YES, SIR.

9 Q BUT HE WAS THERE WORKING ON THIS JOB YOU HAD WHEN HE GOT
10 HURT, NO QUESTION ABOUT THAT?

11 A HE WAS THERE, YES SIR.

12 Q NOW, LET ME ASK YOU THIS. DID A PERSON NAMED GAIL
13 MILLHOUSE DRIVE YOUR WRECKER FROM TIME-TO-TIME?

14 A YES, SIR.

15 Q DID BRAD DRIVE YOUR WRECKER FROM TIME-TO-TIME?

16 A BRAD HAS DRIVEN AT TIMES, SIR.

17 Q CARLA?

18 A NO, SIR.

19 Q RUSS HINE?

20 A YES, SIR.

21 Q BRANDON?

22 A BRANDON HAS AT TIMES, YES SIR.

23 Q IN ADDITION TO HAVING THOSE PEOPLE -- WELL, LET ME ASK
24 YOU, IN ADDITION TO HAVING THOSE PEOPLE WORK FOR YOU, DO
25 YOU FROM TIME-TO-TIME PICK UP HELP TO HELP YOU DO JOBS

1 THAT YOU GOT?

2 A YES, SIR. WE'VE GOT A STREET FULL OF THEM OUT THERE THAT
3 WE CAN PICK UP.

4 Q I UNDERSTAND -- WHEN YOU SAY, YOU'VE GOT A STREET FULL OF
5 THEM YOU CAN PICK UP, DESCRIBE FOR ME WHAT YOU MEAN.

6 A SIR, WE'VE GOT A LIQUOR STORE IN TOWN, DIFFERENT AREAS
7 THAT CLIENTELE HANG OUT AND IF YOU NEED -- IF I'M WORKING
8 OR DOING SOMETHING, NEED SOMETHING, TRASH PICKED UP AROUND
9 THE SHOP, I CAN GO UPTOWN AND PICK UP SOMEBODY FOR A
10 BOTTLE OF WINE OR YOU KNOW, \$20.00 A DAY TO CLEAN UP.

11 Q LET ME ASK YOU THIS. YOU'VE HAD JOBS WHERE YOU'VE CLEANED
12 UP LOTS, HAVEN'T YOU OR PROPERTIES?

13 A YES, SIR.

14 Q WHEN YOU HAD THOSE JOBS, WHEN YOU NEED SOMEONE YOU WOULD
15 PICK UP THESE PERSONS HERE ON THE MAIN STREET IN TOWN?

16 A A LOT OF PEOPLE COME AND ASK ME, "DO YOU HAVE ANYTHING FOR
17 ME TO DO."

18 Q HAVE YOU GIVEN A STATEMENT THAT YOU FROM TIME-TO-TIME, IN
19 ADDITION TO THESE OTHER PEOPLE, PICK UP BLACK LABORERS AND
20 PAY THEM BOTTLES OF WINE OR LIQUOR IN ORDER TO HAVE THEM
21 WORK FOR YOU?

22 A YES SIR, BUT IT'S AFTER THEY DO THE WORK SIR.

23 Q OH, SO YOU DON'T GIVE THEM THE WINE UNTIL THEY FINISH THE
24 JOB?

25 A YOU WOULDN'T GIVE IT TO THEM BEFORE AND IT'S NOT

1 NECESSARILY A BLACK CLIENTELE. THAT'S KIND OF RACIAL ON MY
2 END, I HAVE GOTTEN SOME WHITE CLIENTELE THAT DOES THE SAME
3 THING.

4 Q DO YOU RECALL TESTIFYING THAT YOU PICK UP BLACK HELP --

5 A NO --

6 Q -- GIVE THEM A BOTTLE OF WINE --

7 A -- YOU JUST ASKED ME THAT QUESTION SIR, I DON'T RECALL A
8 TESTIMONY. THAT'S BEEN SIX MONTHS AGO. I'VE BEEN THROUGH
9 A LOT IN THE LAST SIX MONTHS. I DON'T REMEMBER THAT. IF
10 YOU'VE GOT IT ON YOUR PAPER, IT'S THERE.

