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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

W.C.C. File Nos. 1322451, 1319203, 1420487
Appellate Case No.: **2019-000369**

Terry H Capone, Claimant.....Appellant,

v.

City of Columbia, Employer, and

Companion Third Party Administrator, LLC, Carrier, ...Respondents.

NOTICE OF EMERGENCY MOTION TO VACATE VOID JUDGMENT/ ORDER RULE 59/60 FRAUD ON THE COURT AND OTHER VIOLATIONS OF LAW AND TO TAKE MANDATORY JUDICIAL NOTICE IN THE ABOVE REFERENCED MATTERS

Comes Now, Appellant Terry H Capone, In Propria Persona, Employee (hereinafter "Appellant"), hereby declares and asserts the Rights to which he is entitled. Preliminary understanding of the Court's authority is basic to the assertion of rights:

EMERGENCY MOTION TO VACATE VOID JUDGMENT/ ORDER

Appellant Capone In Pro Per, hereby moves this court to vacate the Void Judgment/ Decision/ Order entered March 27, 2020 and December 2, 2015 by South Carolina Workers' Compensation Commissioner Gene Henry McCaskill after a hearing was held August 21, 2015

SC W.C.C. File Nos. 1322451, 1319203, 1420487 and all subsequent proceedings thereafter in this matter also void based on the authorities invoked herein and for the reasons stated below.

The Court is obliged to follow precedence decisions as stated in *Faye Anastasoff vs. United States of America, 8th Circuit Court, 2000*: "It is on this account that our law is deemed certain, and founded in permanent principles, and not dependant on the caprice or will of judges. A more alarming doctrine could not be promulgated by any American court, than that it was at liberty to disregard all former rules and decisions, and to decide for itself, without reference to the settled course of antecedent principles."

"However late this objection has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction. Jurisdiction is the power to hear and determine the subject matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them; the question is, whether on the case before a court, their action is judicial or extra-judicial; with or without the authority of law, to render a judgment or decree upon the rights of the litigant parties." State of Rhode Island v. Com. of Massachusetts, 37 U.S. 657, 718 (1838).

"Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside", Jaffe and Asher v. Van Brunt, S.D.N.Y.1994. 158 F.R.D. 278.

"Lack of subject matter jurisdiction is a non-waivable defect which may be raised at any stage of the proceedings." State v. LaPier, 961 P.2d 1274, 289 Mont. 392, 1998 MT 174 (1998).

"Irrespective of whether a party moves to vacate a judgment, the courts have inherent authority to vacate a void judgment." Patton v. Diemer (1988), 35 Ohio St.3d 68.

"Where a void judgment has been rendered and the record in the cause, or judgment roll, reflects the vice, then the court has not only the power but the duty and even after the expiration of the term to set aside such judgment." Harrison v. Whiteley, Tex.Com.App., 6 S.W.2d 89.

"Courts are constituted by authority and they cannot act beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are [254 U.S. 348, 354] not voidable, but simply void, and this even prior to reversal." Elliot v. Piersol, 1 Pet. 328, 340; Old Wayne Life Ass'n v. McDonough, 204 U.S. 8 , 27 Sup. Ct. 236.

"A trial court has no discretion when faced with a void judgment, and must vacate the judgment "whenever the lack of jurisdiction comes to light"." Mitchell v. Kitsap County, 59 Wash. App. 177, 180-81, 797 P.2d 516 (1990).

"Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." Davis v. Wechsler, 263 U.S. 22, 24 (1923). "It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution." Frost v. Railroad Commission of California, 271 U.S. 583.

Marbury v. Madison, 5 US 137: "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law."

U.S. Const. Art.IV, § 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Defective affidavits, hearsay as evidence and no stated damages are but a few elements that rob the court of subject matter jurisdiction (at last count there are 22 elements that deprive the court of SMJ). Some of the elements are: denial of due process, denial of meaningful access to court, fraud upon the court, and fraud upon the court by the court.

Subject matter jurisdiction fails: if a judge does not follow statutory procedure, and where the judge does not act impartially, Armstrong v Oucino, 300 Ill 140, 143 (1921), Bracy v. Warden, U.S. Supreme Court No. 96-6133 (June 9, 1997).

Aoude v. Mobil Oil, 892 F.2d 1115, 1118 (1st Cir. 1989), on which Capone heavily relied, described the appellate court's role in applying the abuse of discretion standard of review: While broad, the trial court's discretion is not unlimited. The [trial] judge must consider the proper mix of factors and juxtapose them reasonably. "Abuse occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them." Independent Oil and Chemical Workers of Quincy, Inc. v. Procter & Gamble Mfg. Co., 864 F.2d 927, 929 (1st Cir. 1988); see also Anderson v. Cryovac, Inc., 862 F.2d 910, 923 (1st Cir. 1988) (to warrant reversal for abuse of discretion, it must "plainly appear[] that the court below committed a meaningful error in judgment")

Savino v. Fla. Drive In Theatre Mgmt., 697 So. 2d 1011, 1012 (Fla. 4th DCA 1997) Where a trial court determines that a party's conduct "amounted to a scheme calculated to interfere with the court's ability to impartially adjudicate [the] claim,"a sanction as severe as dismissal or default judgment is appropriate. ;see also Bob Montgomery Real Estate v. Djokic, 858 So. 2d 371, 375 (Fla. 4th DCA 2003) ("dismissal is properly utilized where a party knowingly misleads the other party, thereby interfering with the other side's ability to defend (or prosecute) by a knowing deception intended to prevent the essential discovery.").

MANDATORY JUDICIAL NOTICE

1) FURTHER NOTICE, CHANGE IN LAW AND STATUS, US Department of Veterans Affairs Administration September 25, 2019 has determined Terry H Capone service in the US Marines is Honorable for VA purposes, Disabled Veteran, Totally and Permanently, Unemployable and compensated at 100%, Effective: February 3, 2014.

2) FURTHER NOTICE, The Court must liberally construe the factual allegations of the complaint because *pro se* pleadings, "however inartfully pleaded, must be held to a less stringent standard than formal pleadings drafted by lawyers." Erikson v. Pardus, 551 U.S. 89, 94 (2007) (Internal quotation omitted); Haines v. kerner, 404 U.S. 519, 520 (1972). In addition, the court should "apply the applicable law, irrespective of whether a pro se litigant has mentioned it by name." Higgins v. Beyer, 293 F.3d 683, 688 (3d Cir. 2002) (quoting Holley v. Dep't of Veterans Affairs, 165 F.3d 244, 247-48 (3d Cir.1999)).

All officers of the court, are hereby placed on notice under authority of the supremacy and equal protection clauses of the United States Constitution, the South Carolina Constitution, and the common law authorities of *Haines v Kerner*, 404 U.S. 519-421, *Platsky v. C.I.A.* 953 F.2d. 25, and *Anastasoff v. United States,* 223 F.3d 898 (8th Cir. 2000) relying on Willy *v. Coastal Corp.,*503 U.S. 131, 135 (1992), *"United States v. International Business Machines Corp.,* 517 U.S.843, 856 (1996), quoting *Payne v. Tennessee,* 501 U.S. 808, 842 (1991) (Souter, J., concurring).*Trinsey v. Pagliaro,* D.C. Pa. 1964, 229 F. Supp. 647, *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001), and Local Rules of the court, pro se litigants are held to less stringent pleading standards than bar licensed attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In re *Platsky*: court errs if court dismisses the pro se litigant without instruction of how pleadings are deficient and how to repair pleadings. In re *Anastasoff*: litigants' constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigants have a constitutional right to have their claims adjudicated according the rule of precedent. See *Anastasoff v. United States,* 223 F.3d 898 (8th Cir. 2000).Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment, *Trinsey v. Pagliaro,* D.C. Pa. 1964, 229 F. Supp. 647. This court is also noticed on the following point of law: Prevailing party on default judgment of liability must still prove damages, *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001). This court is further noticed on U.S.C.A. Const. Amend. 5 – *Triad Energy Corp. v. McNell* 110 F.R.D. 382 (S.D.N.Y. 1986), Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. *Klugh v. U.S.,* 620 F.Supp. 892 (D.S.C. 1985), *State v. Blankenship* 675 N.E. 2d 1303, (Ohio App. 9 Dist. 1996), *Graff v. Kelly,* 814 P.2d 489 (Okla. 1991), *Capital Federal Savings Bank v. Bewley,* 795 P.2d 1051 (Okla. 1990), *Com. V. Miller,* 150 A.2d 585 (Pa. Super. 1959). and *Reider v. Sonotone Corp.* 422 US 330, (1979), all discussed and relied upon *infra.* Pro se pleadings are to be considered without regard to technicality. Pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers. Pro se litigants are to be given reasonable opportunity to remedy the defects in their pleadings. See Picking v. Pennsylvania R. Co. 151 Fed, 2nd 240; Pucket v. Cox, 456 2nd 233; Platsky v. C.I.A., 953 F. 2d 25; Reynoldson v. Shillinger, 907 F. 2d 124, 126 (10th Cir. 1990) and Jaxon v. Circle K Corp., 773 F. 2d 1138, 1140 (10th Cir. 1985).

3) A void judgment is not void when ruled void by a court; a void judgment is void *ab initio.* The Supreme Court of South Carolina was correct in ruling and determining that a void judgment is no judgment at all. A void judgment is, in legal effect, no judgment at all. By it no rights are divested; from it no rights can be obtained. Being worthless, in itself, all proceedings founded upon it are necessarily equally worthless, and have no effect whatever upon the parties or matters in question

4) Binding Supreme Court precedent holds that when a judgment is entered without affording an individual notice and an opportunity to be heard, the only constitutionally adequate remedy is to vacate that judgment and require that the proceedings begin anew. Peralta v. Heights Medical Center, 485 U.S. at 87; Armstrong v. Manzo, 380 U.S. 545 (1965).

Providing some alternative in which only one of the relevant issues can be litigated is not sufficient. Only by setting aside the judgment and considering the case anew can the due process violation be remedied. Peralta, 485 U.S. at 87; Armstrong, 380 U.S. at 552.

The United States Supreme Court's decisions in Armstrong v. Manzo, 380 U.S. 545 (1965) and Peralta v. Heights Medical Center, 485 U.S. 80 (1988), speak directly to these points. They hold that where an individual is denied adequate notice and, hence, an opportunity to be heard, the only constitutionally adequate remedy is to "restore[] the petitioner to the position he would have occupied had due process of law been accorded him in the first place." Armstrong, 380 U.S. at 552; Peralta, 485 U.S. at 86-87 (holding that default judgment entered without notice and opportunity to be heard must be set aside even where, as in that case, defendant has no meritorious defense). No alternative remedy is sufficient.

It is precisely because burdens of proof may change, or opportunities to assert one's rights in other ways are lost, that the constitution requires "wip[ing] the slate clean" by setting aside the earlier judgment and considering the case anew. Armstrong, 380 U.S. at 551-52; Peralta, 485 U.S. at 85; see also Falahati v. Kondo, 127 Cal. App. 4th 823, 832-33 (2005) ("A deprivation of due process is no less a deprivation merely because the person deprived has a remedy. Kondo had a statutory and due process right to respond to the complaint before a default was entered. Kondo was denied this right and no post hoc remedy can change that fact.").

