

89554

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1115485
Appellate Case No. 2018-001197

RECEIVED
APR 15 2019
SC Court of Appeals

Lamar Clark, Appellant,

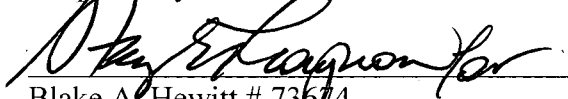
v.

Philips Electronics/Shakespeare, Employer,
and Gallagher Bassett Services, Carrier, Respondents.

**MOTION FOR THE COURT TO ALLOW ATTACHMENTS
TO APPELLANT'S INITIAL REPLY BRIEF**

Appellant proposes to attach to his initial reply brief two appendices that are a compilation of citations to materials in the record on appeal. They are no different from a bullet-point list of citations that could just as well appear in the argument section of a brief. Rather than have such a lengthy list disrupting the brief's argument, appellant wishes to present this information at the brief's conclusion.

Respectfully submitted,



Blake A. Hewitt # 73614
BLUESTEIN THOMPSON SULLIVAN, LLC
Post Office Box 7965
Columbia, South Carolina 29202
(803) 779-7599
blake@bluesteinattorneys.com

April 15, 2019

William B. Salley, Jr. # 15253
SALLEY LAW FIRM, P.A.

Attorneys for Appellant

Appendix A

Back and Left Leg - Lamar Clark

- **Claimant's APA 4, p. 98:** *EMG - 1/25/12* - "Electrodiagnostic findings and clinical assessment are consistent with lumbar radiculopathy primarily affecting the left L5 nerve root."
- **Claimant's APA 5, p. 106:** *Dr. Storick - 2/11/13* - Neurologic: Sensation is slightly decreased to light touch along the left great toe. Describes a fairly accurate left L5 radiculopathy.
- **Claimant's APA 1, p. 23-24:** *Dr. Holbrook - 5/22/13* - Work related back injury affects leg; back and left leg pain most probably result from his performance of his job activities and/or work-related aggravation of a pre-existing condition.
- **Claimant's APA 11, p. 251:** *Progressive Physical Therapy - 11/21/13* - low back pain with left hip and lower extremity radicular complaints.
- **Claimant's APA 6, p. 129:** *Dr. Westerkam - 7/21/14* - Neurologically, sensation is decreased over the left great toe. Reflexes at the left hamstring is absent. He does have slightly antalgic gait with slight limp. Impression: He continues to have numbness and tingling in the left foot with weakness and persistent low back pain.
- **Claimant's APA 1, p. 49:** *Dr. Holbrook - 7/23/14* - low back pain radiating down left posterior thigh; tenderness to palpation over the lower lumbar paraspinal...still has strength about 4/5 in left ankle.
- **Claimant's APA 10, p. 236:** *Dr. Hutcheson - 7/23/14* - Decreased range of motion in all directions, flexion 30 degrees and extension 10 degrees - L3-S1; Decreased sensation to light touch at medial left big toe.
- **Claimant's APA 5, p. 108-109:** *Dr. Storick - 8/20/14* - "The pain is mostly confined to the left back in a continuous fashion down his left leg to the back of the thigh and, to a lesser degree, the lower leg. There is persistent numbness in the left foot and great toe consistent with an L5 dermatome."
- **Claimant's APA 15, p. 443-445:** *Dr. Holt - 8/21/14* - "Straight leg raise...positive...on the left; Squatting and toe walk were downgraded to 4 of 5. DTR could not be elicited at the left knee...Sensory exam noted loss in the...left medial foot and its great toe."
- **Claimant's APA 5, p. 123:** *Dr. Storick - 8/27/14* - Assessment: Chronic back and leg pain.
- **Claimant's APA 10, p. 238-240:** *Dr. Hutcheson - 12/4/15* - Neurologic: weakness, numbness; Patrick's Test: Positive, right and left, Straight Leg Raise: Positive, Radiculopathy: Left. Comments: "post-laminectomy pain syndrome with back and bilateral leg pain (Left > Right)."
- **Claimant's APA 10, p. 244:** *Dr. Hutcheson - 12/4/15* - "Whole person impairment

rating...include[s] within that impairment rating a portion of impairment to his affected left leg due to lumbar radiculopathy.” “loss of L4/5-S1 reflex demonstrate neurologic deficit affecting leg.”

