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The State of South Carolina
In the Court of Appeals

Appeal from the South Carolina
Workers' Compensation Commission

T. Scott Beck, Commissioner
Avery B. Wilkerson, Jr., Commissioner
Gene McCaskill, Commissioner

Appellate Case No.: 2020-000739

Jorge Lopez-Celestin.....Claimant, Appellant,

v.

Reeves Young, LLC, and
Holder Construction Group.....Employers,
and
Amerisure Insurance Company, and
American Zurich Insurance Company.....Carriers, Defendants,
of whom Reeves Young, LLC, and
Amerisure Insurance Company are the.....Respondents.

MOTION TO STRIKE MATTER
IN APPELLANT'S DESIGNATION
OF MATTERS TO BE INCLUDED IN
THE RECORD ON APPEAL

RECEIVED
JUL 27 2020
SC Court of Appeals

Respondents would respectfully show unto the Court that:

1. On June 24, 2020, Appellants served their Initial Brief and Designation of Matters to be Included in the Record on Appeal in this case.

2. Included in Appellant's Designation of Matters to be Included in the Record on Appeal was the deposition transcript of Juan Ochoa and the deposition transcript of Jorge Lopez-Celestin.

3. Respondent's Brief cited to both the deposition transcript of Juan Ochoa and the deposition transcript of Jorge Lopez-Celestin.

4. The deposition transcript of Juan Ochoa was not submitted into evidence at the hearing held before the Single Commissioner on March 21, 2019, and, therefore, is not a part of the Commission's record in this appeal.

5. Only pages 40 and 41 of the deposition transcript of Jorge Lopez-Celestin were submitted into evidence before the Single Commissioner on March 21, 2019. The entire deposition transcript of Jorge Lopez-Celestin was not submitted into evidence at the hearing before the Single Commissioner on March 21, 2019, and, therefore, is not part of the Commission's record in this appeal.

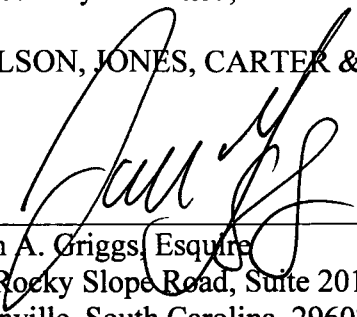
6. A review of the hearing transcript (Exhibit 1) and the Order of the Single Commissioner, filed September 6, 2019 (Exhibit 2) clearly reveal that Juan Ochoa's deposition transcript, nor Jorge Lopez-Celestin's entire deposition transcript were not submitted into the record in the proceeding before the Commission.

7. Rule 210(c) of the South Carolina Appellate Court Rules provides that a record shall not include a matter which was not presented to the lower court or tribunal.

8. WHEREFORE, Respondents move for an Order from the Court striking the deposition transcript of Juan Ochoa and the full deposition transcript of Jorge Lopez-Celestin from the Matters to be Included in the Record on Appeal and striking from the Appellant's Brief any reference to either deposition.

Respectfully submitted,

WILLSON, JONES, CARTER & BAXLEY, P.A.



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Attorney for Respondents

July 23, 2020

EXHIBIT 1

DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1706639

Jorge Lopez-Celestin,	)
Employee,	)
Claimant,	)
vs.	)
	)
Reeves Young, LLC,	)
Holder Construction Group, LLC	)
Employers,	)
and	)
	)
Amerisure Insurance Company,	)
American Zurich Insurance Company	)
	)
Carriers,	)
Defendants.	)

DECISION AND ORDER

HEARING:

Held in Ninety Six, South Carolina on March 21, 2019.

APPEARANCES:

Claimant represented by C. Daniel Vega, Esquire of Columbia, South Carolina.

Defendants Reeves Young and Amerisure Insurance Company represented by Jason A. Griggs, Esquire of Willson Jones Carter & Baxley, P.A., Greenville, South Carolina.

Defendants Holder Construction Company and American Zurich Insurance Company represented by Andrew D. Smith, Esquire of Goodman McGuffey Lindsey & Johnson, LLP, Charleston, South Carolina.

PURPOSE OF HEARING:

To determine the issues on the Forms 50 and 51.

DECISION AND ORDER:

By R. Michael Campbell, II, Commissioner

FILED:

September 6, 2019.

I. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the hearing:

Claimant's APA Submissions:

- APA #1: Records of Scott Barbour, M.D., dated 4/5/2017-10/3/2018, consisting of pages 1-249.
- APA #2: Records of Benchmark Physical Therapy, dated 5/25/2017-8/31/2018, consisting of pages 250-292.
- APA #3: Records of Vidyadhar Chitale, M.D., dated 9/27/2017-10/4/2017, consisting of pages 293-297.
- APA #4: Records of Amedisys Home Health Care, dated 1/24/2017 – 3/21/2017, consisting of pages 298-446.
- APA #5: Records of AnMed Health, dated 1/5/2017-1/21/2017, consisting of pages 447-548.
- APA #6: Records of Pendleton Area Rescue Squad/EMS, dated 1/5/2017, consisting of pages 549-553.
- APA #7: Records of Philip G. Simoneaux, II, CPA Report, dated 7/25/2018, consisting of pages 554-564.

Claimant's Exhibits:

- Exhibit A: Claimant's Driver's License
- Exhibit B: Accident Report
- Exhibit C: Map
- Exhibit D: Photos of Wrecked Vehicle
- Exhibit E: Bank Transaction History
- Exhibit F: Medical Bills
- Exhibit G: Cancellation/termination of health insurance letters
- Exhibit H: 2016 W-2

- Exhibit I: Gasbuddy.com – Clemson
- Exhibit J: Gasbuddy.com – Atlanta
- Exhibit K: Wage records of Reeves Young, LLC
- Exhibit L: AP Vender Payment History

Defendants' (American Zurich Insurance Company) Exhibits:

- Exhibit M: Contractor Controlled Insurance Program, dated 3/31/2016, consisting of pages 1-37.
- Exhibit N: Daily Activity for Earle Street Apartments, dated 1/5/2017, consisting of page 38.
- Exhibit O: Reeves Time Card Entry for Claimant, dated 1/5/2017, consisting of page 39.
- Exhibit P: Claimant's Deposition, dated 1/16/2018, consisting of pages 40-41.
- Exhibit Q: William Reeves Deposition, dated 3/5/2018, consisting of pages 42-85.
- Exhibit R: Matt McCormack's Deposition, dated 3/5/2018, consisting of pages 86-102.
- Exhibit S: Motion for Attorney's Fees and Cost, dated 4/17/2018, consisting of pages 103-122.

II. STIPULATIONS

Counsel for the respective parties stipulated at the time of the hearing to the following issues:

1. The purpose of the hearing is to determine the issues as set forth in the Forms 50 and 51 and any other issues which may timely come before the Commission;
2. Claimant's compensation rate is \$806.92;
3. Notices were timely and properly served upon all parties of interest;
4. Venue is proper as agreed by all parties;
5. That the South Carolina Workers' Compensation Commission has jurisdiction over the parties and issues involved.

Without objection, the Commission's file was made a part of the record in this matter with the exception of any self-serving declaration or unstipulated medical reports.

III. STATEMENT OF THE CASE

This is a denied claim that arises from a motor vehicle accident that occurred on January 5, 2017, when Claimant was driving from work at a job site in Clemson, South Carolina to his home in Gainesville, Georgia. While in Clemson the Claimant would spend time working on two different job sites, the dormitory project at Clemson University and the Earle Street Apartment project. Holder Construction Group, LLC was the general contractor over the dormitory project and obtained a CCIP insurance policy through American Zurich to cover any injuries that happened on the dormitory project. When Claimant was working on the Earle Street Apartment job he was covered under Reeves Young's general workers' compensation insurance policy with Amerisure Insurance Company. Defendants denied the claim on the basis that Claimant was not in the course of his employment at the time of the accident because he was driving from work and did not meet one of the exceptions to the "going and coming" rule. Claimant filed a Form 50, Request for Hearing, to determine the issue of compensability. Defendants filed a Form 51, denying that Claimant sustained an injury arising out of and in the course of his employment.

A hearing was held on March 21, 2019 before the Undersigned to determine the issue of compensability. At the hearing, Claimant took the position that the case was compensable on two grounds: (1) the "special errand" exception to the "going and coming" rule was applicable because Claimant was not working on employer premises, but he was sent to a specific job site as the behest of the employer, and he could not have done the work but for the travel to and from the job site; and (2) the "time or travel compensated for" exception to the "going and coming" rule was applicable because Claimant contends the employer offset the cost of travel and he could not have afforded the cost of travel but for the addition of \$2.00 to his hourly rate and per diem of \$35.00 a day.

It was Defendants Reeves Young and Amerisure Insurance Company's position that

Claimant did not meet any exception to the going and coming rule. He was involved in an unfortunate motor vehicle accident when he was leaving the Clemson job site, but that he was not on a special errand, nor was he compensated for his travel time. Defendants asserted that Claimant received a \$175.00 per diem, as every worker did on the Clemson job site, regardless of whether they stayed at the employer-provided housing, car pooled, or drove home. Defendants argued that the \$175.00 did not constitute mileage, payment for travel time, or reimbursement for gas money, but rather was simply a per diem to every employee at the Clemson job site, including Claimant.

At the hearing, Holder Construction Company and American Zurich Insurance Company made a motion under Section 42-17-80 that Claimant does not have reasonable grounds to pursue a claim against Holder Construction or Zurich Insurance Company and asked for costs associated with defending this claim.

IV. EVIDENCE OF THE CASE

Hearing Testimony of Jorge Lopez-Celestin ("Claimant")

Claimant is 52 years old. He was involved in a motor vehicle accident on January 5, 2017. Claimant has been a heavy machine operator since 1996. Claimant testified that at the time of the accident he was employed by Reeves Young, a construction company. Claimant testified that he was working on projects in Clemson doing grading work and moving dirt. (Hr. Tr. pp. 25-27.)

On January 5, 2017, Claimant testified that he was paid \$18.50 an hour and received a paycheck every week. In addition, Claimant testified that he received regular weekly deposits of \$175.00. Claimant's normal or usual rate of pay was \$16.50 an hour when he worked in Georgia. However, when he worked in Clemson, Claimant testified that he was paid \$18.50 per hour. Claimant testified that his supervisor, Juan Ochoa, told him that he would be making \$2.00 more an hour working at the Clemson site. Claimant testified that he received the \$175.00 every week

that he worked in Clemson. Claimant worked in Marietta, Georgia for a period of time in March 2016 and did not receive the \$175.00 a week during this time. He testified that he resumed receiving the \$175.00 when he went back to work in Clemson. Claimant testified that his hourly rate also went down when he was working in Marietta. (Hr. Tr. pp. 27-32.)

Claimant testified that the job in Clemson was 85 miles from his home in Gainesville. Claimant testified that Reeves Young sent him to work at Clemson. Claimant testified that he would not have been able to afford to travel to Clemson without additional money being paid by the company. Claimant felt it benefited the company for him to be available in Clemson. (Hr. Tr. pp. 34-36.)

Claimant testified that his immediate supervisor is Juan Ochoa, and he usually worked on Juan's team. When he was moved to Atlanta to work Claimant went with Juan's entire team. Claimant testified that Shane Burrell later had asked him to go back to Clemson with another team. Claimant testified that Shane was the supervisor at the Clemson project. Claimant testified that Juan Ochoa wanted him to come back to Atlanta, but Shane told him he could stay at Clemson if he wanted, and Claimant chose to do that. Claimant testified that it was convenient for him to work at Clemson because he was making more money. He testified that he worked at two different locations when he worked in Clemson. (Hr. Tr. pp. 36-39.)

Claimant testified that he sustained serious injuries as a result of his motor vehicle accident, including a left ankle fracture, total knee replacement, fractured ribs, dislocated left shoulder, neck fractures, and two years later, he developed hernias. Claimant testified that he had insurance with Blue Cross Blue Shield, but those benefits ended when he was terminated from the company on December 11, 2017. Claimant testified that he has not been able to return to work since the accident. Claimant testified that he is not able to physically perform the work he

did for Reeves Young due to the injuries sustained in the accident. (Hr. Tr. pp. 39-42.)

Claimant testified that he is still treating with Dr. Scott Barbour. Claimant testified that he has been recommended for treatment for swelling in his arm, his fractures, pain management and additional specialists. Claimant testified that he has not received any financial or monetary compensation from Reeves Young or workers' compensation since his accident. (Hr. Tr. pp. 42-43.)

Upon cross-examination by Defense Counsel for Reeves Young and Amerisure Insurance Company, Claimant testified that his accident occurred on January 5, 2017. After his accident, Claimant admitted that Reeves Young kept him on their group health policy through December of 2017, and he did not pay any premiums during that time frame. Claimant testified that he received another letter from Reeves Young in November of 2017 and that Eric Young came to visit him at his house. (Hr. Tr. pp. 43-49.)

Claimant testified that he was paid \$175.00 additional money per week when he worked in Clemson. Claimant stated that he made the \$175.00 regardless of how many days he worked. Claimant agreed that he worked less hours some weeks if there was rain or bad weather, but he still received the \$175.00 a week regardless. Claimant agreed that the \$175.00 did not fluctuate. (Hr. Tr. pp. 49-50.)

Claimant testified that every Reeves Young worker on the Clemson site received the \$175.00 per diem. He further testified that the workers at the Clemson site drove from different places, but the \$175.00 remained constant. Claimant testified that Reeves Young did not require him to keep receipts for what he was spending the \$175.00 on. Claimant claimed that, "in my case they gave me the money for gas and they never asked me for any receipts." (Hr. Tr. p. 51 at lines 7-8.) Claimant then admitted that Reeves Young never asked him for receipts, a mileage

log, and Claimant never had to tell them how far or where he was driving. Claimant testified that an apartment was mentioned to him if he wanted to stay in Clemson, but he was never officially offered the same. Claimant testified that he chose to drive back and forth to Gainesville, Georgia to take care of his sick wife. Claimant testified that he drove his own car and spent about three and a half hours in the car round trip each day. (Hr. Tr. pp. 50-52.)

During his driving time in the car, Claimant testified that he was not paid his hourly wage. He further stated that Reeves Young did not pay his car insurance, any of his car maintenance, or give him a gas card to buy gas. Claimant testified that he was not doing any errands for Reeves Young, nor was he charged with any tasks by Reeves Young on his way to and from the Clemson job site and his house in Gainesville. (Hr. Tr. p. 52.)

Claimant testified that he routinely worked other jobs for Reeves Young in Atlanta that required him to drive an hour and a half one way in the afternoon, and he was not paid mileage for the same. Claimant agreed that Reeves Young did not exercise any control over what he did while driving in his vehicle to and from Clemson. He did not even have a work phone. Claimant did not have any evidence of the cost it took to fill up his gas tank. He also had no evidence of the maintenance cost of operating his vehicle. (Hr. Tr. pp. 52-54.)

Upon cross-examination by Defense Counsel for Holder Construction Company and American Zurich Insurance Company, Claimant testified that he left from the Earle Street Apartment Complex on January 5, 2017 when he was involved in his motor vehicle accident. Claimant explained that he worked at both the dormitory project and the apartments on the day of his accident, but he only worked on the dormitory project in the morning cleaning out mud for an hour. After that, he went over to the Earle Street Apartment Complex and worked there until the end of the day. (Hr. Tr. pp. 54-57.)

Testimony of Juan Ochoa ("Juan")

Juan testified that he has been employed by Reeves Young as a Foreman for the last year or so. He worked on the dormitory job in Clemson. Juan explained that there were two jobs in Clemson—the dormitory job and the apartment job. Juan testified that he was Foreman on the dormitory job only. Juan testified that he lived in Gainesville, Georgia when he worked on the Clemson job and drove to and from Clemson from Gainesville everyday in his company truck. Juan testified that his truck is owned by Reeves Young, and he does not pay for the truck payments, for insurance, or gas. He uses a company card to pay for gas when driving the company truck. Juan testified that when he worked in Clemson, he also received a per diem of \$175.00 a week. He received the \$175.00 a week regardless of the amount of time he worked during the week. Juan testified that he did not have to keep track of any mileage or receipts when he was traveling between Gainesville and Clemson. (Hr. Tr. pp. 65-68.)

Juan testified that he was never told by Reeves Young how to spend the \$175.00. After he stopped working in Clemson and went back to working in Atlanta, Juan testified that he did not get the \$175.00 anymore. Juan testified that he transported other employees, Julio Abrego, Isidro Silva, and Mario Romero, who lived near the Gainesville area in his company truck most days to work at Clemson. Juan testified that Julio, Isidro, and Mario also received the \$175.00 per diem even though they did not drive their own vehicle and rode with Juan to work. (Hr. Tr. pp. 68-69.)

Juan testified that he was Claimant's supervisor on the dorm job and that Claimant was living in Gainesville while working on the job. Juan testified that Claimant drove back and forth from Gainesville to Clemson for work. Juan further testified that Claimant had the option of staying in housing in Clemson, and he offered that option to Claimant. Juan made it clear to

everyone, including Claimant, that there was housing available in Clemson free of charge. Juan explained that Reeves Young paid for the housing, and it was available from the beginning of the job. (Hr. Tr. pp. 69-70.)

Juan explained that the Clemson job started June 8, 2015. After Juan offered the housing at Clemson to Claimant, he testified that Claimant continued to drive back and forth from Clemson to Gainesville. Juan thought Claimant did that because his wife was sick. Juan testified that Claimant received the \$175.00 per diem and would have still received the \$175.00 per diem if he had decided to stay in the housing. Juan testified that it was the company's plan to continue paying the per diem even if the employees chose to stay in the housing. Juan testified that Claimant did not have to keep track of any mileage or receipts, and he did not tell Claimant how to spend his per diem. (Hr. Tr. pp. 70-72.)

Juan testified that Claimant did not have any errands to run for Reeves Young when he was driving back and forth to Clemson. Juan further testified that Reeves Young did not have any control over Claimant when he was going to or coming from the job site at Clemson. Juan denied ever telling Claimant that the \$175.00 per diem was for gas money. (Hr. Tr. pp. 72-73.)

Upon cross-examination by Claimant's attorney, Juan testified that he told Claimant the money was for per diem, which meant it was to help with meals. Juan explained that everyone received the per diem, regardless if they chose to stay in the provided housing or to drive back home. Juan testified that Claimant drove home at the end of each day to take care of his sick wife. Juan agreed that he also drove home each day for his family. Juan agreed that the company did not require anyone to stay in the company housing. (Hr. Tr. pp. 73-77.)

Juan testified that his crew consisted of Julio Abrego, Isidro Silva, Mario Romero, Jorge Lopez, Luz Lopez, and one other guy whose name he could not remember. Juan testified that

not all of his crew members rode with him. There were other members of the crew that drove their own vehicles to Clemson and also received the \$175.00 per week per diem. Juan testified that all members of his crew were paid the \$175.00. (Hr. Tr. pp. 77-78.)