11 Q LET'S TALK ABOUT WHAT YOU HAVE BEEN INVOLVED IN --

12 MR. FELDER: YOUR HONOR, IF HE WOULD JUST
13 SHOW IT TO HIM. I MEAN, HE KNOWS THE
14 PROPER WAY. HE JUST TRYING TO PREJUDICE
15 HIM ON THE RECORD. IF IT'S A QUESTION --

16 MR. JOHNSON: I'M ACTUALLY GOING TO
17 ANOTHER AREA, I'M GOING TO COME BACK TO
18 THAT, IF YOU DON'T MIND.

19 COMMISSIONER CHAVIS: USE THE DEPOSITION.

20 MR. JOHNSON: RIGHT, I KNOW HOW TO DO THAT.

21 MR. JOHNSON CONTINUING:

22 ARE WE TALKING ABOUT WHAT YOU HAVE BEEN INVOLVED IN THE
23 PAST MONTHS, HAVE YOU BEEN CHARGED WITH OR CONVICTED OF
24 ANY CRIME --

25 MR. FELDER: YOUR HONOR, I OBJECT TO THIS.

1 MR. SHEALY: I OBJECT TO ANYTHING --

2 MR. FELDER: WHATEVER HE'S DONE SINCE THIS
3 ACCIDENT OCCURRED HAS NOTHING TO DO WITH
4 THIS CASE.

5 MR. JOHNSON: IT HAS TO DO WITH
6 CREDIBILITY.

7 COMMISSIONER CHAVIS: DO YOU HAVE A COPY OF
8 THE SLED REPORT, MR. JOHNSON?

9 MR. JOHNSON: NO, MA'AM. BUT I THINK HE'LL
10 TELL US.

11 COMMISSIONER CHAVIS: THAT'S NOT THE PROPER
12 WAY --

13 MR. FELDER: I DON'T THINK THAT'S RELEVANT.

14 COMMISSIONER CHAVIS: IN THIS CASE YOU'RE
15 TRYING TO IMPEACH INCREDIBILITY WITH A
16 CRIMINAL RECORD, YOU NEED THE CRIMINAL
17 RECORD, MR. JOHNSON AND YOU DON'T HAVE IT.

18 MR. JOHNSON: IF HE ADMITS IT, I'M NOT
19 IMPEACHING HIM.

20 MR. FELDER: YOU SHOW HIM THE RECORD.

21 COMMISSIONER CHAVIS: I'LL ASK THE QUESTION
22 THEN.

23 EXAMINATION - RICHARD WISE

24 BY COMMISSIONER CHAVIS:

25 Q MR. WISE HAVE YOU BEEN CONVICTED OF A CRIME WITHIN THE

1 LAST TEN YEARS THAT HAS CARRIED A SENTENCE OF ONE YEAR OR
2 MORE?

3 A NO.

4 COMMISSIONER CHAVIS: OKAY. THANK YOU.

5 FURTHER DIRECT EXAMINATION - RICHARD WISE

6 BY MR. JOHNSON:

7 Q HAVE YOU BEEN CHARGED WITH A CRIME --

8 MR. FELDER: YOUR HONOR --

9 MR. SHEALY: WE WOULD OBJECT TO THAT.

10 COMMISSIONER CHAVIS: MR. JOHNSON, THE
11 STANDARD IS NOT WHETHER OR NOT HE WAS
12 CHARGED, IT'S WHETHER THERE WAS A
13 CONVICTION.

14 MR. FELDER: HE KNOWS WHAT HE'S DOING.

15 MR. JOHNSON: OKAY.

16 MR. JOHNSON CONTINUING:

17 HAVE YOU PLED GUILTY TO A CRIME?

18 COMMISSIONER CHAVIS: THAT'S STILL A
19 CONVICTION.

20 A NO, SIR.

21 Q YOU HAVE NOT.

22 WITNESS: HE'S INNOCENT UNTIL PROVEN
23 GUILTY IN ANY --

24 COMMISSIONER CHAVIS: MR. WISE, JUST STAY
25 QUIET. WHILE WE'RE WRANGLING OUT --

1 MR. FELDER: YOUR HONOR, I'D ASK MR.
2 JOHNSON BE CAUTIOUS THERE. HE'S GETTING --
3 HE'S ASKED AND HE'S TRIED AND YOU'VE BEEN
4 TOLERANT AND I CAN UNDERSTAND WE'RE
5 INFORMAL BUT HE'S GOING BEYOND THE VEIL
6 AND HE KNOWS WHAT HE'S DOING.