5) Jurisdiction is essential to give validity to the determination of administrative agencies; without jurisdiction, their acts are void and open to collateral attack. *Doolan v. Carr,* 125 US 618, 31 L Ed 844, 8 S Ct 1228; *Findlay v. Board of Sup'rs*, 72 Ariz 58, 230 P2d 526, 24 ALR2d 841; *Nicolai v. Board of Adjustment*, 55 Ariz 283, 101 P2d 199; *City Street Improv. Co. v. Pearson*, 181 Cal 640, 185 P 962, 20 ALR 1317 (ovrld on other grounds by Hoffman v. Red Bluff, 63 Cal 2d 584, 47 Cal Rpte 553, 407 P2d 857); *Johnson v. Mortenson*, 110 Conn 221, 147 A 705, 66 ALR 1428; *Mitchell v. Delaware Alcoholic Beverage Control Com.* (Super) 56 Del 260, 193 A2d 294, revd on other grounds (Sup) 57 Del 103, 196 A2d 410; *Antrim v. Civil Service Com.*, 261 Iowa 396, 154 NW2d 711; *State ex rel. Spruck v. Civil Service Board*, 226 Minn 240, 32 NW2d 574; *Oliphant v. Carthage Bank*, 224 Miss 386, 80 So 2d 63; *Foy v. Schechter*, 1 NY2d 604, 154 NYS2d 927, 136 NE2d 883, reh den 2 NY2d 774 and motion den 2 NY2d 774; *Lee v. Board of Adjustments*, 226 NC 107, 37 SE2d 128, 168 ALR 1; *Di Palma v. Zoning Board of Review*, 72 RI 286, 50 A2d 779, 175 ALR 399; *State Dept. of Public Safety v. Cox (Tex Civ App Dallas)* 279 SW2d 661, writ ref n r e; State ex rel. *Anderton v. Sommers*, 242 Wis 484, 8 NW2d 263, 145 ALR 1324.

6) Jurisdiction, although once obtained, may be lost, and in such a case proceedings cannot be validly continued beyond the point at which jurisdiction ceases. *Lahoma Oil Co. v. State Industrial Com.*, 71 Okla 160, 175 P336, 15 ALR 817 (ovrld on other grounds by Western Indem. Co. v. State Industrial Com., 96 Okla 100, 219 P 147, 29 ALR 1419).
A void judgment is, in legal effect, no judgment at all. By it no rights are divested; from it no rights can be obtained. Being worthless, in itself, all proceedings founded upon it are necessarily equally worthless, and have no effect whatever upon the parties or matters in question

7) FURTHER NOTICE, two of its own records from Terry Capone v. City of Columbia,

Employer, and Companion Third Party Administrator, LLC, Carrier, Respondent. Case Information: 2019-000369 Lower Court or Tribunal: 1322451, 1319203, 1420487 on file with the court and available Publicly on its website South Carolina Appellant Case Management Systems.

8) FURTHER NOTICE, December 23, 2019 Appellants Motion for Judicial Notice Appellate Case No: 2019-000369 W.C.C. File 132451, 1319203, 1420487 and the entirety of its contents.

9) FUTHER NOTICE, Exhibit #1 March 20, 2020 Encounter Report Document. Dr. Conigliaro Jones, MD TLM Medical Services, LLC Excerpts: Chief Complaint- Referral to gastroenterologist, Hemorrhoids, IBS "He has frequent heart burn symptoms and dysphagia. He has chronic constipation bleeding and diarrhea symptoms that continue about 4-6 times daily and has lost 20 lbs since his last office visit about 35 days ago. He has shrp pain in the epigastric area that occurs several times a day for 1-2 hours at a time. He says he is having a flare up of his IBS and Hemorrhoids. He says GERD is flaring up and he is having issues with his digestion bother him more significantly lately. He is retired in 2014 partly due to his IBS and GERD and has not worked since. He has had significant loss in stamina, weakness, and fatigue. His ADLs were moderately affected in the areas of bathing, dressing,toileting, and grooming. He has moderate issues with chores, shopping, and feeding himself. His GERD and IBS symptoms are worsened when PTSD symptoms are active. Hemorrhoids are worsened by constipation and IBS. He is currently followed by Dr. George Jenkins at Carolina Digestive Disease.

10) FURTHER NOTICE, Exhibit #2 March 25, 2020 Carolina Digestive Disease Dr. George AJenkins III, Diagnosis: Hemorrhoids, IBS, GERD, Dysphagia, Weight loss.

11) FURTHER NOTICE, Exhibit #3 March 26, 2020 Palmetto Endoscopy Suite Dr. George A

Jenkins III, Findings: Small hiatus hernia, Gastritis. Biopsied, A single gastric polp, Duodenitis.

12)

13) FURTHER NOTICE, Stare Decisis "[T]his court is not bound by its prior ssumptions***."Lopezv. Monterey County, 525 U.S. 266, 281 (1999).

14) FURTHER NOTICE, We have previously recognized that entitlement to workers' compensation benefits constitutes a property interest. Orszula v. Orszula, 292 S.C. 264, 356 S.E. (2d) 114 (1987).

FURTHER NOTICE, "The equitable power of a Court is not bound by cast-iron rules but exist to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all the circumstances, to deny it would permit one party to suffer a gross wrong at the hands of the other". Hausman v. Hausman, 1999 S. W.3d 38, 42 (Tex. App. 2006). Equitable tolling may be applied where it is justified under all the circumstances.

FURTHER NOTICE, God has made it so, The VA has determined I am a Veteran, my PTSD was caused by my service in Marines and Fire Service, I am totally and permanently disabled Effective February 3, 2014, under the law and eligible for all benefits.

FUTHER NOTICE, I am disabled under the law, the statute of limitations are tolled.

FURTHER NOTICE, These things before us having been decided, the controversy is over, the

FURTHER NOTICE, This Court is a Judicial, and not an administrative proceeding, and it is governed by Equity Jurisprudence, against public officers in their individual capacity, and

FURTHER NOTICE, This Court *Shall* take Mandatory Judicial Notice of the Maxims governing Equity Jurisprudence. [1] They lie at the foundation of universal justice, and have been worthily and aptly called legume leges-the laws of the laws.[2] See, "A Treatise On Suits in Chancery" by Henry R. Gibson, §§31-64 (1907), incorporated herein by reference.

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1. Maxime ita dicta quia maxima est ejus dignitas et certissima auctoritas, atque quod maxime omnibus probetur. A maxim is so called because its dignity is greatest and its authority is the most certain, and because it is approved most by all.
2. Kent's Comm., 553. So fundamental are these maxims that he who disputes their authority is regarded as beyond the reach of reason.

FURTHER NOTICE, Equity will undo what fraud has done.Fraud[3] in the sight of a Court of Equity, vitiates every contract or transaction into which it enters, at the election of the injured party,[4] and The Court will not only undo what fraud has done, but will treat acts as done which fraud prevented from being done.

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3. Boni judicis est ampliare jurisdictionem.
It is the duty of a good judge to amplify his jurisdiction, when necessary to do full justice.
4. This maxim in its operation is similar to the maxim, when Chancery has jurisdiction for one purpose, it will take jurisdiction for all purposes. See Ante,

FURTHER NOTICE, Jus respicit aequita.(Law regards equity.)

FURTHER NOTICE, Lex orbis, insanis, et pauperibus, pro tutore atque pa-rente est

(The law is the father and guardian of orphans, the insane, and the poor.)

FURTHER NOTICE, 22 Ridley v. Halliday, 22 Pick., 607. It is the peculiar province of the Court of Equity to give all needed and appropriate relief in case of infants whose rights have been sacrificed. Couy v. Roane Iron Co., 21 Pick., 515. The Chancery Court acts as guardian for all persons under disability; and proper application, will protect them from the cupidity of

faithless guardians and relatives, and the rapacity of unscrupulous strangers. But while accorded full protection they are not entitled to have technicalities stained in their behalf, especially against a stranger guilty of no unconscientious conduct.

FURTHER NOTICE, We find no occasion to make any extended examination of the law governing Such cases, but it may be properly observed that, for the assumption or continued maintenance of Control by a court of chancery over the person and estate of one alleged to be of unsound mind, proof of the entire absence of reason, understanding, or memory is not required. In Colgate D. Owings Case, 1 Bland, 386, 17 Am. Dec. 311, the chancellor said: "Under the generic legal term 'non compos mentis' is comprehended every species of mental de rangement which incapacitates a man from assenting to, or making a legal contract."And in Greenwade v. Greenwade, 43 Md.315, this court said:

"The term 'non compos mentis' used by the Code, embraces not only lunatics and idiots, but all persons of unsound mind." In all jurisdictions, both in England and in this country the disposition of the courts is towards the establishment of a rule, which, whilst jealously guarding against the invasion of rights of person and property under the guise of such proceedings, will afford protection to the person himself and to his family dependent upon him, where any species of mental unsoundness is clearly shown to incapacitate him from protecting him and them against his Own Weakness Or the artifice of others.

FURTHER NOTICE, It is plaintiffs' claim that proof of adjudication of incompetency presupposes lack of mental capacity to understand the nature and effect of the ward's acts, is conclusive as a matter of law, not subject to an indirect attack, and until a legal decree is obtained restoring him to legal competency such condition is conclusively presumed to exist, citing such authority as Hellman Commercial T. & S. Bank v. Alden, 206 Cal. 592 [275 P. 794]; Carroll v. Carroll, 16 Cal. 2d 761, 767 [108 P.2d 420]; Gibson v. Westoby, 115 Cal. App. 2d 273 [251 P.2d 1003].

See also 27 California Jurisprudence 2d page 359, section 35, where it is said:

"A person of unsound mind whose incapacity has been **[169 Cal. App. 2d 500]** judicially determined cannot make a contract or delegate any power until his restoration to capacity. Such an adjudication constitutes notice 'to all the world' of the incapacity. It amounts to an adjudication in rem, conclusive as such. Whenever it is binding on any person, it is equally binding on all persons, though they have constructive notice only. Hence, where mental incapacity has been adjudged, no further evidence of mental incapacity is required while the decree remains in full force and effect; proof of the adjudication of incompetency amounts to proof of lack of mental capacity to understand the nature and effect of the transaction involved. This is true regardless of whether the person involved was adjudicated insane or incompetent, and regardless of the character or degree of mental derangement involved." (See also Condee, California Probate Court Practice, vol. II, p. 219.)