Juan testified that his crew was transferred to an Atlanta area job in March of 2016. Juan testified that Claimant initially went with him to Atlanta and was a good worker. After 2-3 weeks in Atlanta, Claimant returned to Clemson as the request of Superintendent Shane Burrell. Juan testified that he contacted Shane Burrell and asked for Claimant to be sent back to Atlanta because he liked having him on his crew and needed him back. Shane told Juan that Claimant did not want to come back to Atlanta because he was making more money in Clemson. (Hr. Tr. pp. 78-82.)

Juan testified that he did not use the extra money to pay for any travel expenses because he had a company gas card. He stated that no one else below him in his crew had a gas card. Juan testified that he never told his crew how to use their money. Juan acknowledged that they made extra money working in Clemson that they did not make when working in Atlanta. Juan testified that his salary is separate from the per diem. Juan testified that if there was inclement weather in Clemson, employees were instructed to call in to him or Shane and then they would make a decision from there. Juan testified that it was the company's choice whether they would bring people in on days with inclement weather and/or whether they would send them home early. Regardless, Reeves Young would still pay the employees the \$35.00/day whether they worked 10 minutes or 2 hours. (Hr. Tr. pp. 82-87.)

Testimony of William Reeves ("William")

William testified that he has worked for Reeves Young for 11 years. He is the Vice President and Leader of the Civil Engineering Unit. He was over the two Clemson projects.

William testified that Claimant was a good employee, and they enjoyed having him around. William testified that Claimant's employment was separated in December of 2017, after he could not come back to work after a certain period of time. From his accident in January of 2017 until December of 2017, William stated that Reeves Young kept Claimant on their group health policy and paid his premiums. (Hr. Tr. 89-90.)

William testified that Claimant was not paid mileage while driving to and from Clemson. William testified that Claimant was given a per diem while he was working in Clemson of \$175.00 a week. William explained that the \$175.00 was given to Reeves Young employees working on the Clemson project that traveled from out of state. He stated that the employees received the per diem for being out of town, for meal money, and because of industry standard, which dictated that generally people working out of state are given per diems. William testified that some workers stayed overnight in the Clemson area and Reeves Young provided company housing. William explained that this was an option for all employees to stay overnight, and that they would still receive the per diem if they did stay, which some employees chose to do. (Hr. Tr. pp. 90-92.)

William testified that the \$175.00 was not contemplated as gas money. William testified that other employees traveled from different parts of Atlanta to the Clemson site and still received the \$175.00 per diem. The \$175.00 was flat across the board and did not fluctuate with distance travelled or time worked. William testified that Claimant was offered the housing in Clemson, and had he chosen to stay in the housing, he would have continued to receive the \$175.00. William explained that if workers carpooled, and only one worker was actually driving, they would all still receive the \$175.00. (Hr. Tr. pp. 92-93.)

William testified that the \$175.00 bore no relation to travel time, travel distance, or actual

transportation expenses incurred by Reeves Young employees. Employees did not have to keep a track of mileage receipts or gas logs. William testified that Reeves Young did not derive any benefit from employees driving to and from their home in Gainesville to the job site. William did not place any restrictions on Claimant after he left the job site, and Claimant did not carry out any errands on the way home from Clemson or the way in. (Hr. Tr. pp. 93-95.)

William testified that Juan Ochoa had a company issued fuel card and company truck that he drove to and from his home in Gainesville to the Clemson site; however, Juan also received the \$175.00 per diem. William testified that there are instances in which they will pay an employee's mileage, but there is a process for that involving expense reports and pay per the IRS mileage guidelines. William testified that the mileage process with an expense report was not used in Claimant's case. (Hr. Tr. p. 96.)

Upon cross-examination by Claimant's attorney, William testified that mileage was not offered to the crew going to Clemson, and the company had decided to pay the per diem in consideration for the workers being out of state. William explained that they did not account for how far the workers had to travel and mileage was never part of the equation into giving a per diem. William stated that they assumed the workers would spend the night in Clemson and would have to buy meals, so the per diem was to offset the cost of the extra meals that they had to buy. (Hr. Tr. pp. 96-100.)

William testified that the workers were not required to stay in Clemson. If Claimant had chosen to not go to Clemson, he would not have been terminated, and he could have worked in Atlanta. Shane Burrell was the superintendent of the Clemson job site and was in charge of the daily activities of the site. He directed Juan who would then direct the crew members. When Claimant went to Atlanta with Juan Ochoa's crew, he was not paid the per diem because they

were in state. William testified that the employees could spend the per diem on whatever they wanted to. (Hr. Tr. pp. 100-104.)

Upon cross-examination by Defense Counsel for Holder Construction Company and American Zurich Insurance Company, William testified it was his understanding Claimant worked 10 hours at the Earle Street Apartment Complex on the day of his accident. The general contractor at the Earle Street Apartment Complex was Fortune Johnson. William testified that Holder did not have any business dealings at the Earle Street Apartment Complex and that Reeves Young had insurance through Amerisure for the apartment complex. (Hr. Tr. pp. 104-105.)

Testimony of Matthew McCormack ("Matt")

Upon direct-examination by Claimant's attorney, Matt testified that he is a Vice President for Reeves Young and was the executive over both Clemson projects, and the project manager reported to him the day-to-day activities of the job. Matt was responsible for making sure they had appropriate manpower and ensuring that the projects stayed on time. Matt testified that he was involved with the decision as to whether employees would get paid a per diem when employees were working in Clemson. Matt testified that the \$175.00 a week was because Reeves Young was going to provide housing for the employees to stay in Clemson, and the \$175.00 would cover the cost of meals for being out of town. (Hr. Tr. pp. 106-109.)

Matt explained that this was Reeves Young's first project out of state. He stated that Reeves Young wanted to make it more attractive to the workers and offset the burden of being an out of town employee, so they provided housing and gave them money for food. The employees were not required to tell them what they were spending the money on and not required to turn in receipts. Matt testified that more than one employee was driving back and forth from Gainesville to Clemson every day. Matt testified that they did not require them to stay in

Clemson, nor did they prohibit them from traveling back home just as long as they showed up on time and did their work. (Hr. Tr. pp. 109-110.)

Medical Evidence

On the day of his accident, January 5, 2017, Claimant was transported to AnMed Health Medical Center via EMS. Upon arrival, he was admitted to the orthopaedics unit for multiple orthopaedic injuries: left open knee joint; closed left ankle fracture; closed left shoulder fracture dislocation; and a right forearm wound. Claimant underwent multiple surgeries, including debridement and irrigation to bone of the left knee, placement of uniplanar external fixator left lower extremity, closure of the right forearm laceration (6 cm), and open treatment with internal fixation of left trimalleolar ankle fracture with fixation of the posterior lip. Claimant was discharged from the hospital on January 21, 2017. His discharge diagnoses were: left 5th, 6th and 7th rib fractures; right-sided pulmonary contusion; status post debridement, irrigation left open knee joint; status post an external fixator placement with subsequent conversion to open reduction/internal fixation left ankle; and close left greater tuberosity fracture/dislocation. Home Health physical therapy was ordered. (Claimant's APA #5.)

Claimant underwent home health care with Amedisys Home Health Care from January 24, 2017 to March 21, 2017. (Claimant's APA #4.)

Claimant submitted records from Dr. Scott Barbour at Barbour Orthopaedics dated April 5, 2017 to October 3, 2018. On April 5, 2017, Claimant complained of neck, left shoulder, left knee, left ankle, and left forearm pain resulting from a motor vehicle accident on January 5, 2017. Claimant declined a left shoulder corticosteroid injection. He was given prescriptions for Percocet and Mobic. Dr. Barbour recommended physical therapy for the cervical spine and left ankle and ordered MRIs of the right elbow, cervical spine, left shoulder and left knee. After

reviewing the MRIs, Dr. Barbour recommended left shoulder arthroscopy with rotator cuff repair, Bankart repair, and extensive debridement of the glenohumeral joint vs. superior labral repair with intra-articular injection of AmnioFix. For the knee, he recommended a left knee arthroplasty secondary to severe cortical irregularity, minimal meniscal remnant and tearing, and extensive bone edema in the presence of severe degeneration. For the cervical spine, Dr. Barbour recommended ESIs to treat the disc protrusions at the C4-5 and C5-6 level. He recommended a series of 3 platelet rich plasma injections to the common extensor tendon of the R elbow to treat partial tear and reduce inflammation. Dr. Barbour wrote Claimant out of work. (Claimant's APA #1.)

On May 2, 2017, Dr. Barbour performed arthroscopy of the left shoulder with arthroscopic rotator cuff repair, arthroscopic Bankart repair, arthroscopic SLAP repair, extensive debridement of the glenohumeral joint, arthroscopic subacromial decompression and bursectomy, and AmnioFix growth factor injection. On July 20, 2017, Dr. Barbour performed a left knee total arthroplasty. (Claimant's APA #1.)

On September 27, 2017, Claimant presented to Dr. Vidyadhar Chitale at Premier Neurosurgical Institute for evaluation of his neck pain, numbness/tingling down the bilateral upper extremities, and transient facial swelling. Dr. Chitale ordered an EMG/NCS, which showed median nerve entrapment at the bilateral wrists, but no evidence of denervation, radiculopathy or myopathy. Dr. Chitale diagnosed Claimant with a brachial plexus injury. (Claimant's APA #3.)

From April of 2017 until October of 2018, Claimant continued to regularly follow up with Dr. Barbour for his neck, left shoulder, left knee, and left ankle problems. The last record from Dr. Barbour provided in Claimant's APAs was on October 3, 2018. At that time, Dr.

Barbour noted Claimant's ongoing complaints of left knee, left shoulder, neck, right elbow, and left ankle pain. He also had complaints of swelling on the left side of his body. Dr. Barbour recommended Claimant continue to follow a home exercise program for all affected body parts and recommended an injection for the neck. Dr. Barbour noted that he was unable to determine a date of MMI or of a PPD rating at that time. (Claimant's APA #1.)

A record such as was necessary for a decision was made of the proceeding and after careful consideration and study of all the evidence, the following findings of fact are accordingly made.

V. FINDINGS OF FACT

IT IS FOUND AS A FACT:

1. On January 5, 2017, Claimant was involved in motor vehicle accident after he left his job site in Clemson, South Carolina and was driving to his home in Gainesville, Georgia. Defendants denied compensability of the claim under the "going and coming" rule. This finding of fact is based on the evidence as a whole.
2. Claimant underwent various evaluations and treatments for his alleged work-related injuries. Claimant treated at AnMed Health beginning on January 5, 2017, and underwent multiple surgeries. His care was later transferred to orthopaedist Dr. Scott Barbour, who treated him for neck, left shoulder, left knee, left ankle, and right elbow problems. Dr. Barbour performed left shoulder arthroscopic surgery on May 2, 2017. On July 20, 2017, Dr. Barbour performed a left knee total arthroplasty. Claimant also treated with Dr. Vidyadhar Chitale at Premier Neurosurgical Institute for his neck pain and tingling/numbness in his upper extremities. Dr. Chitale diagnosed Claimant with a brachial plexus injury. According to his hearing testimony, Claimant continues to treat with Dr. Barbour. This finding of fact is based on the evidence as a whole, including Claimant's medical records and hearing

testimony.

3. Claimant was doing construction work at the Earle Street Apartment Complex in Clemson on the day of his motor vehicle accident on January 5, 2017, and left for his home in Gainesville from the apartment job. Reeves Young had insurance through Amerisure for the Earle Street Apartment Complex. Claimant lived in Gainesville, Georgia at the time he was working in Clemson and chose to drive back and forth from Clemson to his home in Gainesville to take care of his sick wife. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony and William Reeves' hearing testimony.
4. Reeves Young is based out of Sugar Hill, Georgia. Matt McCormack testified that the Clemson project was one of the first out of state construction jobs for Reeves Young. Reeves Young provided housing in Clemson for the out of state workers so they would not have to travel back and forth to Georgia. Reeves Young made the decision to pay these out of state workers \$2.00 more an hour and a \$175.00 weekly per diem to make the Clemson job more attractive and to cover the cost of their meals for being out of town. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony, testimony of Juan Ochoa, testimony of William Reeves, and testimony of Matt McCormack.
5. Every Reeves Young employee from out of state working on the Clemson job site received the \$175.00 per diem regardless of where they drove from to get to the job site. Reeves Young did not require Claimant or any employees to keep receipts for what they spent the \$175.00 per diem on, nor did they require them to keep mileage logs. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony, testimony of William Reeves, and testimony of Matt McCormack.

6. Claimant was paid \$2.00 more an hour than his normal hourly wage and also received the \$175.00 weekly per diem while he was working in Clemson. Claimant received \$175.00 regardless of how many days he worked a week. Claimant did not receive the \$175.00 per diem when he worked in Georgia. Claimant testified that the \$175.00 did not fluctuate with his time worked or the distance he traveled. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony.
7. After working at the Clemson job site, Claimant was moved to a job in Atlanta with his supervisor, Juan Ochoa's, crew for a couple of weeks. Claimant was called back to the Clemson site by Shane Burrell, the Clemson site superintendent. Juan wanted Claimant to come back to Atlanta, but Shane told him Claimant could stay in Clemson if he wanted. Claimant testified that he chose to stay and work in Clemson because he was making more money. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony and testimony of Juan Ochoa.
8. Claimant was not paid his hourly wage while driving to and from the Clemson job site. Reeves Young did not pay his car insurance, any of his car maintenance, or give him a gas card. Claimant was not doing any errands for Reeves Young nor was he charged with any tasks by Reeves Young on his way to and from the Clemson job site from his home in Gainesville. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony.
9. Claimant presented no evidence of the cost it took to fill up his gas tank. He also had no evidence of the maintenance cost of operating his vehicle. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony.
10. Juan Ochoa, Foreman for Reeves Young on the Clemson site and Claimant's supervisor,

lived in Gainesville, Georgia when he worked on the Clemson job. He drove to and from Clemson everyday in his company truck and used a company gas card. Juan received the per diem of \$175.00 a week when he worked at the Clemson job site and received the \$175.00 regardless of the amount of time he worked during the week. This finding of fact is based on the evidence as a whole, including Juan's hearing testimony.

11. Juan transported other employees, Julio Abrego, Isidro Silva, and Mario Romero, who lived near the Gainesville area in his company truck most days to work at Clemson. Julio, Isidro, and Mario also received the \$175.00 per diem even though they carpooled with Juan. This finding of fact is based on the evidence as a whole, including Juan Ochoa's hearing testimony.
12. Juan offered Claimant and other employees the option of staying in housing in Clemson free of charge. Claimant chose to drive back to Gainesville to take care of his sick wife. Juan testified that Claimant would have still received the \$175.00 per diem if he had decided to stay in the housing. Every employee would have received the per diem, regardless if they chose to stay in the provided housing or to drive back home. This finding of fact is based on the evidence as a whole, including Juan Ochoa's hearing testimony.
13. William Reeves, the Vice President of Reeves Young, testified that \$175.00 weekly per diem was given to Reeves Young employees working on the Clemson project that traveled from out of state. He testified that the employees received the per diem for being out of town, for meal money, and because of industry standard, which dictated that generally people working out of state are given per diems. William testified that some workers stayed overnight in company provided housing in Clemson. William explained that this was an option for all employees to stay overnight, and that all employees would still receive the

per diem regardless if they chose to stay or go home. This finding of fact is based on the evidence as a whole, including William Reeves' hearing testimony.

14. The \$175.00 per diem bore no relation to travel time, travel distance, or actual transportation expenses incurred by Reeves Young employees. Employees received the same \$175.00 amount irrespective of travel time, distance travelled, or transportation expense actually incurred by the employee. The \$175.00 amount did not fluctuate with and increases or decreases in the actual distance or time travelled and the claimant was not required to file any receipts, mileage logs, or vouchers with Reeves Young regarding mileage, expenses, or travel time. This finding of fact is based on the evidence as a whole.
15. William further testified that Reeves Young did not derive any benefit from Claimant driving to and from Clemson from Gainesville. In fact, Reeves Young tried to avoid workers from having to drive to and from Gainesville to Clemson by providing housing free of charge. The \$175.00 weekly per diem was provided to offset the cost of extra meals the workers would have to buy when they stayed overnight if Clemson. This finding of fact is based on the evidence as a whole, including William Reeves' hearing testimony.
16. William did not place any restrictions on Claimant after he left the job site, and Claimant did not carry out any errands on the way home from Clemson or the way in. This finding of fact is based on the evidence as a whole, including William Reeves' hearing testimony.
17. Claimant's employment was separated in December of 2017, after he could not come back to work for a certain period of time. From his accident in January of 2017 until December of 2017, William Reeves testified that Reeves Young kept Claimant on their group health policy and paid his premiums. This finding of fact is based on the evidence as a whole, including William Reeves' hearing testimony.

18. Based on the sworn testimony of Claimant, William Reeves, Matt McCormack, Juan Ochoa, and payroll records, I hereby find Claimant was an employee of Reeves Young LLC on the date of his motor vehicle accident. In addition, I hereby find that Reeves Young LLC had coverage provided by Amerisure Insurance Company on the date of Claimant's accident, as stipulated to by the parties at the hearing before the undersigned Commissioner. It is also determined that Claimant spent the large majority of January 5, 2017, working on the apartment job and left for his home in Gainesville from this site. Therefore, Holder Construction Group LLC and American Zurich Insurance Company are hereby dismissed as parties to this claim. This finding of fact is based on the evidence as a whole.
19. However, given that Claimant had been at the Holder Construction Group LLC site of their dormitory project earlier on the date of his accident, I hereby find it was not unreasonable for Claimant to have initially added Holder Construction Group LLC as a potential party to this claim, therefore Defendants Holder Construction Group LLC and American Zurich Insurance Company's motion for costs and fees is hereby denied. This finding of fact is based on the evidence as a whole.
20. Based on a preponderance of the evidence, including the sworn testimony of Claimant and representatives for the employer (Juan Ochoa, William Reeves, and Matt McCormack), it is apparent that Claimant on his own chose not to stay in the housing provided by the employer, but rather elected to travel back and forth to work from his home in Gainesville, Georgia. In addition, I find that no part of Claimant's travel to and from his home included performing any duties related to his employment. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony, testimony of William Reeves, testimony of Juan Ochoa, and the testimony of Matt McCormack.

21. Furthermore, I am persuaded that the \$175.00 per diem that was provided to Claimant and to other employees was intended to offset the cost of meals for the week for the employees working in Clemson and was not for travel expenses or "gas money," as housing was provided for them and daily travel was not required. This is further supported by the fact that employees working on job sites other than Clemson were not provided the same per diem. Additionally, Juan Ochoa, also received the \$175.00 per diem even though he drove a company truck and had a company gas card. Members of Juan's crew, who carpooled with Juan in his company truck from around Gainesville to Clemson also received the \$175.00 per diem. This finding of fact is based on the evidence as a whole, including Claimant's hearing testimony, testimony of William Reeves, testimony of Juan Ochoa, and the testimony of Matt McCormick.
22. Therefore, I hereby find Claimant has not met his burden with regard to the requisite standard for the going and coming exception. This finding of fact is based on the evidence as a whole.
23. Claimant's request for benefits under the Act is hereby denied.