7 COMMISSIONER CHAVIS: I KNOW WHAT HE'S
8 DOING TOO.

9 MR. FELDER: I UNDERSTAND.

10 COMMISSIONER CHAVIS: I WORKED IN THE
11 SOLICITOR'S OFFICE FOR EIGHT YEARS --

12 MR. FELDER: I KNOW THAT AND I RESPECT YOU.
13 I JUST KNOW WHAT MR. JOHNSON IS DOING,
14 HE'S THE BEST LAWYER IN TOWN.

15 COMMISSIONER CHAVIS: OKAY.

16 MR. JOHNSON CONTINUING:

17 NOW, LET ME ASK YOU THIS. IN TERMS OF THE EQUIPMENT THAT
18 WAS BEING USED TO MOVE THIS BUILDING, WHO SUPPLIED THAT?

19 A I DID SIR, RICHARD WISE.

20 Q WHO SET THE TIME THAT YOU ALL STARTED TO MOVE THE BUILDING
21 THAT DAY?

22 A THE DEPARTMENT OF TRANSPORTATION.

23 Q WITH WHO? WHO COORDINATED IT, DID YOU?

24 A THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, SIR.

25 Q WHO COORDINATED IT FROM RICHARD WISE'S STANDPOINT?

1 A I DID.

2 Q THANK YOU. MR. WISE, WHAT OTHER EQUIPMENT DO YOU HAVE
3 OTHER THAN THE DOLLIES AND THE I-BEAMS AND THE TRACTOR
4 THAT YOU WERE USING TO MOVE THIS EQUIPMENT. WHAT OTHER
5 EQUIPMENT DID YOU HAVE AT THAT TIME?

6 A WE HAD A BACKHOE, A WRECKER AND SOME JACKS.

7 Q WHAT SORT OF EQUIPMENT DID YOU HAVE AT YOUR SHOP TO DO
8 MECHANIC WORK THAT YOU PROVIDED FOR USE IN MECHANIC WORK?

9 A THAT I PROVIDED FOR USE?

10 Q UH-HUH. (AFFIRMATIVE RESPONSE)

11 A WHEN THEY COME WORK FOR ME, THEY BRING THEIR OWN TOOLS.

12 Q WHAT DID YOU HAVE, I UNDERSTAND THAT A MECHANIC MAY HAVE
13 HIS OWN HAND TOOLS, WHAT TOOLS DID YOU HAVE IN YOUR SHOP?

14 A THAT I BOUGHT, SIR?

15 Q YES.

16 A I RUN MY SHOP, SO I WOULD PROVIDE EVERYTHING.

17 Q TELL ME A FEW THINGS.

18 A I DO EVERYTHING BUT FRONT-END ALIGNMENT.

19 Q TELL ME SOME OF THE EQUIPMENT THAT YOU HAVE IN YOUR SHOP
20 THAT IS USED BY WHOEVER IS WORKING AS THE MECHANIC THERE.

21 A YOU MAY USE A LIFT, A FLOOR JACK, A BRAKE LATHE, REFERENCE
22 BOOKS, ON CARDS, YOU MAY EVEN PICK UP THE PHONE AND CALL
23 A DEALERSHIP AND ASKED A QUESTION.

24 Q OKAY. HOW MANY WRECKERS DID YOU HAVE AT THIS TIME?

25 A HOW MANY WRECKERS?

1 Q UH-HUH. (AFFIRMATIVE RESPONSE)

2 A RUNNING OR NOT RUNNING?

3 Q EITHER WAY.

4 A I HAD TWO RUNNING WRECKERS.

5 Q HOW MANY DID YOU HAVE NOT RUNNING?

6 A PROBABLY FOUR.

7 Q NOW, MR. WISE WE TALKED EARLIER ABOUT THESE PEOPLE YOU
8 PICK UP OFF THE STREET. I ASKED YOU WHETHER THOSE PEOPLE
9 -- YOU PREVIOUSLY TOLD ME THAT THOSE PEOPLE WERE USUALLY
10 BLACK.

11 A I DIDN'T SAY USUALLY, SIR. I SAID AT TIMES.

12 MR. SHEALY: COMMISSIONER, I'M GOING TO
13 OBJECT TO THIS. WHETHER THEY WERE BLACK OR
14 WHITE OR CHINESE, IT HAS NOTHING TO DO
15 WITH WHETHER THEY WERE REGULARLY EMPLOYED.