FURTHER NOTICE, Wards of court. Infants and persons of unsound mind placed by the court under the care of a guardian. *Davis Committee v. Loney, 290 Ky. 644, 162 S.W. 2d. 189, 190.* ***Their rights must be guarded jealously****. Montgomery v. Erie R. Co., C.C.A.N.J., 97 F, 2d 289, 292.* Blacks Law Dictionary, 4th Edition, Page 1755

FURTHER NOTICE, This pressure exerted by the strong against the weak is felt to destroy the free volition which is a prerequisite to the existence of a valid contract.8, "This kind of duress consists in imposition, oppression, undue influence, or the taking of undue advantage of the business or financial stress or the extreme necessities or weakness of another, whereby his free agency is overcome." Pittsburgh Steel Co. v. Hollingshead, 202 Ill. App. 177, 178 (1916)

FURTHER NOTICE, The Fifth Amendment to the United States Constitution reads in relevant part"...[no] person shall be deprived of life, liberty, or property, without due process of law". The 14th Amendment to the United States Constitution contains similar due-process lanquage and reads in relevant part"...nor shall any state deprive and person of life, liberty, or property, or due process of law".

FURTHER NOTICE, Fraudulent Concealment: Fraudulent Concealment is founded on the principle of estoppels. A defendant/ Respondent should not be able to invoke the statute of limitations if through fraud or concealment, "he causes the plaintiff to relax his vigilance or deviate from his right of inquiry in the facts".Fine v. Checcio, 870 A.2d 850, 860 (Pa.2005)`

FURTHER NOTICE, Crescente militia, crescere debet et poena. (While wickedness increases, punishment ought also to increase.)

FURTHER NOTICE, Arbitrio domini res aestimari debet. (Property ought to be valued at the will of the owner.)

FURTHER NOTICE, Equitas rem oppignoratae redemptionibus favet. (Equity considers the matter itself, less anxious about the form and circumstance.)

FURTHER NOTICE, The suppression of a fact, takes away equity

FURTHER NOTICE, Effectus sequitur causam.(The effect follows the cause.)

FURTHER NOTICE, Fraus aequitati praejudicat.(Fraud is prejudicial to equity)

FURTHER NOTICE, Fraus est celare fraudem. (To conceal fraud is fraud)

FURTHER NOTICE, Injuria servi dominium pertingit. (The master is liable for the damage done by his servant.)

FURTHER NOTICE, Actus servi in iis quibus opera ejus communiter adhibita est, actus domini habetur. (An act of a servant in those things in which he is commonly employed with others, is

considered the act of his master.)

FURTHER NOTICE, Injuria non praesumitur. (Injury is not anticiapated)

FURTHER NOTICE, Bonus judex secundum aequum ct bonum judicat, et aequitatem strict juri praefert. (A good judge decides according to what is just and good; and prefers equity to strict law.)

FURTHER NOTICE, Equitas est convenientia rerum quae cuncta eo aequiparat, et quae, in paribus rationibus, paria jura et judicia desiderat. (Equity is the suitableness of circumstances, which equalizes all things, and which in similar matters, requires similar laws and judgments.)

FURTHER NOTICE, Equity Powers of Federal Courts: "Substantially, then, the equity jurisdiction of the federal courts is the jurisdiction in equity excercised by the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act, 1789

(1 Stat. 73).'" Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc., 527 U.S. 308, 318

(1999) (quoting A. Dobie, Hanbook of Federal Juridcition and Procedure 660 (1928)).

FURTHER NOTICE, "Fraud on the court" consists of conduct: (1) on part of officer of the court, (2) that is directed to judicial machinery itself, (3) that is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth, that is positive averment or is concealment when one is under duty to disclose, that deceives court. (Demjanjuk v. Petrovsky, 10 F.3d 338, rehearing and suggestion for rehearing denied, certiorari denied Rison v. Demjanjuk, 115 S.Ct. 295, 513 U.S. 914, 130 L.Ed.2d 205 (Ohio) 1993.—Fed Civ Proc

2654.". . .errors are so prejudicial and fundamental that expenditure of further time and expense would be wasteful, if not futile." (*Salvatore v. State of Florida,* 366 So. 2d 745 [Fla. 1978], *cert. denied,* 444 U.S. 885, 100 S. Ct. 177, 62 L. Ed. 2d 115 [1979]).

FURTHER NOTICE, "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *(Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23).* The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

FURTHER NOTICE, "Litigant commits "fraud on court" when litigant and attorney concoct some unconscionable scheme calculated to impair court's ability fairly and impartially to adjudicate dispute. (*Sandstrom v. ChemLawn Corp.*, 904 F.2d 83.—Fed Civ Proc 1741.

FURTHER NOTICE, "Fruad on the court' may occur when acts of party prevent his adversary from fully and fairly presenting his case or defense (***Abatti v. C.I.R.,* 859 F.2d 115,** Me., (1990).—Fed Civ Proc 2654 . . . "Plaintiffs' fraudulent scheme of manufacturing evidence to support their business loss claim and subsequently covering-up their scheme constituted "fraud on the court" warranting sanctions. (Derzack v. County of Allegheny, Pa., 173 F.R.D. 40ff affirmed 118 F.3d 1575 (Pa. 1996).—Fed Civ Proc 2791.

EMERGENCY MOTION TO VACATE VOID JUDGMENT/ ORDER

Appellant Capone In Pro Per, hereby moves this court to vacate the Void Judgment/ Decision/ Order entered March 27, 2020 and December 2, 2015 by South Carolina Workers' Compensation Commissioner Gene Henry McCaskill after a hearing was held August 21, 2015 SC W.C.C. File Nos. 1322451, 1319203, 1420487 and all subsequent proceedings thereafter in this matter also void based on the authorities invoked herein and for the reasons already stated above.

CONCLUSION AND PRAYER AND RELIEF REQUESTED

For the reasons stated supported by the affidavits, pleadings and papers on file with the Court and addressed herein, Plaintiffs request that the Court GRANT

Appellant, *pro se* Terry Capone's Notice of Appeal is timely and should not be dismissed because it would continue to deprive him of fundamental and substantial rights are affected. The Appellant alternately request the Respondent motion to dismiss be denied with prejudice, Appellant so moves. See Exhibits I-VII.

Appellant hereby asserts his right to due process under the Constitution and precedence decisions.

Appellant also asserts his right to a fair and impartial judge to make a ruling based on these facts and precedence. The cannons for a judge include: "A judge should avoid even the appearance of impropriety in all of his or her activities."

It is on these principals, in part, and finding that this court has jurisdiction, that the Appellant, Terry H Capone In Pro Se, seeks remedy from the court in the form of action vacating / set aside

the void Judgment/Decision and Order made March 27, 2020 and December 2, 2015 and all made subsequent to it thereof.

By:

APPELLANT, *pro se*

April 9, 2020

Enclosure(s) as stated
Cc: Cythia Dooley,Carmelo Sammataro
Attorney's for Respondents (w/all enclosures)

Mr. Terry H. Capone
Fire Battalion Chief-Retired
130 Summerlea Drive
Columbia, SC 29203
803.622.6578
Email: tcapone@liberty.edu

SWORN DECLARATION OF TERRY H CAPONE

STATE OF SOUTH CAROLINA §

COUNTY OF RICHLAND §

Pursuant to 28 U.S.C. 1746, I Terry H Capone, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief and In opposition, Plaintiff states as follows:

1. I am the Appellant in this unlawful action.

2. The Veterans Administration has determined I am a totally and permanently Disabled Veteran, unemployable, and my PTSD is from service in the U.S Marines and Fire Department, effective on or about February 3, 2014.

3. My combined VA disability rating is 90% and I am compensated at a rate of 100%, due to the determination I am unemployable.

4. I request that the Orders/ judgment entered in this action and all previously made be vacated with prejudice for, at least, the following reasons:

A. Denial of due process/ Procedural due process
B. Lack of subject matter jurisdiction
C. Lack of personal jurisdiction
D. Fraud Upon the Court/ Tribunal and Appellant
E. Irregular Judgments
F. Change in Law
G. Change in Material Facts
H. Change in Appellate Status

5. The South Carolina Court of Appeals has in its possession all evidence to prove that Fraud Upon the Court was committed against the above and enclosed referenced matters. All orders are Void.

6. That clearly show SC Workers Compensation Commission Altered the Medical Opinion; the

Respondents defrauded the court and lied about critical evidence material to the claim denying and violating the Appellants constitutional rights to include:

Fifth Amendment for denial of due process; Fourteenth Amendment for Denial of Equal protection; Civil Rights Act 1866 and 1981 Equal Justice Under law (RACE) African Decent; 42 U.S., Code §1983-Civil Rights for Deprivation of Rights-Intentionally Deny or Delay Medical and Dental Care-"Unnecessary and Wanton Infliction of Pain"; Eighth Amendment Cruel and Unusual Punishment Denial of Medical Treatment; Fraud, and Perjury under Oath by Judicial Officers on the Court, Irregular judgments, and other violations of law, and there has never been a fair hearing on the merits to test the claim.

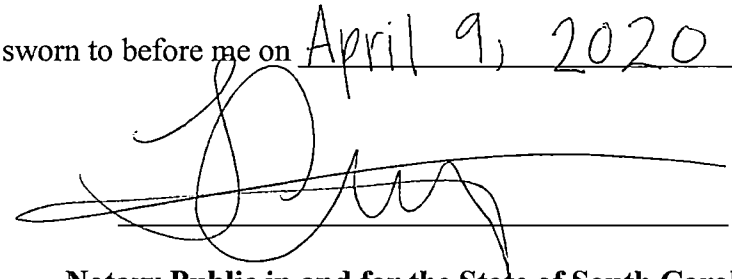
I certify under penalty of perjury under the laws of the state of South Carolina that the foregoing statement is true.

 Signature

Terry H Capone, Appellant In Pro per

Signed in Columbia, Richland County South Carolina on April 9, 2020

Subscribed and sworn to before me on April 9, 2020



Notary Public in and for the State of South Carolina

My commission expires: 6/22/2027

JUDICIAL NOTICE EXHIBIT

AE #I

ENVISION WELLNESS MEDICAL GROUP

2601 Read Street, Suite I-7
Columbia, SC 29204
Phone 803-256-0101 or Fax 800-854-3497

March 4, 2020

Re: Addendum to November 21, 2017 Mental Health Opinion
PTSD an Occupational Disease
Veteran: Terry H Capone served as SMITH
VA File: 1.

Dear Sir or Madam,

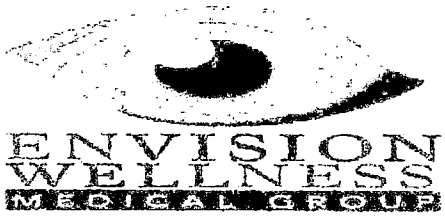
STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Before me this day personally appeared TIONA PRAYLOW, being duly sworn, deposes and says:

The following amendment is provided to clarify and supplement the mental health opinion previously provided November 21, 2017, and includes information that has been updated or unavailable at the time of original entry.

It is my opinion, based on a reasonable degree of medical certainty, and a thorough in-depth review of his military medical, personnel, other contemporaneous and civilian records Mr. Capone, who was an Enlisted Marine and Firefighter-Fire Battalion Chief, is suffering from Post Traumatic Stress Disorder an occupational disease, along with Major Depression arising from prolonged work-related stress that was ongoing. This sustained and repeated exposure to life threatening incidences and chronic stressors are the occupational factors that caused exacerbation of his Post-Traumatic Stress Disorder symptoms.