- **Claimant’s APA 16, p. 457-458:** *Dr. Gabr* - 12/4/15 - Sensation: Nerve Roots: Sensation to touch and pressure...intact over the lumbo-sacral nerve roots bilaterally except for patchy deficit on the left S1 distribution. Deep tendon reflexes are symmetrical except diminished left Achilles compared to the right.

Documented chronic radiculopathy following lumbar surgery at clinically appropriate level L4-5 and L5-S1.

- **Claimant’s APA 16, p. 463:** *Dr. Gabr* - 12/4/15 - “Whole person impairment rating...include[s] within that impairment rating a portion of impairment to his affected left leg due to lumbar radiculopathy.” “Based on MRI findings and operative reports from Dr. Holbrook, there are evidence of granulomas and chronic nerve damage of root L5, positive to be symptomatic in addition to objective clinical findings corresponding to left L5 radiculopathy.”
- **Claimant’s APA 16, p. 468:** *Dr. Gabr* - 12/4/15 - 14B: Body parts injured: low back, Body parts affected: left leg and nervous system.
- **Claimant’s APA 10, p. 250:** *Dr. Hutcheson* - 12/15/15 - 14B: Body Parts Affected: back, left hip, left leg, left foot, nervous system, psychological.

Appendix B

Psychological - Lamar Clark

- **Claimant's APA 6, p. 125:** *Dr. Westerkam* - 5/9/13 - "He used to be an avid basketball and football player as well as coach. He states that he can do neither activities at this time because of persistent pain. Patient states that this has caused some depression."
- **Claimant's APA 12, p. 369-370:** *Dr. Lind* - 5/16/13 - BDI = 33 severe levels of depression; BAI = 23 Moderate levels of anxiety; "emotional symptoms are more likely than not...caused by his 20 July 2011 physical work-related injuries"; Not at MMI; Needs additional psychological treatment.
- **Claimant's APA 13, p. 383:** *Dr. Brabham* - 5/21/13 - BDI = 45 severe levels of depression; he should be considered for treatment for his severe level of depression related to his on-the-job injuries.
- **Claimant's APA 6, p. 129:** *Dr. Westerkam* - 7/23/14 - "The patient has not received treatment for the psychological issues that have resulted from his pain...I would recommend to lessen his period of disability that he receive 6 cognitive behavioral trainings sessions and start on an antidepressant, such as Cymbalta.
- **Claimant's APA 15, p. 444:** *Dr. Holt* - 8/21/14 - Impressions: Depression and Anxiety, mild to moderate, not yet treated but recommended; "He was obviously depressed but remained pleasant."
- **Claimant's APA 5, p. 123:** *Dr. Storick* - 7/23/15 - "he will occasionally use a Flexeril in the evening for sleep and back pain."
- **Claimant's APA 10, p. 239:** *Dr. Hutcheson* - 12/4/15 - Psychiatric: depression
- **Claimant's APA 16, p. 456:** *Dr. Gabr* - 12/4/15 - "Mood and affect can be described as depressed with poor eye contact."
- **Claimant's APA 10, p. 250:** *Dr. Hutcheson* - 12/15/15 - 14B: "psyche care per Dr. Lind"
- **Claimant's APA 13, p. 394:** *Dr. Brabham* - 12/18/15 - "still experiencing severe levels of depression"

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1115485
Appellate Case No. 2018-001197

RECEIVED
APR 15 2019
SC Court of Appeals

Lamar Clark, Appellant,

v.

Philips Electronics/Shakespeare, Employer,
and Gallagher Bassett Services, Carrier, Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served
counsel for the Respondents with a copy of the *Motion for the Court to Allow*
Attachments to Appellant's Initial Reply Brief by mailing copies of the same by United
States Mail with first class postage prepaid to the following address:

Brooke A. Payne
PAYNE LAW GROUP, LLC
PO Box 2449
Mt. Pleasant, SC 29465

April 15, 2019



Erin Bridges.

April 15, 2019

VIA HAND DELIVERY

The Honorable Jenny Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

APR 15 2019

SC Court of Appeals

RE: Lamar Clark v. Philips Electronics/Shakespeare
Case Tracking No.: 2018-001197

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *Motion for the Court to Allow Attachments to Appellant's Initial Reply Brief*. I have also enclosed a proof of service upon counsel for the Respondents and a check in the amount of \$50.00 for filing this motion. Please return the additional filed copy to me via our courier.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Erin Bridges

Paralegal to Blake A. Hewitt

Bluestein Thompson Sullivan, LLC

/emb

Enclosures

cc: William B. Salley, Jr., Esquire
Brooke A. Payne, Esquire