VI. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did not sustain a compensable injury by accident arising out of and in the course of his employment on January 5, 2017.
3. Under § 42-15-60, Claimant is not entitled to any benefits.

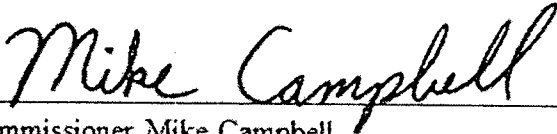
VII. ORDER/AWARD

IT IS HEREBY ORDERED that Claimant did not sustain a compensable injury by accident arising out of and in the course of his employment on January 5, 2017. Claimant is not entitled to any benefits under the Act.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION



Commissioner Mike Campbell

CERTIFICATE OF SERVICE

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

September 6, 2019

By: Barbara Cheeseboro, Administrative Assistant to
Commissioner Campbell

EXHIBIT 2

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1706639

Jorge Lopez-Celestin,
Claimant,
v.
Reeves Young, LLC,
Employer,
and
Amerisure Insurance Company,
and
American Zurich Insurance
Company,
Carrier.

COPY

COMMISSIONER'S HEARING

Thursday, March 21, 2019
11:52 a.m. - 2:19 p.m.

The Commissioner's Hearing was heard before Commissioner R. Michael Campbell, II, at the Ninety Six Police Department Courtroom, 100 North Church Street, Ninety Six, South Carolina, on the 21st day of March, 2019, before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

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Attorney for the Carrier, Amerisure

Andrew D. Smith, Esquire

Andrew D. Smith, LLC
147 Wappoo Creek Drive, Suite 204
Charleston, South Carolina 29412
Attorney for the Carrier, American Zurich

Also present:

Laura Cahue
William Reeves
Matt McCormack
Juan Ochoa

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EXHIBITS

(Claimant's Exhibit M and Defendant's Exhibit 1 were retained by the Commissioner and introduced as follows:)

Claimant's Exhibit Number M	12
(Philip G. Simoneaux, II, CPA Transcript)	
Defendant's Exhibit Number 1	12
(Dr. Scott Barbour Transcript)	

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.



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CALL TO ORDER:

COMMISSIONER CAMPBELL: Today's hearing date is March 21st, 2019. This is Workers' Compensation Case File Number 1706639. The Claimant is Jorge Lopez-Celestin, represented by C. Daniel Vega, the Employer is Reeves Young, LLC, Carrier is Amerisure Insurance Company represented by Jason A. Griggs and American Zurich Insurance Company represented by Andrew D. Smith. The date of accident was January 5th, 2017. There was a corresponding compensation rate which was the maximum rate of \$806.92. APAs have been submitted, are there any objections to jurisdiction, venue or any other items?

MR. VEGA: None from the Claimant, sir.

MR. GRIGGS: I don't have anything to jurisdiction or venue, I do have an objection to an exhibit that Mr. Vega's entered.

COMMISSIONER CAMPBELL: Okay. And if you want to put that on -- on the record at this time.

MR. GRIGGS: He has Exhibits I and J. They are printouts from a website called gasbuddy.com and I think they're hearsay. It's -- it's purporting to show, I guess, expenses incurred by Mr. Lopezes vehicle at this time.



1 Gasbuddy.com, that's not an expert, that's not
2 an exception to any -- I don't know who
3 gasbuddy.com is here, they're not here to
4 verify. I don't know who's behind this
5 website. I mean, it's a hundred percent
6 inappropriate to be admitted into evidence
7 today.

8 **COMMISSIONER CAMPBELL:** Okay.

9 **MR. SMITH:** And I was going to have the same
10 objection to it as well.

11 **COMMISSIONER CAMPBELL:** Okay. And Mr. Vega, I'll --
12 I'll allow you to -- to respond to the
13 objection.

14 **MR. VEGA:** Correct, Your Honor. The -- we would
15 cite the judicial notice rule. You can take
16 judicial notice of anything that is generally
17 found in a dictionary, a newspaper, a website.
18 It just means that you can refer to it, you can
19 rely on it.

20 **COMMISSIONER CAMPBELL:** I don't have any problem
21 letting it -- letting it in. I just, I'll just
22 give it the weight I feel like it deserves.

23 **MR. GRIGGS:** Okay. Again, I think it's important in
24 this case, judicial -- that's not what judicial
25 notice means ---



1 COMMISSIONER CAMPBELL: I ---

2 MR. GRIGGS: --- judicial notice means today is ---

3 MR. SMITH: What's the weather temperature -

4 MR. GRIGGS: --- judicial notice means today is
5 Thursday ---

6 COMMISSIONER CAMPBELL: We can go back a long -

7 MR. GRIGGS: --- something that you ---

8 COMMISSIONER CAMPBELL: Okay.

9 MR. GRIGGS: --- judicial notice is something that
10 you can -- common knowledge that you can pull
11 out of your own head. This is -- this is rep-
12 -- this is hearsay and it needs to be taken --
13 stricken from the record. He's representing --
14 he's using this to represent cost of trips,
15 things of that nature which are important in
16 the case law and it needs to be stricken from
17 the record. It's an objection that -- that
18 needs to be sustained in my opinion.

19 COMMISSIONER CAMPBELL: Okay. And -- and if you
20 want, put your position on the record. As far
21 as I ---

22 MR. SMITH: That's my exact objection as well.

23 COMMISSIONER CAMPBELL: And like I say, I'll -- I'll
24 let it in, but I'll -- I'll give it -- I'll --
25 I'll give it the weight that I feel like I've



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1 -- like it deserves, okay?

2 **MR. GRIGGS:** And I -- I understand, just for the
3 record I want to make it clear this document
4 going forward that I have a standing objection
5 -

6 **COMMISSIONER CAMPBELL:** Sure. Absolutely.

7 **MR. GRIGGS:** --- to that and I believe it's
8 inappropriate and I want it preserved for
9 appellate review because I think the Court of
10 Appeals will find it inappropriate as well.

11 **COMMISSIONER CAMPBELL:** Certainly. That's fine.
12 And I'm sorry did you have any -- any further
13 objections?

14 **MR. SMITH:** No.

15 **COMMISSIONER CAMPBELL:** Okay. All right. Without
16 further objections Commission File becomes a
17 part of the record with the exception of self-
18 serving declarations and unstipulated medical
19 reports. Prior to going on the record we had
20 a -- had a lengthy pre-hearing conference. I
21 know at that time Mr. Smith, that you had a
22 motion that you would like to -- to put on the
23 record so if you would do so at that, at this
24 time I would appreciate it.

25 **MOTION BY MR. SMITH:**



1 **MR. SMITH:** Yes, Your Honor. Under 42-17-80 when
2 the Claimant does not have reasonable grounds
3 to go against Holder Construction or Zurich
4 Insurance Company. In Clemson they were
5 performing two projects, one was at the -- at
6 the Earle Street Apartment Complex where
7 Fortune-Johnson was a general contractor, the
8 other was at the dormitory project. All the
9 evidence in the case shows that the, even the
10 Claimant will testify that he left the Earle
11 Street Apartment Complexes and employees will
12 testify to the same so we would ask for cost
13 for the hearing.

14 **COMMISSIONER CAMPBELL:** Okay. All right. Thank you.
15 And if y'all want to address the motion y'all,
16 I'll let you -- Mr. Vega first.

17 **MR. SMITH:** Yes. Do you care to add to the motion?

18 **MR. GRIGGS:** No, sir.

19 **RESPONSE TO MOTION:**

20 **MR. VEGA:** Okay. Your Honor, we would, in reply to
21 the motion we contend that Commissioner Beck
22 signed an order adding American Zurich
23 Insurance Company as an indispensable party on
24 July 7, 2017. Facts obtained in discovery
25 demonstrate the Claimant worked under Zurich



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1 American Insurance Company coverage on or about
2 the date close to -- on the day, it's factually
3 in dispute, but on or about January 5, 2017.
4 It is our contention that in the matter of
5 coverage is, yes, it is a factual
6 determination, but it's also a legal
7 determination, it's jurisdictional, it's
8 something that coverage must be determined by
9 the Commission involving the facts. They lend
10 themselves to a particular position until those
11 facts have been adjudicated by the Commission.
12 Zurich American remains an indispensable party
13 and is both the Claimant's right and duty to
14 bring them here today until that issue is
15 resolved.

16 **COMMISSIONER CAMPBELL:** Okay.

17 **MR. SMITH:** And Your Honor, can I respond to that?

18 **COMMISSIONER CAMPBELL:** Yeah and I just want to see
19 if Jason had anything to add.

20 **MR. GRIGGS:** No, sir.

21 **COMMISSIONER CAMPBELL:** Yes, sir, Mr. Smith?

22 **RESPONSE BY MR. SMITH:**

23 **MR. SMITH:** As far as the coverage issue, the
24 coverage issue is not dispute, I mean, Reeves
25 Young has it though Amerisure and we have the



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1 policy through Zurich on the dormitory project.
2 So you have, on the apartment Complex you have
3 Amerisure has coverage, on the dormitory
4 project you have Zurich that has coverage. So
5 there is -- it's a factual matter and there's
6 no legal or factual basis that the Claimant can
7 move forward on today that can find my client's
8 liable. There isn't any case law that supports
9 the position and factually there -- he didn't
10 work on our job site, he didn't leave our job
11 site so I don't know why we're here.

12 **COMMISSIONER CAMPBELL:** Okay. And -- and as -- and
13 as we discussed as a part of our pre-hearing
14 conference I will address the motion as a part
15 of my review.

16 **MR. SMITH:** Thank you, Your Honor.

17 **COMMISSIONER CAMPBELL:** Okay. Thank you. Anything
18 else at this time?

19 **MR. VEGA:** No, sir.

20 **MR. GRIGGS:** The only thing I have is I have the
21 Defendant's Exhibit Number 1 I'd like to hand
22 up.

23 **COMMISSIONER CAMPBELL:** Sure..

24 **MR. GRIGGS:** It's the deposition of Phillip
25 Simoneaux.



1 COMMISSIONER CAMPBELL: Okay.

2 MR. GRIGGS: And that's the expert obtained by
3 Danny.

4 COMMISSIONER CAMPBELL: Okay. And do y'all --
5 anybody else ---

6 MR. VEGA: In that -- in that same vein I have Dr.
7 Barbour's deposition as well.

8 COMMISSIONER CAMPBELL: That's fine. That's fine.

9 MR. GRIGGS: What's that for you? What number is
10 that? You have ---

11 MR. VEGA: Whatever, you're Number 1.

12 COMMISSIONER CAMPBELL: Okay. Both of y'all are
13 Number 1?

14 MR. VEGA: Correct.

15 MR. GRIGGS: 1's in your APA.

16 MR. VEGA: Deposition?

17 MR. GRIGGS: No, the exhibits ---

18 MR. VEGA: All his exhibits? Those are -- those are
19 lettered.

20 COMMISSIONER CAMPBELL: Okay. So this is -- this is
21 Defendant's Number 1 and this is Claimant's
22 Number 1.

23 MR. VEGA: As a preliminary matter I had enumerated
24 my exhibit's by letter. I don't know if the
25 Court Reporter prefers to use that designation



1 or not as I refer to them or she just wants
2 that, whatever, I mean ---

3 COMMISSIONER CAMPBELL: In this -- in the
4 alphabetical order, yeah, so we'll -- we'll
5 mark that then as your ---

6 MR. VEGA: M.

7 COMMISSIONER CAMPBELL: M? Okay.

8 MR. VEGA: Yes, sir.

9 COMMISSIONER CAMPBELL: And then this one, Jason,
10 will be -- is your Number 1?

11 MR. GRIGGS: That's 1. They didn't want you getting
12 into it.

13 (Defendant's Exhibit Number 1 was marked for
14 identification purposes.)

15 (Claimant's Exhibit Number M was marked for
16 identification purposes.)

17 COMMISSIONER CAMPBELL: Yeah. Okay. And Mr. Vega,
18 we're here today on your Form 50 and that you
19 had filed with the Commission so if you would
20 please put your position on the record and let
21 us know what you're seeking here today, sir.

22 POSITION STATEMENT BY MR. VEGA:

23 MR. VEGA: Thank you, Your Honor. It is our
24 contention today that Mr. Jorge Lopez-Celestin
25 was working for Reeves Young, LLC in Clemson,



1 South Carolina at the request of the employer
2 on or about January 5, 2017 when he suffered a
3 motor vehicle accident. He suffered severe
4 injuries to his neck, shoulder, ribs, upper,
5 left upper extremity, left lower extremity,
6 left ankle. As a result of these injuries he's
7 received additional -- he's received
8 substantial amount of medical care and
9 treatment primarily by Dr. Barbour and he
10 remains under the doctor's care. He is not at
11 maximum medical improvement so we would request
12 that he -- the defendant's provide additional
13 medical care and treatment consistent with Dr.
14 Barbour's request. With regards to the issues
15 being disputed today there is a legal dispute
16 with regards to whether the Claimant was in the
17 course and scope of his employment on or about
18 January 5, 2017 when he left the project he was
19 working on for the employer, Reeves Young, and
20 suffered his motor vehicle accident some seven
21 miles from the location of his employment. It
22 is our contention that this case is tantamount
23 to the special errand exception to the going
24 and coming rule in that the Claimant was not
25 working on employer premises, but was sent to



1 a specific job site at the behest of the
2 employer. If he could not have performed the
3 work but for traveling 84 miles to and from for
4 a total, 84 miles total of about 170 or so
5 total, but he could not have done the work, but
6 for the travel. In addition, we would cite a
7 second exception to the going and coming rule
8 in that time or travel was compensated and --
9 and or offset. The employer offset the cost of
10 travel and that the employee could not have
11 afforded the cost of travel but for the
12 addition of \$2.00 to his salary and a per diem
13 of \$35.00 a day. As such we believe the
14 Claimant was acting within the course and scope
15 of his employment we have cited specifically
16 *Sola v. Sunny Slope*. That case stands for the
17 proposition that the rule excluding off
18 premises injuries during the journey to and
19 from work is not applied if the making of the
20 journey, whether or not separately compensated
21 for, is in itself a substantial part of the
22 service which the work was employed. We've
23 also cited *Gray v. Club*, the amount of travel
24 was a consideration in determining how much the
25 Claimant would be paid. We do not believe that



1 there is a frequency exception to the rule and
2 we do not believe that the Claimant's failure
3 to designate the money as travel expense is
4 binding on the Commission. the Commission can
5 arrive at it's own conclusion in determining
6 what purposes, what was the incentive and what
7 purposes was the extra pay for and if the
8 Commission believes that it offset his travel
9 expense or that the travel was a substantial
10 part of the service for which he was employed
11 the Commission can find the Claimant was in the
12 scope of his employment. As such we would ask
13 the Commission to award benefits pursuant to
14 the Act and award Claimant temporary total
15 benefits from the date of the injury to the
16 present and continuing and award medical care
17 and treatment.

18 **COMMISSIONER CAMPBELL:** Okay. All right. Thank
19 you, sir. Mr. Griggs?

20 **POSITION STATEMENT BY MR. GRIGGS:**

21 **MR. GRIGGS:** Yes, sir. We believe that this is --
22 they're -- first of all, there's not a lot of
23 factual dispute as to how this incident
24 happened and what happened to Mr. Lopez.
25 Unfortunate incident, obviously all of us here



1 wish it never would have happened. What we do
2 dispute and what we believe is that this is a
3 going and coming case, we agree with Danny on
4 that, but we do not think it fits any of the
5 exceptions. The general going and coming rule
6 says if you're driving to or from work and get
7 in an accident, not compensable. In order to
8 make an accident that happens when you're
9 driving to and from work compensable you have
10 to fit it into one of the exceptions. There's
11 five exceptions, Danny has contended that this
12 fits two. The special errand rule, this is not
13 consistent with the case law of special errand
14 rule. Special errand is hey Jason, on the way
15 home today drop off the mail or on the way home
16 today pick up a supply, that's not the case
17 here, this is a gentleman that was working out
18 of town. We believe they've got to fit it in
19 the first exception, which is if the employer's
20 providing the means of transportation like
21 giving the company vehicle or paying for the
22 travel time, paying you while you're driving,
23 paying your hourly rate while you're driving or
24 paying milage, we don't believe that that fits
25 any of these exceptions here. Mr. Celestine --



1 Mr. Lopez, I'm sorry, received \$175 per diem
2 when he worked at the Clemson job sites. He
3 would go from his home in Gainesville, Georgia
4 to Clemson every day and then drive back home
5 in the evening. This is not milage, it's not
6 contemplated as milage because everybody on
7 that job site got the same amount, didn't
8 matter how far they drove, didn't matter how
9 many days they drove, did not matter if they
10 even drove at all. There are some employees
11 that rode in a car pool and never drove, they
12 still got the money. There's some employees
13 that had a company truck and a company gas
14 card, still got the money. The employer
15 offered housing in the Clemson area that the
16 employees could avail themselves of and stay
17 free of charge, if they would have stayed there
18 they still got the money. It's not a milage,
19 it's not time. The cases I've cited in my
20 brief I've handed up, there's a case *Byrd v.*
21 *Stackhouse* where a person got a \$90 per diem.
22 He didn't move as Mr. Vega said earlier. He
23 received \$90 per month and this was in the late
24 80s, early 90s, as a travel expense. In that
25 case they found that it was gas money and they



1 said if you find this gas money you've got to
2 go through a whole 'nother analysis. This is
3 not gas money, he was not compensated, he's
4 spending three and a half hours in the car each
5 day. He'll testify -- testify in his
6 deposition it's about an hour and 45 minutes
7 from Gainesville to Clemson. He's spending
8 three and a half hours in his car every day,
9 traveling 85 miles one way, 170 miles every
10 day. They're not compensating him for that,
11 the money they're paying him does not
12 compensate him for that. As far as it being --
13 they inducing him to come over, the Byrd v
14 Stackhouse case talks about inducement and it
15 says in that case it was undisputed that the
16 gas money, they admitted it was gas money. We
17 do not admit that, we're a per diem case. They
18 say though if you admit it's gas money, they
19 admit that they did induce him to take the job,
20 then they say simply hire - hiring an employee
21 who lives far away from your premises and the
22 expectation of extensive travel to and from is
23 not a basis for Workers Compensation. The
24 employer received no benefit from his travels,
25 that's what they talk about. In this case



1 Reeves Young received no benefit from Mr.
2 Lopezes -- Lopezes travels. In fact the only
3 person that received the benefit was Mr. Lopez.
4 It's unfortunate, but in June of 2015 when this
5 incident began his wife was sick. He chose to
6 drive back and forth to care for her, that's
7 understandable, everybody at Reeves Young
8 understood that, that was the reason the
9 housing was offered. He chose not to take the
10 housing. He could have still taken the housing
11 and got the per diem which would have helped
12 him with the meals. He chose to drive back and
13 forth every single day and then he got in the
14 accident. Again, it's not a going and coming
15 exception, it's an unfortunate -- we've got an
16 employer here that did the right thing. This
17 accident happened in January of 2017, they kept
18 him on the insurance paying his premiums until
19 December of 2017. During that time span we had
20 the knee replacement, we had a shoulder
21 surgery, we had a lot of the surgery, a lot of
22 the treatment that was rendered. Again, we've
23 got an employer that tried to do the right
24 thing, they offered the per diem to the
25 employees and it was not milage, they know how



1 to pay milage. This is a large corporation,
2 construction corporation, they know how to pay
3 milage. They'll -- you'll hear testimony
4 today, they have an expense report, they pay
5 people milage per mile pursuant to the IRS rate
6 which is a correct way to do it. They know how
7 to pay milage, if they wanted to pay milage
8 they would have done it. They didn't pay
9 milage, they didn't compensate for time, the
10 evidence will show that. We believe that this
11 case is just an unfortunate accident, but it
12 warrants a denial, complete denial.