At the time of appointment with the City of Columbia Fire Department, Mr. Capone had no knowledge of his PTSD diagnosis, because he had not yet received a formal diagnosis of this condition. It is not uncommon for trauma survivors to suffer in silence for many years after the seminal traumatic incident for a number of reasons, and these survivors are clinically classified as ill-undiagnosed [1]. Based on the US Department of Veterans Affairs rating decision, Mr. Capone was "ill-undiagnosed" upon entry into service as a fireman. PTSD is highly comorbid with other psychological effects or mental illnesses that can occur following trauma, including depression [2, 3], anger and violence [4], guilt and shame [5, 6], substance abuse [7, 8], and suicidality [9]. Individuals with PTSD continue to experience the psychological effects of trauma, including re-experiencing symptoms, avoidance of similar stimuli, negative cognition and mood, and increased physical arousal, long after being removed to a safe environment [10]. They may also suffer a wide range of consequences of revealing their problems, such as a higher likelihood of losing jobs or being discriminated against in the workplace, social exclusion, lower income, difficulties in renting residences, exclusion from social communities, legal difficulties [11, 12]. In addition to the patients



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themselves, family members, friends, community members, colleagues, and employers are also indirectly affected by PTSD. Therefore, exacerbation of these symptoms under the intense stress experienced while serving in the City of Columbia Fire Department merits recognition as an occupational disease; deserving of the full compensation, rights, and privileges afforded to sufferers of such occupational diseases as outlined by the state employment and workers' compensation statutes.

A review of Mr. Capone's US Department of Veterans Affair's rating decisions, shows a combined service-connected disabilities rating of 80% that was effective February 3, 2014, subsequently as of February 24, 2020, his rating was upgraded to a combined service-connected disability evaluation rating of 90%. He is currently service -connected 70% for Posttraumatic Stress Disorder (PTSD), and Traumatic Brain Injury (TBI). As of February 3, 2014, he was determined by the US Department of Veterans Affairs to be unemployable in addition to being totally and permanently disabled due to his Marine service-connected disabilities. In Mr. Capone's US Department of Veterans Affairs Compensation and Pension (C&P) evaluations, dated March 20, 2019 Dr. Tonay Dillihay remarks: *"PTSD is as likely as not due to MVA (1989) + duties as a firefighter from 1997-2014"*and August 13, 2019 Dr. Deanna McNiel also documents his PTSD stressors resulted from his service both in the Marines as well as the Fire Service.

It is my opinion, based on a reasonable degree of medical certainty, that Post Traumatic Stress Disorder and Major Depression are deeply rooted in his Marine service, which began October 26, 1988, in Columbia, South Carolina, and continued over 5 years, as Enlisted Personnel, MOS 6541 Aviation Ordnance Technician, Hazardous Waste Coordinator. While his military service concluded in April 1997, the mental and emotional turmoil incited by his experiences there did not. Had he recognized that symptoms such as insomnia, hyperarousal, hypervigilance and avoidance behaviors, which can influence both short term and long term functioning were indicators of psychiatric illness, he could have gained leverage over these symptoms with professional assistance and proper support. However, some of the very things that over the long-term proved to be deleterious to his health and well-being, were more likely than not, viewed as adaptive and enabled him to perform at a high level in the fire service. Nonetheless, as his resilient coping deteriorated due to prolonged, chronic stress exposure and triggers in the workplace, he psychologically decompensated; suffering with exacerbated and severe Post Traumatic Stress Symptoms. The PTSD symptoms, aggravated by his employment with the City of Columbia Fire Department in Columbia, South Carolina over 17 years as a Firefighter-Fire Battalion Chief, Hazardous Material Technician, led to his disability retirement on March 29, 2014.

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Evidence of PTSD Exacerbation in the Occupational Setting

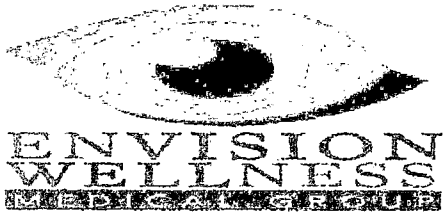
Military personnel and emergency service workers (police, fire fighters, emergency medical personnel), face many challenges and are exposed to many stressful events over the course of their careers. Multiple life treating situations, constant direct and indirect exposure to death, erratic sleep schedules, long work hours, back to back high stress calls, as well as a long list of other negative and unusual experiences, many of these where documented as described by Mr. Capone, which the average person is insulated from:

- August 28, 1999- while assigned to recue company 1, responded to Hazardous Materials call of Fire and Explosion at Shakespeare Co. Monophilament Plant 6111 Shakespeare Rd. Chemical release occurred from flash tank of pressure vessel #3. #1 through #13 and 25 co-workers were overcome by vapors and taken to the local hospital, treated and released. The vapors eventually reached the electrical components and ignited a flash fire. "first arriving on the scene, the plant looked like it was going to blow up totally, eventually I believe there was an explosion, I didn't actually get to see it, I saw heavy smoke coming from the second and third divisions" The chemical released while on scene was "Diphenyl Oxide".

- October 09, 1999- while assigned to rescue company 1, responded to a house fire 605 Byrd Ave, where an African American male died of carbon monoxide poisoning suffered in the single story house fire that started from a pot on the stove in the Eau Claire community. The occupant was initially found on the floor behind the door of his bedroom by the ladder 7 Fire Captain, Mr. Capone stated he and his partner on Rescue#1 carried the victim out, but CPR efforts were unsuccessful.

- Incident No Date: Vehicle accident US Route 601, involving logging truck and passenger vehicle, upon entry into the vehicle African American female passenger had expired and the top part of her head was stuck in the sunroof.

- Incident No Date: While assigned to recue company 1, responded to a vehicle accident Apartment of 3900 Bentley Drive, Columbia, man accidently drove his van off an elevated parking space, tried to jump away from the vehicle, but his head got caught and smashed by the door, causing his eyes to explode out of his head along with brain matter. Rescue equipment was used to stabilize the vehicle and remove the body, crew assisted with clean up.



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- October 06, 2004- while assigned to station 13 a Columbia Fire Department employee suspected of driving under the influence of alcohol was made to drive the fire truck with Mr. Capone and other firefighters to another station in another area to "catch and charge him", which endangered the lives of Mr. Capone, fire personnel and Columbia citizens.

- Incident No Date: while assigned to station 13 responded to a call where victim was without a pulse, and not breathing. Performed CPR, which he stated "rarely works" and resuscitated the lady, only to have her family produce a do not resuscitate DNR order, and the firefighters where forced to let the patient die in front of them on the EMS stretcher.

- Incident No Date: while assigned to Engine 33 responded to Club Paradise on a routine fire call that turned deadly, when the roof collapsed moments before he and other firefighters were able to exit, while the force of the collapsed building blew firefighters down an embankment.

- June 06, 2007- while assigned to station 28 arrived on shift to find his good friend Fire Engineer Edward Mclane, and his senior firefighter had been in a severe motor vehicle accident, where the Fire Engine had left the road and over turned, was severely hurt and could have been killed, and was disability retired, due to not being able to physically do his job any longer.

- November 21, 2011- while assigned to station 13 reported to City of Columbia employee health clinic with complaints about his speech, driving and sleep problems.

- Incident No Date: while assigned to station 33 responded to affluent citizen's home in Forest Acres for a mere water leak, seeing the look of despair on the gentlemen's face, Mr. Capone said he and his company did everything they could possibly do to help him with his furniture and getting the central dispatch to call a water removal/ mold company "just to have him go in a room in the house and commit suicide with a firearm, and then have to go and *work him*".

- October 26, 2012- while assigned to station 22, as Battalion 4 develops anxiety and feels afraid, makes a complaint of harassment and retaliation to supervisors and his command, following an emergency vehicle is against the South Carolina Law, request a restraining order against citizen who threatened his life by following him responding to an emergency scene.

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- February 10, 2013- reported on his shift at station 22, as Battalion 4 to find that his close friend Fire Captain Anthony Moye had been killed in a motor vehicle crash and, passed away as a result of injuries he sustained. Mr. Capone as a survivor of a severe Motor vehicle accident himself in service, in which he went through the windshield and survived, he felt guilt and questioned his purpose.

- March 31, 2013- while assigned to station 22, Battalion 4 request involuntary demotion, sites working conditions, responsibilities and pay.

- October 15, 2013- was required to give a deposition in a discrimination and retaliation lawsuit against his employer where he communicated "feeling invisible"..."no one is listening".

- 2013-2014- voiced his concerns about his employer stopping his pay, workers compensation, changing his Family Medical Leave Act dates and having to retire in order to get his 1% money to provide for his family and mounting medical bills related to his work- related injuries.

Many of these incidents experienced, as described by Mr. Capone, proved to be particularly overwhelming and the subsequent symptoms experienced after unsuccessful rescue attempts and life threats included intense nightmares and flashbacks, emotional numbness, more irritability and paranoia, feeling on edge all the time, difficulty falling and staying asleep, lack of concentration and emotional numbness and avoidance of places, people and activities that were reminders of the traumatic events. In addition, I find him to be a highly credible historian, in that he is not an embellisher and his accounts are supported by objective evidence found in the records, as well as multiple accounts from his wife outlining how these symptoms have impacted him as an individual and his family as a whole.

In my opinion based on a reasonable degree of medical certainty, Post-Traumatic Stress Disorder and Depression are more common (than in the general public) in military personnel and emergency service workers (police, fire fighters, emergency medical personnel), as this is well documented in current literature:

1. The Diagnostic and Statistical Manual of Mental Disorders states that the "Rates of PTSD are higher among veterans and others whose vocation increases the risk of traumatic exposure (e.g. police, firefighters, emergency medical personnel)"[13].

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2. The National Fire Protection Association (NFPA) 1582 Standard on Comprehensive Occupational Medical Programs for Fire Departments states that "The fire department physician shall, during the annual physical, inform the member of, and assess for the heightened risk of, stress associated with occupational exposures related to firefighting "[14].

3. It is estimated that 30 percent of first responders develop behavioral health conditions including, but not limited to, depression and posttraumatic stress disorder (PTSD), as compared with 20 percent in the general population [15].

4. Skogstad et al conducted a literature search and review of research on occupational groups at particular risk of developing work-related PTSD. They concluded that "professional first responders such as police officers, firefighter and ambulance personnel, have an increased risk of being exposed to traumatic events through their daily work" [16]

5. Studies show that Law Enforcement Officer's develop PTSD at rates ranging from 6% to 32%,[17,18] EMT/paramedics at rates ranging from 9% to 22%, [19,20,21,22,23] and FFs at rates ranging from 17% to 32%.[24,25] By contrast, approximately 7% to 12% of adults in the United States will develop PTSD at some point in their lifetimes.[26,27].

Only the first criterion, "Stressors", addresses the types of event that can cause PTSD"
"Criterion A: Stressor. The person was exposed to death, threatened death, actual or threatened serious injury or actual or threatened sexual violence as follows (one required): 1) Direct exposure. 2) Witnessing in person. 3) Indirectly, by learning that a close relative or close friend was exposed to trauma.

