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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

Appellate Case No. 2020-000723

Frederick Nelson, Employee,.....Respondent,

v.

City of North Charleston, Employer and Carrier,.....Appellant.

RECORD ON APPEAL

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INDEX

Decision and Order of Commissioner Campbell of September 19, 2018.....2

Decision and Order of Appellate Panel of the Full Commission of April 22, 2019.....24

Remand Decision and Order of Commissioner Campbell of August 16, 2019.....50

Decision and Order of Appellate Panel of the Full Commission of March 27, 2020.....75

Hearing Transcript of July 12, 2018.....99

Direct Examination of Frederick Nelson.....111

Cross Examination of Frederick Nelson.....142

Re-direct Examination of Frederick Nelson.....157

Re-cross Examination of Frederick Nelson.....158

Full Commission Hearing Transcript of November 19, 2019.....161

Defendant/Appellant's Form 58: Pre-Hearing Brief and APA Submissions from July 12, 2018 Hearing.....188

Claimant/Respondent's Form 58: Pre-Hearing Brief and APA Submissions from July 12, 2018 Hearing.....329

Certificate of Counsel.....409

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.:1618027

Fredrick Nelson, Employee,

Claimant,

vs.

City of North Charleston, Employer, and

City of North Charleston, Carrier,

Defendants.

DECISION & ORDER

HEARING: Held in Goose Creek, South Carolina on July 12, 2018.

APPEARANCES: Employee/Claimant represented by The Steinberg Law Firm, L.L.P., Charleston, South Carolina, with Malcolm M. Crosland, Jr., Esquire, appearing.

Defendant, City of North Charleston, Employer and Planned Administrators, Inc. (PAI) Employer Carrier, represented by Wilson Jones Carter & Baxley , P.A., with Johnnie W. Baxley III, Esquire, appearing

PURPOSE OF THE HEARING: To determine the issues as set forth on SCWCC Form No. 21

OPINION AND AWARD: Honorable Mike Campbell, Commissioner

FILED September 19, 2018.

STIPULATIONS

FIRST: This claim was heard before the undersigned Commissioner on July 12, 2018 pursuant to notices timely and properly served on all parties.

SECOND: The venue is properly set in Berkeley County, South Carolina.

THIRD: The Workers' Compensation Commission's file, with the exception of any self-serving declarations and unstipulated medical records, is made a part of the record.

FOURTH: The South Carolina Workers' Compensation Commission has jurisdiction over the Parties and subject matter herein

FIFTH: The Claimant has an average weekly wage of $863.51 per week making the compensation rate of $575.70 applicable to the claim.

SIXTH: The Claimant sustained an admitted accident arising out of the course and scope of his employment on November 29, 2016 when he fell after tripping on equipment he routinely used as part of his job duties with the employer. The nature and extent of the Claimant's injuries and and whether the Claimant has reached Maximum Medical Improvement (MMI) remains in dispute.

SEVENTH: The employee/employer relationship existed between the Claimant and the Defendant, City of North Charleston, at the time of the Claimant's admitted accident that occurred on November 29, 2016. The nature and extent of the Claimant's injuries and whether the Claimant has reached Maximum Medical Improvement at the time of the hearing before the undersigned are in dispute.

APA SUBMISSIONS AND EXHIBITS

The following medical records, documents, and exhibits were submitted by the parties under the Administrative Procedure Act and the Regulations of Practice before the South Carolina Workers' Compensation Commission, without objection:

On behalf of the Defendant:

APA #	PROVIDER	DATED	PAGES
1	Dr. Robert Lowery	12/22/2016-10/23/2017	1-10
2	Dr. John Ernst	2/23/2017-8/10/2017	11-33a
3	Dr, Kenneth Caldwell	3/2/2017-2/13/2018	34-61
4	CCOH	11/29/2016-2/17/2017	62-92
5	FCE	1/23/2018	93-118

On behalf of the Claimant:

APA #	PROVIDER	DATED	PAGES
7	MRIs	12/14/16-2/14/17	130-131
8	Dr. Adam Schaaf	3/9/18	132-134
9	Dr. Daniel Wartinbee	6/22/18	135-140
10	Vocational Report	4/20/18	141-147
11	Job Description	2003	148-151

The Defendants objected to Claimants submission numbers nine (9) and ten (10), which is the medical report of Dr. Daniel Wartinbee dated June 22, 2018 and the vocational report of Claimant's vocational consultant Mr. David Price dated April 20, 2018. The Defendant objected to these two submissions on the grounds that they were

generated after the Hearing, previously set in this matter for April 3, 2018 was continued to allow mediation of this claim. Prior to the hearing set for April 3, 2018, the Claimant filed a WCC Form 22 dated March 29, 2018 denying the Claimant had reached maximum medical improvement and contending he was permanently and totally disabled as a result of his compensable injuries under Section 42-9-10 (A). Because the claim was then subject to mandatory mediation, the commission issued an Administrative Order dated April 6, 2018 preserving all issues raised by the parties pleadings, including but not limited to maximum medical improvement and the Defendant's request for a credit for payment of compensation after the Claimant reached maximum medical improvement. No further restriction upon either party was placed upon the partied by the interim Administrative Order therefore, the Defendant's objection to Claimant's APA submissions nine (9) and ten (10) was overruled.

STATEMENT OF THE CASE

The Defendants contend the Claimant sustained injuries to his left leg, right ankle, and right thumb as a result of his compensable accident. They argue the he has reached maximum medical improvement with regard to all three of those injuries, after his left leg was found to have reached maximum medical improvement on February 8, 2018. The Defendants further claim entitlement to a credit for overpayment of all temporary total benefits paid after February 8, 2018 and that Nelson is entitled to an award of permanent partial disability benefits to his left leg and right thumb under Section 42-9-30. Defendants deny Claimant sustained any permanent partial disability to his right ankle and further deny he is entitled to an award under Section 42-9-10 or 42-9-20.

Claimant denies he has reached maximum medical improvement. As reflected by the WCC Form 22 filed by the Claimant on March 29, 2018, the Claimant contends he needs an additional medical evaluation and an MRI of his admitted left knee injury. The Claimant relies upon the medical report of Dr. Adam Schaaf (Claimant's APA #8, pages 132-134). Alternatively, the Claimant argues if the Commission determines he has reached maximum medical improvement then, based upon his age, education, work history, and physical restrictions caused by his compensable injuries, he has been rendered permanently and totally disabled and suffered a complete destruction of his earning capacity under Section 42-9-10, paragraph 1.

REVIEW OF THE EVIDENCE

The Claimant testified at the hearing. Claimant stated he is married. He is 58 years old. He has five (5) children, only one of whom is dependent upon him. Claimant last completed the ninth grade after which he received no further formal education other than completing a correspondence course and obtaining a certificate which does not qualify as a high school diploma. After leaving school in the ninth grade, Claimant began work at Moore Drums, where he loaded and unloaded trucks delivering 55-gallon oil drums to oil companies. The work required stooping, kneeling, and a lot of lifting between 60 to 110 pounds. He worked at Moore Drums for approximately a year and a half before beginning work at the South Carolina State Ports Authority.

At the South Carolina Ports Authority, he began work as a laborer, loading and unloading trucks and rail cars. He routinely lifted weight in excess of 35 pounds. He unloaded rail cars, which required lifting 60 to 80 pounds. Unloading trucks required lifting

and moving 90 to 110 pounds. The job at the Ports Authority also involved stooping and crawling. He was employed with the South Carolina Ports Authority for almost one year. Toward the end of his employment, he also operated a clamp machine which assisted in the lifting of rolls of paper to be stored in a warehouse. Following his separation from the SC Ports Authority, he began working for the City of North Charleston.

Claimant testified he worked for the City of North Charleston for thirty years and four months prior to separating from the City of North Charleston as a result of his accident related injuries. When he last worked for the City, he worked under the job classification of "Equipment Operator II". Prior to obtaining employment with the City of North Charleston the Claimant stated he had no problems with his left knee, right ankle, or right thumb.

While working for the City of North Charleston, the Claimant also obtained part-time work for the International Longshoreman's Association at the Port of Charleston. His work as a Longshoreman involved regularly lifting 35 pounds as well as frequent kneeling and stooping.

Claimant testified about his normal job duties with the City of North Charleston. He stated as an equipment operator he generally operated a street sweeper. If the street sweeper was not operating, or was being serviced, he operated other heavy equipment.

With regard to operating the street sweeper, he testified climbing is required to get in and out of the truck, and into the operator's compartment. Two or three steps are required to get behind the wheel of the street sweeper. Kneeling is involved when collecting debris from the bottom of the street sweeper when debris gets stuck in the

suction hood. In addition, kneeling was required to change the sweeping brushes. Sweeping brushes needed to be changed every month. Each sweeping roller weighs approximately forty-five (45) pounds. The change out of the sweeping roller was performed by the Claimant without any assistance. The Claimant testified operating the street sweeper requires routinely getting in and out of the vehicle. When sweeping a street, it is the operator's responsibility to remove obstructions in the road, such as trash and debris blocking the sweeper's access to the roadway or street curb. He testified: "You can have to move anything from one pound to fifty pounds, sixty pounds. Sometimes carpet weighs up to two-hundred pounds. You just have to drag it off the road." (Irp 23 L 16-19) He testified that given the physical restrictions placed upon him by his treating physicians regarding his left leg, and other injuries, he is unable to return to any of the work he performed at the City of North Charleston. In fact, the City of North Charleston acknowledged the Claimants inability to return to his previous employment by offering him retirement benefits as a result of his compensable injuries. No alternative work was offered to the Claimant by the Employer.

In addition to operating the street sweeper, Claimant testified that he operated a dump truck if his street sweeper was being serviced or was broken down. The dump truck requires three to four steps to get in to the cab of the dump truck. The operator uses two hand rails to pull himself up into the operator's compartment of the dump truck. The process of entering the cab of the dump truck is much like climbing a ladder. He stated the pre-trip inspection of the dump truck required him to kneel, bend, and stoop.

Claimant showed the undersigned the location of his surgery site to his right thumb. The surgical incision site appears to have occurred to the bottom of the right thumb. His

surgery has left him unable to completely make a fist and close his right thumb. His grip strength has been affected by the injury to his right thumb. Claimant testified he is somewhat ambidextrous. He writes with his left hand but throws a ball with his right hand. In addition to scarring at the base of his right thumb, he also has a sharp stabbing pain at the base of his right thumb. He has difficulty grabbing objects and lifting them as a result of his hand weakness and thumb pain. He estimated he has lost approximately fifty percent (50%) of the grip strength of his right hand as a result of his right thumb injury.

Claimant testified regarding the symptoms he continues to experience regarding his right ankle injury. He advised the undersigned he continues to experience right ankle swelling across the base of his right ankle. If he walks for more than thirty minutes or tries to walk uphill, the swelling increases. He usually carries a cane with him to assist in ambulation if he does not know the terrain where he is going. Climbing stairs also aggravates his right ankle. If he has to go upstairs, he tries to go up sideways, however, traveling up and down stairs sideways aggravates his injured knee. Claimant testified that because of his right leg and right ankle injury, his left knee is becoming symptomatic.

Claimant testified that while Dr. Kenneth Caldwell, the authorized treating knee surgeon was a good doctor, "...the surgery wasn't a success at all." The Claimant testified that he was evaluated by Dr. Adam Schaaf, whose report recommends he undergo an MRI of his left knee in an effort to assess why he has had such a poor post-surgery recovery.

Claimant stated that if nothing is done to improve his condition, there is no work that he has performed over the last thirty years for the City of North Charleston that he

could return to, nor is there any prior work he performed for the ILA or elsewhere which he could return to. At the time of this hearing he stated he was able to walk approximately fifteen minutes before his pain increases, requiring him to stop. He attempts to walk for exercise at least three days per week, however, after walking, he is forced to ice his knee and rest the knee for two to three days. His average level of pain in his left knee is approximately a 4; on a bad day, a 6. His right ankle pain on average is a 6 or 7 on a bad day; on a good day it's approximately a 3. His right thumb pain is approximately a 4 out of 10 on a bad day and a 2 out of 10 on a good day.

Claimant testified regarding his efforts to find a job following his release by Dr. Caldwell. He stated he's applied for all the jobs contained in Claimant's exhibit 12. He stated he has no computer operation skills and cannot type. After applying for a job with Dollar General he was interviewed, however, after his restrictions were revealed, no job offer was made. In addition to the Dollar General position, he interviewed for one other job but never received a call back. He estimated he has applied for approximately twenty to thirty jobs since Dr. Caldwell released him.

Under cross-examination, Mr. Nelson acknowledged that when trying to close his fist and grab an object, he can feel pain at the base of his thumb, otherwise the thumb is not painful. He also testified that normally he did not feel pain in his right ankle underneath the bow of a tied shoelace. He testified the pain in his ankle area while seated depends on whether he crosses his feet. Claimant was challenged as to whether he had any swelling in his ankle, however, when he removed his shoe and sock, the undersigned noted "obviously, the foot seems to be a little more enlarged, I guess, from the swelling, than the other - - the other foot." (Trp 49 L19-22) Claimant further testified that he no

longer walks as much as he did at the time of his discovery deposition. He stated his right knee pain has gotten worse if he walks more than approximately fifteen minutes.

Claimant acknowledged he is not looking for a driving job that requires the use of his CDL. He does not believe that his knee and ankle injuries will allow him to work as a truck driver. He did apply for work as a delivery driver for Lowe's but has not been offered a job. Claimant testified he is qualified for disability retirement benefits from the City of North Charleston. He is paid approximately $1,400.25 per month (after tax).

Both parties submitted exhibits and medical evidence under the Administrative Procedures Act. The Defendants submitted an investigative videotape of the Claimant which was not particularly probative of any issue in the case and I give very little, if any, weight to the surveillance videotape of the Claimant.

The medical records of Dr. Barry Weisslgass of Carolina Center for Occupational Health were placed into evidence by the Defendants. Dr. Weissglass was the initial physician who saw the Claimant following his accident. The Claimant presented to him on the day of his accident, November 29, 2016. He reported having tripped and fallen when his foot went under a forklift blade twisting his right ankle and falling onto his left knee. At the time he was walking with two cups in his hand. When he fell, Dr. Weissgalss reported "...sounds like he got an axial load onto the thumb, now can't bend it all the way." Dr. Weissglass placed the thumb in a splint and ordered x-rays. The Claimant returned to him on December 16, 2016 to address his ankle symptoms and knee symptoms. Dr. Weissglass diagnosed a sprain of the right ankle and contusion of the left knee and placed work restrictions on the Claimant. Eventually Dr. Weissglass ordered an MRI of the left

knee after which the Claimant was referred to a hand surgeon and an orthopedic practice to address his left knee symptoms.

The medical records submitted into evidence under the Administrative Procedures Act by the Defendants reflect the Claimant was initially evaluated by Dr. Robert Lowery on December 22, 2016 after referral from the workers' compensation insurance Carrier to evaluate his right ankle and left knee. Dr. Lowery reviewed an MRI scan which showed some bruising of the soft tissue and mild bruising of the bone with posterior tibialis tendon and flexor halluces tendon sheath swelling of the right ankle was also noted. Dr. Lowery ordered physical therapy to the Claimant's right knee and an anti-inflammatory medication. Dr. Lowery saw the Claimant on February 2, 2017 and reported some improvement in physical therapy. Dr. Lowery released him at that time and ordered him to complete therapy. He assigned no permanent impairment to his right ankle or physical restrictions.

The Claimant returned to Dr. Lowery on October 23, 2017 with a worsening of his right ankle symptoms. Dr. Lowery again recommended continued stretching exercises and refused to provide any additional treatment.

The Defendants also directed the Claimant's medical care for his injured right thumb to Dr. John M. Ernst. Dr. Ernst conducted a physical exam on February 23, 2017 and diagnosed thumb pain and prescribed an anti-inflammatory. Eventually, a thumb splint was ordered and an injection of the Claimant's right thumb was performed at the A1 pulley. Eventually, Dr. Ernst made a more definitive diagnosis of right thumb stenosing flexor tenosynovitis. After failed conservative treatment by way of injections and splinting,

Dr. Ernst eventually performed a right trigger thumb release surgery on May 19, 2017. Post-surgery, he engaged in physical therapy as ordered by Dr. Ernst and by July 19, 2017 Dr. Ernst released the Claimant after assigning a 5% permanent partial impairment to his right thumb. He assigned no permanent physical limitations.

The medical records submitted into evidence by the Defendants reflect the Claimant's medical treatment for his symptomatic left knee was directed to Dr. Kenneth M. Caldwell. Dr. Caldwell initially evaluated the Claimant as a new patient on March 2, 2017. Dr. Caldwell reviewed an MRI scan of the Claimant's left knee that showed an undersurface tear to the posterior horn of the medial meniscus and an abnormality of the lateral meniscus patellofemoral chondromalacia. Dr. Caldwell ordered physical therapy to the left knee. Conservative treatment failed. Dr. Caldwell then recommended arthroscopy with a partial medial meniscectomy. Following surgery the Claimant again participated in physical therapy, however by October 31, 2017 the Claimant continued to rely upon a cane and displayed an antalgic gait favoring his left lower extremity. He also reported his right ankle continued to bother him at this time. He also reported to Dr. Caldwell his knee was "popping" on stairs. Despite his poor outcome following Dr. Caldwell's surgery and ongoing complaints of pain and difficulty ambulating, Dr. Caldwell released him as having reached maximum medical improvement on February 8, 2018 and assigned an 11% permanent impairment to his left lower extremity. Dr. Caldwell permanently restricted him from kneeling, climbing, squatting, or lifting more than 35 pounds.