16 MR. FELDER: YOU UNDERSTAND WHAT HE'S
17 DOING.

18 COMMISSIONER CHAVIS: MR. JOHNSON, WHERE
19 ARE YOU HEADING WITH THIS?

20 MR. JOHNSON: I'M FIXING TO IMPEACH HIM.

21 COMMISSIONER CHAVIS: OKAY. AND YOU'VE
22 FOUND IT IN --

23 MR. JOHNSON: YES.

24 MR. JOHNSON CONTINUING:

25 I WANT TO HAND YOU YOUR DEPOSITION AND ASK YOU TO TURN --

1 I'LL HAND YOU THE ORIGINAL. I ASK YOU TO TURN TO PAGE 45 -
2 - TURN TO PAGE 44.

3 A (WITNESS COMPLIES).

4 Q GO DOWN TO LINE 20.

5 A (WITNESS COMPLIES).

6 Q I'LL READ THE QUESTION AND YOU FOLLOW ALONG WITH THE
7 ANSWER, DOWN HERE AT 20.

8 COMMISSIONER CHAVIS: WHAT PAGE?

9 MR. JOHNSON: PAGE 44, LINE 20.

10 MR. JOHNSON CONTINUING:

11 HAS THERE BEEN ANYONE ELSE WHO HAS WORKED FOR YOU IN THE
12 LAST TWO YEARS OTHER THAN THE PEOPLE YOU'VE TOLD ME?
13 WORKED FOR YOU OR WITH YOU OR IN PARTNERSHIP. ANSWER. WITH
14 ME. QUESTION. OR A SUBCONTRACTOR, HOWEVER YOU WANT TO
15 DESCRIBE IT. ANSWER. SIR, I GET PEOPLE OFF OF THE STREET
16 TO HELP ME AT TIMES. QUESTION. TELL ME ABOUT THE PEOPLE
17 YOU GET OFF THE STREET AND WHAT THEY HELP YOU WITH.
18 ANSWER. THEY'RE USUALLY BLACK. QUESTION. ALL RIGHT.
19 ANSWER. AND THEY'RE RIGHT UP THE STREET HERE AND YOU CAN
20 GET THEM TO DO -- USUALLY GET THEM TO DO A COUPLE OF
21 THINGS IN THE MORNING. QUESTION. SUCH AS? PICK UP BLOCKS,
22 PICK UP WHEN I'M CLEARING OFF A MOBILE HOME LOT, PICK UP
23 STUFF, LITTLE STUMPS, STICKS AND STUFF. IF YOU EVER SEND
24 THEM TO DINNER AND THEY COME BACK, THEY'RE DRUNK AND YOU
25 CAN'T USE THEM ANYMORE AND THEN THEY USUALLY WORK FOR A

1 BOTTLE OF WINE OR TEN DOLLARS OR SOMETHING. DID I READ
2 THAT ACCURATELY?

3 A YES, SIR. IT'S USUALLY TEN TO TWENTY DOLLARS. BUT I'M NOT
4 GOING WITH THE BLACK STATEMENT AND I CAN'T GO -- AS MANY
5 BLACK FRIENDS AS I HAVE, I CAN STILL SAY THAT I HAVE A LOT
6 OF WHITES THAT DO THE SAME THING.

7 Q CAN I SHOW YOU THIS. DO YOU RECOGNIZE THIS DOCUMENT?

8 A IT LOOKS LIKE ONE OF MY CHECKBOOK STATEMENTS.

9 Q DO YOU RECOGNIZE THIS. JUST LOOK THROUGH IT, IF YOU WOULD
10 AND TELL ME IF THAT REPRESENTS YOUR CHECKBOOK STATEMENT OF
11 THE PERIOD OF SOMETIME I THINK IN MAY OF 2000 THROUGH THE
12 END OF THE YEAR?

13 A YES, SIR. ALL OF THOSE ARE MY ACCOUNTS. THAT'S DEFINITELY
14 MY CHECKBOOK STATEMENT.

15 (WHEREUPON THE ABOVE MENTIONED DOCUMENT WAS MARKED AS
16 CLAIMANT'S EXHIBIT #3).

17 Q NOW, I WANT TO SHOW YOU THIS DOCUMENT AND ASK YOU IF THIS
18 IS A COPY OF THE DOCUMENT YOU BROUGHT ME, THAT YOUR
19 ACCOUNTANT PREPARES FOR YOUR BUSINESS.