13 **COMMISSIONER CAMPBELL:** Mr. Smith?

14 **MR. SMITH:** Other than my motion, Your Honor, I
15 don't have anything further.

16 **COMMISSIONER CAMPBELL:** Okay. All right. Thank
17 you, sir.

18 **MR. SMITH:** Thank you.

19 **COMMISSIONER CAMPBELL:** Mr. Vega, anything more at
20 this time?

21 **MR. VEGA:** Just briefly, Your Honor. We believe
22 that the evidence will demonstrate that the
23 only reason they paid them this amount of money
24 was to induce him to travel out of state and
25 the decision was only made on the fact that



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1 they have to travel out of state and the
2 subject should be compensable.

3 **COMMISSIONER CAMPBELL:** All right. Mr. Griggs,
4 anymore at this time?

5 **MR. GRIGGS:** No, sir. I would just cite to the
6 brief I handed up. The cases that Danny cites
7 to, the reliance is misplaced.

8 **COMMISSIONER CAMPBELL:** All right. Well, and if --
9 and if you guys want to make yourselves
10 comfortable. I mean, y'all are -- y'all are
11 welcome to stand if you want to, but again
12 while -- while Danny's questioning the witness
13 then y'all -- whatever y'all want to do, you're
14 welcome to stand or sit, whatever you want to.
15 And I have -- have -- and this is for the
16 interpreter now.

17 **MS. CAHUE:** Yes, sir.

18 **COMMISSIONER CAMPBELL:** We have -- the Court
19 Reporter has some questions that she needs to
20 ask you to qualify you and then she will swear
21 you in, okay?

22 **MS. CAHUE:** Yes.

23 **COURT REPORTER:** Are you a friend, associate or
24 relative of a party or counsel involved in the
25 proceedings?



1 MS. CAHUE: No.

2 COURT REPORTER: Have you served in an investigative
3 capacity for any party involved in the case?

4 MS. CAHUE: No.

5 COURT REPORTER: Do you or your spouse or child have
6 a financial interest in the subject matter in
7 controversy or in a party to the proceeding or
8 any other interest that would be affected by
9 the outcome of the case?

10 MS. CAHUE: No.

11 COURT REPORTER: Have you been involved in the
12 choice of counsel or law firm for the case?

13 MS. CAHUE: No.

14 COURT REPORTER: Are you an attorney or an employee
15 of an attorney in the case?

16 MS. CAHUE: No.

17 COURT REPORTER: Have you previously been retained
18 for private employment by one of the parties to
19 interpret the case?

20 MS. CAHUE: No.

21 COURT REPORTER: Is there any other reason your
22 independence of judgement would be compromised
23 in the course of providing services in the
24 case?

25 MS. CAHUE: None whatsoever.



1 COURT REPORTER: Okay. You've already got your hand
2 up. So do you solemnly swear or affirm to
3 interpret these proceedings truly, fairly and
4 impartially to the best of your ability?

5 MS. CAHUE: I do.

6 COMMISSIONER CAMPBELL: You -- did you, you didn't
7 ask the ---

8 COURT REPORTER: Oh, yes. And to the attorneys do
9 you consent that the interpreter should not be
10 disqualified and should be allowed to render
11 services in the case?

12 MR. GRIGGS: I don't have any problem with that.

13 MR. SMITH: Consent.

14 MR. VEGA: Consent.

15 COURT REPORTER: Thanks.

16 COMMISSIONER CAMPBELL: All right. And ma'am, have
17 a couple of quick instructions for you.

18 MS. CAHUE: Yes, sir.

19 COMMISSIONER CAMPBELL: First and foremost, and
20 you're doing a great job, but please continue
21 to speak up and speak clearly for us so that we
22 can all hear you interpret the responses to the
23 questions. If you're asked, and if he is asked
24 a yes or no question please ask him to give us
25 a verbal yes or no answer, he can shake his



1 head yes or no like when you -- like we all do,
2 but to please accompany that with a verbal yes
3 or no answer and to try and stay away from
4 things like uh-huh and huh-uh just because
5 that's easily misinterpreted on the record.

6 **MS. CAHUE:** Will do.

7 **COMMISSIONER CAMPBELL:** Okay. Sir, if you could --
8 ask him?

9 (Translator complies.)

10 A: Okay.

11 **COMMISSIONER CAMPBELL:** Okay. Thank you. Ask him -
12 - and -- and sir, do you speak -- do you speak
13 any English?

14 A: I speak English, but I have some pronunciation
15 problems that why I requested an interpreter.

16 **COMMISSIONER CAMPBELL:** Okay. Well, just please --
17 please if there -- if you are asked a question,
18 please allow the interpreter to ask the
19 question then you can reply, make your response
20 to her and then she can interpret it back. I
21 don't want to have several conversations going
22 on so -- so please make sure you let the
23 interpreter interpret for you, okay?

24 A: That's fine.

25 **COMMISSIONER CAMPBELL:** Okay. Thank you. Please



1 raise your right hand.

2 **MR. LOPEZ-CELESTIN:** (Witness complies).

3 **COMMISSIONER CAMPBELL:** Do you swear and affirm the
4 testimony you are about to give is the truth,
5 the whole truth and nothing but the truth?

6 A: I swear.

7 **COMMISSIONER CAMPBELL:** Okay. You can put your hand
8 down and please state and spell your name for
9 the record. I know we all know who you are,
10 but we want to get it for the record.

11 A: My name is Jorge, J-O-R-G-E, Lopez, L-O-P-E-Z,
12 Celestin, C-E-L-E-S-T-I-N.

13 **COMMISSIONER CAMPBELL:** Okay. Thank you, sir. Mr.
14 Vega, your witness.

15 **MR. VEGA:** Thank you, Your Honor.

16 **LAURA CAHUE,** having been duly sworn, transliterates
17 the testimony of Jorge Lopez-Celestin as
18 follows:

19 **JORGE LOPEZ-CELESTIN,** having been duly sworn,
20 testifies as follows:

21 **MR. LOPEZ-CELESTIN - DIRECT EXAMINATION BY MR. VEGA:**

22 Q: Mr. Lopez, how old are you today?

23 A: 52.

24 Q: Were you involved in a motor vehicle accident
25 on January 5, 2017?



1 A: Yes.

2 Q: Prior to the accident what type of work were
3 you performing?

4 A: Construction worker, I have been operator of
5 heavy machinery.

6 Q: Can you tell us some of the type of the
7 equipment that you operated?

8 A: A machinery like back hoes and trucks and all
9 the heavy machinery. I know how to operate all
10 types of machinery.

11 Q: And what were you doing with the machinery,
12 what kind of work do you do?

13 A: So we were doing some grading work and that
14 kind of work at the project at the University
15 and we also moved dirt and that kind of work.

16 Q: How many years have you been a heavy machine
17 operator?

18 A: Since 1996.

19 Q: And prior to the accident who were you working
20 for, who employed you?

21 A: The company Reeves Young.

22 Q: And were you employed by Reeves Young on
23 January 5, 2017?

24 A: Yes.

25 Q: And what kind of company is Reeves Young?



1 A: It's a company that does various construction
2 projects and works like grading, laying of
3 sewage lines, water lines, etcetera, that's the
4 kind of work that I was doing for them.

5 Q: And while performing your work were you using
6 your skills as a heavy machine operator?

7 A: Yes.

8 Q: Did you receive any training from Reeves Young
9 with regards to heavy machine operation?

10 A: Well, we just had one person there, his name is
11 Phillip Thomas and he's the one that gives out
12 classes on safety, how to operate the machinery
13 and safety. You have to demonstrate that you
14 know how to operate it safely and if you cannot
15 do it they will not let you operate the heavy
16 machinery.

17 Q: Is it a Phillip Thompson or Thomas?

18 A: Thomas.

19 Q: All right. And did you receive some certi- --
20 certification or a card that indicated you had
21 completed that training?

22 A: Yes. They -- they gave them to us and we gave
23 them copies at the last audits. Reeves Young
24 gives them to you because if you don't have
25 them with you or their car licenses you can't



1 operate the heavy machinery in case the
2 inspectors come by from OSHA for example.

3 Q: And what method or manner did Reeves Young pay
4 you?

5 A: By hour.

6 Q: How frequently did they pay you?

7 A: Every week.

8 Q: What was your hourly rate at the time of the
9 accident on or about that time, January of
10 2017?

11 A: If I'm not mistaken 16.50.

12 Q: Was that your usual rate of pay around that
13 time?

14 A: Yes.

15 Q: Did you receive an increase or decrease in pay
16 based on the location or the performance of
17 your work?

18 A: Supposedly you're supposed to get paid \$2 extra
19 for any work that is done primarily out -- out
20 of state and that would increase your salary.

21 Q: Okay. But I'm asking you specifically not
22 supposedly with regards to other employees, but
23 you specifically, did your pay vary based on
24 the location of where you performed your work?

25 A: I had my regular deposits of \$175 and the \$2



1 extra were direct deposited from the company.

2 Q: Correct. And we do have that paperwork today,
3 but based on your location, whether you worked
4 in one city versus a different city, in one
5 state versus a different state, did your rate
6 of pay change, yes or no?

7 **MR. GRIGGS:** I'm going to make an objection,
8 leading. I'm going to make an objection to the
9 record. I think it's a leading question. You
10 can't ask a direct witness, you can't say yes
11 or no. He's telling him how to answer.

12 **COMMISSIONER CAMPBELL:** Okay. Sustain can you --
13 can rephrase the question, please?

14 **MR. VEGA:** Yes, sir, Your Honor.

15 **COMMISSIONER CAMPBELL:** Thank you.

16 Q: You testified a moment ago you made 16.50 an
17 hour, is that correct?

18 A: Yes.

19 Q: Was that your normal or usual rate of pay?

20 A: Yes.

21 Q: Did you receive that rate of pay when you
22 worked in Georgia?

23 A: You mean the 16.50 or the two extra dollars?

24 **MR. VEGA:** Let me go through the question and --
25 Your Honor, it'll become fair in a minute.



1 COMMISSIONER CAMPBELL: Okay.

2 Q: If -- if you'll just answer the question,
3 please. When you worked in Georgia how much
4 were you paid?

5 A: 16.50.

6 Q: Did you work for a period of time in Clemson,
7 South Carolina?

8 A: Yes.

9 Q: How much did they pay you in Clemson?

10 A: \$2 above the 16.50.

11 Q: And what is your understanding for the reason
12 for the increase in pay?

13 A: Because I think it was convenient for the
14 company, I think because they needed to finish
15 that job and we, that we employees knew how to
16 do that work.

17 Q: How did you learn that you would be paid \$2
18 more to work in Clemson?

19 A: Everyone knows it in the company because when
20 you're talking to the supervisors they will
21 tell you that you're going to get paid two more
22 dollars for working at those sites, everybody
23 knows that.

24 Q: Who specifically told you that you would get \$2
25 more?



1 A: Juan Ochoa, my supervisor.

2 Q: Did you receive any additional compensation
3 when you traveled to Clemson to work?

4 A: The same, Juan Ochoa told me that he was going
5 to talk to William, who is the company's
6 president, about money for gas which ended up
7 being the \$175.

8 Q: And you received \$175 how frequently?

9 A: Every week with the exception of when they
10 moved me to work in Marietta, that's when I did
11 not get the \$175.

12 Q: When you say every week, are you referring to
13 every week that you worked in Clemson?

14 A: Yes.

15 Q: Do you recall about when you ended up going to
16 Marietta to work during that time period?

17 A: In March. And in March and I don't recall if
18 it was - if it was two weeks or a few days over
19 and then after that they return us back to
20 Clemson. And when I was working at Marietta
21 they stopped paying me the \$175 for gas that
22 they were paying me when I was working in
23 Clemson. And when I went back to work in
24 Clemson they again started paying me the \$175.

25 Q: Was there a change in your hourly rate as well?



1 A: Yes.

2 Q: So when you went to Marietta, Georgia did your
3 pay increase or decrease?

4 A: It went down.

5 **MR. VEGA:** Your Honor, I was going to refer to
6 Exhibit L and Exhibit K if I may.

7 **COMMISSIONER CAMPBELL:** Okay. Thank you.

8 **MR. VEGA:** If I may also approach the witness?

9 **COMMISSIONER CAMPBELL:** Sure.

10 **MR. VEGA:** This would be on the fourth page of
11 Exhibit K, Your Honor.

12 **COMMISSIONER CAMPBELL:** Thank you.

13 **MR. VEGA:** I may have them enumerated, I'm sorry.
14 Here they are, Your Honor. I'm sorry.

15 **COMMISSIONER CAMPBELL:** Thanks, appreciate it.

16 Q: Mr. Lopez, I'm going to show you two documents,
17 one is your pay and one is the 175 or \$35 per
18 day.

19 A: All right.

20 Q: And on this page this is in reference to your
21 salary and wages (indicating). In the middle
22 of page 4 did you get a check for each week
23 worked in March of 2016?

24 A: Possibly, those are the locations?

25 Q: Correct. Did you -- were you paid on March 4th



1 and ---

2 A: Yes.

3 COMMISSIONER CAMPBELL: Excuse me. Mr. Vega, are
4 you -- you're referring to Exhibit L, is that
5 correct?

6 MR. VEGA: I'm sorry, K, Your Honor.

7 COMMISSIONER CAMPBELL: You -- you're K.

8 MR. VEGA: I'm on K.

9 COMMISSIONER CAMPBELL: I'm sorry I didn't see K
10 before.

11 MR. VEGA: Okay.

12 COMMISSIONER CAMPBELL: Thank you, go ahead.

13 Q: And then you received pay on March 11?

14 A: Yes.

15 Q: And then later March 18?

16 A: Yes.

17 Q: And lastly March 25?

18 A: Yes.

19 MR. VEGA: Now, Your Honor, referring to L on the
20 second page about a third of the page down.

21 Q: What two weeks on this document does it show
22 that you received pay of \$175? What date is
23 that (indicating)?

24 A: Oh, I can't see.

25 Q: It's -- it's a little bit small, March 16?



1 A: March 16th.

2 Q: And it looks like you had two weeks ---

3 **MR. VEGA:** I'm sorry and I'll just refer to the
4 document that shows February 29 through March
5 6 and March 21 through 27.

6 **COMMISSIONER CAMPBELL:** Thank you.

7 **MR. VEGA:** Okay. Thank you, sir.

8 A: Thank you.

9 Q: Mr. Lopez, when you received the initial money
10 to travel to -- to Clemson, what would you use
11 that money for?

12 A: For gasoline.

13 Q: And you were traveling -- about how many miles
14 each way do you travel from Clemson?

15 A: I don't know round trip, but it's about 85
16 miles from my house to the University.

17 **MR. VEGA:** And, Your Honor, we would refer to
18 Exhibit C with regards to a mapquest starting
19 at his address to Clemson University.

20 **COMMISSIONER CAMPBELL:** Thank you.

21 Q: Mr. Lopez, if you had to pay out of your own
22 pocket to travel that long a distance how would
23 that have affected you?

24 A: It would have been economically an impact
25 because I would have received less money.



1 Q: Would you have been able to afford to travel to
2 Clemson and pay for it yourself without the
3 additional monies being paid by the company?

4 A: No.

5 Q: And when you were offered that additional money
6 did you find it to your benefit to accept the
7 additional money?

8 A: Yes.

9 Q: Do you believe that it also benefitted the
10 company for you to be available in Clemson?

11 A: Yes.

12 Q: Had you refused to do the work in Clemson what
13 do you believe the status of your work would
14 have been at that time?

15 **MR. GRIGGS:** I'm going to object to his question, I
16 think it's speculative.

17 **COMMISSIONER CAMPBELL:** Yeah, can you please rephrase
18 the question?

19 **MR. VEGA:** Well, Your Honor, as -- as a party to the
20 claim and as the person who received the
21 benefit I think he is entitled some room to
22 determine what -- what would have happened to
23 him had he chosen not to work.

24 **MR. GRIGGS:** I'm just going to maintain the
25 objection. I think it's just ---



1 MR. VEGA: I'll -- I'll ---

2 COMMISSIONER CAMPBELL: Yeah, if you can -- if you
3 can try to rephrase that.

4 MR. VEGA: Okay.

5 Q: When you went to Clemson who employed you?

6 A: I was working for Reeves and Young and at that
7 time when they sent me to Clemson I was working
8 at the Mercedes Benz Stadium and then they
9 moved me to Clemson.

10 Q: Correct. So it was Reeves Young's decision to
11 send you to Clemson, is what you're saying?

12 A: Yes. Because at that time they moved the
13 entire team, the group that kind of travels
14 with the rest.

15 Q: All right. Let me ask you some questions about
16 that. Your supervisor was Juan Ochoa?

17 A: Well, let me tell you how the company works.
18 So Juan Ochoa is my immediate supervisor, but
19 above him he has another superior and when that
20 person gives you orders, give them to Juan
21 Ochoa and then Juan Ochoa gives them to me.

22 Q: Correct. But when you worked you were assigned
23 to Juan Ochoa's team?

24 A: Yes.

25 Q: And when they moved you to Atlanta they moved



1 the entire team with Juan Ochoa as supervisor,
2 correct?

3 A: Yes.

4 Q: When they asked you to go back to Clemson did
5 they take the entire team?

6 A: Yes.

7 Q: Please pay attention to the question. When
8 they moved you back to Clemson did they move
9 the entire team or did they move you off of
10 Ochoa's team?