Dr. Kenneth Caldwell also referred the Claimant for a Functional Capacity Evaluation (FCE) which was performed on January 23, 2018. The assessment only

evaluated the Claimant's osteoarthritis of the left knee and medial meniscus tear of the left knee. The test results confirmed high levels of physical effort on behalf of the Claimant and that he was not capable of performing the physical demands of his job as a municipal maintenance worker. At best, he demonstrated the ability to perform light-medium work. Positional limitations that were demonstrated included crouching, crawling, and stairs, along with limitations in floor to waist and carrying tests.

The Defendants retained Joel Leonard as a vocational consultant to evaluate the Claimant's vocational status. Mr. Leonard's evaluation erroneously assumes the Claimant earned a high school diploma. After reviewing the Claimant's work history and certification as a class B commercial driver's license (C.D.L.) Mr. Leonard opined the Claimant was not a good candidate for any further academic training and is not suited for occupations that require or are based upon academic competencies. The Claimant scored on intelligence/aptitude in the 66% percentile and in the verbal arena an 83rd percentile and in visual he displayed an overall IQ of 71. Mr. Leonard agreed that in considering the Claimant's assertion as to the severity of his physical limitations he would considered vocationally disabled. When considering the medical report of Dr. Adam Schaaf and his opinion, the Claimant needs an additional MRI of his left knee he would be considered provisionally disabled pending the outcome of the MRI. Under his third (3rd) scenario Mr. Leonard concluded that although the Claimant could not return to his prior work with the City of North Charleston, he may be able to work in such fields as a medical lab courier, shuttle driver, assembly and process inspector, production worker, gate guard, etc. earning approximately $444.80 per week.

The Claimant was also evaluated by Dr. Adam C. Schaaf of Lowcountry Orthopedics on March 9, 2018. Dr. Schaaf was asked to exam and evaluate the Claimant's right ankle and left knee. On physical exam Dr. Schaaf found the Claimant walking with an antalgic gait. The physical exam of his left knee was positive for McMurray's maneuver and pain depilation over the medial joint line. He found quadricep atrophy of the left leg. When examining his right foot he found pain over the post tibial tendon and Achilles tendon tightness. Dr. Schaaf reviewed x-rays of the Claimant's right ankle and left knee as well as the previous MRI report taken prior to his surgery by Dr. Caldwell. Dr. Schaaf noted "We discussed he has continued pain of the medial joint today. He has not had a repeat MRI since his surgery and I would recommend one to evaluate a recurrent tear or cartilage issues not evident on plain film."

The Claimant was also evaluated by Dr. Daniel A. Wartinbee with regard to his ongoing left thumb symptoms. Dr. Wartinbee conducted a physical exam of the Claimant on June 22, 2018. He reviewed the medical records of Dr. Weissglass and Dr. Ernst regarding the Claimant's prior treatment. Dr. Wartinbee conducted a very detailed examination of his right arm and found a surgical incision site of the right thumb flexation crease with significant stiffness of the right thumb. He was unable to extend his thumb to the tip of his long ring and small fingers. He displayed clinical symptoms of aseptic tenosynovitis of the flexor pollicis longus tendon of the thumb with scar tissue formation and potential ganglion formation and residual stenosing with crepitation at the A1 pulley. (APA p. 139) Dr. Wartinbee opined "... I do feel the patient would benefit from MRI to assess right thumb at MCP joint for scar tissue formation, potential ganglion formation and aseptic tenosynovitis of the flexor pollicis longus tendon." He also recommended anti-

inflammatory medication and a potential cortisone injection of the thumb. He assigned an 11% impairment to the right upper extremity which corresponds to a 12% impairment to the right hand as a result of his thumb injury as it affects the functioning of his right hand.

The Claimant put the vocational evaluation of David R. Price into evidence. Mr. Price found the claimant to have an eighth grade education, having dropped out of Chicora High School in the ninth grade. The revised BETA intelligence test established a full scale IQ score of 86. He has work limitations of performing light-medium work with lifting no greater than 35 pounds, no kneeling, climbing, and squatting. Based on his evaluation of the Claimant's education, work history, training, physical impairments and restrictions Mr. Price concluded "... that Fred Nelson is no longer capable of gainful employment and is in a state of complete vocational disability." Also contained in the record are multiple job applications completed by the claimant as he more fully described in his direct and cross examination.

FINDINGS OF FACT

Based upon the stipulations of the parties, the testimony of the Claimant, and the APA and evidentiary submissions submitted into the record, the undersigned Commissioner makes the following findings of fact as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: Venue is proper in Charleston County, South Carolina.

THIRD: The Claimant was a covered employee and the Employer was a

covered Employer at all times herein. The Employee/Employer relationship existed at the time of the Claimants injury by accident.

FOURTH: This claim was heard by the undersigned Commissioner on July 12, 2018 in accordance with Hearing Notices timely and properly served upon all parties of interest.

FIFTH: The Claimant has an Average Weekly Wage of $863.51 per week making for a corresponding Compensation Rate of $575.70 per week.

SIXTH: The Claimant was employed by the City of North Charleston as an Equipment Operator II. The employer acknowledges that he is unable to return to any of his prior employment with the City of North Charleston. The City of North Charleston approved his retirement application and the Claimant receives retirement benefits from the City of North Charleston.

SEVENTH: As a result of his compensable accident, the claimant sustained admitted injuries to his right ankle, right thumb, and left knee arising out of and in the course and scope of his employment. Claimant injured these body parts when his right ankle became entangled in the forks of a forklift while carrying objects in his hand. He fell forward causing injury to his right thumb, left knee and right ankle. The claimant underwent evaluations and treatment by Dr. Robert Lowery, Dr. Kenneth Caldwell who performed arthroscopic surgery to his left knee, and Dr. John Ernst who performed surgery to his right thumb.

EIGHTH: Dr. Robert Lowery completed a WCC Form 14B dated February 13,

2017 which found the claimant had no impairment to his right ankle or any physical restrictions. He likewise found the claimant did not require any additional medical treatment for his right ankle symptoms.

NINTH: Claimant has undergone right thumb surgery by Dr. John Ernst, the authorized treating hand surgeon. Dr. Ernst completed a WCC Form 14B dated August 10, 2017 where he provided the claimant with a 5% permanent impairment to his right thumb, but found he sustained no physical limitation nor was he in need of additional medical treatment..

TENTH: Dr. Kenneth Caldwell completed a WCC 14B dated February 13, 2018 finding the claimant had reached Maximum Medical Improvement on February 8, 2018 and assigned an 11% permanent impairment to his Left Lower Extermity as a result of his admitted left knee injury. In addition, Dr. Caldwell restricted the Claimant to no kneeling, climbing, squatting, or lifting greater than 35 pounds. He did not indicate the claimant needed any future medical treatment.

ELEVENTH: The claimant was seen by Dr. Adam Schaaf of Lowcountry Orthopedics on March 9, 2018. Dr. Schaaf found the claimant to have significant pain over his medial joint line of his left knee. He noted the client had not had a repeat MRI of his left knee since his surgery, and because of his ongoing significant symptoms, recommended and MRI to evaluate his left knee for a recurrent tear or cartilage issue not evident on the plain x-ray films Dr. Schaaf took when he evaluated the Claimant. He also recommended a brace and an injection to the left knee. Dr. Schaaf

acknowledged that if the MRI was negative for new findings, the claimant would be at Maximum Medical Improvement with regard to his left knee injury. On physical exam Dr. Schaaf found the Claimant walking with an antalgic gait. The physical exam of his left knee was positive for McMurray's maneuver and pain depilation over the medial joint line. He found mild quadricep atrophy of the left leg. When examining his right foot he found pain over the post tibial tendon and Achilles tendon tightness. Based on the opinion of Dr. Schaaf, Claimant has not reached maximum medical improvement with regard to his admitted left knee injury.

TWELFTH: Claimant testified regarding the symptoms he continues to experience regarding his right ankle injury, He advised the undersigned he continues to experience right ankle swelling across the base of his right ankle. The ultrasound was able to see the right ankle swelling described by the Claimant. If he walks for more than thirty minutes or tries to walk uphill, the swelling increases. He usually carries a cane with him to assist in ambulation if he does not know the terrain where he is going. Climbing stairs also aggravates his right ankle. If he has to go upstairs, he tries to go up sideways, however, traveling up and down stairs sideways aggravates his injured knee. Claimant testified that because of his right leg and right ankle injury, his left knee is becoming symptomatic.

THIRTEENTH: Claimant testified that while Dr. Kenneth Caldwell, the authorized treating knee surgeon was a good doctor, "...the surgery wasn't a success at all." The Claimant testified that he was evaluated by Dr. Adam

Schaaf, whose report recommends he undergo an MRI of his left knee in an effort to assess why he has had such a poor post-surgery recovery.

CONCLUSIONS OF LAW

Based upon the findings of fact set forth above, the undersigned Commissioner makes the following conclusions of law as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The burden of proof applicable to a claim for Workers' Compensation benefits is preponderance of the evidence. The Claimant must establish facts that entitle him to an award by the preponderance of the evidence. Walsh v. U.S. Rubber Co., 120 S.E.2d 685 (S.C. 1961).

SECOND: Under S.C. Code Anno., § 42-1-130, the Claimant was a covered employee at the time of his accident on November 29, 2016.

THIRD: Under S.C. Code Anno., § 42-1-140, the Defendant/Employer was a covered employer under the Act at the time of the Claimant's injuries on November 29, 2016

FOURTH: Under S.C. Code Anno., § 42-1-140, Average Weekly Wage is defined.

FIFTH: Under S.C. Code Anno., § 42-1-160, the Claimant sustained compensable injuries by accident to his left knee, right thumb, and right ankle.

SIXTH: Maximum Medical Improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion, there no further medical care or treatment which will lessen the degree of impairment. O'Banner v. Westinghouse Elec. Corp. 459 S.E.2d 324, 327 (Ct. App.1995)

SEVENTH: Because the claimant has not reached maximum medical improvement, an award of permanent disability is not appropriate at this time. Curiel v. Env. Management Services, 655 S.E.2d 482 (S.C. 2007)

ORDER AND AWARD

Based on the foregoing findings of fact and conclusions of law it is hereby:

ORDERED, Adjudged, and Decreed, the Claimant, Frederick Nelson, has not reached maximum medical improvement. Therefore, determination of Claimant's permanency is premature at this time; and it is further

ORDERED, Adjudged, and Decreed, the Claimant is entitled to an updated MRI of his left knee as recommended by Dr. Adam Schaaf. The MRI shall be provided promptly by the Defendants by a provider of the Defendant's choosing; and it is further,

ORDERED, Adjudged, and Decreed, the MRI report and film is to be provided to the authorized treating physician, Dr. Kenneth Caldwell for his review following its completion; and it is further,

ORDERED, Adjudged, and Decreed, the Claimant is entitled to a brace for his left knee and right ankle as well as custom orthotics as recommended by Dr. Adam Schaaf; and it is further,

ORDERED, Adjudged, and Decreed, the Defendants right to a credit for temporary total compensation paid is preserved; and it is further,

ORDERED, Adjudged, and Decreed, all other issues raised by the parties are held in abeyance at this time;

AND IT IS SO ORDERED.

No hearing costs are assessed.

Mike Campbell

Commissioner Mike Campbell

September 19, 2018

Dated

Columbia, South Carolina

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 19, 2018

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell

APPELLATE PANEL

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1618027

Frederick Nelson,	RESPONDENT CLAIMANT,
vs.	
City Of North Charleston,	EMPLOYER,
AND	
Planned Administrators, Inc. (PAI),	CARRIER, DEFENDANTS/APPELLANTS

Appellate Panel Review held in Columbia, South Carolina, on December 17, 2018, per notices timely and properly served upon all parties of interest.

Appellate Panel Decision and Order filed April 22, 2019

APPEARANCES: Respondent Frederick Nelson, Claimant represented by Malcolm M. Crosland, Jr. of Steinberg Law Firm in Charleston, South Carolina.

Defendants/Appellants represented by Johnnie W. Baxley, III, Esquire of Willson Jones Carter & Baxley, P.A. in Mt. Pleasant, South Carolina.

STATEMENT OF THE CASE

The parties were heard by Commissioner R. Michael Campbell, II, on July 12, 2018, in Isle of Palms, South Carolina. On September 19, 2018, he issued the following Order:

FINDINGS OF FACT

Based upon the stipulations of the parties, the testimony of the Claimant, and the APA and evidentiary submissions submitted into the record, the undersigned Commissioner makes the following findings of fact as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: Venue is proper in Charleston County, South Carolina.

THIRD: The Claimant was a covered employee and the Employer was a covered Employer at all times herein. The Employee/Employer relationship existed at the time of the Claimants injury by accident.

FOURTH: This claim was heard by the undersigned Commissioner on July 12, 2018 in accordance with Hearing Notices timely and properly served upon all parties of interest.

FIFTH: The Claimant has an Average Weekly Wage of $863.51 per week making for a corresponding Compensation Rate of $575.70 per week.

SIXTH: The Claimant was employed by the City of North Charleston as an Equipment Operator II. The employer acknowledges that he is unable to return to any of his prior employment with the City of North Charleston. The City of North Charleston approved his retirement application and the Claimant receives retirement benefits from the City of North Charleston.

SEVENTH: As a result of his compensable accident, the claimant sustained admitted injuries to his right ankle, right thumb, and left knee arising out of and in the course and scope of his employment. Claimant injured these body parts when his right ankle became entangled in the forks of a forklift while carrying objects in his hand. He fell forward causing injury to his right thumb, left knee and right ankle. The claimant underwent evaluations and treatment by Dr. Robert Lowery, Dr. Kenneth Caldwell who performed arthroscopic surgery to his left knee, and Dr. John Ernst who performed surgery to his right thumb.

EIGHTH: Dr. Robert Lowery completed a WCC Form 14B dated February 13, 2017 which found the claimant had no impairment to his right ankle or any physical restrictions. He likewise found the claimant did not require any additional medical treatment for his right ankle symptoms.

NINTH: Claimant has undergone right thumb surgery by Dr. John Ernst, the authorized treating hand surgeon. Dr. Ernst completed a WCC Form 14B dated August 10, 2017 where

he provided the claimant with a 5% permanent impairment to his right thumb, but found he sustained no physical limitation nor was he in need of additional medical treatment.

TENTH: Dr. Kenneth Caldwell completed a WCC 14B dated February 13, 2018 finding the claimant had reached Maximum Medical Improvement on February 8, 2018 and assigned an 11% permanent impairment to his Left Lower Extremity as a result of his admitted left knee injury. In addition, Dr. Caldwell restricted the Claimant to no kneeling, climbing, squatting, or lifting greater than 35 pounds. He did not indicate the claimant needed any future medical treatment.

ELEVENTH: The claimant was seen by Dr. Adam Schaaf of Lowcountry Orthopedics on March 9, 2018. Dr. Schaaf found the claimant to have significant pain over his medial joint line of his left knee. He noted the client had not had a repeat MRI of his left knee since his surgery, and because of his ongoing significant symptoms, recommended and MRI to evaluate his left knee for a recurrent tear or cartilage issue not evident on the plain x-ray films Dr. Schaaf took when he evaluated the Claimant. He also recommended a brace and an injection to the left knee. Dr. Schaaf acknowledged that if the MRI was negative for new findings, the claimant would be at Maximum Medical Improvement with regard to his left knee injury. On physical exam Dr. Schaaf found the Claimant walking with an antalgic gait. The physical exam of his left knee was positive for McMurray's maneuver and pain depilation over the medial joint line. He found mild quadricep atrophy of the left leg. When examining his right foot he found pain over the post tibial tendon and Achilles tendon tightness. Based on the opinion of Dr. Schaaf, Claimant has not reached maximum medical improvement with regard to his admitted left knee injury.

TWELFTH: Claimant testified regarding the symptoms he continues to experience regarding his right ankle injury, He advised the undersigned he continues to experience right ankle swelling across the base of his right ankle. The ultrasound was able to see the right ankle swelling described by the Claimant. If he walks for more than thirty minutes or tries to walk uphill, the swelling increases. He usually carries a cane with him to assist in ambulation if he does not know the terrain where he is going. Climbing stairs also aggravates his right ankle. If he has to go upstairs, he tries to go up sideways, however, traveling up and down stairs sideways aggravates his injured knee. Claimant testified that because of his right leg and right ankle injury, his left knee is becoming symptomatic.

THIRTEENTH: Claimant testified that while Dr. Kenneth Caldwell, the authorized treating knee surgeon was a good doctor, "... the surgery wasn't a success at all." The Claimant testified that he was evaluated by Dr. Adam Schaaf, whose report recommends he undergo an MRI of his left knee in an effort to assess why he has had such a poor post-surgery recovery.

CONCLUSIONS OF LAW

Based upon the findings of fact set forth above, the undersigned Commissioner makes the following conclusions of law as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The burden of proof applicable to a claim for Workers' Compensation benefits is preponderance of the evidence. The Claimant must establish facts that entitle him to an

award by the preponderance of the evidence. Walsh v. U.S. Rubber Co., 120 S.E.2d 685 (S.C. 1961).

SECOND: Under S.C. Code Anno., § 42-1-130, the Claimant was a covered employee at the time of his accident on November 29, 2016.

THIRD: Under S.C. Code Anno., § 42-1-140, the Defendant/Employer was a covered employer under the Act at the time of the Claimant's injuries on November 29, 2016.