20 A IT LOOKS LIKE IT, SIR. YES, SIR.

21 Q OKAY.

22 MR. JOHNSON: WE'D OFFER THESE INTO
23 EVIDENCE.

24 (WHEREUPON THE ABOVE MENTIONED DOCUMENTS WERE MARKED
25 AS CLAIMANT'S EXHIBIT #4)

1 MR. JOHNSON CONTINUING:

2 IS THIS A COPY OF YOUR 2000 TAX RETURNS?

3 A YES, SIR, IT LOOKS LIKE IT.

4 MR. JOHNSON: WE'D OFFER THIS.

5 (WHEREUPON THE ABOVE MENTIONED DOCUMENT WAS MARKED
6 AS CLAIMANT'S EXHIBIT #5).

7 Q MR. WISE, FOR THE YEAR 2000 DID YOU GIVE CARLA AMAKER A W-
8 2 OR 1099?

9 A NO, SIR.

10 Q DID YOU GIVE RUSS HINE A W-2 OR 1099?

11 A NO, SIR.

12 Q DID YOU GIVE BRAD WISE A W-2 OR 1099?

13 A NO, SIR.

14 Q BRANDON ROBINSON?

15 A NO, SIR.

16 Q TROY TUCKER?

17 A NO, SIR.

18 Q THIS GAIL MILLHOUSE?

19 A NO, SIR.

20 Q THIS PERSON, JIMMY WHO HAS BEEN DESCRIBED?

21 A NO, SIR.

22 Q ANY OF THESE PICK-UP, LABORERS WHO YOU PICK UP AND PAY
23 \$10.00 OR A BOTTLE OF WINE DID YOU --

24 A NO, SIR.

25 Q -- GIVE THEM? FOR ANY OF THESE PERSONS DID YOU MAKE ANY

1 TAX WITHHOLDINGS?

2 A NO, SIR.

3 Q FOR ANY OF THESE PERSONS DID YOU PAY THE UNEMPLOYMENT --
4 THE EMPLOYMENT COMMISSION ANY AMOUNT BECAUSE THEY WERE
5 WORKING FOR YOU?

6 A NO, SIR. WISE SERVICES IS RICHARD WISE.

7 Q DID YOU --

8 A I HAD NO --

9 Q I KNOW YOU SAY YOU DON'T, BUT THE COMMISSIONER IS GOING TO
10 DECIDE THAT. THE QUESTION IS, DID --

11 MR. FELDER: YOUR HONOR, I KNOW HE'S A
12 HOSTILE WITNESS. HE DOESN'T NEED TO ARGUE
13 WITH THE WITNESS, HE JUST ASK HIM A
14 QUESTION.

15 MR. JOHNSON: HE WAS ARGUING WITH ME.

16 COMMISSIONER CHAVIS: MR. JOHNSON, YOU KNOW
17 HOW THIS GOES, LET'S JUST GET THROUGH,
18 OKAY.

19 MR. JOHNSON CONTINUING:

20 AND YOU MADE NO SOCIAL SECURITY PAYMENTS FOR ANY OF THESE
21 PERSONS?

22 A NO, SIR.

23 Q NO EMPLOYER SOCIAL SECURITY PAYMENTS?

24 A NO, SIR.

25 Q SO, BY PAYING THEM -- DID YOU PAY MANY OF THEM CASH AS

1 THEY HAVE DESCRIBED?

2 A YES, SIR.

3 Q SO, YOU WERE ABLE TO, BY PAYING THEM CASH AND DOING WHAT
4 YOU DID, YOU AVOIDED SOCIAL SECURITY WITHHOLDINGS, PAYING
5 ANY SOCIAL SECURITY WITHHOLDINGS ON THEM, DIDN'T YOU?

6 A WELL, THEY ARE NOT MY EMPLOYEES SIR, I DON'T HAVE TO.

7 Q DID YOU AVOID PAYING SOCIAL SECURITY WITHHOLDINGS?

8 A IF I HAD AN EMPLOYEE, I WOULD PAY IT.

9 Q DID YOU AVOID PAYING SOCIAL SECURITY WITHHOLDINGS ON THESE
10 PEOPLE?

11 A I DON'T UNDERSTAND THE AVOID TYPE DEAL. I DON'T UNDERSTAND
12 EMPLOYER/EMPLOYEE. EXPLAIN THAT TO ME. I HAVING TROUBLE
13 HERE, MR. JOHNSON.