11 A: Okay. The work's like this, we were at the
12 University for about two days then they moved
13 Juan Ochoa to Atlanta and then Shane Burrell
14 asked me if I could stay with the other team
15 and so that's when I went back.

16 Q: Correct. So Juan Ochoa's team stayed in
17 Atlanta and you went back to Clemson?

18 A: Yes.

19 Q: And do you know who asked for you to come to
20 Clemson?

21 **THE TRANSLATOR:** I don't -- I can't understand.

22 Q: Okay. I believe he's saying Shane Burrell, B-
23 U-R-R-E-L-L.

24 **MR. GRIGGS:** That would be correct.

25 Q: That's what he's saying.



1 THE TRANSLATOR: Shane Burrell? Thank you.

2 Q: So a moment ago you testified that Shane
3 Burrell requested you to come to Clemson?

4 A: Yes.

5 Q: And what was his position with the company?

6 A: He was the supervisor at the University project
7 and he was the one that had all of the drawings
8 for the entire project.

9 Q: And did he supervise your work once he got to
10 Clemson?

11 A: Yes.

12 Q: Do you know if you were asked by Juan Ochoa or
13 anyone else to go back to Atlanta potentially?

14 A: Juan Ochoa wanted me to go back to Atlanta, but
15 then Shane told me that if I wanted to stay at
16 the University that I could and I decided to
17 stay at the University.

18 Q: And what was the incentive that you had to work
19 at a much further location?

20 A: It was convenient for me at that moment because
21 I was making more money and that was good for
22 me.

23 Q: And when you returned to Clemson you were there
24 in your capacity as a heavy machine operator,
25 is that correct?



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1 A: Yes.

2 Q: And how many locations did you work at while
3 you were in Clemson?

4 A: In two.

5 Q: Do you know what the difference in the
6 locations were?

7 A: I don't see any difference between the two
8 locations because I'm just simply an operator
9 so they sent me go here, do this, do that. I
10 don't have any notion of the project or the
11 drawings, I just simply do what they put me to
12 do.

13 Q: All right. When you're in Clemson you're just
14 following orders as far as where you work?

15 A: Yes.

16 Q: As a result of the motor vehicle accident --
17 tell us about the accident itself, how -- how
18 bad was it?

19 A: I don't recall anything, I simply don't know.

20 **MR. VEGA:** Your Honor, Exhibit B has photos of the
21 vehicle and the damage.

22 **COMMISSIONER CAMPBELL:** Okay. Thank you.

23 Q: Did you receive serious injuries as a result of
24 the motor vehicle accident?

25 A: Yes.



1 Q: Did you have to have emergency treatment as a
2 result of the accident?

3 A: Yes.

4 Q: Tell us briefly what body parts or how were you
5 affected physically as a result of the
6 accident?

7 A: Left ankle was fractured, my knee was injured
8 and I had a total knee replacement, all my ribs
9 were fractured, my left shoulder was dislocated
10 and I had to receive microscopic -- macroscopic
11 (sic) surgery, I had some fractures in the neck
12 and as a result I ended up developing, two
13 years later, some hernias because of the lack
14 of medical attention.

15 Q: So at this time you're continuing to experience
16 symptoms you believe are related to the
17 accident?

18 A: I don't think so, I think -- I don't think I'm
19 -- I'm certain one hundred percent because I'm
20 worse from when I went in with the accident.

21 Q: So you believe you're -- you're getting worse,
22 is what you're saying?

23 A: Yes.

24 Q: And did you -- who -- who paid, do you know who
25 paid or if the bills have been paid for the



1 hospital?

2 A: I have Blue Cross Blue Shield insurance and it
3 was cancelled because I was fired from the
4 company in December 11 of 2018. Supposedly it
5 was because I did not respond to some letter
6 they sent requesting an update to see how I was
7 doing when they could have easily obtained that
8 information from the records office or through
9 their attorneys.

10 **MR. VEGA:** Your Honor, I'd just point to Exhibit F,
11 past medical bills, and Exhibit G. If I may
12 approach the witness?

13 **COMMISSIONER CAMPBELL:** Sure.

14 Q: You received a letter discharging you from the
15 company, correct?

16 A: Yes.

17 Q: And is that the letter?

18 A: Yes, I have the original.

19 Q: And the date on that, please?

20 A: 11th of December, 2017.

21 Q: Thank you. Have you physically -- are you able
22 to return to work since -- have you been able
23 to return to work since the accident?

24 A: No.

25 Q: Would you -- in your current condition or the



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1 condition you've been in since the accident
2 would you physically be able to perform the
3 work you did for Reeves Young?

4 A: No.

5 Q: And are you still treating with Dr. Scott
6 Barbour?

7 A: Yes. I'm -- I'm with Dr. Barbour, he's a
8 chiropractor, but he sent me with various
9 specialists who treat various things and I am
10 just waiting so that I can start my treatment.

11 **MR. VEGA:** And, Your Honor, just -- just to take
12 note, Dr. Barbour's a medical doctor.

13 Q: And so -- but are there recommendations, to
14 this day are there still recommendations for
15 additional care for you?

16 A: Yes. I have recommendation for treatment for
17 some allergies and to see what's happened
18 within my arm that it's swelling up, also for
19 the fractures and to go to a clinic for some
20 pain management and other specialties --
21 specialist.

22 **MR. VEGA:** And, Your Honor, all that is discussed in
23 Dr. Barbour's deposition.

24 **COMMISSIONER CAMPBELL:** Okay. Thank you.

25 Q: Do you have the financial means to pay for this



1 medical care and treatment and these
2 specialists, are you able to pay for that
3 yourself?

4 **MR. GRIGGS:** I'm going to object, I think that's
5 irrelevant.

6 **COMMISSIONER CAMPBELL:** I'll -- I'll allow him to --
7 to answer that.

8 A: No.

9 Q: And since the accident have you received
10 financial or monetary compensation from Reeves
11 Young, Workers' Comp or anyone else?

12 A: No.

13 (Translator repeats question attorney asks)

14 A: No.

15 Q: And has this accident been a financial burden
16 upon you?

17 A: Yes.

18 Q: I have no further questions.

19 **COMMISSIONER CAMPBELL:** Okay. Thank you. Mr.
20 Griggs?

21 **MR. LOPEZ-CELESTIN - CROSS-EXAMINATION BY MR. GRIGGS:**

22 Q: Mr. Lopez, you said that since this accident
23 you've had no help or assistance from Reeves
24 Young, is that correct?

25 A: Yes.



1 Q: This accident was in January of 2017, correct?

2 A: Yes, January 5th, 2017.

3 Q: Today is March 2019, correct?

4 A: Yes.

5 Q: So it's taken you over two years to prosecute
6 your claim, you waited two years to get to this
7 point, is that correct?

8 **MR. VEGA:** Your Honor, I would object to the
9 characterization. There are things out of his
10 control, he does not control the calendar with
11 regards to the litigation.

12 **COMMISSIONER CAMPBELL:** I understand, but I'll allow
13 him to answer that question, okay? Go ahead.

14 A: Can you repeat the question?

15 Q: Why did it take you over two years to prosecute
16 this claim?

17 **MR. VEGA:** Your Honor, if may? I think now we've
18 crossed over into speculation. There are
19 things that he's not -- he doesn't know, he
20 doesn't control the time frame ---

21 **MR. GRIGGS:** I'm not asking him to -- to shed any
22 light on the attorney-client privilege, but I
23 do find it curious that somebody that's
24 testifying about a financial hardship has
25 waited over two years to prosecute this claim.



1 COMMISSIONER CAMPBELL: I'll -- I'll allow him to
2 testify to anything that was within his
3 control, but anything beyond as the process
4 goes ... You can continue.

5 Q: I'd just like the question. I've asked him
6 twice now.

7 A: Well, if it had been up to me, I wasn't
8 expecting two years, if it had been up to me
9 all of this would have been resolved in
10 February or March of 2017. It wasn't until I
11 had to submit law through a claim and I didn't
12 receive any help or assistance or anything.
13 I'm grateful that they sent me some flowers
14 with a card to the hospital that said get well
15 soon, but I did not receive anything else.

16 Q: They kept -- your accident was in January, they
17 kept you on your -- on their group health
18 policy through December 2017, didn't they?

19 A: Yes.

20 Q: Did you pay any premiums during that point in
21 time, during that time?

22 A: No. But supposedly when you have Blue Cross
23 and Blue Shield and you have an accident Blue
24 Cross and Blue Shield is the one that's paying,
25 it wasn't Reeves and Young.



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1 Q: Okay. But you had insurance through December
2 of 2017 and you didn't pay any premiums, is
3 that correct, yes or no?

4 (Deponent begins to answer)

5 Q: I need yes or no question, correct?

6 **MR. VEGA:** He doesn't have to badger the witness.

7 **COMMISSIONER CAMPBELL:** Well, he -- he ---

8 **MR. VEGA:** He's asked the question ---

9 **COMMISSIONER CAMPBELL:** --- he can say ---

10 **MR. VEGA:** --- -- I'm sorry, go ahead.

11 **COMMISSIONER CAMPBELL:** He can answer the question
12 and then give an explanation after that.

13 **MR. VEGA:** But, Your Honor ---

14 (Translator attempts to ask question to deponent)

15 **MR. VEGA:** --- the question hasn't even been
16 translated and Mr. Griggs is already ---

17 **MR. GRIGGS:** He's already answered ---

18 **COMMISSIONER CAMPBELL:** Okay. Let ---

19 **MR. GRIGGS:** --- the Commissioner -

20 **COMMISSIONER CAMPBELL:** --- let ---

21 **MR. GRIGGS:** --- once, he doesn't need a translator
22 ---

23 **COMMISSIONER CAMPBELL:** --- let's lets -

24 **MR. VEGA:** No, Your Honor.

25 **MR. GRIGGS:** You're out of line.



1 MR. VEGA: No. He's been grant -- he's been awarded
2 the tran- -- an interpreter ---

3 COMMISSIONER CAMPBELL: Okay.

4 MR. VEGA: And we've all agreed to use -

5 COMMISSIONER CAMPBELL: I'm going to -- I'm going to
6 allow the interpreter, will you -- when he
7 responded to the question will you interpret
8 his response to me now?

9 THE TRANSLATOR: Yes, I'll repeat the question.

10 COMMISSIONER CAMPBELL: Okay. If that's easier for
11 you, yes.

12 (Translator complies)

13 A: Yes. Can I give an explanation?

14 COMMISSIONER CAMPBELL: Yes, but answer it first
15 yes or no then he can give the explanation.

16 THE TRANSLATOR: His answer was yes and now he asks
17 ---

18 COMMISSIONER CAMPBELL: Okay.

19 THE TRANSLATOR: --- and I give an explanation.

20 COMMISSIONER CAMPBELL: Yes.

21 A: The insurance was sending me letters with
22 explanations of all the cost and they were
23 asking me for an update on what's going on with
24 all the claims and all of this and I'm assuming
25 they want their money back.



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1 COMMISSIONER CAMPBELL: Okay. Did -- did you hear
2 that?

3 MR. GRIGGS: Yeah, that's fine. The only other
4 thing I have is Commissioner, Danny submitted
5 his letter regarding the termination and he
6 asked Mr. Lopez about that.

7 Q: You talked about the December 11th letter,
8 correct?

9 (Translator questions deponent)

10 Q: You testified about the termination letter.

11 A: Yes.

12 Q: They also sent you a letter in November of 2017
13 asking you for additional information, did you
14 respond to them at all?

15 A: No, I have another explanation.

16 Q: Go ahead.

17 THE TRANSLATOR: Okay. Eric Jonah. I'm not
18 understanding the name but.

19 A: The owner of the company came to see me at my
20 house and he told me I could not ---

21 MR. GRIGGS: I need to object here Commissioner.

22 MR. VEGA: He's the owner of the company, Your
23 Honor.

24 COMMISSIONER CAMPBELL: I'll -- I'll allow him to --
25 go ahead, continue.



1 A: --- and he told me that I could not have any
2 contact with the company whatsoever, no
3 letters, no telephone or anything. So when I
4 am told by the owner of the company not to have
5 any contact when I have letters I'm not going
6 to answer. He told me that if I received
7 anything or if there was anything I need to say
8 it needed to be done through the attorneys.

9 **MR. GRIGGS:** I don't have anything to follow-up to
10 that, Commissioner.

11 Q: Okay. Mr. Lopez, when you worked in Clemson,
12 we've established that you were paid \$175 per
13 week additional money, correct?

14 A: Yes.

15 Q: And you got that \$175 no matter how many days
16 you worked, correct?

17 A: Uh-huh. Yes. Oh, excuse me, but yes, I also
18 sometimes worked on Saturdays and either way I
19 would probably get paid 175.

20 Q: Correct.. Sometimes if it was raining or very
21 bad weather there were some weeks you worked
22 less, correct?

23 A: Yes.

24 Q: And you still got 175, correct?

25 A: Yes. Because it's company policy that even if



1 it's raining you have to go to the work site
2 and if you don't work you just get paid two
3 hours and then they send you back.

4 Q: You worked a -- you got the 175 regardless, it
5 didn't fluctuate, yes or no?

6 A: Yes.

7 Q: In fact every Reeves Young worker on the site
8 received the per diem, correct?

9 A: As far as I understand, yes.

10 Q: Okay. And the people that worked on that site
11 they didn't all come from Gainesville, some of
12 them came from other parts of Atlanta, some of
13 them came from closer to Georgia, everybody
14 drove from different places, correct?

15 A: Yes.

16 Q: But every -- but the 175 remained constant,
17 correct?

18 A: Yes.

19 **MR. VEGA:** Your Honor, if I may ask for
20 clarification? Is he asking about his 175 or
21 other employee's 175?

22 **MR. GRIGGS:** I'm asking about his 175.

23 (Translator repeats question)

24 A: Yes.

25 Q: Now, did you have to keep any receipts about



1 what you were spending the money on?

2 A: I have my application from the vehicle, I have
3 all my receipts there, I don't have to keep
4 them.

5 Q: Did Reeves Young require you to keep receipts
6 as to what you were spending the \$175 on?

7 A: No. In my case they gave me the money for gas
8 and they never asked me for any receipts.

9 Q: Now, did you have to keep a milage log, did you
10 have to tell them how far you were driving or
11 where you were driving?

12 A: No.

13 Q: You were offered an apartment in the Clemson
14 area, correct, or house -- housing, company
15 housing?

16 A: It was mentioned to me that if I wanted to
17 stay, but officially it was never offered to me
18 to have an apartment that the company had where
19 the other workers were staying.

20 Q: That -- that's your testimony? Okay. You
21 chose to drive back and forth because your wife
22 was ill, correct? You needed to take care of
23 her, that's understandable.

24 A: Yes.

25 Q: Did you drive your own car?



1 A: Yes.

2 Q: And you spent about three and a half hours each
3 day in that car, is that correct? About an
4 hour and 45 each way?

5 A: Yes.

6 Q: During that time you were in the car did they
7 pay you your hourly wage?

8 A: The driving time, no.

9 Q: They did -- Reeves Young did not pay any of
10 your car insurance, did they?

11 A: No, I paid it.

12 Q: They didn't pay any of your car maintenance,
13 did they?

14 A: No.

15 Q: They didn't give you a gas card to buy your
16 gas, did they?

17 A: No. Only the \$175 that they direct deposited
18 into my bank account.

19 Q: Now, the -- when you were driving from
20 Gainesville to Clemson and from Clemson back to
21 Gainesville were you doing any other errands
22 for Reeves Young, were you picking up supplies
23 or running messages back and forth, were you
24 charged with any tasks on the way to and from?

25 A: No.



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1 Q: You said it was about 85 miles from Gainesville
2 to Clemson and you spent about an hour and a
3 half to an hour and 45 minutes in the car, is
4 that right?

5 A: Yes.

6 Q: Other Reeves Young jobs that you worked on from
7 Gainesville, Georgia into downtown Atlanta or
8 into Decatur, those jobs would also require you
9 to travel, is that correct?

10 A: Yes.

11 Q: And you testified that those jobs with traffic
12 in the Atlanta area could take you as much as
13 an hour and a half one way, is that right?

14 A: In the morning it would be maybe 45 minutes,
15 but in the afternoon depending on the traffic
16 an hour and a half.

17 Q: Okay. So you worked other jobs that could
18 routinely take an hour and a half at least one
19 way, not in the morning, but in the afternoon,
20 Reeves -- Reeves Young didn't pay you milage
21 for that, did they?

22 A: No.

23 Q: Reeves Young did not exercise any control over
24 you when you were in your vehicle driving to
25 and from Clemson, did they?



1 A: No.

2 Q: You didn't have a work phone even, did you?

3 A: No.

4 Q: If you wanted to stop and shop or stop and eat
5 you could have done that on the way to and from
6 Clemson, correct?

7 A: Well, possibly, but in my case I just went from
8 my home to work from Monday through Friday.

9 Q: Do you have any evidence today as to how much
10 it cost you to put gas in your car back then?

11 A: Possibly I have on the telephone, but I'm not
12 sure.

13 Q: Do you have any evidence today to present to
14 the Commissioner as to the cost it cost you to
15 fill up your gas tank, to put gas in your car?

16 A: No.

17 Q: Do you have any evidence as to the maintenance
18 cost of operating your vehicle?

19 A: No.

20 Q: You said it was being a financial hardship for
21 you to work in Clemson and you would not have
22 been able to work in Clemson but for the per
23 diem, but you worked these other jobs in
24 Atlanta without any per diem, is that correct?

25 A: No. Because it was also the \$2 difference and



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1 plus the gasoline.

2 Q: Now, when you went to Atlanta for those two
3 weeks and then went back to Clemson, that was
4 your decision to go back, wasn't it?

5 A: No. They sent us all, the crew, to Marietta to
6 work and I don't recall exactly what it was, I
7 think it was Third Street in Marietta.

8 **MR. VEGA:** I think he's saying Church Street.

9 **THE TRANSLATOR:** Church Street? Thank you.

10 **MR. GRIGGS:** I don't believe I have any other
11 questions, Commissioner.

12 **COMMISSIONER CAMPBELL:** Okay. Mr. Smith?

13 Q: Mr. Lopez?

14 A: Yeah.

15 Q: Sorry for your injuries. I just have one
16 question to ask you. On the date of your motor
17 vehicle accident on January 5th, 2017 you left
18 at the Earle Street Apartment Complex, is that
19 correct?

20 A: Yes.

21 Q: And that's where you were working that day,
22 correct?

23 A: I worked at both, at the University and the
24 apartments.

25 Q: Oh, at the University, you only worked there in



1 the morning for exercises, correct?

2 A: In the morning at the University I went to do
3 the exercises that they have you do every
4 morning and then I was cleaning out the mud so
5 that it would be clear for all the other
6 companies that had to go in to do work that
7 day.