If the event actual or threatened death, it must have been violent or accidental. 4) Repeated or extreme indirect exposure to aversive details of the event(s), usually in the course of professional duties (e.g., first responders, collecting body parts; professionals repeatedly exposed to details of child abuse). This does not include indirect non-professional exposure through electronic media, television, movies, or pictures.

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DSM-5 Diagnosis

309.81	Post Traumatic Stress Disorder, aggravated by chronic pain
331.83	Mild Neurocognitive impairment Due To traumatic Brain Injury
296.33	Major Depressive Disorder, Recurrent Episodes severe

NFPA 1582 states, "Firefighters must be medically capable of performing their required job duties". As a result of Mr. Capone's disabilities, he was found not medically capable of safely performing one of more of his essential job duties as a Firefighter-Fire Battalion Chief or to work in any capacity since his last day of work in October 2013, the effective date of disability determined by Social Security Disability in 2016.

CONCLUSION

Mr. Capone met each of the diagnostic criteria for Post Traumatic Stress Disorder and Major Depression in the Diagnostic and Statistical Manual, Fifth edition (DSM-V), as his employment conditions as described were sufficiency severe to cause PTSD, because they were life or death events that were not generally inherent in every working situation, and Mr. Capone faced and was a direct witness to the traumatic events. In addition he met the criterion for Major Depression. There were no potential non-work causes, which included among other causes family relationships, finances and certain work conditions. Mr. Capone's traumatic work stressors outweighed the sum of non-work and excluded causes.

I certify under penalty of perjury that the forgoing statement is true and correct to the best of my knowledge and belief.

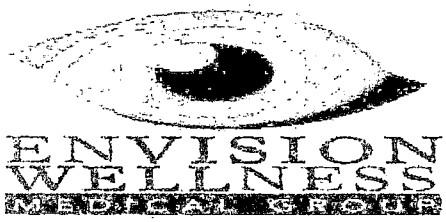
Tiona Praylow, MD

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Sworn and subscribed before me this 6th day of Mar 2020, by Tiona Praylow. Identification Produced: South Carolina Drivers Lic# [redacted] Expires: 04/14/2023

TARNISA CAPONE
Notary Public-State of South Carolina
My Commission Expires
June 22, 2027

PRINT OR STAMP NAME OF NOTARY



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JUDICIAL NOTICE EXHIBIT

AE #II

Conigliaro Jones, M.D.,FAAFP
TLM Medical Services LLC.

2701 Middleburg Drive
Columbia SC 29204-2004
Tel: 803-376-8875

Encounter Report

MR. TERRY HARTFORD CAPONE
Date: March 20, 2020
Level: Office/Outpt Visit,Est,Lvl IV
DOB: June 10, 1970 (Male 49 years)
External MRN: 4309-3138.0
Revision: 1 / 1
Electronically Signed by: Conigliaro Jones, M.D.,FAAFP 03/25/20 09:43 am

SUBJECTIVE

Chief Complaint

referral to gastroenterologist, Hemorrhoids, IBS

History of Present Illness

referral to gastroenterologist: He says he has seen Dr. Jenkins III in the past and needs to get back in to see him again.
Hemorrhoids: He says he is having issues with he hemorrhoids getting worse. He does not have any vomiting or hematemesis. He has frequent heartbutn symptoms and dysphagia. He has chronic constipation bleeding and diarrhea symptoms that continue about 4-6 itimes daily and has lost about 20 lbs since his last office visit about 35 days ago. He has sharp pain in the epigastric area that occurs several times a day for 1-2 hours at a time.
IBS: He says he is having a flare up of his IBS and Hemorrhoids. He says his GERD is flaring up and he is having issues with his digestion bother him more significantly lately. He is retired in 2014 partly due to his IBS and GERD and has not worked since.

General

Requesting CPE: yes.

MEDICAL INFORMATION REVIEWED

Allergies, Family History, Habits, Vital Signs, Medications.

Conigliaro Jones, M.D.,FAAFP
TLM Medical Services LLC.

2701 Middleburg Drive
Columbia SC 29204-2004
Tel: 803-376-8875

REVIEW OF SYSTEMS
General: Fever: no
Dermatologic: Rash: no, Skin lesion: no
Ophthalmologic: Normal vision: yes, Eye AND/OR eyelid symptom: no, Diplopia: no, Impaired vision: no
ENT: Hearing: normal, Tinnitus: no, Epistaxis: no, Blocked nose: no
Respiratory: Shortness of breath: no, Cough: no, Expectoration of sputum: no, Wheezing: no, Hemoptysis: no
Cardiovascular: Chest pain: no, Palpitations: no, Breathlessness: no, Edema: no
Gastrointestinal: Dysphagia: no, Heartburn: no, Abdominal pain: no, Nausea, vomiting and diarrhea: no, Melaena: no, Bowel habits: normal, Excessive body weight loss: no
Genitourinary: Normal urinary stream: yes, Dysuria: no, Hematuria: no, Urinary frequency: no
Extremities: Intermittent claudication: no, Ankle swelling: no
Musculoskeletal: Joint stiffness: no, Joint pain: no, Limitation of joint movement: no
Neurological: Headache: no, Photophobia: no, Numbness: no
Mental Status/Psychiatric: Sleep behavior: normal

PROBLEMS REVIEWED
Carpal tunnel syndrome [SCT57406009]
Dementia associated with another disease (SCT191519005)
Diab w/o mention comp type II/uns type uncntrl [SCT000000000]
Erectile dysfunction [SCT398175007]
Hyperlipidemia (SCT55822004)
Hypertension
IBS - Irritable bowel syndrome [SCT10743008]
Insomnia (SCT193462001)
Irritable bowel syndrome [SCT10743008]
Lesion of ulnar nerve [SCT367475009]
Major depression (SCT370143000)
Migraine [SCT37796009]
Newly diagnosed diabetes [SCT405749004]
PTSD - Post-traumatic stress disorder [SCT47505003]
Pudendal neuralgia [SCT427972000]
Sleep apnea [SCT73430006]
Stress at work

OBJECTIVE
VITAL SIGNS
Date: 03-20-2020 at 11:10 AM, **T:** 97.8 F (Oral), **P:** 70 (Regular), **BP:** 134/80 mmHg (taken on right while sitting), **Ht:** 5 ft 11 in, **Wt:** 231 lb , **BMI:** 32.21 (75%), **Resp. Rate:** 18

Conigliaro Jones, M.D.,FAAFP
TLM Medical Services LLC.

2701 Middleburg Drive
Columbia SC 29204-2004
Tel: 803-376-8875

Constitutional: Obesity
General Examination: General Appearance
Skin: Lesions: absent, Warm skin: present, Rash: absent, Skin: normal and no fungus on toe nails
Head and Face: Cephalic appearance: normal
Eyes: Fundoscopic evaluation: normal, Extra-ocular movements: normal, Conjunctiva: normal, Funduscopy: normal
ENT and Mouth: Tympanic membranes: normal, Nasal congestion: absent, Oropharynx: normal, Dentition: normal
Neck: Supple: present, Lymphadenopathy: absent, Thyroid: normal
Respiratory: Breath sounds: normal, This was located in the area of the Bilaterally, Wheezing: absent, Rales: absent, Rhonchi
Chest/Breasts: Normal configuration
Cardiovascular: Heart rate: normal, Heart rhythm: normal, Heart murmur: no and absent, Blood pressure: normal, Heart sounds: normal
Gastrointestinal: Bowel sounds: normal, Abdominal tenderness: absent, Abdominal mass: absent, Hepatojugular reflux: absent, Hepatosplenomegaly: absent
Extremities: Edema: absent, Cyanosis: absent, Clubbing of fingers: no, Full range of motion: yes
Musculoskeletal: Muscle strength: Status: 5/5, Range of Motion: normal
Neurologic: Orientated: Status: A&O x 3, Cranial nerves: normal, Status: Grossly intact, Feet: Nature/type: no deficit in sensation or ulceration

DIAGNOSES
(K58.9) Irritable bowel syndrome [SCT10743008]: Status: uncontrolled.
(K21.9) GERD - Gastro-esophageal reflux disease (SCT235595009): Status: uncontrolled.
(K64.9) Hemorrhoids (SCT70153002)
(R53.83) Fatigue (SCT84229001)

MEDICATION
Proctofoam HC 1 %-1 %- Take 1 Application rectally 3 times per day PRN for 30 days, Supply: 10 Grams, 3 Refills, allow substitutes

PLAN
Instructions
Low salt diet.
Continue meds as prescribed.
Follow up in 2-3 months.
Counseled on weight loss.
Encouraged good nutrition.
Exercise - walk 3-4 times per week.
Diet discussed
Patient Education Material Given.
Plan reviewed with patient.
Follow up appointment
Continue Medication

Conigliaro Jones, M.D.,FAAFP
TLM Medical Services LLC.

2701 Middleburg Drive
Columbia SC 29204-2004
Tel: 803-376-8875

Discussed importance of good nutrition
Care-Plan given to patient., He has had significant loss in stamina, weakness, and fatigue. His ADLs were moderately affected in the areas of bathing, dressing, toileting, and grooming. He has moderate issues with chores, shopping, and feeding himself. His GERD and IBS symptoms are worsened when PTSD symptoms are active. Hemorrhoids are worsened by constipation and IBS. He is currently followed by Dr. George Jenkins at Carolina Digestive disease.

Referral Orders
Iseman, TupperDR. Gastroenterology Perform outside Clinic (Byrd, Marcus) - Order Date: 3/20/2020, Dr. George Jenkins

VITAL SIGNS
Date: 03-20-2020 at 11:10 AM, **T:** 97.8 F (Oral), **P:** 70 (Regular), **BP:** 134/80 mmHg (taken on right while sitting), **Ht:** 5 ft 11 in, **Wt:** 231 lb , **BMI:** 32.21 (75%), **Resp. Rate:** 18

PROBLEM LIST
(E78.49) Hyperlipidemia (SCT55822004) (Current)
(E11.9) Newly diagnosed diabetes [SCT405749004], Onset: 01-12-2015 (Current)
(E11.65) Diab w/o mention comp type II/uns type uncntrl [SCT000000000 (Current)
(G56.20) Lesion of ulnar nerve [SCT367475009], Onset: 03-06-2014 (Current)
(G58.8) Pudendal neuralgia [SCT427972000], Onset: 03-06-2014 (Current)
(G43.909) Migraine [SCT37796009], Onset: 04-11-2014 (Current)
(F52.8) Erectile dysfunction [SCT398175007], Onset: 10-24-2014 (Current)
(K58.9) IBS - Irritable bowel syndrome [SCT10743008], Onset: 10-24-2014 (Current)
(K58.9) Irritable bowel syndrome [SCT10743008], Onset: 11-24-2013 (Current)
(G47.30) Sleep apnea [SCT73430006], Onset: 11-24-2013 (Current)
(F43.10) PTSD - Post-traumatic stress disorder [SCT47505003], Onset: 11-03-2013 (Current)
(I10) Hypertension, Onset: 10-24-2014 (Current)
(G56.00) Carpal tunnel syndrome [SCT57406009], Onset: 11-24-2012 (Current)
(F32.9) Major depression (SCT370143000), Onset: 11-07-2013 (Current)
(Z56.89) Stress at work (Current)
(G47.00) Insomnia (SCT193462001), Onset: 11-24-2013 (Current)
(F02.80) Dementia associated with another disease (SCT191519005) - METABOLIC ASSOCIATED (Current)

ALLERGIES
Cortisone
aspirin
Oxycodone
prednisone

Conigliaro Jones, M.D.,FAAFP
TLM Medical Services LLC.