FOURTH: Under S.C. Code Anno., § 42-1-140, Average Weekly Wage is defined.

FIFTH: Under S.C. Code Anno., § 42-1-160, the Claimant sustained compensable injuries by accident to his left knee, right thumb, and right ankle.

SIXTH: Maximum Medical Improvement is a term used to indicate that a person has reached such a plateau that in the physician' s opinion, there no further medical care or treatment which will lessen the degree of impairment. O'Banner v. Westinghouse Elec. Corp. 459 S.E.2d 324, 327 (Ct. App.1995).

SEVENTH: Because the claimant has not reached maximum medical improvement, an award of permanent disability is not appropriate at this time. Curiel v. Env. Management Services, 655 S.E.2d 482 (S.C. 2007)

ORDER AND AWARD

Based on the foregoing findings of fact and conclusions of law it is hereby:

ORDERED, Adjudged, and Decreed, the Claimant, Frederick Nelson, has not reached maximum medical improvement. Therefore, determination of Claimant's permanency is premature at this time; and it is further,

ORDERED, Adjudged, and Decreed, the Claimant is entitled to an updated MRI of his left knee as recommended by Dr. Adam Schaaf. The MRI shall be provided promptly by the Defendants by a provider of the Defendant's choosing; and it is further,

ORDERED, Adjudged, and Decreed, the MRI report and film is to be provided to the authorized treating physician, Dr. Kenneth Caldwell for his review following its completion; and it is further,

ORDERED, Adjudged, and Decreed, the Claimant is entitled to a brace for his left knee and right ankle as well as custom orthotics as recommended by Dr. Adam Schaaf; and it is further,

ORDERED, Adjudged, and Decreed, the Defendants right to a credit for temporary total compensation paid is preserved; and it is further,

ORDERED, Adjudged, and Decreed, all other issues raised by the parties are held in abeyance at this time;

AND IT IS SO ORDERED.

Within the statutory period, Defendants filed an Application for Review in the case, setting forth their reasons, copies of which were furnished to all interested parties. All parties appeared at oral arguments on December 17, 2018, and presented their case on appeal.

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under study and consideration.

By appeal, it is respectfully submitted by the Defendants that the Hearing Commissioner erred in finding as fact and concluding as a matter of law in the following particulars listed below:

1. *The single Commissioner erred in Findings of Fact #11, #12, and #13, Conclusion of Law #7, and Order #1, #2, #3, and #4 that Claimant is not at MMI and is entitled to additional medical treatment, error being that the preponderance of the evidence in the record does not support these factual findings. The single Commissioner disregarded the evidence and opinion of the authorized treating physician and instead relied upon the medical conclusions made by Dr. Adam Schaaf who only saw the Claimant one time for an evaluation, but the Commissioner failed to provide a basis or explanation as to how he weighed the evidence or why he disregarded certain evidence. Under S.C. Code Ann. § 42-9-5, and the supporting case law, any award made under the Act must be based upon specific and written detailed findings of fact substantiating the award and explaining how and why the Commissioner reached his factual findings and conclusions that will allow meaningful review upon appeal; this was not done on this claim. These findings/conclusions are also errors of law.*

2. *The single Commissioner erred in Findings of Fact #11, #12, and #13, Conclusions of Law #7, and Order #1, #2, #3, and #4 that an award of permanency is not appropriate at this time, the error being that the preponderance of the evidence in the record does not support these factual findings. The preponderance of medical evidence in the record shows that Claimant reached MMI as to his left knee per the authorized treating physician and, therefore, permanent partial disability should have been adjudicated. These findings/conclusions are also errors of law.*

3. *The single Commissioner erred in Findings of Fact #11, #12, and #13, Conclusions of Law #7, and Order #1, #2, #3, and #4 that Claimant is entitled to future causally-related medical treatment, another MRI of his left knee, and custom orthotics. The preponderance of the*

evidence in the record does not support these factual findings. The single Commissioner disregarded the evidence and opinion of the authorized treating physician and instead relied upon the medical conclusions made by Dr. Adam Schaaf who only saw the Claimant one time for an evaluation, but the Commissioner failed to provide a basis or explanation as to how he weighed the evidence or why he disregarded certain evidence. Under S.C. Code Ann. § 42-9-5, and the supporting case law, any award made under the Act must be based upon specific and written detailed findings of fact substantiating the award and explaining how and why the Commissioner reached his factual findings and conclusions that will allow meaningful review upon appeal; this was not done on this claim. These findings/conclusions are also errors of law.

In an Appellate Review, the Appellate Panel shall, pursuant to S.C. Code Ann. Section 42-17-50, review the award, weigh the evidence as presented at the initial hearing, and if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent or inconsistent with those of the Hearing Commissioner.

The Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law. McGuffin v. Schlumberger-Sangamo, 307 S.C. 184, 414 S.E.2d 162 (1992). In this case, the preponderance of evidence in the record supports a reversal of the Hearing Commissioner's finding that Claimant had not yet reached maximum medical improvement.

DISCUSSION OF ISSUES ON APPEAL

After a complete review of all the submitted evidence and testimony, we find that the single Commissioner erred in finding that Claimant is not at maximum medical improvement. The preponderance of the evidence in the record shows that Claimant reached maximum medical improvement as of February 8, 2018. Given the medical evidence presented at the hearing, Claimant reached maximum medical improvement with respect to all three of his injuries. Per the authorized treating physicians, Claimant reached maximum medical improvement for his right ankle on October 23, 2017, for his right thumb on July 19, 2017, and for his left knee on February 8, 2018. Based upon our review of all the evidence in the record, it was both factual and legal error for the single Commissioner to find that Claimant had not reached maximum medical improvement.

Right ankle

Claimant presented to Dr. Robert B. Lowery on December 22, 2016, with complaints of right ankle pain. (Def. APA 1, p. 1). Dr. Lowery stated that a previous MRI scan of Claimant's ankle showed some bruising of the soft tissues and mild bruising of the bone. Id. Claimant complained of pain primarily on the anterior aspect of his foot and ankle. Id. Claimant reported his pain as a six (6) to eight (8) out of ten (10) on a pain scale. Id. Dr. Lowery assessed Claimant with a right ankle contusion, and instructed Claimant to begin physical therapy. (Def. APA 1, p. 2-3). Dr. Lowery released Claimant to light duty work and instructed him to follow up in six (6) weeks, if necessary. Id. Otherwise, Dr. Lowery told Claimant to follow up with Dr. Weissglass. (Def. APA 1, p. 2).

Claimant returned to Dr. Lowery on February 2, 2017 for a follow-up of his right ankle contusion. (Def. APA 1, p. 4). Claimant stated he was doing better and noted some pain with going up and down stairs and standing for long periods. Id. Dr. Lowery noted Claimant's examination was unremarkable, and indicated that Claimant could return to regular duty at work without any restrictions. Id. On a Form 14B, Dr. Lowery released Claimant at maximum medical improvement for his right ankle as of February 2, 2017. (Def. APA 1, p. 6). Dr. Lowery further assigned Claimant a zero percent (0%) impairment rating to his right ankle. Id. Dr. Lowery indicated that Claimant did not sustain any permanent physical impairment or limitations as a result of the injury, and stated that the Claimant would not require any future medical treatment. Id. Dr. Lowery released Claimant to regular duty effective February 6, 2017. (Def. APA 1, p. 7).

On October 23, 2017, Claimant again returned to Dr. Lowery with complaints of worsening symptoms in his right ankle. (Def. APA 1, p. 8). Claimant stated that his ankle pain was aggravated by his left knee surgery as well as by walking and lifting activities in physical therapy. Id. Claimant again rated his pain as a six (6) to eight (8) out of ten (10) on a pain scale. Id. He told Dr. Lowery

that his pain improved with rest. Id. Dr. Lowery assessed Claimant for right ankle pain and joint pain in the right foot. Id. In his note, Dr. Lowery stated, "[w]e have reviewed his previous x-rays and his previous MRI scan. We've reviewed this with the patient at great length. We have explained to him that his MRI scan only showed a mild contusion." Id. Once again, Dr. Lowery found that Claimant reached maximum medical improvement, and Dr. Lowery could not see any further diagnostic or therapeutic interventions that would benefit the Claimant. (Def. APA 1, p. 8-10). Because Claimant suffered only a mild contusion to the right ankle, Dr. Lowery discharged the Claimant again on October 23, 2017, and affirmed his previous assessment that Claimant sustained no impairment (0%) to his foot and ankle from his injury. Id.

With regard to his right ankle, the Claimant has been released at MMI twice after extensive review by the authorized treating physician. The only contradictory evidence was the independent medical examination report from Dr. Adam Schaaf dated March 9, 2018, which recommended additional physical therapy despite the fact that Claimant had complained that physical therapy did not provide relief for him in the past. Dr. Lowery's opinion is given greater weight by this Panel as he has monitored the Claimant's status and provided him with actual medical treatment over an extended period of time. As the treating physician who followed Claimant for a lengthy period of time, provided treatment, and could observe his response to treatment over an extended period of time, Dr. Lowery was in the best position to determine whether Claimant was still getting benefit from medical treatment or whether he had reached a stable plateau. As Claimant was found to have reached maximum medical improvement by the authorized treating physician, the single Commissioner erred in finding that Claimant was not at maximum medical improvement for the right ankle.

Right thumb

With regard to his right thumb, the authorized treating physician was Dr. Ernst, who found that Claimant reached maximum medical improvement on July 19, 2017, and assigned him a five percent (5%) impairment rating to the thumb. (Def. APA 2, p. 33A). Claimant underwent a functional capacity evaluation on January 23, 2018. (Def. APA 5, p. 93). Regarding the right upper extremity, grip strength testing showed Claimant exhibited no significant signs of physical discomfort. (Def. APA 5, p. 95).

Dr. Ernst provided actual medical and surgical treatment to the Claimant's right thumb injury. Claimant first reported to Dr. Ernst on February 23, 2017, and continued treatment until Dr. Ernst released the Claimant from his care on July 19, 2017. (Def. APA 2, p. 11, 32, 33A). Dr. Ernst monitored the Claimant's progress with his right thumb injury over the course of several months. Additionally, Dr. Ernst performed the right trigger thumb release operation on Claimant's A1 pulley on May 19, 2017. (Def. APA 2, p. 22). As such, Dr. Ernst was in the best position to determine whether Claimant reached maximum medical improvement. Therefore, it was factual and legal error for the single Commissioner to find that Claimant had not reached maximum medical improvement.

The lay testimony regarding the right thumb was contradictory, at best. At his deposition in this matter, Claimant testified that he did not have pain in his thumb at rest, but only when grabbing something. (Hrg. Tr. p. 44, lines 12-25; p. 45, lines 1-25). At the hearing, however, Claimant testified that he feels a pain in his thumb even when at rest. (Hrg. Tr. p. 46, lines 1-10). He also subsequently testified that he does not feel something in his thumb at all times, and that there are periods of time when he doesn't feel any pain in his thumb. (Hrg. Tr. p. 46, lines 7-13).

While we considered the testimony of Claimant with regard to whether he had reached MMI for the right thumb, we give greater weight to the medical evidence and opinion of Dr. Ernst. We

also note that there was no medical evidence submitted to contradict the opinion of Dr. Ernst regarding the right thumb.

Left knee

Claimant presented to Dr. Kenneth M. Caldwell on March 2, 2017, describing a flexion twisting injury to his left knee. (Def. APA 3, p. 34). Claimant reported persistent left knee pain that did not respond to therapy, and reviewed the results of his recent MRI with Dr. Caldwell during this visit. Id. Dr. Caldwell said the MRI results indicated an undersurface tear of the posterior horn of the medial meniscus, which probably represented a small flap tear. (Def. APA 3, p. 35). Dr. Caldwell noted mild marginal abnormality of the lateral meniscus, but no tearing of the body. Id. Dr. Caldwell recommended a course of physical therapy twice per week for four (4) to six (6) weeks in order to improve mobility and strength, and to diminish pain. Id. Dr. Caldwell indicated that if Claimant followed up with persistent pain, an arthroscopic procedure may be the appropriate course of action. Id. Dr. Caldwell wrote Claimant out of work until the next follow-up, and stated he was not at maximum medical improvement. Id.

On April 10, 2017, Claimant followed up with Dr. Caldwell. (Def. APA 3, p. 38). Claimant reported feeling better with therapy. Id. Dr. Caldwell discussed surgery options with the Claimant, but Claimant did not want an arthroscopy because of his improved pain. (Def. APA 3, p. 39). Claimant also complained of right knee discomfort due to [over]compensation for his left knee. Id. Dr. Caldwell suggested that Claimant be consistent with improving his left lower extremity strength, which he said should resolve his right knee discomfort. Id. Dr. Caldwell noted he would reassess in six (6) weeks. Id. Dr. Caldwell released Claimant to light duty with restrictions of no kneeling, climbing, squatting, stooping, or excessive walking, as well as a twenty (20) pound lifting restriction. (Def. APA 3, p. 40).

Claimant returned to Dr. Caldwell on May 25, 2017, with ongoing complaints of knee pain. (Def. APA 3, p. 41). Claimant reported complaints of sharp mechanical pain at the medial aspect of his left knee and intermittent popliteal discomfort. Id. At this point, Claimant had been out of work for about six (6) months. Id. In his note, Dr. Caldwell expressed concern about Claimant's motivation to get better. Id. Dr. Caldwell again recommended the left knee arthroscopy with partial medial meniscectomy, and Claimant finally agreed to proceed with the surgery. Id. Dr. Caldwell instructed Claimant to follow up with him after the procedure, and the Claimant was written out of work until after the left knee surgery. Id.

Dr. Caldwell performed the left knee arthroscopy on June 14, 2017. (Def. APA 3, p. 44). Dr. Caldwell indicated the procedure did not produce any complications and that Claimant tolerated the procedure well. (Def. APA 3, p. 46). Claimant was discharged home on the same day, and was advised to begin weight bearing as tolerated. Id. Dr. Caldwell prescribed Norco to the Claimant for his pain. Id. Claimant followed up after his surgery on June 27, 2017, with complaints of diffuse discomfort about the left knee. (Def. APA 3, p. 48). At the time of this visit, Claimant used crutches for assistance with ambulation, but was partially weight bearing on his left lower extremity. Id. Claimant was instructed to complete a course of physical therapy as well as to stay consistent with the home exercise routine on his own. (Def. APA 3, p. 49). Claimant was instructed to follow up in three (3) weeks to evaluate his work status. Id.

On August 15, 2017, Claimant returned to Dr. Caldwell with continued complaints of diffuse left knee pain. (Def. APA 3, p. 51). Dr. Caldwell noted that Claimant continued to make slow progress in therapy. Id. Dr. Caldwell further stated, "[Claimant] has made progress in therapy but continues to complain of discomfort that subjectively is greater than is noted with his objective exam, which is favorable . . . He complains of diffuse peripatellar pain and continues to utilize a cane for

ambulation even though he has a very smooth gait pattern. At this point I am concerned about a degree of malingering however his therapy will be increased to 3 times per week for the next month." (Def. APA 3, p. 51-52). Dr. Caldwell noted that Claimant was not at maximum medical improvement yet, but discussed with Claimant that he needed to be motivated to return to work. (Def. APA 3, p. 52). Dr. Caldwell wrote Claimant out of work for another four (4) weeks, but indicated that light duty status would be evaluated at the next follow-up appointment. Id.

Claimant returned to Dr. Caldwell on September 19, 2017. (Def. APA 3, p. 54). Claimant stated he felt better, yet continued to use a cane for ambulation despite his smooth gait pattern as noted by Dr. Caldwell. Id. Once again, Dr. Caldwell noted Claimant's slow progress in therapy. (Def. APA 3, p. 55). Dr. Caldwell stated there was no knee swelling, laxity, nor joint pannus to suggest ongoing joint line issues. Id. Claimant continued subjective pain complaints in therapy, and Dr. Caldwell repeated his concern about Claimant's malingering. Id. Dr. Caldwell indicated that Claimant could return to work light duty on October 16, 2017. (Def. APA 3, p. 57).

Claimant followed up with Dr. Caldwell on October 31, 2017, three (3) weeks after beginning a work hardening program. (Def. APA 3, p. 58). Claimant indicated that his left knee was perhaps a little improved with the work hardening program, but he was not tolerating squatting or kneeling. Id. Claimant continued to use a cane for ambulation. Id. Claimant also stated his right ankle continued to bother him despite his treatment and release from care with Dr. Lowery. Id. For a third time, Dr. Caldwell noted Claimant's very slow progress in therapy. (Def. APA 3, p. 59). Claimant stated his knee was "popping" on stairs and reported associated pain with this. Id. Dr. Caldwell stated, "[Claimant's] clinical complaints are out of proportion to what would be expected at this point and I have encouraged him to discontinue the use of the cane but he continues to use it." Id. Dr. Caldwell recommended continuing the work hardening program three (3) times per week for the

next month, and he ordered a functional capacity evaluation at that point. Id. Dr. Caldwell wrote Claimant out of work until after completion of his work hardening program and the functional capacity evaluation. Id.

Claimant underwent a functional capacity evaluation on January 23, 2018, as requested by Dr. Caldwell. (Def. APA 5, p. 93). The evaluation report indicated Claimant is capable of various standing, sitting, and walking positions. (Def. APA 5, p. 95). Additionally, Claimant was found capable of lifting up to thirty-five (35) pounds. Id. Claimant was also found capable of balancing, stooping, low-level work, reaching forward, handling, fingering, and above-shoulder work. (Def. APA 5, p. 96). The evaluation report indicated Claimant demonstrated a full light-medium capacity with abilities into the medium and medium-heavy range. (Def. APA 5, p. 98).