8 Q: And you were cleaning out the mud, that took
9 about an hour?

10 A: More or less, uh-huh.

11 Q: Then you went over to the Earle Street
12 Apartment Complex and worked there 'til the end
13 of the day?

14 A: At Earle Street, yes, from there they moved me
15 to the other site.

16 Q: Okay. And the remainder of the day you worked
17 at the Earle Street Apartment Complex, on the
18 day of the accident, correct?

19 A: Yes.

20 Q: Are you aware that Reeves Young employment
21 records have you working ten hours that day on
22 the Earle Street Apartment Complex?

23 A: Well, then they are lying. I don't know how
24 they keep their records, but I was at the
25 University in the morning and then later I went



1 to the apartments, if we could look to see
2 maybe there's a way of getting to review the
3 signatures at the University you will see the
4 signatures that will show that I was there for
5 the exercises in the morning and then to clean
6 up and then from there I moved to the
7 apartments.

8 Q: Okay. But again, you were only there for an
9 hour cleaning the road, correct?

10 A: Yes.

11 Q: Then you moved over to the Earle Street
12 Apartment Complexes, correct?

13 A: Yes.

14 Q: And how many hours do you thing you worked at
15 the Earle Street Apartment Complex before you
16 left?

17 A: To be sincere I don't recall.

18 Q: But the remainder of the day you were there,
19 correct?

20 A: From the apartments there I went home.

21 Q: Okay. But for the remainder of the -- you
22 worked an hour at the -- the dormitory project,
23 correct?

24 A: Yes. And then from, at the University and then
25 from there as a matter of fact they called and



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1 cancelled us ---

2 (Mr. Lopez corrects translator)

3 A: - Clemson House, because they were going to
4 take them down and then build them.

5 Q: They called the apartment Complexes the Clemson
6 House?

7 A: I don't know what they call them, but all the
8 students and everyone around there and the
9 people that were there would refer to them as
10 Clemson House.

11 Q: Okay. So you typically would arrive at work at
12 7:00 o'clock in the morning, is that correct?

13 A: Yes. Every day to do exercises that you have
14 to do that by -- it was a requirement to do
15 them every day.

16 Q: And what time did you leave on the date of your
17 accident, your employment?

18 A: I don't recall.

19 Q: How far away from the -- the work site was your
20 accident?

21 A: Between seven, six, eight miles. I don't
22 remember, I don't recall exactly.

23 Q: You don't recall when your accident occurred,
24 what time?

25 A: No.



1 Q: Okay.

2 MR. SMITH: And I'll just refer y'all on to the
3 police report.

4 COMMISSIONER CAMPBELL: Okay. Thank you. Mr. Vega?

5 MR. VEGA: Thank you, Your Honor.

6 MR. LOPEZ-CELESTIN - REDIRECT EXAMINATION BY MR.
7 VEGA:

8 Q: Mr. Lopez, a moment ago you were asked some
9 questions about the \$35 or the 175 a week and
10 you described the procedure for inclement
11 weather. What was the procedure if you woke up
12 and there was inclement weather with regards to
13 the job site?

14 A: We were told by Shane Burrell that we have to
15 show up in case was raining, if it wasn't
16 raining too much that we showed up and if it
17 was raining to the point where we couldn't work
18 they would pay us two hours and then they would
19 send us home.

20 Q: And when you showed up and they paid you the
21 two hours did they also pay you the \$35?

22 A: Yes, because supposedly that's what they were
23 going to pay us for gas.

24 Q: Did they pay you that money even if you didn't
25 get in a bulldozer or didn't get in a backhoe



1 or anything like that?

2 A: Sometimes we will do it for maybe like ten
3 minutes or something, like they would have us
4 uncover a sewage drainage or something like
5 that and then they would send us home.

6 Q: But they would pay you the \$35 whether you
7 worked ten minutes or an hour or two hours?

8 A: Yes, because you had already showed up to work.

9 Q: Did anyone at the company tell you that it was
10 mandatory or required of you to stay in
11 Clemson?

12 A: No.

13 Q: When you told the company that you were going
14 to drive home did anyone at the company tell
15 you that you were prohibited from driving home
16 each day?

17 A: No.

18 Q: And you went to Clemson -- when you went to a
19 city, be it Atlanta, Decatur, Marietta or
20 Clemson were you going at the direction of the
21 company?

22 A: Can you repeat the question?

23 Q: The city you worked in, was that your choice or
24 was it the company's choice?

25 A: The company's choice.



1 MR. VEGA: And, Your Honor, I'm going to go back to
2 Exhibit L to where it says the per diem ---

3 COMMISSIONER CAMPBELL: Thank you.

4 MR. VEGA: --- document.

5 Q: When you were on vacation were you paid \$35 a
6 day?

7 A: No. When you went on vacation they
8 automatically stopped the payment, when you
9 went back to -- to work they would start paying
10 them again.

11 Q: And when you were on vacation - or did you
12 receive vacation time when you were on
13 vacation?

14 THE TRANSLATOR: Can you repeat the question?

15 Q: Yes. When you took vacation did you receive
16 company paid vacation time?

17 A: Oh. So after three -- after three years you
18 receive two weeks paid vacation. If you want
19 to take more time than that, three weeks or
20 more then the extra time you can take it with
21 no pay.

22 Q: Did you -- when you were paid your vacation
23 time were you paid at your regular rate or the
24 increased \$2 rate?

25 A: The regular 40 hours that you get paid, but I



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1 don't know how they work in the office if you
2 get bonuses or how they pay.

3 Q: Okay. If you went on a holiday, Thanksgiving,
4 Christmas, things like that, did you receive
5 \$35 a day even if you were paid holiday time?

6 A: Truthfully, I didn't pay attention to that.

7 Q: Okay.

8 **MR. VEGA:** Your Honor, I would just refer to the
9 document. It does appear, if you look at the
10 dates, Christmastime, Thanksgiving there's, the
11 numbers do vary.

12 **COMMISSIONER CAMPBELL:** Okay. Thank you.

13 **MR. VEGA:** Also with vacation pay and things of that
14 nature.

15 **COMMISSIONER CAMPBELL:** Okay. Thank you.

16 **MR. VEGA:** Those are all the questions I have.

17 **COMMISSIONER CAMPBELL:** Okay. Mr. Griggs?

18 **MR. GRIGGS:** I don't think I have anything else.

19 **COMMISSIONER CAMPBELL:** Okay. Mr. Smith, anything?

20 **MR. SMITH:** Nothing further, Your Honor.

21 **COMMISSIONER CAMPBELL:** Okay. Thank you. Ma'am,
22 you can tell him that y'all can step down.
23 Thank you for your testimony and if you want to
24 have a seat over here by Mr. Vega y'all can --
25 y'all can step over there.



1 (Translator complies)

2 **MR. GRIGGS:** Can we take a five minute break?

3 **COMMISSIONER CAMPBELL:** Yes and we'll just -- we'll
4 take a brief five minute recess.

5 (Off the Record)

6 **COMMISSIONER CAMPBELL:** We're back on the record and
7 Mr. Vega, I know that you have a witness that
8 you care to call at this time so if you would
9 call your witness.

10 **MR. VEGA:** Your Honor, pursuant to the agreement of
11 myself and Mr. Griggs he's going to call him
12 first and then I will reserve my right to
13 cross-examine him.

14 **COMMISSIONER CAMPBELL:** Okay. So you have no
15 further witnesses to call at this time?

16 **MR. VEGA:** Yes, Your Honor. Contingent on him
17 calling the witness, if he does not call a
18 particular witness I reserve the right to call
19 him.

20 **COMMISSIONER CAMPBELL:** Okay. All right. Mr.
21 Griggs?

22 **MR. GRIGGS:** I'd like to call Juan Ochoa.

23 **COMMISSIONER CAMPBELL:** Okay. And Mr. Ochoa, I have
24 a couple of quick instructions for you. If you
25 would please speak up, speak clearly for us so



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1 that we can all hear your responses to the
2 questions. If you're asked a yes or no
3 question please give us a verbal yes or no
4 answer and try and stay away from things like
5 uh-huh and huh-uh just because that can be
6 easily misinterpreted on the record so if you
7 could help me out with that I'd appreciate it,
8 okay?

9 **MR. OCHOA:** Okay.

10 **COMMISSIONER CAMPBELL:** All right. Please raise
11 your right hand.

12 **MR. OCHOA:** Do you solemnly swear and affirm the
13 testimony is about, that you're about to give
14 is the truth, the whole truth and nothing but
15 the truth?

16 **MR. OCHOA:** I swear.

17 **COMMISSIONER CAMPBELL:** Okay. You can put your hand
18 down and please state and spell your name for
19 the record, sir.

20 A: Juan Ochoa.

21 **COMMISSIONER CAMPBELL:** Okay. If you could spell
22 that for us so we can get that for the record.

23 A: Oh. J-U-A-N, is my first name and Ochoa, O-C-
24 H-O-A.

25 **COMMISSIONER CAMPBELL:** Okay. Thank you, sir. Mr.



1 Griggs?

2 **JUAN OCHOA**, having been duly sworn, testifies as
3 follows:

4 **MR. OCHOA - DIRECT EXAMINATION BY MR. GRIGGS:**

5 Q: Juan, just remember to speak, even if you feel
6 like you're yelling, just speak as loud as you
7 can, this lady over here has to hear everything
8 you say, okay?

9 A: Yes.

10 **COMMISSIONER CAMPBELL:** We have to -- have to get it
11 for the record, thank you, sir.

12 Q: Juan, who is your employer?

13 A: Reeves Young.

14 Q: Okay. And what is your job title with Reeves
15 Young?

16 A: Foreman.

17 Q: Okay. How long have you worked at Reeves
18 Young?

19 A: A year or more.

20 Q: Okay. And did you work on the dormitory job in
21 Clemson, South Carolina?

22 A: Yes.

23 Q: Okay. There was two jobs there, there was a
24 dorm job and an apartment job, you weren't the
25 foreman on the apartment job, correct?



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1 A: Correct.

2 Q: You were just on the dorm job?

3 A: Correct.

4 Q: But Reeves Young had you there as the foreman,
5 correct?

6 A: Yes.

7 Q: When you worked on that job site in Clemson
8 where did you live?

9 A: In Gainesville, Georgia.

10 Q: Did you drive to and from Clemson daily from
11 Gainesville or did you stay overnight in the
12 Clemson area?

13 A: I drove back and forth everyday.

14 Q: How did you get from Gainesville to Clemson and
15 then back to Gainesville?

16 A: A company truck.

17 Q: Okay. You have a company truck?

18 A: Yes.

19 Q: And it's actually owned by Reeves Young?

20 A: Yes.

21 Q: You don't pay for the truck?

22 A: No.

23 Q: You don't pay insurance?

24 A: No.

25 Q: You don't make any payments?



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1 A: No.

2 Q: Do you pay for gas?

3 A: No.

4 Q: How do you pay for your gas when you're
5 operating your company truck?

6 A: I got a field card for the truck.

7 Q: Okay. So Reeves Young provides you a company
8 truck and a company gas card?

9 A: Yes.

10 Q: When you worked in Clemson did you also receive
11 a per diem?

12 A: Yes.

13 Q: How much was your per diem?

14 A: \$175 per week.

15 Q: Okay. Well, did you get that \$175 per week no
16 matter if you worked five days or six days or
17 maybe even less, did the 175 stay constant for
18 you?

19 A: Yes.

20 Q: Did you have to keep track of any milage at all
21 when you were traveling between Gainesville and
22 Clemson?

23 A: No.

24 Q: Do you have to keep track of any receipts?

25 A: No.



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1 Q: Were you told by Reeves Young how to spend your
2 \$175?

3 A: No.

4 Q: After you stopped working in Clemson and moved
5 backed and worked in the Metro Atlanta area did
6 you still get the \$175?

7 A: No.

8 Q: Now, you had other -- let me ask you this,
9 strike that. When you worked in Clemson did
10 you transport others in your company truck?

11 A: Yes.

12 Q: And who else would ride with you?

13 A: Some guys that was in the crew.

14 Q: That worked for Reeves Young?

15 A: Yes.

16 Q: They lived in the Gainesville area?

17 A: They were in the same area that's why they rode
18 with me.

19 Q: What -- what were their names?

20 A: It was Julio Abrego, Isidro Silva and Mario
21 Romero.

22 Q: Okay. Julio Abrego, Isidro ---

23 A: Isidro ---

24 Q: --- Silva ---

25 A: Silva.



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- 1 Q: --- and Mario ---
- 2 A: Mario Romero.
- 3 Q: --- Romero. Okay. You drove them everyday?
- 4 A: Yes.
- 5 Q: Or most days?
- 6 A: Most of the days.
- 7 Q: Okay. There may have been a random day that
- 8 they rode with somebody else?
- 9 A: Yeah.
- 10 Q: Okay. Did they also receive the per diem?
- 11 A: Yes.
- 12 Q: So they didn't drive their own vehicle or drive
- 13 a company truck, they rode with you, but they
- 14 also got the per diem?
- 15 A: Yes.
- 16 Q: And you knew that, as their foreman you knew
- 17 that?
- 18 A: Yes.
- 19 Q: Now, Mr. Lopez is here, you were his supervisor
- 20 on that dorm job?
- 21 A: Yes.
- 22 Q: When you were his supervisor where was he
- 23 living?
- 24 A: In Gainesville.
- 25 Q: Do you know if he stayed in the Clemson area or



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- 1 if he drove back like you did, back and forth?
- 2 A: Drive back and forth.
- 3 Q: Now, did he have the option of staying in
- 4 housing in Clemson?
- 5 A: Yes.
- 6 Q: Did you offer him that option?
- 7 A: Yes.
- 8 Q: You talked with him about it?
- 9 A: To everyone that was from the, out of town.
- 10 Q: Right. You made it clear -- did you make it
- 11 clear to them that there was housing in Clemson
- 12 that they could stay in if they wanted to?
- 13 A: Yes.
- 14 Q: Free of charge?
- 15 A: Free charge.
- 16 Q: And Reeves Young paid for it?
- 17 A: Yes.
- 18 Q: And that was from the beginning of the job?
- 19 A: Yes.
- 20 Q: And do you know when that job started?
- 21 A: We started ---
- 22 Q: When did you start your portion with your crew?
- 23 A: Yeah, we started in June, I think it was June
- 24 8.
- 25 Q: Of what year?



1 A: The '16.

2 MR. VEGA: Which job site are we referring to?

3 MR. GRIGGS: I'm talking about the Clemson building
4 job.

5 Q: If -- if some records reflect June 8, 2015,
6 does that sound ---

7 A: '15, that's correct.

8 Q: Does that sound right?

9 A: Yes.

10 Q: And his accident again was in January of '17?

11 A: Repeat that again.

12 Q: Mr. Lopez's accident was January of 2017, is
13 that your recollection?

14 A: Can't remember.

15 Q: Okay. Now, when you offered Mr. Lopez the
16 housing in Clemson or offered it to the group
17 did he avail himself to the housing or did he
18 continue to drive back?

19 A: He continued to drive back and forth.

20 Q: Okay. Why was -- why was he driving back and
21 forth?

22 A: The reason why, I think -- I think it was
23 because his wife was sick ---

24 Q: Okay.

25 A: --- and he had to be at home everyday.



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1 Q: Okay. Was he given a per diem?

2 A: Yes.

3 Q: How much was his per diem?

4 A: \$175 per week.

5 Q: If he had chosen to stay in the Clemson area in
6 the housing would he have still received the
7 per diem?

8 A: Yes.

9 **MR. VEGA:** Objection, speculation.

10 Q: Okay. Was it the company plan, did the company
11 have a plan to continue to pay the per diem
12 even if they stayed in the housing?

13 **MR. VEGA:** Same objection.

14 **COMMISSIONER CAMPBELL:** Well, I'll allow -- I'll
15 allow it because he would be familiar with what
16 the company plan was.

17 A: Yes.

18 Q: Now, do you -- are you aware did the -- did the
19 Claimant have any, Mr. Lopez, have any
20 responsibility to keep track of any milage or
21 gas receipts?

22 A: No.

23 Q: Did you tell him how to spend his per diem?

24 A: No.

25 Q: Do you know how far it takes, how long it takes



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1 to get from Gainesville to Clemson?

2 A: About an hour, 30 minutes maybe.

3 Q: An hour and 30 minutes?

4 A: One way, yes.

5 Q: Okay. And you -- you drove that same route,
6 correct?

7 A: Yeah.

8 Q: So Mr. Lopez would have spent three plus hours
9 in the car daily?

10 A: Yes.

11 Q: Okay. When he was driving back and forth to
12 Clemson did he have any errands to run for
13 Reeves Young, did he have to go pick up
14 supplies or do anything else?

15 A: No.

16 Q: Did Reeves Young have any control over Mr.
17 Lopez once he left the job site when he was
18 going to Clemson or coming from Clemson?

19 A: No.

20 Q: Did you ever tell Mr. Lopez that the \$175 per
21 diem was for gas money?

22 A: No.

23 Q: I don't have any other questions, Commissioner.

24 **COMMISSIONER CAMPBELL:** Okay. Mr. Vega?

25 **MR. OCHOA - CROSS-EXAMINATION BY MR. VEGA:**



1 Q: Mr. Ochoa, what did you tell Mr. Lopez the
2 money was for?

3 A: Per diem.

4 Q: Yes.

5 A: Just for per diem.

6 Q: What does that mean?

7 A: That means it helps for your meals if you stay
8 in the housing.

9 Q: So you only receive the per diem if you stayed
10 in the housing?

11 A: You -- you stay, if you stay in the housing you
12 receive or you choose to drive back and forth
13 you still receive that per diem.

14 Q: Okay. Was Mr. Lopez required to stay in
15 housing?

16 A: No, it was by choice.

17 Q: He chose to go home each day?

18 A: Yes.

19 Q: And you testified that he chose to go home
20 because of his wife?

21 A: Was sick at -- at the time ---

22 Q: Correct.

23 A: --- and then ...

24 Q: Do you recall my deposition of you in March,
25 March 5, 2018, do you recall giving a statement



1 at your employers location?

2 A: Yes.

3 Q: Why did you drive home each day?

4 A: For my family.

5 Q: That's exactly what you told me, you told me
6 that you went home because of your wife and
7 kids, correct?

8 A: Yes.

9 Q: And you said that that was ---

10 **MR. GRIGGS:** Your Honor, the way he -- I'm not sure
11 why he's reading off the -- of the deposition.

12 **MR. VEGA:** I'm --

13 **MR. GRIGGS:** Witness is right in front of him.

14 **COMMISSIONER CAMPBELL:** If -- are you -- and -- and
15 ---

16 **MR. GRIGGS:** Is this to impeach ----

17 **COMMISSIONER CAMPBELL:** Are you introducing ---

18 **MR. GRIGGS:** Yes, there is. This is -- I got more
19 questions, but he hasn't given a wrong answer
20 yet or what you mean by wrong answer. A proper
21 way is to ask the question, if you get
22 something inconsistent then you bring it up.