2701 Middleburg Drive
Columbia SC 29204-2004
Tel: 803-376-8875

MEDICAL HISTORY
(G56.20) Lesion of ulnar nerve [SCT367475009]
(G58.8) Pudendal neuralgia [SCT427972000]
(F52.8) Erectile dysfunction [SCT398175007]
(K58.9) IBS - Irritable bowel syndrome [SCT10743008]
(F32.9) Major depression [SCT370143000]
(F43.10) PTSD - Post-traumatic stress disorder [SCT47505003]
(G56.00) Carpal tunnel [SCT57406009] - bilateral
(G47.30) Sleep apnea [SCT73430006]
(G47.00) Insomnia [SCT193462001]
(I10) Hypertension
(X) Migraine
(X) Gastroesophageal reflux disease

SURGICAL HISTORY
Excision - Cyst - 11-24-1989 (approx.); Comment: 4 cysts removed from scrotum
Vasectomy - 11-24-2001 (approx.)
reverse vasectomy - 09-20-2011

SOCIAL HISTORY
Retired
Married with children

LONG-TERM MEDICATIONS
Dexilant 60 mg capsule, delayed release- 1 Tablet, 1 time per Day for 30 Days
quetiapine 300 mg tablet- 1 Tablet, 1 time per Day for 30 Days 1 at hs
Duexis 800 mg-26.6 mg tablet- 1 Capsule, 3 times per Day for 30 Days
desoximetasone 0.05 % topical cream- 1 Application, 2 times per Day for 30 Days
hydrochlorothiazide 25 mg tablet- 1 Tablet, 1 time per Day for 30 Days
Viagra 100 mg tablet- 1 Tablet, 1 time per Day for 30 Days
Relpax 40 mg tablet- 1 tab at start of headache, repeat in 2 hours
lorazepam 1 mg tablet- 1 Tablet, 3 times per Day for 30 Days
zolpidem 10 mg tablet- 1 Tablet, 1 time per Day for 30 Days at hs
clonidine HCl 0.1 mg tablet- 1 Tablet, 1 time per Day nightly
cholecalciferol (vitamin D3) 1,250 mcg (50,000 unit) capsule- 1 Capsule, 1 time per Week for 30 Days
hydrocortisone 2.5 % topical cream- for 30 Days apply to face for Pseudofolliculitis Barbae

JUDICIAL NOTICE EXHIBIT

AE #III

Carolina Digestive Disease
1520 Taylor Street Suite 200
Columbia, SC 29201

Terry Capone
4209 Woodridge Dr
Columbia, SC 29203

29203$3743 C004

Carolina Digestive Disease

Patient:

CAPONE, TERRY H

SSN: ***-**-7472
DoB: 06/10/1970 **Age:** 49
Sex: M **Phone:** (803) 799-7688 **MR #:** 85330
Physician: George Jenkins III MD Carolina Digestive Disease

DD20-651
Date Collected: 03/26/2020
Date Received: 03/30/2020
Date Reported: 03/31/2020
Pathologist: Shixiong Liao, MD

Specimen(s) Received:

A) Gastric Biopsy B) Antral Polyp Biopsy

Clinical History:

Dyspepsia, esophageal reflux, weight loss.

Final Pathologic Diagnosis:

A. Stomach, Biopsy:
- Gastric mucosa with moderate active chronic H pylori gastritis
- No evidence of intestinal metaplasia or dysplasia

B. Stomach Antral Polyp, Biopsy:
- Gastric antral mucosa with severe active chronic H pylori gastritis, reactive lymphoid hyperplasia and intestinal metaplasia, negative for dysplasia

/SL

CPT:			ICD-10: B96.81 K31.7
	88305	x2	
	88312	x2	
	88313	x2	

Microscopic Description:

A. Giemsa stain reveals Helicobacter organisms on the surface of foveolar epithelium. AB/PAS stain reveals no intestinal metaplasia. All controls react appropriately.
B. Giemsa stain reveals Helicobacter organisms on the surface of foveolar epithelium. AB/PAS stain reveals intestinal metaplasia. All controls react appropriately.

Gross Description:

A. Received in formalin labeled with patient's name and Gastric Biopsy consisting of 2 segments of tan soft tissue measuring 0.4 x 0.2 x 0.1 cm in aggregate. The specimen is totally submitted in one cassette.
B. Received in formalin labeled with patient's name and Antral Polyp Biopsy consisting of 3 segments of tan soft tissue measuring 0.5 x 0.2 x 0.2 cm in aggregate. The specimen is totally submitted in one cassette.

/DS

Shixiong, MD

Electronic Signature

Technical Preparation at AP Laboratories
283 Dorchester Manor Blvd
N. Charleston, SC 29420

AP Laboratories LLC
CLIA # 42D2000636

Interpretation at AP Laboratories
283 Dorchester Manor Blvd
N. Charleston, SC 29420

CAPONE, TERRY H

*** End of Report ***

DD20-651

Technical Preparation at AP Laboratories
283 Dorchester Manor Blvd
N. Charleston, SC 29420

AP Laboratories LLC
CLIA # 42D2000636

Interpretation at AP Laboratories
283 Dorchester Manor Blvd
N. Charleston, SC 29420

Palmetto Endoscopy Suite
1520 Taylor St., Suite 200, Columbia, SC 29201

Patient Name:	Terry Capone	**Procedure Date:**	3/26/2020 2:13 PM
MRN:	85330	**Date of Birth:**	6/10/1970
Age:	49	**Admit Type:**	Ambulatory
Room:	Room 2	**Note Status:**	Finalized
Attending MD:	George A Jenkins, MD	**Instrument Name:**	4606

Procedure: Upper GI endoscopy
Indications: Dyspepsia, Esophageal reflux, Weight loss

Providers: George A Jenkins, MD, Sarah Dymock, Summer Craddock, CRNA
Referring MD: Conigliaro Jones, MD
Medicines: Propofol per Anesthesia
Complications: No immediate complications. Estimated blood loss: Minimal.

Procedure: Pre-Anesthesia Assessment:
- Prior to the procedure, a History and Physical was performed, and patient medications and allergies were reviewed. The patient's tolerance of previous anesthesia was also reviewed. The risks and benefits of the procedure and the sedation options and risks were discussed with the patient. All questions were answered, and informed consent was obtained. Prior Anticoagulants: The patient has taken no previous anticoagulant or antiplatelet agents. ASA Grade Assessment: III - A patient with severe systemic disease. After reviewing the risks and benefits, the patient was deemed in satisfactory condition to undergo the procedure.
- Mental Status Examination: alert and oriented. Airway Examination: normal oropharyngeal airway and neck mobility. Respiratory Examination: clear to auscultation. CV Examination: normal. Abdominal Examination: bowel sounds present, abdomen soft and non-tender, no masses or organomegaly noted.
- After reviewing the risks and benefits, the patient was deemed in satisfactory condition to undergo the procedure.
- The anesthesia plan was to use monitored anesthesia care (MAC).
After obtaining informed consent, the endoscope was passed under direct vision. Throughout the procedure, the patient's blood pressure, pulse, and oxygen saturations were monitored continuously. The Endoscope was introduced through the mouth, and advanced to the second part of duodenum. The upper GI endoscopy was accomplished without difficulty. The patient tolerated the procedure well.

Findings:

- A small hiatus hernia was present.
- No other significant abnormalities were identified in a careful examination of the esophagus.
- Patchy mild inflammation characterized by congestion (edema) and erythema was found in the gastric antrum. Biopsies were taken with a cold forceps for histology.
- A single 8 mm sessile polyp with no bleeding and no stigmata of recent bleeding was found in the gastric antrum. Biopsies were taken with a cold forceps for histology.
- No other significant abnormalities were identified in a careful examination of the stomach.
- Patchy mild inflammation characterized by congestion (edema) and erythema was found in the duodenal bulb.
- The exam of the duodenum was otherwise normal.

Palmetto Endoscopy Suite
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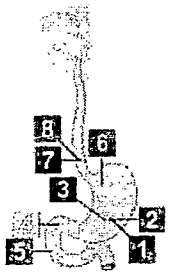
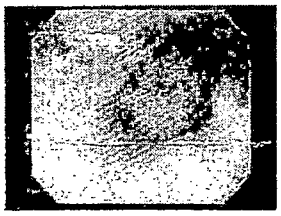
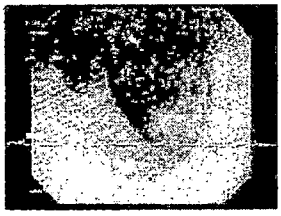
Patient Name:	Terry Capone	**Procedure Date:**	3/26/2020 2:13 PM
MRN:	85330	**Date of Birth:**	6/10/1970
Age:	49	**Admit Type:**	Ambulatory
Room:	Room 2	**Note Status:**	Finalized
Attending MD:	George A Jenkins, MD	**Instrument Name:**	4606

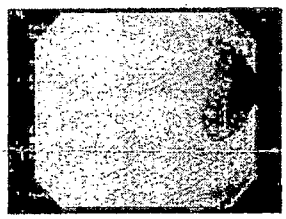
Add'l Images:



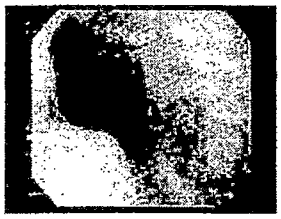
Upper Gastrointestinal Tract

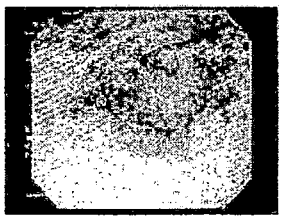

3 Gastric Body : *Inflammation, Polyp(s)

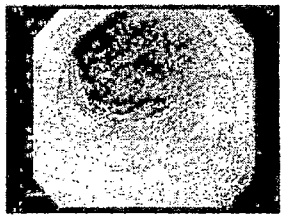

3 Gastric Body : Polyp(s)


6 Duodenal Bulb : *Inflammation


4 Lower Third of the Esophagus : Hiatus hernia


3 Lower Third of the Esophagus : Hiatus hernia


2 Gastric Body


5 2nd Portion of the Duodenum


2 Gastric Body

Impression:
- Small hiatus hernia.
- Gastritis. Biopsied.
- A single gastric polyp(small, stable antral polyp vs edema with benign appearance). Biopsied.
- Duodenitis.

Recommendation:
- Await pathology results. EH
- Use Nexium (esomeprazole) 20 mg PO daily. EH 20 mg/IV contrast + abd pain/nausea
- Follow an antireflux regimen.
- Perform a CT scan (computed tomography) of abdomen with contrast and pelvis with contrast at appointment to be scheduled. EH given to Faith
- The patient will be observed post-procedure, until all discharge criteria are met.