On February 8, 2018, Claimant returned to Dr. Caldwell to review the functional capacity evaluation results. (Def. APA 3, p. 60A). Dr. Caldwell indicated this was the first visit that Claimant did not use a cane. Id. The functional capacity evaluation stated Claimant was capable of light-medium work capability with most difficulties being in kneeling, squatting, and lifting heavier loads. (Def. APA 3, p. 60B). Dr. Caldwell indicated that in light of the report, Claimant was not capable of returning to an unrestricted status with his previous job description. Id. Accordingly, Dr. Caldwell placed Claimant on permanent restrictions with no kneeling, climbing, squatting, or lifting more than thirty-five (35) pounds. (Def. APA 3, p. 61). Dr. Caldwell completed a Form 14B Physician's Statement where he found that Claimant reached maximum medical improvement for his left knee injury on February 8, 2018. (Def. APA 3, p. 60B). Dr. Caldwell further assigned him an eleven percent (11%) impairment rating to the left lower extremity. Id. He also stated that Claimant would not require any further medical, surgical, or hospital treatment for his left knee. Id.

On March 9, 2018, Claimant obtained an independent medical examination with Dr. Schaaf.

(Cl. APA 8, p. 132). Claimant complained of popping and grinding when bending his knee. (Cl. APA 8, p. 133). Dr. Schaaf recommended obtaining an additional MRI of Claimant's knee, a brace, and an injection. (Cl. APA 8, p. 134). Dr. Schaaf stated that if the MRI was negative for new findings, Claimant would be at maximum medical improvement for his knee. Id. Dr. Schaaf also assessed Claimant to have a fourteen percent (14%) rating to the left lower extremity. Id.

With regard to his left knee, the authorized treating physician was Dr. Caldwell, who found that Claimant had reached maximum medical improvement on February 8, 2018. (Def. APA 3, p. 61). Dr. Caldwell further assigned him an eleven percent (11%) impairment rating to the left lower extremity. Id. We find that the single Commissioner erred in finding the Claimant did not reach maximum medical improvement as determined by Dr. Caldwell. The Claimant began treatment with Dr. Caldwell on March 2, 2017, and received appropriate medical treatment with Dr. Caldwell, including surgery, for his admitted left knee injury. (Def. APA 3, p. 35, 44). Dr. Caldwell continued to treat the Claimant postoperatively. Dr. Caldwell had the opportunity to treat and observe Claimant's progression with his knee injury during the course of nearly a year. Dr. Caldwell, as the authorized treating physician, is in a better position to comment on Claimant's progress and status, or lack thereof, as opposed to a physician that Claimant saw one time for an evaluation only. We therefore give greater weight to the opinion of Dr. Caldwell.

As indicated above, Dr. Caldwell provided comprehensive medical and surgical treatment to the Claimant over the course of nearly a year. He was also the authorized treating physician for the Claimant's left knee injury. As such, Dr. Caldwell was clearly in the best position to assess the Claimant's complaints and condition to make a determination as to whether the Claimant had "reached such a plateau that in [his] opinion there [was] no further medical care or treatment which [would] lessen the degree of impairment." O'Banner v. Westinghouse Elec. Corp., 319 S.C. 24, 28,

459 S.E.2d 324, 327 (Ct. App. 1995). The opinion of Dr. Caldwell is afforded great weight, as he has monitored the Claimant's status and provided him with actual medical and surgical treatment. As the physician who provided extensive treatment, performed the surgery, and followed Claimant's progression after surgery, no one was in a better position to give an informed opinion as to whether the Claimant was still getting benefit from medical treatment or whether he had reached a stable plateau. Dr. Schaaf, on the other hand, only saw the Claimant on one (1) occasion for purposes of litigation. Dr. Schaaf never provided any treatment, but merely gave an opinion based upon a single visit.

Despite the abundance of evidence from the authorized treating physician that Claimant had reached maximum medical improvement, the single Commissioner disregarded it and instead found that Claimant had not reached maximum medical improvement. (Commissioner's Order, Findings of Fact #11, #12, #13; Conclusions of Law #7; Order #1, #2, #3, #4). Rather, the single Commissioner ignored Dr. Caldwell, who said that the Claimant reached maximum medical improvement after treating the Claimant's left knee over the course of nearly a year. Instead, the single Commissioner sided with Dr. Schaaf, who saw the Claimant only one (1) time for litigation purposes, and determined that Claimant had not reached maximum medical improvement based upon that single visit. We find that this was error, and we determined that Claimant had reached maximum medical improvement and we give greater weight to the opinion of the authorized treating physician Dr. Caldwell.

We also have serious concerns about the legitimacy of Claimant's ongoing subjective complaints. On several occasions, including visits on May 25, August 15, September 19, and October 31 of 2017, Dr. Caldwell expressed concern about Claimant's motivation to get better and Claimant's slow progression in physical therapy. (Def. APA 3, p. 41, 51-52, 55, 59). On August 15,

2017, Dr. Caldwell explicitly stated, "[Claimant] has made progress in therapy but continues to complain of discomfort that subjectively is greater than is noted with his objective exam, which is favorable . . . He complains of diffuse peripatellar pain and continues to utilize a cane for ambulation even though he has a very smooth gait pattern. At this point I am concerned about a degree of malingering however his therapy will be increased to 3 times per week for the next month." (Def. APA 3, p. 51-52). Furthermore, on October 31, 2017, Dr. Caldwell again expressed his doubts, stating, "[Claimant's] clinical complaints are out of proportion to what would be expected at this point and I have encouraged him to discontinue the use of the cane but he continues to use it." Id. Therefore, over the course of almost a year, Dr. Caldwell observed Claimant's objective symptoms compared to his subjective complaints, of which Dr. Caldwell voiced his concerns about several times when noting Claimant's recurrent malingering. (Def. APA 3, p. 41, 51-52, 55, 59).

Furthermore, we find that the single Commissioner improperly failed to state a meaningful basis as to why he disregarded the medical evidence from Dr. Caldwell and why he instead relied upon the independent medical examination from Dr. Schaaf. Under S.C. Code section 42-9-5, and the supporting case law, any award under the Act must be based upon specific and written detailed findings of fact substantiating the award and explaining how and why the Commissioner reached his factual findings and conclusions that will allow meaningful review upon appeal. In Hutson v. South Carolina State Ports Authority, the Court stated that an award under the Workers' Compensation Act may not rest upon surmise, conjecture, or speculation, but instead, must be founded on evidence of sufficient substance to afford a reasonable basis for it. 399 S.C. 381, 732 S.E.2d 500 (S.C. 2012). This was not done on this claim. The single Commissioner's Findings of Fact merely stated that, "[b]ased on the opinion of Dr. Schaaf, Claimant has not reached maximum medical improvement with regard to his admitted left knee injury." (Commissioner's Order, Findings of Fact #11). The

Commissioner's Order recites the physical examination findings in Dr. Schaaf's report without any explanation or reasoning as to why he gave more credence to Dr. Schaaf's findings than Dr. Caldwell's. We find this was error. After reviewing and considering the evidence and testimony in the record, the Panel gives greater weight to the opinion of the authorized treating physician, Dr. Caldwell, than the opinion of the one-time evaluation of Dr. Schaaf for the reasons set forth above.

Credit for Temporary Total Disability Benefits

Accordingly, we find that the single Commissioner erred in not awarding Defendants a credit for overpayment of all temporary total disability benefits paid after February 8, 2018. As indicated above, the preponderance of evidence in the record shows that Claimant reached maximum medical improvement on February 8, 2018. It is axiomatic that entitlement to temporary total disability compensation ceases once an injured worker reaches maximum medical improvement. Curiel v. Envtl. Mgmt. Serv., 376 S.C. 23, 29, 655 S.E.2d 482, 485 (2007) (stating that the date of maximum medical improvement signals the end of entitlement to temporary total benefits). Moreover, it is well-settled South Carolina law that upon a showing of maximum medical improvement, "it is appropriate to terminate temporary benefits in favor of permanent disability benefits." Smith v. South Carolina Dep't of Mental Health, 335 S.C. 396, 517 S.E.2d 694 (1999). Thus, Defendants are entitled to stop payment of temporary compensation as of February 8, 2018, and are entitled to a credit for overpayment of any temporary benefits beyond that date pursuant to S.C. Code section 42-9-210.

The Hearing Commissioner erred in failing to adjudicate permanency.

We find that the single Commissioner erred in failing to adjudicate permanency because the preponderance of the evidence in the record shows that Claimant reached maximum medical improvement for all three of his injuries. After a claimant reaches maximum medical improvement,

benefits may be awarded either as a permanent total or partial disability, or as a percentage of impairment to a scheduled member. Smith v. NCCI, Inc., 369 S.C. 236, 631 S.E.2d 268 (Ct. App. 2006). Based upon the analysis set forth fully above, we find that the single Commissioner erred in finding that the Claimant had not yet reached maximum medical improvement and further erred by not addressing permanent disability. The Appellate Panel remands this matter to the single Commissioner for an adjudication of Claimant's permanent disability.

The Hearing Commissioner erred in awarding future medical treatment, another MRI of Claimant's left knee, and custom orthotics.

Finally, it was error for the single Commissioner to award future causally related medical treatment, another MRI of the Claimant's left knee, and custom orthotics. The preponderance of the evidence submitted in the record does not support a finding that additional medical treatment would tend to lessen the Claimant's period of disability as required under S.C. Code section 42-15-60.

With regard to the right ankle, Dr. Lowery found that Claimant reached maximum medical improvement on February 2, 2017 and October 23, 2017. (Def. APA 1, p. 6, 8-10). On both occasions, Dr. Lowery stated that he could not see any further diagnostic or therapeutic interventions that would benefit the Claimant. Id. The single Commissioner erred in awarding Claimant physical therapy and custom orthotics for his right ankle because the authorized treating physician found that no additional medical treatment would tend to lessen the period of Claimant's disability. In fact, Dr. Lowery found that Claimant suffered nothing more than a mild contusion to his right ankle. (Def. APA 1, p. 8). An award of physical therapy and custom orthotics are unwarranted for a mild contusion. The medical evidence further calls into question an award of physical therapy because the Claimant continually complained about receiving little relief from physical therapy and it was often noted that he progressed very slowly during it. (Def. APA 1, p. 8); (Def. APA 3, p. 34, 42, 51, 55, 58, 59). Such a finding is erroneous based upon the medical evidence submitted at the hearing.

Additionally, the single Commissioner erred in awarding the Claimant a brace and an additional MRI of his left knee. After treating the Claimant's left knee injury for almost a year and performing surgery on the knee, Dr. Caldwell found that Claimant reached maximum medical improvement on February 8, 2018. (Def. APA 3, p. 61). Dr. Caldwell stated that Claimant would not require any further medical, surgical, or hospital treatment for his left knee, as additional treatment would not tend to lessen the Claimant's period of disability. Id. An award of an additional MRI and brace for the left knee are wholly unsupported by the evidence submitted in the record. Even though Dr. Schaaf recommended another left knee MRI, without any explanation as to why it would be necessary, it is up to Claimant to submit that evidence which was clearly not done in this claim. We give greater weight to the opinion of Dr. Caldwell that no further treatment is necessary in this case for the left knee injury.

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. The South Carolina Workers Compensation Commission has jurisdiction over the parties and subject matter of this claim.
2. On November 29, 2016, Claimant sustained a compensable injury by accident that arose out of and in the course of his employment. Claimant injured his right ankle, right thumb, and left knee as a result of his work accident.
3. Defendants accepted the claim as compensable and provided appropriate medical treatment to Claimant for the injuries to his right ankle, right thumb, and left knee.

4. With regard to the right ankle, Claimant's treating physician was Dr. Robert Lowery. Claimant treated with Dr. Robert Lowery from December 2016 through October 2017.
5. On February 2, 2017, Dr. Lowery opined that Claimant had reached maximum medical improvement with a 0% impairment rating, no permanent work restrictions, and no need for future medical treatment. Thereafter, Claimant sought additional treatment with Dr. Lowery. On October 23, 2017, Dr. Lowery again opined that Claimant had reached maximum medical improvement with a 0% impairment rating, no permanent work restrictions, and no need for future medical treatment.
6. We give great weight to the opinion of Dr. Lowery, the authorized treating physician. Dr. Lowery had the opportunity to see Claimant on a number of occasions over a long period of time, provide evaluation and treatment to Claimant, and closely observe Claimant's progress during the length of his treatment. As the authorized treating physician, Dr. Lowery was in the best position to determine whether Claimant was continuing to benefit from medical treatment or whether he had reached a stable plateau. As such, we give great weight to the opinion of Dr. Lowery.
7. Although we have reviewed and considered the report from Dr. Schaaf who performed a one-time evaluation, we give that report less weight. First, Dr. Schaaf has not provided any treatment but only a one-time evaluation. Second, Dr. Schaaf recommended additional physical therapy despite the fact that Claimant testified that physical therapy has not been helpful in the past.
8. We have reviewed and considered the testimony of Claimant, but as to the issue of maximum medical improvement regarding the right ankle, give greater weight to the opinion of Dr. Lowery, the authorized treating physician.

9. Claimant reached maximum medical improvement for the right ankle injury on October 23, 2017.

10. With regard to the right thumb, the Claimant's treating physician was Dr. John Ernst.

11. On July 19, 2017, Dr. Ernst opined that Claimant reached maximum medical improvement with a 5% impairment rating to thumb. There was no competing medical evidence submitted.

12. Claimant's testimony regarding his ongoing right thumb complaints were contradictory.

13. While we considered all of the evidence and testimony of the Claimant regarding the right thumb injury, we give greater weight to the medical evidence and opinions of the authorized treating physician, Dr. John Ernst.

14. Claimant reached maximum medical improvement regarding his right thumb injury on July 19, 2017.

15. Regard to the left knee injury, Claimant's treating physician was Dr. Kenneth Caldwell. Claimant treated with Dr. Caldwell from March 2017 through February 2018.

16. On February 8, 2018, Dr. Caldwell opined that Claimant reached maximum medical improvement with an 11% rating to the left lower extremity, assigned permanent work restrictions, and opined that Claimant would not need any future medical treatment for the left knee.

17. We give greater weight to the opinion of the authorized treating physician, Dr. Caldwell. Dr. Caldwell performed extensive medical evaluation and treatment of claimant, performed surgery, and was able to see the Claimant's progress through his course of treatment. Dr. Caldwell was in the best position of anyone to give an opinion as to whether or not Claimant had reached maximum medical improvement due to reaching a plateau in his medical recovery.

18. Although we have reviewed and considered the one-time evaluation of Dr. Schaaf as well as the testimony of Claimant, we give greater weight on the issue of maximum medical improvement to the opinion of Dr. Caldwell.

19. Claimant reached maximum medical improvement regarding his left knee injury on February 8, 2018.

20. We have serious concerns about the legitimacy of Claimant's ongoing subjective complaints. Dr. Caldwell noted throughout the course of his treatment concerns about Claimant's motivation to get better, the fact that his subjective complaints were greater than objective findings, the fact that he used a cane for ambulation despite being told not to do so, and concerns about recurrent malingering. As such, we give less weight to the testimony of Claimant regarding maximum medical improvement of the left knee.

21. We find that the single Commissioner improperly failed to state a meaningful basis as to why he disregarded the opinions of the authorized treating physician and instead relied upon the one-time evaluation from Dr. Schaaf. We give greater weight to the opinion of the authorized treating physician for the reasons set forth above, and we find that Claimant has reached maximum medical improvement with regard to his left knee injury.

22. Claimant has reached maximum medical improvement with regard to all three of his compensable injuries.

23. Because we find that Claimant has reached maximum medical improvement with regard to all of his compensable injuries, we find that Defendants are entitled to a credit for overpayment of temporary total disability compensation paid after February 8, 2018, the latest date upon which Claimant reached maximum medical improvement.

24. Because we find that Claimant has reached maximum medical improvement with regard to all of his compensable injuries, we find that the single Commissioner erred in failing to adjudicate Claimant's entitlement to permanent disability benefits. This matter is specifically remanded back to the original single Commissioner to issue findings of fact and conclusions of law regarding permanent disability based upon the record as it currently exists.

25. Because we find that Claimant has reached maximum medical improvement with regard to all of his compensable injuries, we find that it was error for the single Commissioner to award ongoing medical treatment, including MRI of Claimant's left knee, custom orthotics, and a brace.

26. Claimant is not entitled to future medical treatment per S.C. Code section 42-15-60. Dr. Lowery opined that Claimant did not need any future medical treatment for the right ankle. Dr. Ernst opined that Claimant did not need any future medical treatment for the right thumb. Dr. Caldwell opined that Claimant did not need any future medical treatment for the left knee. We give greater weight to the opinion of these treating physicians. We find that Claimant will not require ongoing/future medical, surgical, or hospital treatment for his compensable work injuries and that no further medical treatment will tend to lessen his period of disability.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Per S.C. Code section 42-1-160, Claimant sustained a compensable injury by accident that arose out of and in the course of his employment when he injured his right ankle, right thumb, and left knee as result of his work accident.