14 Q DID YOU AVOID MAKING PAYMENTS TO THE EMPLOYMENT SECURITY
15 COMMISSION --

16 A I DID NOT AVOID. I DID NOT PAY IT BECAUSE I DID NOT HAVE
17 TO. THERE WEREN'T ANY EMPLOYEES, SIR.

18 Q DID YOU AVOID -- YOU DIDN'T MAKE ANY PAYMENTS?

19 A NO, SIR.

20 Q AND YOU DID NOT APPLY FOR AND OBTAIN WORKERS' COMPENSATION
21 INSURANCE TO PROTECT THESE EMPLOYEES IF THEY WERE INJURED
22 WHILE THEY WERE DOING WORK ON YOUR BEHALF?

23 A BY LAW, I DIDN'T HAVE TO. MY ACCOUNTANT SAYS THAT BY LAW,
24 I DIDN'T HAVE TO.

25 MR. JOHNSON: THAT'S ALL I HAVE.

COMMISSIONER CHAVIS: MR. FELDER.

CROSS EXAMINATION - RICHARD WISE

BY MR. FELDER:

Q THE DOCUMENTS THAT MR. JOHNSON HAS PUT IN AS HIS EXHIBITS,
THE CHECK STUBS AND THE LEDGERS WERE DONE BY YOUR
ACCOUNTANT?

A YES, SIR.

Q WHO IS YOUR ACCOUNTANT?

A MR. CLYDE LIVINGSTON.

Q CLYDE LIVINGSTON. SO, WHATEVER HE'S GOT THERE, HE'S DONE
AND HE IS --

A YES, SIR.

Q WHATEVER IS THERE, IS THERE?

A YES, SIR.

Q WHEN THE COVERAGE AND COMPLIANCE PEOPLE FROM THE
COMMISSION CAME DOWN AND INVESTIGATED THIS AFTER MR. WISE
WAS HURT, DID YOU FULLY COOPERATE WITH THEM?

A YES, SIR.

Q DO YOU KNOW WHO I'M TALKING ABOUT? THE PEOPLE OF COVERAGE
AND COMPLIANCE?

A SIR, I REMEMBER THEM, BUT I DON'T KNOW THE NAMES BUT I'M
SURE THEY HAD --

Q BUT YOU REMEMBER THEM COMING TO YOUR BUSINESS --

A OH, YES.

Q -- AND INVESTIGATING IT?

1 A WELL, I WASN'T THERE AT THE TIME BUT I HAD MY COUSIN
2 ANSWERING THE PHONE WHILE I WAS OUT TRYING TO MAKE A
3 LIVING BY MYSELF. SHE TOLD ME THEY WERE THERE AND I
4 ACTUALLY TALKED TO THEM ON THE RADIO. I ASKED THEM, DID
5 THEY NEED ME AND THEY SAID, "NO, SIR, WE'VE GOT EVERYTHING
6 WE NEED."

7 Q OKAY.

8 A AS FAR AS SEEING THEM, I HADN'T SEEN THEM, SIR.

9 Q WAS BRAD WISE YOUR EMPLOYEE?

10 MR. JOHNSON: OBJECTION. THAT'S A LEGAL
11 CONCLUSION.

12 A NO, SIR.

13 COMMISSIONER CHAVIS: I THINK THAT'S ONE OF
14 ISSUES.

15 MR. FELDER: YES, MA'AM. I JUST WANTED --

16 MR. JOHNSON: COUNSEL, KNOWS WHAT HE'S
17 DOING. I OBJECT TO HIM. HE'S A BETTER
18 LAWYER THAN THAT. HE SHOULDN'T DONE THAT.

19 MR. FELDER: I'M A MUCH BETTER LAWYER THAN
20 THAT, YOU'RE RIGHT BUT I THINK I HAVE A
21 RIGHT TO ASK THAT.

22 MR. SHEALY: COMMISSIONER, OUR POSITION IS
23 THAT HE'S ENTITLED TO ANSWER IT BECAUSE
24 HE'S ONE OF THE PARTIES' TO THE SUIT.