Palmetto Endoscopy Suite
1520 Taylor St., Suite 200, Columbia, SC 29201

Patient Name:	Terry Capone	**Procedure Date:**	3/26/2020 2:13 PM
MRN:	85330	**Date of Birth:**	6/10/1970
Age:	49	**Admit Type:**	Ambulatory
Room:	Room 2	**Note Status:**	Finalized
Attending MD:	George A Jenkins, MD	**Instrument Name:**	4606

Procedure Code(s): --- Professional ---
43239, Esophagogastroduodenoscopy, flexible, transoral; with biopsy, single or multiple

Diagnosis Code(s): --- Professional ---
K44.9, Diaphragmatic hernia without obstruction or gangrene
K29.70, Gastritis, unspecified, without bleeding
K31.7, Polyp of stomach and duodenum
K29.80, Duodenitis without bleeding
K30, Functional dyspepsia
K21.9, Gastro-esophageal reflux disease without esophagitis
R63.4, Abnormal weight loss

The codes documented in this report are preliminary and upon coder review may be revised to meet current compliance requirements.

George A Jenkins, MD
3/26/2020 2:36:32 PM
This report has been signed electronically.
Number of Addenda: 0
Note Initiated On: 3/26/2020 2:13:03 PM

JUDICIAL NOTICE
EXHIBIT
AE #IV

South Carolina Department of Motor Vehicles

Application for Placard and/or License Plate for People who have a Disability

RG-007A
(Rev 11/18)

Section 1 – Check type of transaction

☒ Original ☐ Renewal ☐ Replacement – Prior Plate/Placard No. _____ ☒ Add Parking Authorized ($1.00)

LICENSE PLATE ☒ Passenger Vehicle ($20.00) ☐ Motorcycle ($10.00)

☐ Purple Heart Wheelchair (Must also meet requirements for Purple Heart; No fee – Permanent Plate) ☐ Veteran Wheelchair (Must also meet requirements for Veteran)

☐ Veteran Wheelchair (HV) (Must also meet requirements for Veteran who has a disability; No fee – Permanent Plate)

PLACARD - $1.00 Limit 1 per applicant. Applicant must have a SCDL, BP or ID photo on file with SCDMV.

☐ Temporary (Impairment must be at least 4 months not to exceed 1 year) ☒ Permanent (valid for 4 years)

Placard Registration Certificate must remain in the vehicle when the placard is being used.

☐ DECAL (For display on Purple Heart motorcycle, Veteran who has a disability motorcycle, and World War II plates only)

Applications are accepted at SCDMV branches or can be mailed along with a check or money order (no cash accepted) payable to the SCDMV:
SC Department of Motor Vehicles, PO Box 1498, Blythewood, SC 29016-0019

Warning: A person who duplicates, forges, or sells a placard or a person who falsifies information on an application form for a placard or plate is guilty of a misdemeanor and, upon conviction, must be imprisoned for 30 days and fined not less than $500 and not more than $1,000.

Section 2 –Person's Information – Required for Placard or Plate (** *indicates optional information*)

Last Name: CAPONE First Name: TERRY Middle Name: H

Residential Address: 4209 WOODRDGE DRIVE

City: Columbia State: SC Zip Code: 29203

Mailing Address (if different): 130 summerlea drive

All correspondence will be mailed to the address of the applicant.

City: COLUMBIA State: SC Zip Code: 29203

(Area Code) Telephone Number:** (803) 622 - 6578 Person's SC Driver License, BP, or ID Number: 007051734

Date of Birth:** 06-10-1970 Social Security No. :** ___ ___ ___ Email Address:** tcapone@libertv.edu

I certify that this information is true and correct.

Signature of Person TERRY H CAPONE Printed Name of Person 09/04/2019 Date

Section 3 – Vehicle Information – Required for Plate Only

Vehicle Identification Number: 4JGBB86E86A035016 Make: MERZ Year: 2006 Gross Vehicle Weight: 6329 Current Vehicle Plate Number: VT14386

Owners Information

Last Name CAPONE First Name DEMETRIA Middle Name T

Street Address: 4209 WOODRDGE DRIVE

Mailing Address (if different): _____

City: Columbia State: SC Zip Code: 29203 Email:** tcapone@libertv.edu

(Area Code) Telephone Number:** (803) 312-1042 SC Driver's License, BP or ID 008789079

YES, I wish to donate $5.00, more or less, to Donate Life SC. Amount of donation $_____.00

INSURANCE CERTIFICATION

Under penalties of perjury, I declare this vehicle is insured with USAA (Insurance Company) and I will maintain liability insurance throughout the registration period.

Signature of Vehicle Owner DEMETRIA T CAPONE Printed Name of Vehicle Owner 09/04/2019 Date

Section 4 – Physician's Statement

A licensed physician or an Advanced Practice Registered Nurse (APRN) must complete this portion of the application and must indicate the disability and length of disability. APRNs are nurse practitioners, certified nurse-midwives, clinical nurse specialists, and certified registered nurse anesthetists.

APPLICANTS WHO HAVE A DISABILITY MUST BE CERTIFIED BY A LICENSED PHYSICIAN OR AN APRN.

This is to certify that TERRY H CAPONE (Name of Applicant (Please Print)) 06-10-1970 (Date of Birth) has the following condition(s):

☒ an inability to ordinarily walk one hundred feet nonstop without aggravating an existing medical condition, including the increase of pain;

☐ an inability to ordinarily walk without the use of, or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

☐ a restriction by lung disease to the extent that the person's forced expiratory volume for one second when measured by spirometry is less than one liter, or the arterial oxygen tension is less than sixty *mm/hg* on room air at rest;

☐ requires use of portable oxygen;

☐ a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association. If the person's status improves to a higher level, for example as a result of bypass surgery or transplantation, he no longer meets this criteria;

☒ a substantial limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition, for example, coordination problems and muscle spasticity due to conditions that include Parkinson's disease, cerebral palsy, or multiple sclerosis; or

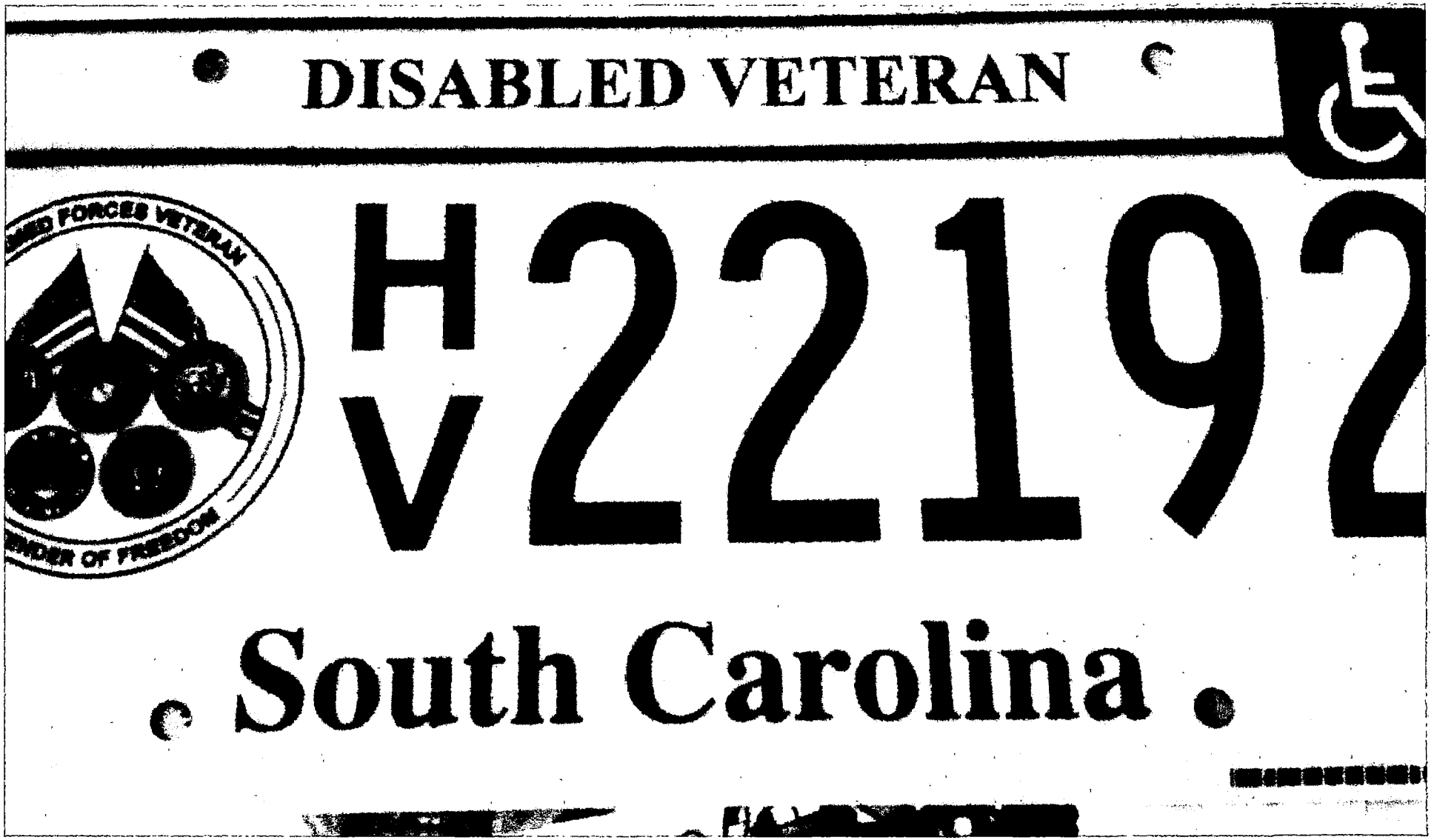
☐ blindness.

This disability is: ☒ Permanent ☐ Temporary – length of time _____ (impairment must be at least for 4 months not to exceed 1 year) Physician Office Phone Number: 803-256-0101

I certify that I am: ☒ a licensed Physician ☐ an APRN Professional License No. _____

Print Name of Physician or APRN Signature of Physician or APRN 09/04/2019 Date

Check No.	Amount	Plate No.	Placard No. 8138210	Specialist Initials	DMV USE ONLY


DISABLED VETERAN
HV22192
South Carolina

JUDICIAL NOTICE EXHIBIT AE #V

For the Veteran's Use Only

Department Of Veterans Affairs
6437 Garners Ferry Road
Columbia, SC 29209

March 02, 2020

In Reply Refer To:

TERRY CAPONE
130 SUMMERLEA DR
COLUMBIA SC 29203

319/VSC/BL
CSS XXXXX7472
Capone T H

Dear Terry H Capone,

This is in reply to your request for a statement verifying your service-connected disabilities.