2. Per S.C. Code section 42-15-60, Claimant has reached maximum medical improvement with regard to his right ankle, right thumb, and left knee.
3. Per S.C. Code section 42-9-10, appropriate periods of temporary disability compensation have been paid to Claimant in this matter.
4. Per S.C. Code sections 42-9-10 and 42-9-210, Defendants are entitled to stop payment of temporary disability compensation as of February 8, 2018, the latest date upon which Claimant reached maximum medical improvement. Defendants are entitled to a credit for overpayment of all temporary disability compensation benefits paid after that date.
5. Per S.C. Code section 42-15-60, Claimant is not entitled to any medical treatment after February 8, 2018. The preponderance of evidence in the record establishes that Claimant will not need any future/ongoing medical treatment for the right ankle, right thumb, or left knee, and that Claimant will not require ongoing/future medical, surgical, or hospital treatment. We specifically find that no further medical treatment will tend to lessen his period of disability based upon the opinions of Dr. Lowery, Dr. Ernst, and Dr. Caldwell.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS, THEREFORE, ORDERED that Claimant has reached maximum medical improvement with regard to his compensable work-related injuries to his right ankle, right thumb, and left knee.

IT IS FURTHER ORDERED that Claimant is not entitled to any medical treatment after February 8, 2018. The preponderance of evidence in the record establishes that Claimant will not need any future/ongoing medical treatment for the right ankle, right thumb, or left knee, and that Claimant will not require ongoing/future medical, surgical, or hospital treatment. We specifically

find that no further medical treatment will tend to lessen his period of disability based upon the opinions of Dr. Lowery, Dr. Ernst, and Dr. Caldwell.

IT IS FURTHER ORDERED that Defendants are entitled to stop payment of temporary disability compensation as of February 8, 2018, the latest date upon which Claimant reached maximum medical improvement. Defendants are entitled to a credit for overpayment of all temporary disability compensation paid after February 8, 2018.

IT IS FURTHER ORDERED that this matter is remanded back to the Hearing Commissioner to issue findings of fact and conclusions of law regarding Claimant's entitlement to permanent disability benefits based upon the record as it currently exists.

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

REVERSE WITH REMAND:

Avery B. Wilkerson, Jr., Commissioner

CONCUR:

Susan S. Barden, Commissioner

T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Valerie Deller on April 22, 2019

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1618027

Fredrick Nelson, Employee,

Claimant,

vs.

City of North Charleston, Employer, and Planned Administrators, Inc., (PAI), Carrier,

Defendants.

DECISION AND ORDER

HEARING:	Held in Goose Creek, South Carolina on July 12, 2018.
APPEARANCES:	Employee/Claimant represented by The Steinberg Law Firm, L.L.P., Charleston, South Carolina, with Malcolm M. Crosland, Jr., Esquire, appearing. Defendant, City of North Charleston, Employer and Planned Administrators, Inc. (PAI) Employer Carrier, represented by Wilson Jones Carter & Baxley , P.A., with Johnnie W. Baxley III, Esquire, appearing
PURPOSE OF THE HEARING:	To determine the issues as set forth on SCWCC Form No. 21
OPINION AND AWARD:	Honorable R. Michael Campbell, II, Commissioner
FILED	August 16, 2019.

STIPULATIONS

FIRST: This claim was heard on July 12, 2018 pursuant to notices timely and properly served on all parties.

SECOND: The Commission has jurisdiction of the parties and subject matter of the claim.

THIRD: Venue is proper in Berkeley County, South Carolina.

FOURTH: The Commission's file, except for self-serving declarations and unstipulated medical records, is made a part of the record.

FIFTH: The Claimant's average weekly wage was $863.51 per week making the compensation rate of $575.70 applicable to the claim.

SIXTH: The Claimant sustained an admitted accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift.

SEVENTH: The employee/employer relationship existed at the time of the Claimant's admitted accidental injury.

APA SUBMISSIONS AND EXHIBITS

With the exception of the objections to Claimant's APA submissions numbered 9 and 10 addressed below, the following medical records, documents, and exhibits were submitted under the Administrative Procedure Act and Commission's Regulations without objection:

On behalf of the Defendant:

APA #	PROVIDER	DATED	PAGES
1	Dr. Robert Lowery	12/22/2016-10/23/2017	1-10
2	Dr. John Ernst	2/23/2017-8/10/2017	11-33a
3	Dr. Kenneth Caldwell	3/2/2017-2/13/2018	34-61
4	CCOH	11/29/2016-2/17/2017	62-92
5	FCE	1/23/2018	93-118
6	Joel Leonard, Vocational Expert	6/8/18	119 - 129

On behalf of the Claimant:

APA #	PROVIDER	DATED	PAGES
7	MRIs	12/14/16-2/14/17	130-131
8	Dr. Adam Schaaf	3/9/18	132-134
9	Dr. Daniel Wartinbee	6/22/18	135-140
10	Vocational Report	4/20/18	141-147
11	Job Description	2003	148-151

The Defendants objected to Claimant's APA submissions 9 and 10 on the ground they were prepared after the hearing set for April 3, 2018 was continued to allow for mediation. The Claimant's Form 22 dated March 29, 2018 denied the Claimant had reached maximum medical improvement but, in the alternative, alleged he was permanently and totally disabled as a result of his admitted injuries under Section 42-9-10(A). The Commission issued an Administrative Order dated April 6, 2018 continuing the hearing for mediation. No restriction was placed on either party being able to further develop their cases during the continuance.

Defendant's APA submission number 6 was prepared after the hearing was continued and was admitted into the record. The Defendants' objections to Claimant's APA submissions 9 and 10 were overruled.

PROCEDURAL HISTORY

The claim was heard before the undersigned on July 12, 2018. The undersigned issued a Decision and Order dated September 19, 2018 finding the Claimant was not at maximum medical improvement and was entitled to a left knee MRI, a left knee brace, and right ankle custom orthotic recommended by Dr. Schaaf. All other issues, including the Defendants' right to a credit for over payment of temporary total disability and permanency, were held in abeyance.

The Defendants timely requested review of the findings the Claimant had not reached maximum medical improvement and was entitled to the medical treatment recommended by Dr. Schaaf on the grounds the undersigned failed to provide a basis for giving greater weight to the opinion of Dr. Schaaf over the opinion of the authorized treating physician, Dr. Caldwell. The Appellate Panel issued its Decision and Order dated April 22, 2019 finding the Claimant had reached maximum medical improvement on February 8, 2018, granting the Defendants a credit for overpayment of temporary total compensation after that date, ruling the Claimant was not entitled to additional medical treatment, and remanding the claim to the undersigned to determine the permanency based on the record as of April 22, 2019 hearing.

REVIEW OF THE EVIDENCE

It is stipulated the Claimant sustained an admitted accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift. He was seen on the day of the accident by Colleen Boyd, nurse practitioner, at the Carolina Center for Occupational Health (CCOH). NP Boyd reported, "PT states that he was walking with two cups in his hand, caught foot under forklift blade. Twisted his right ankle, fell onto left knee, and fell in an awkward way with his cup in his [hand], sounds like he got an axial load onto the thumb, now can't bend it all the way." (APA 4, p. 62). NP Boyd ordered a splint for the Claimant's right thumb, an ace bandage for his right ankle, and x-rays of his right hand, right ankle, and left knee. She assigned work restrictions, scheduled a return appointment, and recommended that the Claimant be referred to an orthopedic surgeon and hand specialist to further evaluate and treat his admitted injuries. (APA 4, pp. 62 – 69). The Claimant returned to CCOH and was seen by Dr. Barry Weissglass on December 16, 2016. Dr. Weissglass ordered an MRI of the Claimant's right ankle which revealed a torn anterior talofibular ligament. (APA 4, p. 73). He continued the Claimant's work restrictions. (APA 4, p. 75). Dr. Weissglass concurred in the recommendation to refer the Claimant to an orthopedic surgeon for further evaluation and treatment of his right ankle. (APA 4, p. 77).

The Claimant was referred to Dr. Robert Lowery, an orthopedic surgeon, for evaluation and treatment of his right ankle injury. The Claimant saw Dr. Lowery on December 22, 2016. Dr. Lowery reviewed the right ankle MRI scan ordered by Dr. Weissglass and concluded it showed posterior tibialis and flexor halluces tendon

sheath swelling of the right ankle. (APA 1, p. 1; APA 7, p. 130). Dr. Lowery prescribed an anti-inflammatory medication and released the Claimant to return to light duty. (APA 1, p. 2). The Claimant returned to see Dr. Lowery on February 2, 2017 and reported some improvement but continued complaints of pain. Dr. Lowery ordered continued physical therapy but released the Claimant to return to regular duty. Although Dr. Lowery ordered continued physical therapy, he completed a WCC Form 14B dated February 13, 2017 reporting the Claimant had reached maximum medical improvement on February 8, 2017 and assigning a 0% impairment rating to the Claimant's right ankle. (APA 1, p. 6). Dr. Lowery saw the Claimant again on October 23, 2017. The Claimant reported the physical therapy ordered for his left knee injury aggravated his ankle pain which he rated as a 6 - 8 on a 0 - 10 scale. (APA 1, p. 8). It was noted the Claimant was using a cane. Upon examination Dr. Lowery found tenderness over the anterior ankle and sinus tarsi region but no swelling. Dr. Lowery recommended shoe orthotics and continued stretching exercises. (APA 1, p. 8). Dr. Lowery released the Claimant from his care to return to full duty with no restrictions. (APA 1, p. 10).

The Claimant was referred to Dr. John M. Ernst, a hand specialist, for evaluation and treatment of his right thumb injury. The Claimant saw Dr. Ernst on February 23, 2017. Dr. Ernst performed x-rays, diagnosed right thumb stenosing flexor tenosynovitis, and prescribed anti-inflammatory medication. (APA 2, p. 11). The Claimant returned to see Dr. Ernst on February 28, 2017 at which time Dr. Ernst discontinued use of the thumb brace prescribed by NP Boyd and performed an

injection of the A1 pulley of the Claimant's right thumb. (APA 2, p. 14). Dr. Ernst's exam revealed apparent triggers. (APA 2, p. 16). The Claimant returned to see Dr. Ernst on March 21, 2017 reporting some post-injection improvement but residual tenderness. (APA 2, p. 18). Dr. Ernst diagnosed a right trigger thumb and recommended release surgery. (APA 2, p. 19). Dr. Ernst performed right trigger thumb release surgery on May 19, 2017. (APA 2, p. 23). Post-surgery the Claimant was seen by Sawyer A. Langston, PA-C, on May 31, 2017 who reported good surgical healing and issued work restrictions of 1 pound for a week, 2 pounds for the following week, and 5 pounds the third week. (APA 2, pp. 23, 25). The Claimant returned to see PA Langston on June 21, 2017 who prescribed exercises, scar massage, and referred the Claimant for occupational therapy for stretching and to improve range of motion. (APA 2, p. 26). PA Langston released the Claimant to return to full duty with regard to his right thumb injury. (APA 2, p. 30). The Claimant returned to see Dr. Ernst on July 19, 2017 at which time Dr. Ernst released the Claimant and assigned a 5% permanent impairment of his right thumb as reflected in the WCC Form 14B completed on August 10, 2017. (APA 2, pp. 32 – 33A).

The Claimant was referred to Dr. Kenneth M. Caldwell, an orthopedic surgeon, for evaluation and treatment of his left knee injury. The Claimant saw Dr. Caldwell on March 2, 2017. (APA 3, p. 34). Dr. Caldwell reviewed an MRI scan of the Claimant's left knee that revealed an undersurface tear to the posterior horn of the medial meniscus, an abnormality of the lateral meniscus, and patellofemoral chondromalacia. (APA 3, p. 35; APA 7, p. 131). Dr. Caldwell ordered physical therapy

but discussed possible surgery and placed the Claimant off work for 4 – 6 weeks. The Claimant returned to see Dr. Caldwell on April 10, 2017 reporting some improvement with therapy. Dr. Caldwell returned the Claimant to light duty work. (APA 3, p. 40). The Claimant returned to see Dr. Caldwell on May 25, 2017 at which visit there was no improvement with physical therapy reported, Dr. Caldwell recommended arthroscopy with a partial medial meniscectomy, and placed the Claimant off work until after surgery. (APA 3, p. 43). Dr. Caldwell performed surgery on June 14, 2017. The operative report noted, "The patient had a complex marginal tear of the posterior horn of the medial meniscus involving approximately 20% of the marginal surface..." (APA 3, p. 45). The Claimant was seen post-surgery by Erin N. Watrobski, PA, on June 22, 2017 who referred the Claimant for physical therapy and kept the Claimant off work. (APA 3, pp. 49 – 50). The Claimant was seen by Dr. Caldwell on August 15, 207 at which time he was reported to continue to make slow progress but to complain of diffuse left knee pain. (APA 3, p. 51). The Claimant was seen by Dr. Caldwell on September 19, 2017 at which time he was still using a cane and reported having problems walking up and down stairs. Dr. Caldwell referred the Claimant for work hardening physical therapy but released him for light duty work. (APA 3, pp. 55, 57). The Claimant was seen by Dr. Caldwell on October 31, 2017 and it was reported he was not tolerating the squatting, kneeling of the work hardening physical therapy, was still using a cane, had developed a mild antalgic gait, and complained of a "popping" in knee when climbing stairs. (APA 3, pp. 58 - 59). Dr. Caldwell continued the work hardening physical therapy and ordered an FCE. (APA 3, p. 60).

The Claimant completed an FCE on January 23, 2018. (APA 5, pp. 93 – 118). The Claimant gave good effort and the results of the FCE were deemed reliable. (APA 3, p. 60A). Based on the results of the FCE, Dr. Caldwell concluded the Claimant could perform light to medium work with limited kneeling, squatting, or lifting more than 35 pounds but was precluded from returning to his job of a municipal maintenance worker. Dr. Caldwell noted persistent atrophy of the Claimant's left thigh musculature and rated the Claimant having an 11% impairment of his left leg as reflected on a Form 14B completed on February 13, 2018. (APA 3, p. 60A, 61).

The Claimant was seen by Dr. Adam C. Schaaf of Lowcountry Orthopedics for an IME on March 9, 2018. Dr. Schaaf was asked to examine and evaluate the Claimant's right ankle and left knee injuries. Dr. Schaaf noted the Claimant walked with a mild antalgic gait and exhibited mild quad atrophy. (APA 8, p. 133). Dr. Schaaf reviewed the x-rays and MRI's taken of the Claimant's right ankle and left knee. Dr. Schaaf noted, "He has not had a repeat MRI since his surgery and I would recommend one to evaluate a recurrent tear or cartilage issues not evident on plain film." He recommended a knee brace and injection. He also recommended a foot orthotic. (APA 8, p. 134). Dr. Schaff rated the Claimant as having a 14% permanent impairment of his left leg and 5% permanent impairment of his right ankle. (APA 8, p. 134).

The Claimant was seen by Dr. Daniel A. Wartinbee of the S.C. Sports Medicine and Orthopedic Center, for an IME on June 22, 2018. Dr. Wartinbee was asked to evaluate the Claimant's right thumb injury. Dr. Wartinbee concluded the Claimant

displayed clinical symptoms of aseptic tenosynovitis of the flexor pollicis longus tendon of the thumb with scar tissue formation, potential ganglion formation, and residual stenosing with crepitation at the A1 pulley. (APA 9, p. 139). Dr. Wartinbee recommended a repeat MRI, anti-inflammatory medication, and a potential cortisone injection of the thumb. Dr. Wartinbee assigned an 11% permanent impairment of the Claimant's right arm or 12% permanent impairment of his right hand. (APA 9, p. 139).

The Claimant testified he is 58 years old. He completed the ninth grade and later completed a correspondence course from which he obtained a certificate that does not qualify as a GED. He is married and has five children, only one of whom remains dependent upon him for support. Prior to his admitted injuries, the Claimant was not having any problems with, or receiving any medical treatment for, his left knee, right ankle, or right thumb.

After leaving school the Claimant went to work at Moore Drums for approximately a year and a half loading and unloading 55-gallon oil drums weighing 60 to 110 pounds. The Claimant then went to work at the South Carolina State Ports Authority for a year loading and unloading trucks and rail cars frequently lifting and moving 90 to 110 pounds. Toward the end of his employment with the Ports Authority the Claimant began operating a "clamp" machine lifting and moving rolls of paper for storage in a warehouse. After the Ports Authority the Claimant began working for the City of North Charleston where he worked for 30 years and 4 months before his admitted injuries. His last job classification was "Equipment Operator II." A copy of

his job description was entered as an exhibit. (APA 11, pp. 148 – 151). He normally operated a street sweeper but also operated other equipment when his street sweeper was being serviced or was broken down. The Claimant was required to climb into and out of the vehicles using handrails and climbing a ladder to enter the vehicle. Operating the street sweeper required him to frequently climb in and out of the cab to remove debris in the roadway or stuck in the sweeper's suction hood. He testified, "You can have to move anything from one pound to fifty pounds, sixty pounds. Sometimes carpet weighs up to two-hundred pounds. You just have to drag it off the road." (Tr. 23, lines 16-19). All his work for the City of North Charleston required frequent stooping, twisting, and bending. The Claimant testified the restrictions placed upon him by his treating physicians prevented him from returning to his job and the City was unable to offer him other work consistent with his restrictions.

The undersigned observed the Claimant's right thumb. The Claimant is unable to make a fist. His right thumb pain is approximately a 4 out of 10 on a bad day and a 2 out of 10 on a good day. The Claimant testified he has lost about 50% of the grip strength in his right hand and experiences a sharp, stabbing pain that makes it difficult to grab and lift objects with his right hand.