25 MR. FELDER: I THOUGHT HE WAS TO BUT IT

1 DOESN'T MATTER.

2 COMMISSIONER CHAVIS: I'M GOING TO ALLOW
3 HIM TO ANSWER, MR. JOHNSON.

4 MR. FELDER: THANK YOU.

5 COMMISSIONER CHAVIS: DO YOU HAVE ANYTHING
6 ELSE?

7 MR. FELDER: NO, NOT A THING.

8 COMMISSIONER CHAVIS: MR. SHEALY.

9 CROSS EXAMINATION - RICHARD WISE

10 BY MR. SHEALY:

11 Q WHO IS GAIL MILLHOUSE?

12 A SIR, SHE'S A FEMALE ACQUAINTANCE OF MINE. WE WERE KIND OF
13 OFF AND ON THERE FOR AWHILE.

14 Q DID SHE WORK FOR YOU?

15 A NO, SIR. SHE DIDN'T WORK FOR ME.

16 Q DID SHE COME TO THE SHOP?

17 A SHE COMES -- AT TIMES SHE DID IN '99 AND THE FIRST OF
18 2000.

19 Q DID SHE GET PAID FOR COMING TO THE SHOP?

20 A I GAVE HER SOME MONEY. YOU KNOW, SOCIAL ASPECTS PRETTY
21 MUCH.

22 Q WELL, THAT'S MY QUESTION. WAS SHE PAID FOR COMING TO THE
23 SHOP OR WAS --

24 A NO, SIR.

25 Q -- SHE PAID FOR BECAUSE SHE WAS YOUR ACQUAINTANCE?

1 A PRETTY MUCH BECAUSE SHE WAS MY GIRLFRIEND, SIR.

2 Q THAT'S WHAT I MEANT.

3 A YES, SIR.

4 Q YOU WEREN'T PAYING HER FOR ANY GIRLFRIEND SERVICES, YOU
5 WERE PAYING HER BECAUSE YOU HAD A RELATIONSHIP WITH HER?

6 A YES, SIR.

7 Q WHO IS EARL SMITH?

8 A EARL SMITH IS A FAMILY FRIEND, A RETIRED TELEPHONE MAN AND
9 MY FATHER IS DECEASED NOW BUT USUALLY MY FATHER WOULD --
10 WHEN I'D HAVE LITTLE BUILDINGS AND DIFFERENT THINGS TO
11 MOVE, HE WOULD BE THERE. MY DADDY WAS WORKING AT THAT
12 TIME AND I NEEDED SOMEBODY -- IN FACT, I SAW MR. EARL AT
13 HARDEE'S THAT MORNING AND ASKED MR. EARL WOULD HE MIND
14 HELPING US THAT DAY. MR. EARL DID NOT GET PAID. MR. EARL
15 NEVER GOT PAID.

16 Q HE WAS JUST OUT THERE --

17 A HE WAS JUST OUT THERE HANGING AROUND.

18 Q AND HE WAS A FRIEND OF YOUR FATHER'S?

19 A YES, SIR AND MINE TOO. A FRIEND OF THE FAMILY, SIR.

20 Q AND YOUR FATHER WAS THERE THAT DAY, TOO?

21 A NO SIR, MY FATHER WAS ACTUALLY WORKING AT FARRY CHEVROLET.
22 IF HE HADN'T BEEN DOING DEALER TRANSFERS HE WOULD HAVE
23 BEEN IN THE FRONT.

24 MR. SHEALY: THAT'S ALL I HAVE.

25 MR. JOHNSON: NOTHING FURTHER.

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**COMMISSIONER CHAVIS: DO YOU HAVE ANY OTHER
WITNESSES?**

MR. JOHNSON: NO OTHER WITNESSES.

MR. FELDER: WE HAVE NONE.

COMMISSIONER CHAVIS: MR. SHEALY?

MR. SHEALY: NOTHING YOUR HONOR.

**COMMISSIONER CHAVIS: THANK YOU. THAT
CONCLUDES THIS HEARING.**

(WHEREUPON THE HEARING WAS CONCLUDED AT 11:10 A.M.)

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Civil Action No. 07-CP-09-0089

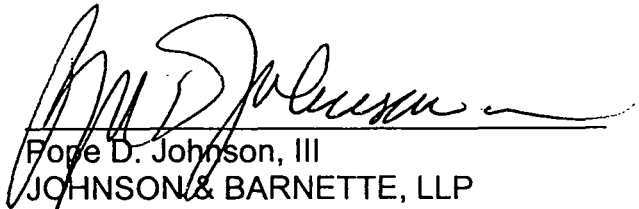
Stephen Brad Wise Appellant

v

Richard Wise d/b/a Wise Services and the
South Carolina Uninsured Employers Fund Respondents

CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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October 9, 2009