Department of Veterans Affairs (VA) records show your service-connected disabilities are as follows:

Percentage	Disability	Diag Code
70	posttraumatic stress disorder (PTSD) and traumatic brain injury (TBI)	9411
50	migraine headache	8100
10	peripheral neuropathy, right lower extremity	8520
0	pseduofolliculitis barbae	7813
0	tinea cruris	7820
0	tinea pedis	7813
90	**Combined Rating**	

Do You Have Questions or Need Assistance?

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	For Compensation, call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 711. For Pension, call us at 1-877-294-6380.
Use the Internet	Send electronic inquiries through the Internet at https://iris.custhelp.va.gov.
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address below:

With sincere regard for the Veteran's service,

RO Director
VA Regional Office

To email us visit https://iris.custhelp.va.gov

Do You Know About eBenefits?
Please be aware that you can change your address or direct deposit, create a benefits letter, check the status of your claim, obtain a copy of your DD 214, and access additional VA benefit information via eBenefits at www.ebenefits.va.gov. To register for an account, you can speak with an eBenefits specialist by dialing 1-800-827-1000 or visit your local VA regional office.

JUDICIAL NOTICE EXHIBIT AE #VI

Department Of Veterans Affairs
Claims Intake Center
PO Box 5235
Janesville, WI 53547-5235

March 17, 2020

In Reply Refer To: 319/VSC/CRT
CSS XXXXX7472
Capone T H

TERRY CAPONE
130 SUMMERLEA DR
COLUMBIA SC 29203

Dear Terry Hartford Capone,

This letter is a summary of benefits you currently receive from the Department of Veterans Affairs (VA). We are providing this letter to disabled Veterans to use in applying for benefits such as state or local property or vehicle tax relief, civil service preference, to obtain housing entitlements, free or reduced state park annual memberships, or any other program or entitlement in which verification of VA benefits is required. Please safeguard this important document. This letter is considered an official record of your VA entitlement.

Our records contain the following information:

Personal Claim Information

Your VA claim number is: XXXXXX472
You are the Veteran.

Military Information

The character(s) of discharge and service date(s) of the veteran include:
Honorable for VA Purposes, Marine Corps, 10/26/1988-04/16/1997
(There may be additional periods of service not listed above)

VA Benefits Information

Service-connected disability: Yes
Your combined service-connected evaluation is: 90%
Your current monthly award amount is: $3,279.22
Are you entitled to a higher level of disability due to being unemployable: Yes
Are you considered to be totally and permanently disabled due to your service-connected disabilities:
Yes – effective February 03, 2014
Are you service-connected for loss of or loss of use of a limb, or are you totally blind in or missing at least one eye: No
Have you received a Specially Adapted Housing (SAH) and/or Special Home Adaptation (SHA) grant: No

You should contact your state or local office of veterans' affairs for information on any tax, license, or fee-related benefits for which you may be eligible. State offices of veterans' affairs are available at http://www.va.gov/statedva.htm.

Do You Have Questions or Need Assistance?

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	For Compensation, call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 711. For Pension, call us at 1-877-294-6380.
Use the Internet	Send electronic inquiries through the Internet at https://iris.custhelp.va.gov.
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address below: Department of Veterans Affairs Claims Intake Center PO Box 5235 Janesville, WI 53547-5235 Toll Free Fax: 844-531-7818 DID Fax: 248-524-4260

With sincere regard for the Veteran's service,

RO Director
VA Regional Office

To email us visit https://iris.custhelp.va.gov

JUDICIAL NOTICE
EXHIBIT
AE #VII

DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
National Cemetery Scheduling Office
PO BOX 510543
St. Louis, MO 63151

December 30, 2019

Mr. Terry Hartford Capone
130 Summerlea Drive
Columbia, SC 29203

Dear Mr. Capone:

We have reviewed your request and supporting documentation for a determination of eligibility for burial in a Department of Veterans Affairs (VA) national cemetery in advance of need. We find that, as of the date of this letter, you are eligible for burial in a VA national cemetery.

Eligibility criteria for burial in a VA national cemetery are stated in section 2402 of title 38 United States Code (U.S.C.), *Persons eligible for interment in national cemeteries*. This finding of pre-need burial eligibility does not reserve or guarantee a gravesite in a particular VA national cemetery. As an eligible Veteran, you will be entitled to a gravesite in any VA national cemetery with available space, opening and closing of the grave, perpetual care, and a government furnished headstone or marker, at no cost to your family. We have enclosed the National Cemetery Administration brochure and a Burial Benefits Information sheet that explains these benefits in more detail.

VA will save your pre-need claim form, supporting documentation, and this decision letter in a recallable system to expedite your burial arrangements at your time of need. We encourage you to retain this information along with your other important papers in the enclosed embossed VA Burial and Memorial Benefits document holder. We also encourage you to discuss your burial wishes and arrangements with your family members or authorized representatives. At your time of death, should your family or personal representative request burial in a VA national cemetery, VA will confirm this finding of pre-need eligibility based on the laws in effect at that time.

I hope this information is helpful in planning for your future burial needs. Thank you for your interest in our VA national cemeteries.

Sincerely,

Jay Dalrymple

Jay Dalrymple
Director, National Cemetery Scheduling Office

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Appellate Case No.: 2019-000369

PROOF OF SERVICE

Terry H Capone, Claimant.....Appellant,

v.

City of Columbia, Employer, and
Companion Third Party Administrator, LLC, Carrier, ...Respondents.

Terry H Capone, of Richland County, Pro Se Appellant.

I certify this 9th day of April 2020 that I have served a copy of the Appellants'

1. NOTICE OF EMERGENCY MOTION TO VACATE VOID JUDGMENT/ ORDER RULE 59/60 FRAUD ON THE COURT AND OTHER VIOLATIONS OF LAW AND TO TAKE MANDATORY JUDICIAL NOTICE IN THE ABOVE REFERENCED MATTERS

on the Respondents by personal service or mailing same, postage prepaid in the United States mail,

addresses to the following:

Cynthia C. Dooley, Esquire
Carmelo Barone Sammataro, Esquire
TURNER PADGET GRAHAM & LANEY P.A.
P.O. Box 1473
Columbia, SC 29202
ATTORNEYS FOR RESPONDENTS

April 9, 2020

By: _____

Mr. Terry H Capone
130 Summerlea Drive
Columbia, SC 29203
(803) 622-6578
Email: tcapone@liberty.edu
APPELLANT PRO PER

RETIRED

April 9, 2020

US MAIL DELIVERY OR PERSONAL SERVICE
The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC
Appellate Case No.: 2019-000369
W.C.C. File Nos. 1322451, 1319203, 1420487

Dear Ms. Kitchings:

Enclosed please find the originals and one copy each of the Appellants NOTICE OF EMERGENCY MOTION TO VACATE VOID JUDGMENT/ ORDER RULE 59/60 FRAUD ON THE COURT AND OTHER VIOLATIONS OF LAW AND TO TAKE MANDATORY JUDICIAL NOTICE IN THE ABOVE REFERENCED MATTERS and Proof of Service regarding the above-referenced matter. I am not a lawyer. Thank you for your assistance with this matter, please contact me if you have any questions.

$1100.00 Postal money order enclosed-#26388874800

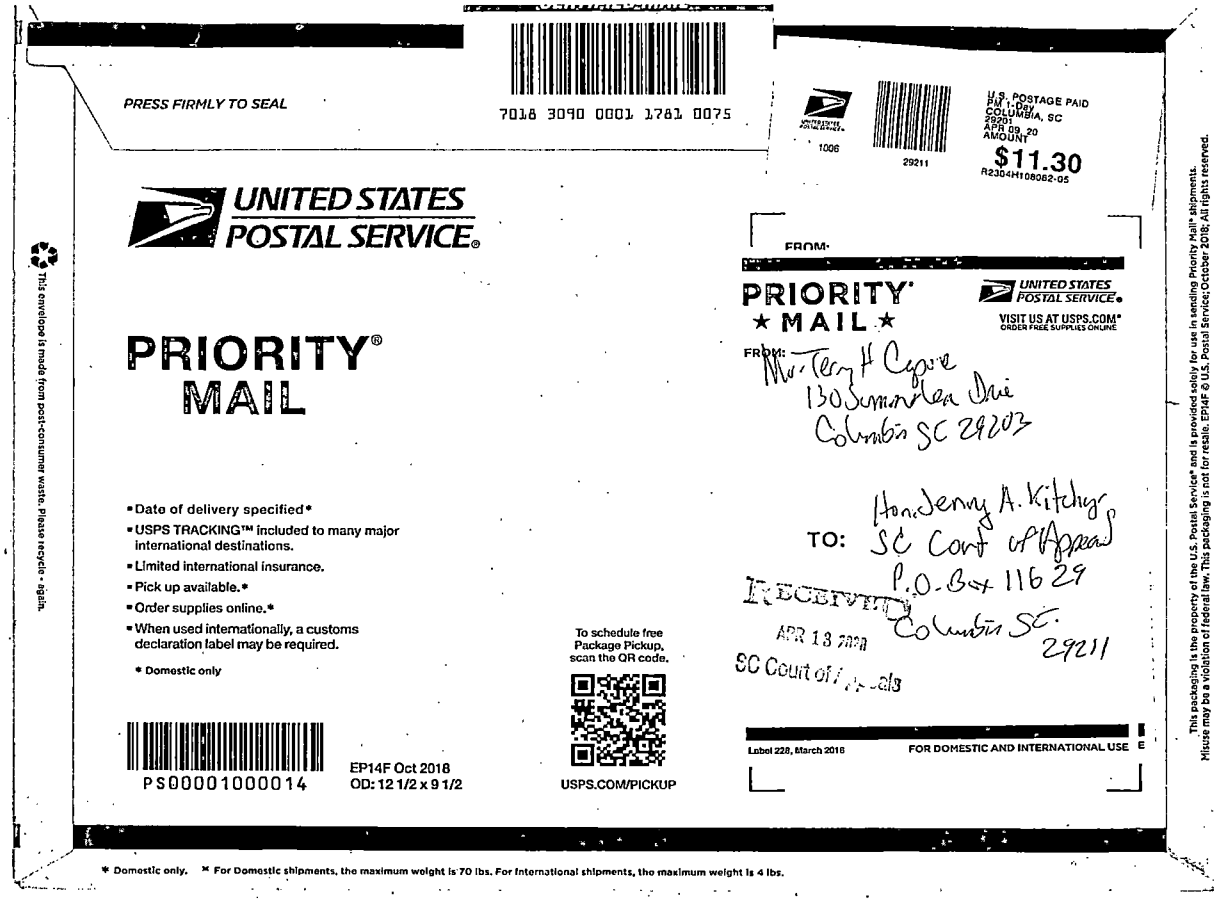
Thank you for your consideration.

Also $150.00 for forthcoming Motion additional

With The Highest Regards,

Enclosures
Cc: Cynthia C Dooley & Carmelo B. Sammataro

Mr. Terry H. Capone
Fire Battalion Chief-Retired
130 Summerlea Drive
Columbia, SC 29203
803.622.6578
Email: tcapone@liberty.edu



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TO: Hon. Jenny A. Kitchings
SC Court of Appeals
P.O. Box 11629
Columbia SC 29211

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