Claimant testified he continues to experience swelling across the base of his right ankle if he walks for thirty minutes, walks uphill, or climbs stairs. He uses a cane if he does not know the terrain where he will be walking. He testified his average pain on a good day is a 3 but, on a bad day, it is a 6 or 7. The Claimant testified his right ankle injury aggravates his left knee injury.

Claimant testified Dr. Kenneth Caldwell was a good doctor but he has had continued knee pain since his surgery. He testified he can walk approximately fifteen minutes before having to stop because of pain. He attempts to walk for exercise, however, must ice his knee. His average level of pain in his left knee is approximately a 4 but, on a bad day, is a 6. Claimant stated, unless something is done to improve his left knee, he is unable to return to his job with the City or any other job he has performed.

Claimant testified he's applied for all the jobs shown in the employment applications included in his APA submissions. (APA 12, pp. 152 – 204). He testified he cannot type and lacks computer skills disqualifying him from many jobs. He applied for 20 to 30 jobs since Dr. Caldwell released him but only got two interviews and no job offers.

Under cross-examination, Mr. Nelson admitted, except for pain at the base of his thumb when he tries to grab an object, his thumb is not painful. The Claimant was challenged on whether he had ankle swelling. When he removed his shoe and sock the undersigned noted, "obviously, the foot seems to be a little more enlarged, I guess, from the swelling, than the other - - the other foot." (Tr. p 49, ll. 19 - 22). The Claimant testified he no longer walks as much as he did when his discovery deposition was taken because his right knee pain increases when he walks for more than fifteen minutes. The Claimant admitted he has not applied for jobs requiring a CDL license but explained he does not believe his knee and ankle injuries would allow him to work as a truck driver. He added he did apply for work as a delivery driver for Lowe's but

was not offered a job. Claimant testified he has qualified for disability retirement benefits from the City of North Charleston and receives $1,400.25 per month after taxes are withheld.

The Defendants submitted an investigative videotape of the Claimant but it was not particularly probative of any issue in the case and, therefore, was given little, if any, weight.

The Defendants submitted the vocational evaluation of Joel Leonard, CRE, CVC, prepared on June 8, 2018. Mr. Leonard incorrectly assumed the Claimant earned a high school diploma. After reviewing the Claimant's work history and possession of a class B CDL, Mr. Leonard did not feel the Claimant is a good candidate for academic training or qualified for skilled occupations. Testing revealed the Claimant scored in the 66th percentile on intelligence/aptitude and in 83rd percentile the verbal and visual areas. His overall IQ was 71 placing him in the borderline intellectual functioning range. Mr. Leonard reviewed the video tape of the Claimant and stated it did not contradict the Claimant's statements regarding his limitations. (APA 6, p. 125). Mr. Leonard acknowledged, if the Claimant's description of his limitations was accepted, he would be considered vocationally disabled. If only the restrictions placed on the Claimant by the authorized treating physicians and the FCE were considered, then Mr. Leonard agreed the Claimant could not return to his previous employment but opined the Claimant has the ability to perform other work such as a medical lab courier, shuttle driver, assembly and process inspector,

production worker, or gate guard and could earn approximately $444.80 per week. (APA 6, pp. 119 -129).

The Claimant submitted the vocational evaluation of David R. Price, M. Ed., CRC, dated April 20, 2018. Mr. Price reported the Claimant had an eighth-grade education and educational testing revealed a full-scale IQ score of 86 placing him in the lower than average range of intelligence. Mr. Price reviewed the Claimant' work restrictions of no lifting greater than 35 pounds and no kneeling, climbing, and squatting. Based on the Claimant's education, work history, training, physical impairments and restrictions Mr. Price concluded, "...Fred Nelson is no longer capable of gainful employment and is in a state of complete vocational disability."

FINDINGS OF FACT

Based upon the Commission file, the stipulations of the parties, the testimony of the Claimant, and the APA and evidentiary submissions submitted into the record, the undersigned Commissioner makes the following findings of fact as required by S.C. Code Anno., § 42-17-40:

FIRST: It is stipulated the South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: It is stipulated venue is proper in Charleston County.

THIRD: It is stipulated the Claimant sustained admitted injuries by accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift.

FOURTH: It is stipulated the Claimant was a covered employee, the Employer was a covered Employer, and an Employee/Employer relationship existed at the time of the Claimant's admitted accidental injury.

FIFTH: It is stipulated this claim was heard by the undersigned Commissioner on July 12, 2018 in accordance with notices timely served upon all parties.

SIXTH: It is stipulated the Claimant's average weekly wage was $863.51 making the corresponding compensation rate $575.70 per week.

SEVENTH: The Claimant testified at the hearing. He answered questions in a forthright manner. He description of his injuries and resulting problems was consistent with the medical evidence and my observations of his injuries at the hearing.

EIGHTH: The Claimant is closely approaching advanced age. He is 59 years old.

NINTH: The Claimant has a limited or less education. He completed the ninth grade. He received a certificate from a non-accredited correspondence school that does not qualify as a GED. Vocational aptitude testing performed by both vocational experts placed the Claimant at a 9.4 grade level for sentence comprehension and at a 4.8 grade level for math computation. IQ testing by the vocational experts placed the Claimant in the borderline intellectual functioning to lower than average intelligence range.

ELEVENTH: The Claimant is married. He had 5 children but only one remains dependent upon him for support.

TWELFTH: The Claimant has a good work history with no gaps in employment. He worked continuously for the City of North Charleston, the job in which he was injured, for over 30 years. He has always worked jobs in the medium to heavy, unskilled to semi-skilled category. He worked for Moore Drums for a year and a half loading and unloading 55-gallon oil drums weighing 60 to 110 pounds. He worked for the South Carolina State Ports Authority for a year loading and unloading trucks and rail cars frequently lifting and moving 90 to 110 pounds. After the Ports Authority the Claimant began working for the City of North Charleston. His last job classification for the City was an "Equipment Operator II." He was required to have a CDL Class A driver's license, to frequently lift up to 50 pounds and occasionally lift up to 100 pounds. He normally operated a street sweeper but also operated other equipment when his street sweeper was being serviced or was broken down. He was frequently required to climb in and out of the street sweeper using handrails, like climbing a ladder, to remove debris in the roadway or stuck in the sweeper's suction hood. His work required frequent stooping, twisting, and bending.

THIRTEENTH: Prior to his admitted injuries the Claimant was not having any problems with or receiving any medical treatment for his right ankle, left knee, or right thumb.

FOURTEENTH: The Claimant suffered admitted injuries to his right ankle, left knee, and right thumb November 29, 2016. The Claimant received treatment for

his right ankle by Dr. Robert Lowery, for his left knee by Dr. Kenneth Caldwell who performed arthroscopic surgery, and for his right thumb by Dr. John Ernst who performed release surgery. The Claimant also received IME evaluations from Dr. Schaff for his left knee and right ankle and from Dr. Wartinbee for his right thumb. The Claimant was assigned permanent impairment ratings of 0% to 5% for his right ankle; of 5% to 12% for his right hand; and of 11% to 14% to his left knee.

FIFTEENTH: The Claimant testified he continues to experience swelling in his right ankle when he walks for thirty minutes, walks uphill, or climbs stairs. The Claimant removed his shoe and sock and the undersigned noted swelling of his right foot. The Claimant testified experiences pain from a level of 3 to 7 on a scale of 10. He testified his right ankle aggravates his left knee injury. The Claimant testified he continues to experience pain in his left knee since his surgery. He testified he can walk approximately fifteen minutes before having to stop because of pain. He testified, unless something is done to improve his left knee pain, he is unable to return to any job he has performed in the past including truck driving. Dr. Caldwell noted the Claimant has developed a mild antalgic gait, complained of a "popping" in knee when climbing stairs, and exhibited persistent atrophy of his left thigh musculature. The Claimant testified he experiences knee pain from a level of 4 to 6 on a scale of 10. The Claimant testified and the undersigned observed he is unable to make a fist because of his right thumb injury. He testified he has lost about 50% of the grip strength in his right hand and experiences a sharp, stabbing pain that makes it difficult to grab and lift heavy objects with his right hand. The

Claimant testified he experiences right thumb pain from a level of 2 to 4 on a scale of 10.

SIXTEENTH: The Claimant completed an FCE ordered by Dr. Caldwell on January 23, 2018. The FCE tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The evaluator referenced the *Dictionary of Occupational Titles* and stated the Claimant's job was in the medium to heavy range of work and required climbing, balancing, stooping, crouching, crawling, static and dynamic standing, walking, and sitting up to 1/3 of the day. Based on the results of the FCE the evaluator concluded, "Mr. Nelson is not capable of performing the physical demand of the target job of municipal maintenance worker." (emphasis added)

SEVENTEENTH: Based on the results of the FCE, Dr. Caldwell concluded the Claimant would be limited to light to medium work with limited kneeling and squatting, and no lifting over 35 pounds precluding him from returning to the job with the City he had performed for over thirty years.

EIGHTEENTH: Based on the limitations given by Dr. Caldwell, the City determined it was unable to provide the Claimant with other suitable employment and approved the Claimant for retirement.

NINETEENTH: The Claimant was evaluated by David R. Price, M. ED., CRC, a vocational consultant. In his report dated April 20, 2018 Mr. Price noted his restrictions prevented the Claimant from returned to his job and was required to take early retirement. Mr. Price noted the Claimant's entire work experience involved heavy, manual labor. He concluded the Claimant lacked education or transferable skills to transfer into clerical, administrative, managerial, or technical work. He concluded the Claimant's knee pain, swelling, and intolerance to prolonged sitting would preclude him from performing sedentary work. He further concluded the same symptoms would preclude him from being able to work on his feet or at a sustained, productive pace. He concluded the Claimant is unemployable, cannot compete in the open labor market, and is not a candidate for vocational rehabilitation.

TWENTIETH: The Claimant was also evaluated by Joel D. Leonard, CRC, CVE, a vocational consultant, on June 8, 2018. Mr. Leonard reviewed the Claimant's subjective descriptions of his injuries and medical treatment in detail. He observed the Claimant's behavior during the evaluation and noted the Claimant attended the evaluation in a diligent manner, shifted his posture (up/down) during throughout the evaluation, extended and contracted his left leg in a recurring manner, and walked in an augmented manner favoring his left leg. He noted the Claimant's favorable employment history. He noted the Claimant possesses a CDL driver's license but failed to mention his lack of a current medical certificate. He noted the Claimant has no meaningful computer skills, has a limited base of acquired skills, and his test scores both preclude various work fields and are not supportive of further training.

Mr. Leonard postulated three separate employment profiles he labeled as A, B, C. Profile A would accept the Claimant's description of the severity of his physical limitations and conclude the Claimant is vocationally disabled. Profile B would defer any opinion concerning employability until after the Claimant received further evaluation and treatment for his left knee pain. Profile B is no longer applicable because the Appellate Panel ruled the Claimant reached MMI on February 8, 2018 and is not entitled to further medical treatment. And, Profile C would discount the Claimant's subjective description of his symptoms and limitations and consider only to the impairment ratings of the treating physicians and FCE and conclude, although the Claimant is precluded from returning to past work, there are other jobs the Claimant can still perform.

TWENTY-FIRST: The Defendants submitted an investigative videotape of the Claimant but it was not found to be particularly probative of any issue in the case. Mr. Leonard also viewed the videotape and concluded it did not show the Claimant engaging in any activities inconsistent with his described symptoms and limitations.

TWENTY-SECOND: The Claimant testified he diligently applied for numerous jobs. He submitted copies the applications he submitted to various potential employers. He testified he cannot type and lacks computer skills disqualifying him from many jobs. He got two interviews and no job offers.

CONCLUSIONS OF LAW

Based upon the findings of fact set forth above, the undersigned Commissioner makes the following conclusions of law as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The burden of proof applicable to a claim for Workers' Compensation benefits is preponderance of the evidence. The Claimant must establish facts that entitle him to an award by the preponderance of the evidence. Walsh v. U.S. Rubber Co., 120 S.E.2d 685 (S.C. 1961).

SECOND: Under S.C. Code Anno., § 42-1-130, the Claimant was a covered employee at the time of his accident on November 29, 2016.

THIRD: Under S.C. Code Anno., § 42-1-140, the Defendant/Employer was a covered employer under the Act at the time of the Claimant's admitted injuries on November 29, 2016

FOURTH: Under S.C. Code Anno., § 42-1-140, Average Weekly Wage is defined.

FIFTH: Under S.C. Code Anno., § 42-1-160, the Claimant sustained admitted compensable injuries by accident to his right ankle, left knee, and right thumb.

SIXTH: Maximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion, there no further medical care or treatment which will lessen the degree of impairment. O'Banner v. Westinghouse Elec. Corp. 459 S.E.2d 324, 327 (Ct. App.1995). The Appellate Panel, the Claimant reached maximum medical improvement on February 8, 2018.

SEVENTH: Because the Claimant suffered admitted injuries to his right ankle, left knee, and right thumb, he is not limited to a scheduled award under S.C. Code Anno., § 42-9-30. The policy behind allowing a Claimant to proceed under the general disability provision of S.C. Code Anno., §42-9-10, allows the Claimant whose injury affects more than one scheduled body part provides a claimant with the opportunity to establish a disability greater than the presumptive disability provided under the scheduled member section by proving a loss of wage earning capacity. Brown v. Owens Steel Co. Inc. 316 SC 278, 450 S.E.2d 57 (S.C. App. 1994).

NINTH: Total disability does not require complete helplessness. Inability to perform common labor is total disabling for one who is not qualified by training or experience for any other employment. Wynn v. Peoples Natural Gas Co. 238 S.C.1, 118 S. E. 2d 812 (1961); Colvin v. E. I. DuPont De Nemours and Co. 227 S.C. 465, 88 S.E. 2d 581 (1955); Coleman v Quality Concrete Products Inc. 245 S.C. 626, 142 S.E. 2d 143 (1965)

TENTH: The greater weight of the evidence establishes the Claimant is disabled from gainful employment and has suffered the loss of his wage-earning capacity. Claimant testified at the hearing in a forthright manner. He has a solid work history having worked for the Defendant employer for over 30 years. His description of his injuries and resulting symptoms was consistent with the medical evidence and consistent with my observations of his injuries at the hearing. The authorized treating physician, Dr. Caldwell, and the City agreed the Claimant was unable to return to his prior job as an equipment operator. The City was unable to

find other suitable employment for the Claimant consistent with his physical restrictions. The FCE ordered by Dr. Caldwell tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The surveillance video reviewed by the undersigned and the Defendant's vocational expert did not show the Claimant engaging in any activities inconsistent with his description of his symptoms. The Claimant diligently applied for numerous jobs, received only two interviews, and no job offers after he was released by Dr. Caldwell. I conclude the Claimant's descriptions of his symptoms and limitations are reliable. Based on the Claimant advanced age, his limited or less education, lack of transferable skills, his medical impairment ratings to his right ankle, left knee, and right thumb, his complaints of pain, and based on the vocational opinions of Mr. Price and Profile A of the vocational evaluation of Mr. Leonard, I conclude the Claimant is totally disabled and entitled to benefits under S.C. Code Anno., §42-9-10(A).

ORDER AND AWARD

Based on the foregoing findings of fact and conclusions of law it is hereby:

ORDERED, Adjudged, and Decreed the Claimant has met his burden of proof, established he has been rendered permanently and totally disabled under the provisions of pursuant to § 42-9-10 (A), and is entitled to receive

weekly compensation at his compensation rate of Five Hundred and Seventy-five and 70/100 ($575.70), for a period of Five Hundred weeks from the date of his admitted injury on November 29, 2016; and it is

ORDERED, Adjudged, and Decreed the Defendants are entitled to credit for all weeks of temporary total compensation paid to date, including any temporary total compensation paid after the Claimant reached maximum medical improvement on February 8, 2018; and it is

ORDERED, Adjudged, and Decreed the Defendants shall be responsible for all medical expenses related to the Claimant's treatment by the authorized treating physicians, Dr. Lowery, Dr. Ernst, and Dr. Caldwell, including any hospital and surgical expenses incurred; and it is

ORDERED, Adjudged, and Decreed that the Claimant does not require any medical treatment or modalities at the present time.

AND IT IS SO ORDERED.

No hearing costs are assessed.

Mike Campbell

Commissioner Mike Campbell

Dated: August 16, 2019

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.

August 16, 2019

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell

DECISION AND ORDER OF THE APPELLATE PANEL OF THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NUMBER: 1618027

FREDERICK NELSON, Employee, Respondent,

-Vs.-

CITY OF NORTH CHARLESTON, Employer,

and

CITY OF NORTH CHARLESTON, Carrier. Appellants

Appellate Panel Review
Columbia, South Carolina
November 19, 2019

Appellate Panel Decision and Order,
assigned to Commissioner Beck,
filed on March 27 2020

Malcolm M. Crosland, Jr., Esquire, of Steinberg Law Firm, L.L.P., on behalf of Respondent.

Johnnie W. Baxley, Esquire, of Willson, Jones, Carter, & Baxley, PA, on behalf of the Employer and Carrier/Appellants.

PROCEDURAL HISTORY

The claim was heard before the Single Commissioner on July 12, 2018. The Single Commissioner issued a Decision and Order dated September 19, 2018. The stipulations of the parties and the parties APA submissions are fully set forth in the Single Commissioner's Order and are fully incorporated herein. The Single Commissioner found the Claimant was not at maximum medical improvement and was entitled to a left knee MRI, a left knee brace, and right ankle custom orthotic as recommended by Dr. Adam Schaaf. All other issues, including the Defendants' right to a credit for over payment of temporary total disability and permanency, were held in abeyance.