23 **MR. VEGA:** No, but it also -- I mean that was his
24 answer and it shows that he's given the same
25 answer, there's nothing wrong with that.



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1 MR. GRIGGS: You can't use the deposition transcript
2 unless he wants to try to impeach him somehow.
3 If he's -- the witness is here, he can answer
4 the questions ---

5 MR. VEGA: Your Honor?

6 MR. GRIGGS: --- if he doesn't answer it and he
7 wants to go to the deposition then ---

8 MR. VEGA: Your Honor, pursuant to the
9 Administrative Law Court rules depositions are
10 admissible and they're to be used in the course
11 of the hearing.

12 COMMISSIONER CAMPBELL: Well, I'll tell you what ---

13 MR. VEGA: Some of the ---

14 COMMISSIONER CAMPBELL: --- take it back and then --
15 and then if -- if you need to for impeachment
16 purposes I'll -- I'll allow it come in, okay?

17 MR. VEGA: Thank you.

18 Q: Okay. So the reason that Mr. Lopez gave for
19 driving on each day sounds very similar. Would
20 you agree that it's the same reason that you
21 gave for going home each day?

22 A: For why we choose to drive back and forth?

23 Q: Correct.

24 A: Yes.

25 Q: He went for his family, you went for your



1 family, correct?

2 A: Correct.

3 Q: Is there anything wrong with driving home to go
4 see your family?

5 A: Not at all.

6 Q: Did the company ever prohibit you from driving
7 home?

8 A: No.

9 Q: Did the company require you to stay in an
10 apartment?

11 A: No.

12 Q: Did you require or did the company require Mr.
13 Lopez to stay in an apartment?

14 A: Nobody required him, just is a choice.

15 Q: All right. But you and -- you were in charge
16 of the crew, on that crew I believe there was
17 another member that you failed to mention, Mr.
18 Luz Lopes.

19 A: Yes. But when he asked he was like who was
20 driving back and forth with me, Luz wasn't
21 riding with me.

22 Q: Who was on your crew was the question.

23 **MR. SMITH:** Your Honor, I believe Mr. Griggs
24 question was who was riding with him in his
25 truck and he named three individuals.



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1 COMMISSIONER CAMPBELL: And were those the three
2 individuals that were riding with you in the
3 truck?

4 A: Luz wasn't riding with me.

5 COMMISSIONER CAMPBELL: Okay. All right. Mr. Vega?

6 Q: All right. Who was on your crew?

7 A: It was Julio Abrego, Isidro Silva, Mario
8 Romero, Jorge Lopez or Jorge Lopez (using
9 correct Spanish pronunciation), Luz Lopez and I
10 think it was another guy, I can't remember his
11 name.

12 Q: Correct. So not all the members of the crew
13 rode with you in the truck?

14 A: No.

15 Q: There were other members of the crew that drove
16 their on vehicles to Clemson, correct?

17 A: Correct.

18 Q: They were also paid \$35 a day for going to
19 Clemson?

20 A: 175 per week.

21 Q: Correct. Were all the members of your crew
22 paid that money?

23 A: Yes.

24 Q: And that was when they went to Clemson?

25 A: Yes.



1 Q: When you -- was your crew transferred to
2 Atlanta at one point in March of 2016?

3 A: Yes.

4 Q: And did you take everybody on your crew back
5 with you to Atlanta?

6 A: Everybody except for that one guy I was telling
7 your about because I think he was local.

8 Q: Right. There was a --- one of your crew
9 members just quit the job?

10 A: He quit, yeah.

11 Q: Yeah. But the crew that remained that was
12 yours that you were in charge of in Clemson you
13 took that crew with your to Atlanta?

14 A: Correct.

15 Q: And you supervised the grading?

16 A: Yes.

17 Q: And the heavy machine equipment?

18 A: Yes.

19 Q: And Mr. Lopez went with you to Atlanta?

20 A: Yes.

21 Q: And you told me he was a good worker?

22 A: Yes.

23 Q: And knew how to do his job?

24 A: Yes.

25 Q: And he had the skills to drive and grade



1 ground, correct?

2 A: Correct.

3 Q: Now, after about two weeks was he returned to
4 Clemson?

5 A: About two, three weeks ---

6 Q: Correct.

7 A: --- he went back to Clemson.

8 Q: And who -- who asked him to go to Clemson?

9 A: At that time it was Superintendent Shane
10 Burrell.

11 Q: Shane Burrell?

12 A: Yes.

13 Q: And when -- when Mr. Lopez was asked to go back
14 to Clemson did you stay in Atlanta with your
15 crew?

16 A: Yes.

17 Q: At one point did you contact Shane Burrell and
18 ask him to send Mr. Lopez back to Atlanta?

19 A: Yes, after those two or three weeks.

20 Q: Why did you ask him to come back?

21 A: Because I needed him.

22 Q: You needed his skills?

23 A: I need -- yeah, I need him back ---

24 Q: All right.

25 A: --- at that time.



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1 Q: Were there things on the crew that he could do
2 that other people could not do?

3 A: No.

4 Q: Everybody could drive the same equipment?

5 A: To drive equipment, operate the equipment.

6 Q: So you needed him or you just -- you liked
7 having him on the crew or you wanted him back?

8 A: Both.

9 Q: So you needed him and you liked having him on
10 your team?

11 A: Yes.

12 Q: All right. Now, when you asked Shane Burrell
13 to send him back did he come back?

14 A: No.

15 Q: What was the reason for him staying in Clemson?

16 A: First I tried to contact Mr. Lopez to get back
17 on -- on -- on our crew and I could never get
18 him to answer the phone so I called Shane
19 Burrell and he told me that he choose to stay
20 there, he didn't want to come back to Atlanta
21 with us.

22 Q: Okay. Shane Burrell told you that Jorge Lopez
23 did not want to come back to Atlanta?

24 A: Yes.

25 Q: And what reason did Shane Burrell give you?



1 A: Because he was making a little more money.

2 Q: So Mr. Lopez wanted to stay in Clemson to make
3 the extra money that's what they told you?

4 A: That's what they told me.

5 Q: And do you believe that as true?

6 A: Yes.

7 Q: When you worked in Clemson did you enjoy making
8 the extra money?

9 A: Yes.

10 Q: Did it help offset your cost to travel and be
11 in Clemson?

12 A: Not really.

13 Q: So you could have done without the money, you
14 could've driven to Clemson and just done
15 without the money?

16 A: Yes.

17 Q: But you would prefer to have the money?

18 A: Of course.

19 Q: And you used the money to pay for travel
20 expenses?

21 A: No.

22 Q: You did not pay for any travel expenses?

23 A: No.

24 Q: Did anyone else in your crew to pay for travel
25 expenses?



1. A: No.

2 Q: How do you know that?

3 A: Because I've never asked them.

4 Q: Okay. You didn't use it for travel expenses
5 because you had a gas card, correct?

6 A: Correct.

7 Q: And so if you needed to gas up your truck you
8 just gassed it up on the company card?

9 A: Correct.

10 Q: Did anyone below you in your crew also have a
11 company gas card?

12 A: No.

13 Q: So if they were going to drive to Clemson they
14 would have to use the money that they were paid
15 by the company, correct?

16 A: No.

17 Q: How would they get to Clemson if they're not
18 using the money the company pays them?

19 A: Well, they get paid by the company weekly, you
20 know, hourly.

21 Q: Right.

22 A: So if they need to make it to the job they need
23 to use their -- their own money to make it to
24 the job.

25 Q: Did you tell them not to use the money to



1 travel to Clemson?

2 A: Which money?

3 Q: The extra money, the \$2 an hour, the \$35 per
4 day.

5 A: I didn't tell them.

6 Q: In fact you didn't tell them how to use the
7 money?

8 A: I never tell them how to use the money.

9 Q: But you knew it was extra money for working in
10 Clemson?

11 A: Yes.

12 Q: And that's what you told me in the deposition,
13 it was that job site in Clemson that got the
14 extra money?

15 A: Yes.

16 Q: And you went further and you told me that in
17 Georgia, in Atlanta you did not get extra
18 money?

19 A: You don't get the per diem in Georgia.

20 Q: And you also told me your salary was separate
21 than the per diem?

22 A: Yes.

23 Q: Tell me, if there's inclement weather in
24 Clemson, rain, snow, bad weather what was the
25 policy for the employees that were scheduled to



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1 be in Clemson?

2 A: Phone call.

3 Q: They would call in?

4 A: Yes.

5 Q: Who would they call?

6 A: Me or Shane at that time.

7 Q: Did they have -- were they required to come to
8 the job site?

9 A: No.

10 Q: They were not required to be present for two
11 hours to see if the weather would clear up?

12 A: Not if the -- if you say inclement weather, you
13 know, if it's snowing or anything like that you
14 don't want to bring people from an hour and a
15 half away, you know, just for show up for two
16 hours, so.

17 Q: I understand that would be a good idea, but is
18 that what the company was doing?

19 A: No. We'll make a phone call to see how the
20 weather looks and then we make a decision from
21 there.

22 Q: Okay. What if it was just raining a little bit
23 and then the employees got to Clemson?

24 A: Then ---

25 Q: Are you saying that if there was rain nobody



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1 would have to go to Clemson?

2 **MR. SMITH:** I think you let him finish his answer.

3 Q: Just answer my question.

4 **COMMISSIONER CAMPBELL:** Yeah, let -- go ahead and --
5 and answer the question.

6 A: We use -- we watch the weather, but if it's
7 raining in the morning, drizzling and you see
8 it's going to clear off around an hour or two
9 and you're going to be able to work we'd all go
10 to the job site.

11 Q: Who's we?

12 A: The ---

13 Q: Who's the weather person?

14 A: The weather person?

15 Q: Yeah, you said we watch the weather, who
16 watches the weather?

17 A: I'm talking, we, as everybody watches the
18 weather. You don't go out -- out of the house,
19 out of your house without watching the weather.

20 Q: Well, you don't know what I do.

21 A: Well, I'm just saying ---

22 Q: Okay. When you -- were there times where the
23 employees drove to Clemson and due to inclement
24 weather they were let go to go back home?

25 A: Yeah, if you can't work you -- you will go back



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1 home.

2 Q: Okay. So there were times where the weather
3 would get worse ---

4 A: Correct.

5 Q: --- and you would have to send people home?

6 A: Yes or not bring them in at all.

7 Q: Okay. But that was the company's choice,
8 correct?

9 A: Yeah.

10 Q: And if the company chose to bring them in and
11 watch the weather and see if they could work or
12 not they would still pay them the \$35?

13 A: Yes.

14 Q: Regardless of whether they did ten minutes of
15 work, one hour, two hours?

16 A: Yes.

17 Q: Those are all the questions I have for you.

18 **COMMISSIONER CAMPBELL:** Okay. Mr. Smith?

19 **MR. SMITH:** I have none, Your Honor.

20 **COMMISSIONER CAMPBELL:** Okay. Mr. Griggs?

21 **MR. GRIGGS:** None on re-direct.

22 **COMMISSIONER CAMPBELL:** Okay. Thank you, sir.

23 Appreciate it and appreciate your testimony and
24 you can step down. Thank you, sir.

25 **MR. OCHOA:** Yes, sir.



1 COMMISSIONER CAMPBELL: Mr. Griggs, you have another
2 witness to call at this time?

3 MR. GRIGGS: Yes, William Reeves.

4 COMMISSIONER CAMPBELL: Okay. Watch your step. And
5 since you've already heard me go over the
6 instruction two times before I'm not going to
7 belabor it -

8 MR. REEVES: Yes, sir.

9 COMMISSIONER CAMPBELL: --- so just speak up for us,
10 okay?

11 MR. REEVES: Yes, sir.

12 COMMISSIONER CAMPBELL: Please raise you right hand.

13 MR. REEVES: (Witness complies).

14 COMMISSIONER CAMPBELL: Do you swear and affirm the
15 testimony you're about to give is the truth,
16 the whole truth and nothing but the truth?

17 MR. REEVES: Yes, sir.

18 COMMISSIONER CAMPBELL: Okay. You can put your hand
19 down and please state and spell your name for
20 the record.

21 MR. REEVES: William Reeves, W-I-L-L-I-A-M R-E-E-V-E-
22 S.

23 COMMISSIONER CAMPBELL: Thank you, sir. Mr. Griggs,
24 your witness.

25 WILLIAM REEVES, having been duly sworn, testifies as



1 follows:

2 **MR. REEVES - DIRECT EXAMINATION BY MR. GRIGGS:**

3 Q: Mr. Reeves, do you work with Reeves Young?

4 A: I do.

5 Q: And how long have you been there?

6 A: Eleven years.

7 Q: And what is your position with the company?

8 A: Vice President, Leader for our Civil
9 Engineering Unit.

10 Q: Okay. Were you over the two Clemson projects
11 we've discussed today?

12 A: Yes.

13 Q: Do you know Mr. Jorge Lopez who's here today?

14 A: I do.

15 Q: Okay. Was he a Reeves Young employee?

16 A: He was.

17 Q: Was he a good employee?

18 A: He was.

19 Q: Did y'all enjoy having him around?

20 A: Yes.

21 Q: When was his employment separated, do you know?

22 A: I believe it was in December of 2017.

23 Q: His accident happened in January of 2017, from
24 January to December did you, did Reeves Young
25 keep him on the group health policy?



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1 A: We did.

2 Q: And did Reeves Young pay his premiums?

3 A: We did.

4 Q: Before you terminated Mr. Reeve -- Mr. Lopez in
5 December -- well, before you separated
6 employment with him did y'all try to reach out
7 to him before that?

8 A: I know Eric Young had gone out to his house to
9 talk with him, yes.

10 Q: Was there also another letter sent in November?

11 A: Yes.

12 Q: Okay. And you say termination, he wasn't
13 terminated for cause, I mean he didn't do
14 anything wrong, he could not come back to work
15 after a certain amount of time, is that fair?

16 A: That's fair.

17 Q: Okay. So the employment was separated?

18 A: Correct.

19 Q: Okay. You're also aware that Mr. Lopez was in
20 the accident we've talked about today, correct?

21 A: Yes.

22 Q: Was he paid milage while driving to and from
23 Clemson from Gainesville?

24 A: No.

25 Q: Was he given a per diem while working in



1 Clemson?

2 A: Yes.

3 Q: And how much was that per diem?

4 A: \$175 per week.

5 Q: Okay. And the \$175 per week was that given to
6 all the Reeves Young employees working on that
7 project?

8 A: Yes.

9 Q: Okay. Let me clarify, there was a couple of
10 local employees that were in that Clemson
11 immediate area, they -- they did not receive
12 the per diem?

13 A: The ones that traveled out of state received
14 the per diem.

15 Q: And why did they receive that per diem?

16 A: For being out of town, a lot of the meal money,
17 obviously they weren't at home, having to spend
18 more money on extra meals as well as industry
19 standard. Typically in our industry if folks
20 work out of state they're given per diems.

21 Q: Okay. Now, some guys stayed overnight in the
22 Clemson area?

23 A: Yes.

24 Q: Reeves Young did provide the company housing?

25 A: We did.



1 Q: That was an option for all of them to stay?

2 A: It was.

3 Q: If they would have stayed in the housing did
4 they, would they still receive the per diem?

5 A: They would have.

6 Q: And in fact other people have stayed in the
7 area and did receive the per diem?

8 A: That is correct.

9 Q: Was the \$175 contemplated as gas money?

10 A: No.

11 Q: Now again, we've talked about he lived in
12 Gainesville, correct?

13 A: Yes.

14 Q: Were all the Reeves Young employees on that
15 site from Gainesville or were there others from
16 other parts of Atlanta?

17 A: There were others from other parts of Atlanta.

18 Q: Did all the Reeves Young employees drive the
19 exact same distance in the exact same amount of
20 time to get to the job site?

21 A: No.

22 Q: But everyone got the 175?

23 A: Yes, sir.

24 Q: So did the per diem fluctuate at all depending
25 on distance or time or was it across the board?



- 1 A: It was across the board.
- 2 Q: And if they worked an extra Saturday did they
- 3 get an extra day or was it remaining 175?
- 4 A: It was the 175 per week.
- 5 Q: Was Mr. Lopez offered housing in the Clemson
- 6 area?
- 7 A: He was.
- 8 Q: And that housing was paid for by Reeves Young?
- 9 A: It was.
- 10 Q: If he would have chosen that, to stay in the
- 11 housing would he have still received the money?
- 12 A: He would have.
- 13 Q: The 175?
- 14 A: Yes.
- 15 Q: Suppose employees carpooled and -- and some
- 16 people weren't actually driving, but one person
- 17 was would all of them receive the money, the
- 18 175?
- 19 A: They would.
- 20 Q: Did the \$175 -- well, let me ask you this. Did
- 21 Reeves Young consider or look at how far
- 22 employees were traveling to arrive at that
- 23 figure?
- 24 A: We did if -- if they were out of ---
- 25 Q: Did you ---



1 A: --- state they got it.

2 Q: Right. But did you look at milage, distance in
3 coming up with \$175?

4 A: No, we did not.

5 Q: Did the \$175 bear any relation to travel time,
6 travel distance or actual transportation
7 expense incurred by the employee?

8 A: No.

9 Q: Did the employees have to keep track of milage
10 receipts or gas logs?

11 A: No.

12 Q: Did Reeves Young derive any benefit from the
13 claim -- from the employees and the Claimant
14 driving from their home in Gainesville to the
15 job site?

16 A: No.

17 Q: That was the decision they made?

18 A: Correct.

19 Q: Did you place any restrictions on Mr. Lopez
20 once he left the job site?

21 A: No.

22 Q: Did you have Mr. Lopez carry out any errands or
23 -- or run any errands on the way home from
24 Clemson or on the way in?

25 A: No.



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1 Q: He wasn't stopping by the store to pick up
2 things or taking messages back and forth?

3 A: No.

4 Q: He lives in Gainesville, y'all's corporate
5 office is in a town, Sugar Hill, Georgia?

6 A: Yes.

7 Q: How far is that from Gainesville approximately,
8 do you know?

9 A: 30 minute drive.

10 Q: Okay. And Mr. Lopez worked all over the Metro
11 Atlanta area?

12 A: Yes.

13 Q: So it's customary for him to travel distances
14 routinely, is that correct?

15 A: Yes.

16 Q: Now, Juan Ochoa, you heard him testify that he
17 had a company issued fuel card and company
18 truck, is that accurate?

19 A: That's accurate.

20 Q: And he used that card and that truck to drive
21 to and from the Clemson sites?

22 A: He did.

23 Q: From his home in Gainesville?

24 A: Yes.

25 Q: Did he also receive the per diem?



1 A: He did.

2 Q: Does Reeves Young pay -- are there other
3 instances where Reeves Young will pay
4 employee's milage?

5 A: There are instances when we do that, yes.

6 Q: And y'all have a process for that?

7 A: We do, we have an expense report and pay for
8 the IRS.

9 Q: Okay. For the milage guidelines?

10 A: Yeah. Yeah.

11 Q: And do you know what those guidelines are, do
12 you know how much?

13 A: I believe 53 cents per mile or something.

14 Q: But y'all do have a process, y'all know how to
15 pay milage?

16 A: Yes. Through the standard expense report,
17 excel template that the employees use.

18 Q: And was that done in this case?

19 A: It was not.

20 Q: I don't think I have any other questions.

21 **COMMISSIONER CAMPBELL:** Okay. Mr. Vega?

22 **MR. VEGA:** Thank you, Your Honor.

23 **MR. REEVES - CROSS-EXAMINATION BY MR. VEGA:**

24 Q: So your testimony just now is that mileage,
25 although you have a policy, was not offered to



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1 the crew that was going to Clemson?

2 A: Mileage was not.

3 Q: Mileage?

4 A: No, we did not pay them mileage.

5 Q: And that was a company decision?

6 A: That's correct.

7 Q: And the decision to pay the per diem and that
8 was a company decision as well?

9 A: Correct.

10 Q: And -- and in fact you had a hand in that
11 decision?

12 A: I did.

13 Q: As the VP?

14 A: Yes.

15 Q: And also as being involved in the Civil
16 Engineering Unit?

17 A: Yeah, yes, sir.

18 Q: Okay. And so it was at your direction
19 ultimately that the \$35 was paid?

20 A: Yes.

21 Q: And when I asked you what was the reason for
22 that you stated for -- it's your contention,
23 your testimony even today that the
24 consideration was being out of state?

25 A: Yes.



1 Q: Okay. What -- you're also testifying that
2 although you were considering them being out of
3 state you did not take into account how far out
4 of state they were going?

5 A: That's correct.

6 Q: So you made the decision solely on them being
7 out of state, you're contending today that you
8 never considered mileage?

9 A: That's correct, mileage never entered our
10 equation into giving a per diem.

11 Q: Did the distance travel ---

12 A: No.

13 Q: --- come into mind, the fact that people were
14 traveling 85 miles one way to go to work?

15 A: No. Our assumption was that they would spend
16 the night in Clemson and therefore would be
17 buying meals necessary, so that's what we
18 initially thought the per diem would be would
19 be mostly for meals.

20 Q: Okay. So by your testimony you -- the per diem
21 was -- was supposed to be used to offset the
22 cost of being in Clemson?

23 A: It would offset the extra meals that they were
24 buying.

25 Q: Would the per diem, based on your testimony



1 just now, was the per diem intended to offset
2 the cost of being in Clemson in some way?

3 A: Yes.

4 Q: Okay. The housing that was offered to them,
5 was that an attempt to also offset the fact
6 that they were traveling to Clemson to work?

7 A: No. That was to not have employees driving so
8 far.

9 Q: Correct. Doesn't that offset the amount of
10 time they spend in the car and how far they
11 have to travel?

12 A: It would. Yes, an employee would spend less
13 time in the car if they spent the night in a
14 hotel.

15 Q: Correct. And the consideration is traveling?

16 A: Okay.

17 Q: Doesn't all -- doesn't everything you're saying
18 point to the traveling itself?

19 A: It can -- yes, it does, it's pointing to
20 whether they're driving -- we're trying to save
21 them from driving 40 miles to not driving 80
22 miles, yes.

23 Q: Okay. The fact that Juan Ochoa had a gas card
24 and a company vehicle and all those things,
25 that just means he was getting more of an



1 offset than the other employees?

2 A: I'm not -- I'm not following your question.

3 Q: He wasn't -- the employees were not given gas
4 cards, correct?

5 A: None of our -- only our foreman's have gas
6 cards, that's correct.

7 Q: And the foreman's have the trucks?

8 A: Yep.

9 Q: Sometimes they take the employees in the
10 trucks, right?

11 A: Yes.

12 Q: That's a benefit to the company?

13 A: Yes.

14 Q: For your foreman to be able to have a vehicle
15 and be able to fill it up and all, that's a
16 benefit to the company, correct?

17 A: The job requirement, we've got to have the
18 tools, he's got to have those tools in his
19 truck so yes, it's a benefit, but it's a job
20 requirement.

21 Q: It derives from the work, I get it. But he's
22 getting more of a benefit than Mr. Lopez, but
23 they're both getting a benefit, aren't they?

24 A: I guess they are. I ---

25 Q: They're both benefitting from a policy in which



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1 they get \$35, 175 a week and was there an
2 additional two hour pay as well?

3 A: There was. So they are both getting the
4 benefit that we assume is going to be offset by
5 additional meals or more expensive meals, yes.

6 Q: Correct. Which revolves around the fact that
7 they were in Clemson, correct?

8 A: Correct.

9 Q: Which revolves around the fact that they had to
10 travel to Clemson?

11 A: They didn't have to travel, they could've spent
12 the night?

13 Q: Did you require them to stay in Clemson?

14 A: No.

15 Q: Do you object to them going home to see their
16 families?

17 A: No.

18 Q: Okay. Is it a benefit to the company to have
19 good employees that are happy and have good
20 families?

21 A: That is a benefit.

22 Q: Okay. So you didn't prohibit them from seeing
23 their family, you didn't tell them that they
24 had to stay in Clemson?

25 A: No, that was their choice.



1 Q: All right. If Mr. Lopez had chosen not to go
2 to Clemson could he have been terminated?

3 A: He would not have been, no.

4 Q: Could he have been?

5 A: No.

6 Q: If he refused to go to the job site?

7 A: If he refused to go to Clemson he would have
8 worked in Atlanta.

9 Q: Okay. Let me ask you this though, my question
10 is not Clemson, who controls the job sites?

11 A: The Superintendent, Shane Burrell was in charge
12 of the daily activities of the job site and he
13 would direct Juan who would direct the crew
14 members.

15 Q: Correct. So Mr. Lopez is going to the job site
16 at the direction of the company?

17 A: Any job site he goes to is up to the direction
18 of the company.

19 Q: Okay.

20 A: He chose to go to this one and we granted that
21 wish.

22 Q: Well, it was offered to him by Mr. Shane
23 Burrell, do you dispute that?

24 A: No. Juan Ochoa also wanted him -- Mr. Lopez is
25 a good employee, he was wanted by probably all



1 of our foreman's to come work with them.

2 Q: Okay. Do you agree that when he went to
3 Atlanta with Ochoa's crew that they were no
4 longer paid the per diem?

5 A: That's correct.

6 Q: And that was because they were in state?

7 A: That's correct.

8 Q: And it was a shorter distance?

9 A: Most I've -- I -- I don't know the milage off
10 the top of my head from his house to his job
11 sites, but I believe the durations were very
12 similar.

13 Q: You testified earlier that you did not require
14 them to tell you what they were spending the
15 money on, correct?

16 A: That's correct.

17 Q: So you -- you did not hold them accountable for
18 the money, correct?

19 A: That's correct.

20 Q: So why are you holding them accountable for the
21 mileage?

22 A: I'm not following, holding them accountable for
23 -- we're not -- they weren't turning in expense
24 reports, we were not doing milage reports.

25 Q: You testified that the per diem was their money



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1 and they could spend it however they saw fit.

2 A: That's correct.

3 Q: All right. So why are you -- are you implying
4 that they could use it on anything they saw fit
5 except mileage?

6 A: They could use that money for whatever they saw
7 fit.

8 Q: Including offset in the costs of traveling?

9 A: If that's what they wanted to spend money on
10 then that's what they could spend it on.

11 **MR. VEGA:** No further questions Your Honor.

12 **COMMISSIONER CAMPBELL:** Okay. Mr. Smith?

13 **MR. SMITH:** I just have a few.

14 **MR. REEVES - CROSS-EXAMINATION BY MR. SMITH:**

15 Q: You agree on the day of the accident that the
16 Claimant was -- was not working on Holder
17 project, correct?

18 A: Yes. It is my interpretation that he left from
19 the Earle Street Apartments.

20 Q: Okay. And you would agree on the day of the
21 accident that Mr. Lopez worked approximately
22 ten hours according to your paperwork -

23 A: Yes.

24 Q: --- at Earle Street Apartment Complex?

25 A: Yes.



1 Q: And the general contractor on the Earle Street
2 Apartment Complex was Fortune and Johnson,
3 correct?

4 A: Correct.

5 Q: It wasn't Holder?

6 A: No.

7 Q: And to your knowledge Holder didn't have any
8 business dealings at the Earle Street Apartment
9 Complex whatsoever, did they?

10 A: They did not have any whatsoever.

11 Q: And Reeves Young has it's own insurance through
12 Amerisure for the apartment complex?

13 A: We do.

14 Q: Thank you, that's all the questions I have.

15 **COMMISSIONER CAMPBELL:** Okay. Mr. Griggs?

16 **MR. GRIGGS:** I don't have any further questions.

17 **COMMISSIONER CAMPBELL:** Okay. Thank you, sir.

18 **MR. REEVES:** Thank you.

19 **COMMISSIONER CAMPBELL:** Appreciate you being here,
20 you may step down. Anything further?

21 **MR. GRIGGS:** Yes, Matt McCormack.

22 **COMMISSIONER CAMPBELL:** Okay. Just make yourself
23 comfortable.

24 **MR. MCCORMACK:** Yep.

25 **COMMISSIONER CAMPBELL:** Please raise your right hand.



1 **MR. MCCORMACK:** Do you swear and affirm that the
2 testimony you are about to give is the truth,
3 the whole truth and nothing but the truth?

4 **MR. MCCORMACK:** I do.

5 **COMMISSIONER CAMPBELL:** Okay. You can put your hand
6 down and please state and spell your name for
7 the record, sir.

8 **MR. MCCORMACK:** Matthew McCormack, M-A-T-T-H-E-W, M-
9 C-C-O-R-M-A-C-K.

10 **COMMISSIONER CAMPBELL:** Okay. Thank you, sir. Mr.
11 Griggs, your witness.

12 **MR. GRIGGS:** I do not have any questions of Mr.
13 McCormack. I'll let Danny ask him questions,
14 but I do reserve the right to follow-up.

15 **COMMISSIONER CAMPBELL:** Okay. All right.

16 **MATTHEW MCCORMACK,** having been duly sworn, testifies
17 as follows:

18 **MR. MCCORMACK - DIRECT EXAMINATION BY MR. VEGA:**

19 **Q:** Mr. McCormack, what's your position with Reeves
20 Young?

21 **A:** Vice President.

22 **Q:** What was your position on or about the date of
23 the accident?

24 **A:** I don't recall when I received the promotion to
25 Vice President but it was certainly then or



1 resources group.

2 Q: And were you involved in the Clemson project?

3 A: I was.

4 Q: Both projects?

5 A: Correct.

6 Q: And what was your role directly with regards to
7 the crews that were working in Clemson?

8 A: I was the executive over the projects, over
9 both projects. So I had a project manager that
10 reported to me and the project manager was
11 involved in day-to-day activities of the job.

12 Q: I believe you testified that you -- you had to
13 make sure that there were, was appropriate
14 manpower and that the project stayed on time,
15 that's what you testified at your deposition,
16 correct?

17 A: That's correct.

18 Q: So that's fairly hands on within that project?

19 A: Sure. I mean I was over multiple projects at
20 that time, but yes.

21 Q: Okay. And were you involved in the decision on
22 whether to pay a per diem and additional two
23 hours when the employees would be working in
24 Clemson?

25 A: Yes.



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1 Q: You gave your input into that decision?

2 A: Yes.

3 Q: And your input was that the \$35 was for what,
4 what was the purpose of the \$35?

5 A: The \$175 per week was because we had said we
6 were going to get apartments up there and we're
7 going to allow guys to stay up there and that
8 the \$175 per week would allow them to get the
9 meals for being out of town. That was the
10 thought behind it.

11 Q: Was the purpose of the apartment and the meals
12 to offset the time and/or cost that they would
13 be traveling to and from Clemson?

14 A: I don't know if I would say it was to offset
15 it, I'd say it was, it's not normal for us to
16 have an out of state job, it was the first, I
17 think or it's the first time we'd ever done it
18 and on the basis of it being the first time
19 we'd ever asked people to be out of state, we
20 wanted to make it attractive to them and so we
21 tried to minimize the inconvenience so we gave
22 them housing and we gave them money for food.

23 Q: That sounds like a long yes to my question. It
24 was -- it was intended to offset the employees
25 time traveling, eating, doing things in Clemson



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1 while they worked there.

2 A: We really didn't expect them to travel back and
3 forth every day so what you're saying is
4 incorrect.

5 Q: Okay. I'm not talking about the travel itself,
6 I'm talking about the intent of the company.
7 I believe you told me that it was an industry
8 standard to make the payments, at one time.

9 A: In construction frequently people are required
10 to work out of town and if you could work out
11 of your house everyone would work out of their
12 house, right? If you had to work out of town
13 to make it more attractive people were paid
14 more money.

15 Q: Well, it seems to me when you say make it more
16 attractive what you're saying is that you're
17 offsetting some of the burden of being an out
18 of town employee?

19 A: Sure.

20 Q: Is that -- is that fair?

21 A: Yes.

22 Q: All right. And were -- were the employees
23 required to tell you what they were spending
24 the money on?

25 A: No.



1 Q: And were they required to turn in receipts?

2 A: No.

3 Q: And did you tell them what to spend the money
4 on?

5 A: No.

6 Q: Now, at one point, not just Mr. Lopez, but it
7 sounds like a good many in the crew were
8 driving home, back and forth from Gainesville
9 to Clemson, is that a fair statement?

10 A: More than one, yes.

11 Q: Okay. And did you require them, did you tell
12 them you can't do that, you've got to stay in
13 Clemson?

14 A: No.

15 Q: You did not require them to stay in Clemson and
16 you did not prohibit them from traveling?

17 A: No.

18 Q: And as long as they were there on time and did
19 their work did you care where they were after
20 work?

21 A: No.

22 Q: Okay. Were they paid -- when you -- when there
23 were employees of Mr. Ochoa's crew sent to
24 Atlanta -- do you agree that they were sent to
25 Atlanta at one time?



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1 A: Yes.

2 Q: Okay. Are you aware of that?

3 A: Yes.

4 Q: Okay. When they were sent to Atlanta did they
5 receive the per diem, did they receive the
6 extra \$2?

7 A: No.

8 Q: And that was because they were in state?

9 A: Correct.

10 Q: And as a matter of fact the only reason you
11 agreed to pay the per diem and the extra \$2 was
12 because you were sending people out of state?

13 A: Correct.

14 Q: And is it your testimony as well -- well, let
15 me ask you this, with regards to the mileage
16 did you pay anybody on those crews mileage?

17 A: No.

18 Q: Okay. Did anybody ever turn in a mileage sheet
19 that worked on those crews?

20 A: No.

21 Q: Did you bring up the subject or discuss mileage
22 with Ochoa's crew or anyone else working at
23 Clemson?

24 A: No.

25 Q: The offer that was made was the \$35 plus the \$2



1 increase in pay?

2 A: Correct.

3 Q: Okay. If Mr. Lopez used the money to travel to
4 and from Clemson was that a good use of his
5 money?

6 A: I don't know what a good use of his money was,
7 but he could use it for whatever -- whatever he
8 wanted to.

9 Q: Including gasoline?

10 A: If he chose to.

11 Q: Is that a yes?

12 A: Yes.

13 Q: Thank you, no further questions, Your Honor.

14 **COMMISSIONER CAMPBELL:** Okay. Mr. Griggs's anything?

15 **MR. GRIGGS:** I don't have any other questions.

16 **COMMISSIONER CAMPBELL:** Mr. Smith?

17 **MR. SMITH:** Nothing, Your Honor.

18 **COMMISSIONER CAMPBELL:** Okay. Thank you for your
19 testimony, appreciate it. You can step down.

20 Did I have anyone -- anyone else to call?

21 **MR. SMITH:** No, sir, I do not.

22 **MR. VEGA:** I do not.

23 **MR. GRIGGS:** Nothing, Your Honor.

24 **COMMISSIONER CAMPBELL:** Okay. All right. Thank you
25 all. I want to thank everybody for their time



1 today, being here for your testimony and
2 appreciate it and that concludes today's
3 proceedings.

4 (There being nothing further, the commissioner's
5 hearing concluded at 2:19 p.m.)
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CERTIFICATE

This is to certify that the within hearing consisting of one hundred thirteen (113) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on April 11, 2019.

Amber Scarborough
Amber Scarborough

Notary Public for South Carolina
My Commission Expires: May 30, 2023



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The State of South Carolina
In the Court of Appeals

Appeal from the South Carolina
Workers' Compensation Commission

T. Scott Beck, Commissioner
Avery B. Wilkerson, Jr., Commissioner
Gene McCaskill, Commissioner

Appellate Case No.: 2020-000739

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SC Court of Appeals

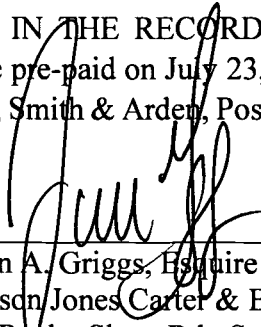
Jorge Lopez-Celestin.....Claimant, Appellant,

v.

Reeves Young, LLC, and
Holder Construction Group.....Employers,
and
Amerisure Insurance Company, and
American Zurich Insurance Company.....Carriers, Defendants,
of whom Reeves Young, LLC, and
Amerisure Insurance Company are the.....Respondents.

PROOF OF SERVICE

I certify that I have served the Respondents' MOTION TO STRIKE MATTER IN APPELLANT'S DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL, by depositing a copy of it in the United States Mail, postage pre-paid on July 23, 2020, addressed to Appellant's attorney of record, C. Daniel Vega, Chappell, Smith & Arden, Post Office Box 12330, Columbia, South Carolina 29211.



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July 23, 2020

VIA US MAIL

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JUL 27 2020
SC Court of Appeals

Re: Jorge Lopez-Celestin vs. Reeves Young, LLC
Appellate Case No: 2020-000739

Dear The Honorable Kitchings:

Enclosed please find an original and six (6) copies of Respondents' **MOTION TO STRIKE MATTER IN APPELLANT'S DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL** in the above-referenced matter, along with a check in the amount of \$50.00 in payment of the appropriate filing fee. By copy of this correspondence, a copy of the Motion is being served upon C. Daniel Vega, Esquire, Claimant's counsel.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.

Jason A. Griggs

JAG/cec
Enclosures

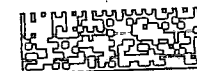
cc' (w/enclosure): C. Daniel Vega, Esquire
Mr. Nic Gaither (via e-mail)

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JUL 27 2020

SC Court of Appeals

JENNY ABBOTT KITCHINGS,
SOUTH CAROLINA COURT OF APPEALS
P.O. BOX 11629
COLUMBIA, SC 29211

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