The Defendants timely requested review of the Findings of Fact the Claimant had not reached maximum medical improvement and was entitled to the medical treatment recommended by Dr. Schaaf on the grounds the Single Commissioner failed to provide a basis for giving greater weight to the opinion of Dr. Schaaf over the opinion of the authorized treating physician, Dr. Kenneth Caldwell.

The Appellate Panel issued its Decision and Order dated April 22, 2019 finding the Claimant had reached maximum medical improvement on February 8, 2018, granting the Defendants a credit for overpayment of temporary total compensation after that date, ruling the Claimant was not entitled to additional medical treatment, and remanding the claim back to the original hearing Commissioner to determine the extent of the Claimant's permanent disability based on the record as of April 22, 2019 hearing.

The Single Commissioner issued his Order dated August 16, 2019 which made the following findings of Fact and Conclusions of Law:

FINDINGS OF FACT

FIRST: It is stipulated the South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: It is stipulated venue is proper in Charleston County.

THIRD: It is stipulated the Claimant sustained admitted injuries by accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift.

FOURTH: It is stipulated the Claimant was a covered employee, the Employer was a covered Employer, and an Employee/Employer relationship existed at the time of the Claimant's admitted accidental injury.

FIFTH: It is stipulated this claim was heard by the undersigned Commissioner on July 12, 2018 in accordance with notices timely served upon all parties.

SIXTH: It is stipulated the Claimant's average weekly wage was $863.51 making the corresponding compensation rate $575.70 per week.

SEVENTH: The Claimant testified at the hearing. He answered questions in a forthright manner. His description of his injuries and resulting problems was consistent with the medical evidence and my observations of his injuries at the hearing.

EIGHTH: The Claimant is closely approaching advanced age. He is 59 years old.

NINTH: The Claimant has a limited or less education. He hasn't completed the ninth grade. He received a certificate from a non-accredited correspondence school that does not qualify as a GED. Vocational aptitude testing performed by both parties' vocational experts placed the Claimant at a 9.4 grade level for sentence comprehension

and at a 4.8 grade level for math computation. IQ testing by the vocational experts placed the Claimant in the borderline intellectual functioning to lower than average intelligence range.

ELEVENTH: The Claimant is married. He had five (5) children but only one remains dependent upon him for support.

TWELFTH: The Claimant has a good work history with no gaps in employment. He worked continuously for the City of North Charleston, the job in which he was injured, for over 30 years. He has always worked jobs in the medium to heavy, unskilled to semi-skilled category. He worked for Moore Drums for a year and a half loading and unloading 55-gallon oil drums weighing 60 to 110 pounds. He worked for the South Carolina State Ports Authority for a year loading and unloading trucks and rail cars frequently lifting and moving 90 to 110 pounds. After the Ports Authority the Claimant began working for the City of North Charleston. His last job classification for the City was an "Equipment Operator II." He was required to have a CDL Class A driver's license, to frequently lift up to 50 pounds and occasionally lift up to 100 pounds. He normally operated a street sweeper but also operated other equipment when his street sweeper was being serviced or was broken down. He was frequently required to climb in and out of the street sweeper using handrails, like climbing a ladder, to remove debris in the roadway or stuck in the sweeper's suction hood. His work required frequent stooping, twisting, and bending.

THIRTEENTH: Prior to his admitted injuries the Claimant was not having any problems with or receiving any medical treatment for his right ankle, left knee, or right thumb.

FOURTEENTH: The Claimant suffered admitted injuries to his right ankle, left knee, and right thumb November 29, 2016. The Claimant received treatment for his right ankle by Dr. Robert Lowery, for his left knee by Dr. Kenneth Caldwell who performed arthroscopic surgery, and for his right thumb by Dr. John Ernst who performed release surgery. The Claimant also received IME evaluations from Dr. Schaff for his left knee and right ankle and from Dr. Wartinbee for his right thumb. The Claimant was assigned permanent impairment ratings of 0% to 5% for his right ankle; of 5% to 12% for his right hand; and of 11% to 14% to his left knee.

FIFTEENTH: The Claimant testified he continues to experience swelling in his right ankle when he walks for thirty minutes, walks uphill, or climbs stairs. The Claimant removed his shoe and sock and the undersigned noted swelling of his right foot. The Claimant testified experiences pain from a level of 3 to 7 on a scale of 10. He testified his right ankle aggravates his left knee injury. The Claimant testified he continues to experience pain in his left knee since his surgery. He testified he can walk approximately fifteen minutes before having to stop because of pain. He testified, unless something is done to improve his left knee pain, he is unable to return to any job he has performed in the past including truck driving. Dr. Caldwell noted the Claimant has developed a mild antalgic gait, complained of a "popping" in knee when climbing stairs, and exhibited persistent atrophy of his left thigh musculature. The Claimant testified he experiences knee pain from a level of 4 to 6 on a scale of 10. The Claimant testified and the undersigned observed he is unable to make a fist because of his right thumb injury. He testified he has lost about 50% of the grip strength in his right hand and experiences a sharp, stabbing pain that makes it difficult to grab and lift heavy objects with his right

hand. The Claimant testified he experiences right thumb pain from a level of 2 to 4 on a scale of 10.

SIXTEENTH: The Claimant completed an FCE ordered by Dr. Caldwell on January 23, 2018. The FCE tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The evaluator referenced the *Dictionary of Occupational Titles* and stated the Claimant's job was in the medium to heavy range of work and required climbing, balancing, stooping, crouching, crawling, static and dynamic standing, walking, and sitting up to 1/3 of the day. Based on the results of the FCE the evaluator concluded, "Mr. Nelson is not capable of performing the physical demand of the target job of municipal maintenance worker." (emphasis added)

SEVENTEENTH: Based on the results of the FCE, Dr. Caldwell concluded the Claimant would be limited to light to medium work with limited kneeling and squatting, and no lifting over 35 pounds precluding him from returning to the job with the City he had performed for over thirty years.

EIGHTEENTH: Based on the limitations given by Dr. Caldwell, the City determined it was unable to provide the Claimant with other suitable employment and approved the Claimant for retirement.

NINETEENTH: The Claimant was evaluated by David R. Price, M. ED., CRC, a vocational consultant. In his report dated April 20, 2018 Mr. Price noted his restrictions

prevented the Claimant from returned to his job and was required to take early retirement. Mr. Price noted the Claimant's entire work experience involved heavy, manual labor. He concluded the Claimant lacked education or transferable skills to transfer into clerical, administrative, managerial, or technical work. He concluded the Claimant's knee pain, swelling, and intolerance to prolonged sitting would preclude him from performing sedentary work. He further concluded the same symptoms would preclude him from being able to work on his feet or at a sustained, productive pace. He concluded the Claimant is unemployable, cannot compete in the open labor market, and is not a candidate for vocational rehabilitation.

TWENTIETH: The Claimant was also evaluated by Joel D. Leonard, CRC, CVE, a vocational consultant, on June 8, 2018. Mr. Leonard reviewed the Claimant's subjective descriptions of his injuries and medical treatment in detail. He observed the Claimant's behavior during the evaluation and noted the Claimant attended the evaluation in a diligent manner, shifted his posture (up/down) during throughout the evaluation, extended and contracted his left leg in a recurring manner, and walked in an augmented manner favoring his left leg. He noted the Claimant's favorable employment history. He noted the Claimant possesses a CDL driver's license but failed to mention his lack of a current medical certificate. He noted the Claimant has no meaningful computer skills, has a limited base of acquired skills, and his test scores both preclude various work fields and are not supportive of further training. Mr. Leonard postulated three separate employment profiles he labeled as A, B, C. Profile A would accept the Claimant's description of the severity of his physical limitations and conclude the Claimant is vocationally disabled. Profile B would defer any opinion concerning employability until

after the Claimant received further evaluation and treatment for his left knee pain. Profile B is no longer applicable because the Appellate Panel ruled the Claimant reached MMI on February 8, 2018 and is not entitled to further medical treatment. And, Profile C would discount the Claimant's subjective description of his symptoms and limitations and consider only to the impairment ratings of the treating physicians and FCE and conclude, although the Claimant is precluded from returning to past work, there are other jobs the Claimant can still perform.

TWENTY-FIRST: The Defendants submitted an investigative videotape of the Claimant but it was not found to be particularly probative of any issue in the case. Mr. Leonard also viewed the videotape and concluded it did not show the Claimant engaging in any activities inconsistent with his described symptoms and limitations.

TWENTY-SECOND: The Claimant testified he diligently applied for numerous jobs. He submitted copies the applications he submitted to various potential employers. He testified he cannot type and lacks computer skills disqualifying him from many jobs. He got two interviews and no job offers.

CONCLUSIONS OF LAW

Based upon the findings of fact set forth above, the undersigned Commissioner makes the following conclusions of law as required by S.C. Code Anno., § 42-17-40, 1976, as amended:

FIRST: The burden of proof applicable to a claim for Workers' Compensation benefits is preponderance of the evidence. The Claimant must establish facts that entitle him to an award by the preponderance of the evidence. Walsh v. U.S. Rubber Co., 120 S.E.2d 685 (S.C. 1961).

SECOND: Under S.C. Code Anno., § 42-1-130, the Claimant was a covered employee at the time of his accident on November 29, 2016.

THIRD: Under S.C. Code Anno., § 42-1-140, the Defendant/Employer was a covered employer under the Act at the time of the Claimant's admitted injuries on November 29, 2016

FOURTH: Under S.C. Code Anno., § 42-1-140, Average Weekly Wage is defined.

FIFTH: Under S.C. Code Anno., § 42-1-160, the Claimant sustained admitted compensable injuries by accident to his right ankle, left knee, and right thumb.

SIXTH: Maximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion, there no further medical care or treatment which will lessen the degree of impairment. O'Banner v. Westinghouse Elec. Corp. 459 S.E.2d 324, 327 (Ct. App.1995). The Appellate Panel, the Claimant reached maximum medical improvement on February 8, 2018.

SEVENTH: Because the Claimant suffered admitted injuries to his right ankle, left knee, and right thumb, he is not limited to a scheduled award under S.C. Code Anno., § 42-9-30. The policy behind allowing a Claimant to proceed under the general disability provision of S.C. Code Anno., §42-9-10, allows the Claimant whose injury affects more than one scheduled body part provides a claimant with the opportunity to establish a disability greater than the presumptive disability provided under the scheduled member section by proving a loss of wage earning capacity. Brown v. Owens Steel Co. Inc. 316 SC 278, 450 S.E.2d 57 (S.C. App. 1994).

NINTH: Total disability does not require complete helplessness. Inability to perform common labor is total disabling for one who is not qualified by training or experience for any other employment. Wynn v. Peoples Natural Gas Co. 238 S.C.1, 118 S.E. 2d 812 (1961); Colvin v. E. I. DuPont De Nemours and Co. 227 S.C. 465, 88 S.E. 2d 581 (1955); Coleman v Quality Concrete Products Inc. 245 S.C. 626, 142 S.E. 2d 143 (1965)

TENTH: The greater weight of the evidence establishes the Claimant is disabled from gainful employment and has suffered the loss of his wage-earning capacity. Claimant testified at the hearing in a forthright manner. He has a solid work history having worked for the Defendant employer for over 30 years. His description of his injuries and resulting symptoms was consistent with the medical evidence and consistent with my observations of his injuries at the hearing. The authorized treating physician, Dr. Caldwell, and the City agreed the Claimant was unable to return to his prior job as an equipment operator. The City was unable to find other suitable employment for the Claimant consistent with his physical restrictions. The FCE ordered by Dr. Caldwell tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The surveillance video reviewed by the undersigned and the Defendant's vocational expert did not show the Claimant engaging in any activities inconsistent with his description of his symptoms. The Claimant diligently applied for numerous jobs, received only two interviews, and no

job offers after he was released by Dr. Caldwell. I conclude the Claimant's descriptions of his symptoms and limitations are reliable. Based on the Claimant advanced age, his limited or less education, lack of transferable skills, his medical impairment ratings to his right ankle, left knee, and right thumb, his complaints of pain, and based on the vocational opinions of Mr. Price and Profile A of the vocational evaluation of Mr. Leonard, I conclude the Claimant is totally disabled and entitled to benefits under S.C. Code Anno., §42-9-10(A).

Based upon the record on remand and the Findings of Fact and Conclusions of Law above, to the Hearing Commissioner, the Single Commissioner issued his Decision and Order as follows:

> "Based on the foregoing findings of fact and conclusions of law it is hereby:
>
> **ORDERED**, Adjudged, and Decreed the Claimant has met his burden of proof, established he has been rendered permanently and totally disabled under the provisions of pursuant to § 42-9-10 (A), and is entitled to receive weekly compensation at his compensation rate of Five Hundred and Seventy-five and 70/100 ($575.70), for a period of Five Hundred weeks from the date of his admitted injury on November 29, 2016; and it is
>
> **ORDERED**, Adjudged, and Decreed the Defendants are entitled to credit for all weeks of temporary total compensation paid to date, including any temporary total compensation paid after the Claimant reached maximum medical improvement on February 8, 2018; and it is

ORDERED, Adjudged, and Decreed the Defendants shall be responsible for all medical expenses related to the Claimant's treatment by the authorized treating physicians, Dr. Lowery, Dr. Ernst, and Dr. Caldwell, including any hospital and surgical expenses incurred; and it is

ORDERED, Adjudged, and Decreed that the Claimant does not require any medical treatment or modalities at the present time."

Following the issuance of the Single Commissioner's Decision and Order, the Defendants timely filed a WCC Form 30 Request for Commission Review asserting the following grounds for review:

1. **It is respectfully submitted that the single Commissioner erred in finding as fact that Claimant is permanently and totally disabled (Findings of Fact #7, #13, #14, #15, #16, #17, #18, #19, #20, #21; Conclusions of Law #9 and #10; and Order), error being that the preponderance of the evidence in the record does not support such an award. The preponderance of the evidence in the record does not support the factual findings made by the Commissioner that form the basis for his opinion that Claimant is totally disabled. Further, the single Commissioner failed to provide to provide a basis or explanation as to how he weighed the evidence or why he completely disregarded certain evidence. These findings/conclusions are also errors of law.**

The Defendant's request for appellate panel review was heard before the Appellate Panel of the South Carolina Workers' Compensation Commission on November 19, 2019 after both parties submitted Memoranda of Law in support of their positions.

After careful review of the entire record below, as well as the parties Memoranda of Law in support of their positions and arguments of counsel, the undersigned members of the Appellate Panel of the South Carolina Workers' Compensation Commission considered the matter and affirm, in its entirety, the Decision and Order of the single Commissioner dated August 16, 2019.

Based on the foregoing, the Appellate Panel of the South Carolina Workers' Compensation make the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

FIRST: It is stipulated the South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: Venue is proper in Richland County for this Appeal.

THIRD: It is stipulated the Claimant sustained admitted injuries by accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift.

FOURTH: It is stipulated the Claimant was a covered employee, the Employer was a covered Employer, and an Employee/Employer relationship existed at the time of the Claimant's admitted accidental injury.

FIFTH: This claim was heard by the undersigned Appellate Panel on November 19, 2019 in accordance with notices timely served upon all parties.

SIXTH: It is stipulated the Claimant's average weekly wage was $863.51 making the corresponding compensation rate $575.70 per week.

SEVENTH: The Claimant testified at the hearing before the single Commissioner. He answered questions in a forthright manner. His description of his injuries and resulting problems was consistent with the medical evidence and the hearing Commissioner's observations of his injuries at the hearing.

EIGHTH: The Claimant is closely approaching advanced age. He was 59 years old at the time of the hearing before the single Commissioner.

NINTH: The Claimant has a limited or less education. He hasn't completed the ninth grade. He received a certificate from a non-accredited correspondence school that does not qualify as a GED. Vocational aptitude testing, performed by both parties' vocational experts who evaluated him, placed the Claimant at a 9.4 grade level for sentence comprehension and at a 4.8 grade level for math computation. IQ testing by the vocational experts placed the Claimant in the borderline intellectual functioning to lower than average intelligence range.

ELEVENTH: The Claimant is married. He had five (5) children but only one remains dependent upon him for support.

TWELFTH: The Claimant has a good work history with no gaps in employment. He worked continuously for the City of North Charleston, the job in which he was injured, for over 30 years. He has always worked jobs in the medium to heavy, unskilled to semi-skilled category. He worked for Moore Drums for a year and a half loading and unloading 55-gallon oil drums weighing 60 to 110 pounds. He worked for the South Carolina State Ports Authority for a year loading and unloading trucks and rail cars frequently lifting and moving 90 to 110 pounds. After the Ports Authority the Claimant began working for the City of North Charleston. His last job classification for the City was

The Defendant's request for appellate panel review was heard before the Appellate Panel of the South Carolina Workers' Compensation Commission on November 19, 2019 after both parties submitted Memoranda of Law in support of their positions.

After careful review of the entire record below, as well as the parties Memoranda of Law in support of their positions and arguments of counsel, the undersigned members of the Appellate Panel of the South Carolina Workers' Compensation Commission considered the matter and affirm, in its entirety, the Decision and Order of the single Commissioner dated August 16, 2019.

Based on the foregoing, the Appellate Panel of the South Carolina Workers' Compensation make the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

FIRST: It is stipulated the South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim.

SECOND: Venue is proper in Richland County for this Appeal.

THIRD: It is stipulated the Claimant sustained admitted injuries by accident arising out of and in course of his employment on November 29, 2016 when he tripped and fell over the blade of a forklift.

FOURTH: It is stipulated the Claimant was a covered employee, the Employer was a covered Employer, and an Employee/Employer relationship existed at the time of the Claimant's admitted accidental injury.

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an "Equipment Operator II." He was required to have a CDL Class A driver's license, to frequently lift up to 50 pounds and occasionally lift up to 100 pounds. He normally operated a street sweeper but also operated other equipment when his street sweeper was being serviced or was broken down. He was frequently required to climb in and out of the street sweeper using handrails, like climbing a ladder, to remove debris in the roadway or stuck in the sweeper's suction hood. His work required frequent stooping, twisting, and bending.

THIRTEENTH: Prior to his admitted injuries the Claimant was not having any problems with or receiving any medical treatment for his right ankle, left knee, or right thumb.

FOURTEENTH: The Claimant suffered admitted injuries to his right ankle, left knee, and right thumb November 29, 2016. The Claimant received treatment for his right ankle by Dr. Robert Lowery, for his left knee by Dr. Kenneth Caldwell who performed arthroscopic surgery, and for his right thumb by Dr. John Ernst who performed release surgery. The Claimant also received IME evaluations from Dr. Adam Schaaf for his left knee and right ankle and from Dr. Daniel Wartinbee for his right thumb. The Claimant was assigned permanent impairment ratings of 0% to 5% for his right ankle; of 5% to 12% for his right hand; and of 11% to 14% to his left knee.

FIFTEENTH: The Claimant testified he continues to experience swelling in his right ankle when he walks for thirty minutes, walks uphill, or climbs stairs. The Claimant removed his shoe and sock and the single commissioner noted swelling of his right foot. The Claimant testified experiences pain from a level of 3 to 7 on a scale of 10. He testified his right ankle aggravates his left knee injury. The Claimant testified he

continues to experience pain in his left knee since his surgery. He testified he can walk approximately fifteen minutes before having to stop because of pain. He testified, unless something is done to improve his left knee pain, he is unable to return to any job he has performed in the past including truck driving. Dr. Caldwell noted the Claimant has developed a mild antalgic gait, complained of a "popping" in knee when climbing stairs, and exhibited persistent atrophy of his left thigh musculature. The Claimant testified he experiences knee pain from a level of 4 to 6 on a scale of 10. The Claimant testified and the single commissioner observed he is unable to make a fist because of his right thumb injury. He testified he has lost about 50% of the grip strength in his right hand and experiences a sharp, stabbing pain that makes it difficult to grab and lift heavy objects with his right hand. The Claimant testified he experiences right thumb pain from a level of 2 to 4 on a scale of 10.

SIXTEENTH: The Claimant completed an FCE ordered by Dr. Caldwell on January 23, 2018. The FCE tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The evaluator referenced the *Dictionary of Occupational Titles* and stated the Claimant's job was in the medium to heavy range of work and required climbing, balancing, stooping, crouching, crawling, static and dynamic standing, walking, and sitting up to 1/3 of the day. Based on the results of the FCE the evaluator concluded, "Mr.

Nelson is not capable of performing the physical demand of the target job of municipal maintenance worker." (emphasis added)

SEVENTEENTH: Based on the results of the FCE, Dr. Caldwell concluded the Claimant would be limited to light to medium work with limited kneeling and squatting, and no lifting over 35 pounds precluding him from returning to the job with the City he had performed for over thirty years.

EIGHTEENTH: Based on the limitations given by Dr. Caldwell, the City determined it was unable to provide the Claimant with other suitable employment and approved the Claimant for retirement.

NINETEENTH: The Claimant was evaluated by David R. Price, M. ED., CRC, a vocational consultant. In his report dated April 20, 2018 Mr. Price noted his restrictions prevented the Claimant from returned to his job and was required to take early retirement. Mr. Price noted the Claimant's entire work experience involved heavy, manual labor. He concluded the Claimant lacked education or transferable skills to transfer into clerical, administrative, managerial, or technical work. He concluded the Claimant's knee pain, swelling, and intolerance to prolonged sitting would preclude him from performing sedentary work. He further concluded the same symptoms would preclude him from being able to work on his feet or at a sustained, productive pace. He concluded the Claimant is unemployable, cannot compete in the open labor market, and is not a candidate for vocational rehabilitation.

TWENTIETH: The Claimant was also evaluated by Joel D. Leonard, CRC, CVE, a vocational consultant, on June 8, 2018. Mr. Leonard reviewed the Claimant's subjective descriptions of his injuries and medical treatment in detail. He observed the

Claimant's behavior during the evaluation and noted the Claimant attended the evaluation in a diligent manner, shifted his posture (up/down) during throughout the evaluation, extended and contracted his left leg in a recurring manner, and walked in an augmented manner favoring his left leg. He noted the Claimant's favorable employment history. He noted the Claimant possesses a CDL driver's license but failed to mention his lack of a current medical certificate. He noted the Claimant has no meaningful computer skills, has a limited base of acquired skills, and his test scores both preclude various work fields and are not supportive of further training. Mr. Leonard postulated three separate employment profiles he labeled as A, B, C. Profile A would accept the Claimant's description of the severity of his physical limitations and conclude the Claimant is vocationally disabled. Profile B would defer any opinion concerning employability until after the Claimant received further evaluation and treatment for his left knee pain. Profile B is no longer applicable because the Appellate Panel ruled the Claimant reached MMI on February 8, 2018 and is not entitled to further medical treatment. And, Profile C would discount the Claimant's subjective description of his symptoms and limitations and consider only to the impairment ratings of the treating physicians and FCE and conclude, although the Claimant is precluded from returning to past work, there are other jobs the Claimant can still perform.

TWENTY-FIRST: The Defendants submitted an investigative videotape of the Claimant but it was not found to be particularly probative of any issue in the case. Mr. Leonard also viewed the videotape and concluded it did not show the Claimant engaging in any activities inconsistent with his described symptoms and limitations.

TWENTY-SECOND: The Claimant testified he diligently applied for numerous jobs. He submitted copies the applications he submitted to various potential employers. He testified he cannot type and lacks computer skills disqualifying him from many jobs. He got two interviews and no job offers.

CONCLUSIONS OF LAW

Based upon the findings of fact set forth above, the Appellate Panel makes the following conclusions of law:

FIRST: The burden of proof applicable to a claim for Workers' Compensation benefits is preponderance of the evidence. The Claimant must establish facts that entitle him to an award by the preponderance of the evidence. Walsh v. U.S. Rubber Co., 120 S.E.2d 685 (S.C. 1961).

SECOND: Under S.C. Code Anno., § 42-1-130, the Claimant was a covered employee at the time of his accident on November 29, 2016.

THIRD: Under S.C. Code Anno., § 42-1-140, the Defendant/Employer was a covered employer under the Act at the time of the Claimant's admitted injuries on November 29, 2016

FOURTH: Under S.C. Code Anno., § 42-1-140, Average Weekly Wage is defined.

FIFTH: Under S.C. Code Anno., § 42-1-160, the Claimant sustained admitted compensable injuries by accident to his right ankle, left knee, and right thumb.

SIXTH: Maximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion, there no further medical care or treatment which will lessen the degree of impairment. O'Banner v.

Westinghouse Elec. Corp. 459 S.E.2d 324, 327 (Ct. App.1995). The Appellate Panel finds the Claimant reached maximum medical improvement on February 8, 201 8.

SEVENTH: Because the Claimant suffered admitted injuries to his right ankle, left knee, and right thumb, he is not limited to a scheduled award under S.C. Code Anno., § 42-9-30. The policy behind allowing a Claimant to proceed under the general disability provision of S.C. Code Anno., §42-9-10, allows the Claimant whose injury affects more than one scheduled body part, provides a claimant with the opportunity to establish a disability greater than the presumptive disability provided under the scheduled member section by proving a loss of wage earning capacity. Brown v. Owens Steel Co., Inc. 316 SC 278, 450 S.E.2d 57 (S.C. App. 1994).

NINTH: Total disability does not require complete helplessness. Inability to perform common labor is totally disabling for one who is not qualified by training or experience for any other employment. Wynn v. Peoples Natural Gas Co. 238 S.C.1, 118 S. E. 2d 812 (1961); Colvin v. E. I. DuPont De Nemours and Co. 227 S.C. 465, 88 S.E. 2d 581 (1955); Coleman v Quality Concrete Products Inc. 245 S.C. 626, 142 S.E. 2d 143 (1965)

TENTH: The greater weight of the evidence establishes the Claimant is disabled from gainful employment and has suffered the loss of his wage-earning capacity. Claimant testified at the hearing in a forthright manner. He has a solid work history having worked for the Defendant employer for over 30 years. His description of his injuries and resulting symptoms was consistent with the medical evidence and consistent with the single Commissioner's observations of his injuries at the hearing. The authorized treating physician, Dr. Caldwell, and the City agreed the Claimant was unable to return to his prior

job as an equipment operator. The City was unable to find other suitable employment for the Claimant consistent with his physical restrictions. The FCE ordered by Dr. Caldwell tested the consistency and reliability of the Claimant's subjective reports of pain. The evaluator concluded the Claimant's subjective ratings of pain and repetitive movements matched well with distraction-based clinical observations. The evaluator noted, "... high levels of effort on [the Claimant's] behalf." The evaluator concluded the testing, combined with clinical observations, were a reliable report of pain and disability. The surveillance video and the Defendant's vocational expert did not show the Claimant engaging in any activities inconsistent with his description of his symptoms. The Claimant diligently applied for numerous jobs, received only two interviews, and no job offers after he was released by Dr. Caldwell. We conclude the Claimant's descriptions of his symptoms and limitations are reliable. Based on the Claimant advanced age, his limited or less education, lack of transferable skills, his medical impairment ratings to his right ankle, left knee, and right thumb, his complaints of pain, and based on the vocational opinions of Mr. Price and Profile A of the vocational evaluation of Mr. Leonard, we conclude the Claimant is totally disabled and entitled to benefits under S.C. Code Anno., §42-9-10(A).

AWARD

Now, based on the foregoing findings of fact and conclusions of law, and in keeping with § 42-17-50 and § 42-17-60, S.C. Code of Laws, 1976 as amended it is hereby:

ORDERED, Adjudged, and Decreed the Claimant has met his burden of proof, established he has been rendered permanently and totally disabled under the provisions of pursuant to § 42-9-10 (A), and is entitled to receive weekly compensation at his compensation rate of Five Hundred and Seventy-five and 70/100 ($575.70), for a period

of Five Hundred weeks from the date of his admitted injury on November 29, 2016; and it is

ORDERED, Adjudged and Decreed, the Decision and Order of the Hearing Commissioner filed August 16, 2019 is affirmed in its entirety.

ORDERED, Adjudged, and Decreed the Defendants are entitled to credit for all weeks of temporary total compensation paid to date, including any temporary total compensation paid after the Claimant reached maximum medical improvement on February 8, 2018; and it is

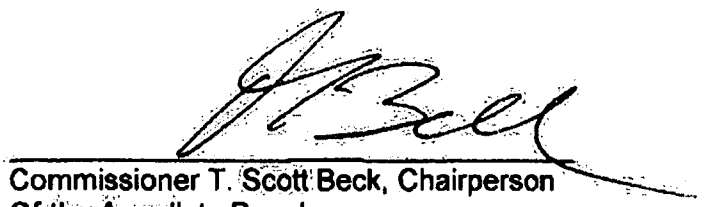
ORDERED, Adjudged, and Decreed the Defendants shall be responsible for all medical expenses related to the Claimant's treatment by the authorized treating physicians, Dr. Lowery, Dr. Ernst, and Dr. Caldwell, including any hospital and surgical expenses incurred; and it is

ORDERED, Adjudged, and Decreed that the Claimant does not require any medical treatment or modalities at the present time.

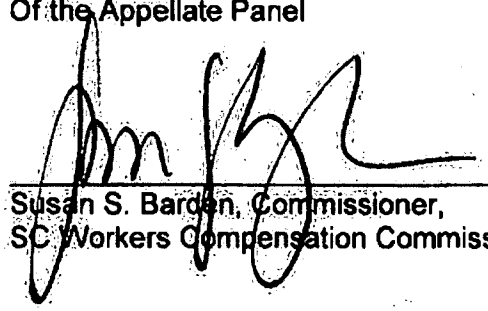
AND IT IS SO ORDERED.

No hearing costs are assessed.

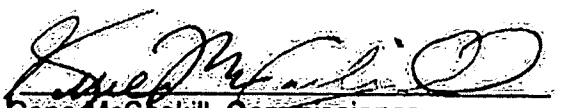
Appellate Panel of the South Carolina Workers Compensation Commission



Commissioner T. Scott Beck, Chairperson
Of the Appellate Panel



Susan S. Barden, Commissioner,
SC Workers Compensation Commission



Gene McCaskill, Commissioner,
SC Workers Compensation Commission

Order Served via E-Mail:

Johnnie W. Baxley, III Wilson, Jones, Carter, and Baxley jwbaxley@wjlaw.net	Malcolm M. Crosland mcrosland@steinberglawfirm.com

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on March 27, 2020

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1618027

Frederick Nelson,

Claimant,

v.

City of North Charleston,

Employer/Defendant.

COPY

COMMISSIONER'S HEARING

****

Thursday, July 12, 2018
2:52 p.m. - 3:52 p.m.

The Commissioner's Hearing was heard before Commissioner Mike Campbell at the Isle of Palms City Hall, 1207 Palm Boulevard, Council Chambers, First Floor, Isle of Palms, South Carolina, on the 12th day of July, 2018, before Amanda J. Creel Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

Malcolm M. Crosland, Jr., Esquire
The Steinberg Law Firm, LLP
61 Broad Street
Charleston, South Carolina 29401
Attorney for the Claimant

Johnnie W. Baxley, III, Esquire
Willson Jones Carter & Baxley, P.A.
421 Wando Park Boulevard, Suite 100
Mount Pleasant, South Carolina 29464
Attorney for the Employer and Carrier Defendant

INDEX

		PAGE
CALL TO ORDER:		
COMMISSIONER		3
MOTION:		
MR. BAXLEY		3
MR. CROSLAND	RESPONSE	4
COMMISSIONER	RULING	6
POSITION STATEMENTS:		
MR. BAXLEY		7
MR. CROSLAND		8
INSTRUCTIONS:		
COMMISSIONER		12
MR. NELSON:		
MR. CROSLAND	DIRECT EXAMINATION	13
MR. BAXLEY	CROSS-EXAMINATION	44
MR. CROSLAND	REDIRECT EXAMINATION	59
MR. BAXLEY	RECROSS-EXAMINATION	60
Certificate		62

EXHIBITS

(No exhibits were marked during the proceeding.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act.

CALL TO ORDER:

COMMISSIONER: Today's hearing date is July 12th, 2018. This is Workers' Compensation Case File Number 1618027. The claimant is Nelson Frederick, represented by Malcolm M. Crosland Jr. The employer is the City of Charleston; the carrier is City of North Charleston -- excuse me, the employer is City of North Charleston; the carrier is City of North Charleston, represented by Johnnie W. Baxley, III. The date of accident is November 29th, 2016. An average weekly wage of $863.51 with a corresponding compensation rate of $575.70. APAs have been submitted. Are there any objections to APAs, jurisdiction, venue, or any other items?

MR. CROSLAND: None from the claimant.

MOTION:

MR. BAXLEY: There are, yeah. We would raise an objection specifically to APA number nine and ten and, I guess, technically twelve of the claimant. But this would also apply to APA number six of ours as to evidence generated after the initial hearing. As I indicated off the record, we were scheduled for a hearing on

April 3, 2018. Just before that hearing, total and permanent disability was alleged, so it kicked us into the mediation regulation. And the basis for the motion at this point is that even though we had to go into mandatory mediation and do all of that, it wasn't a postponement of the claim of any kind other than to mediate the case. And, therefore, all of the evidence generated after that point should be excluded, so that would be our motion at this point.

COMMISSIONER: Okay. And Mr. Crosland, I'll let you respond.

MR. CROSLAND: Yes, sir. To the motion?

COMMISSIONER: Yes.

RESPONSE TO MOTION:

MR. CROSLAND: Yes, sir. With respect to the motion, we would request that the motion be denied. As I indicated to the Court pre-record -- going on the record, this hearing was set very quickly on a Form 21 to pay. The -- I wanna say, the last visit the claimant had with the authorized treating physician, Dr. Caldwell, was in the middle of February and we did not get that office note until sometime in

February and the hearing on the stop pay or to pay was set in the middle of March. So until we actually collected all the records, knew what the record was, and had an opportunity to evaluate the extent of the claimant's disability, we couldn't adequately prepare for a hearing. And based on the report from Dr. Caldwell, it was our contention that the claimant was totally disabled and, hence, we filed a Form 22. And I would disagree with counsel that when -- when the Form 22 was filed and we came to the hearing, by regulation, as you know, the claim was then forced into mediation. The file was returned to the general files of the Commission until it was reset for a hearing before Your Honor. So there were no restrictions placed upon either party to develop any additional witness -- witnesses or evidence to be submitted at the hearing. There was no motion filed by either party to restrict the record in any way, and there's nothing, as I see it, in the defendant's pre-hearing brief where they put anyone on notice that there was any objection to any of the evidence to be submitted. And I

have to admit, this is the first time, I've gotta make a note of it, that I've had the defendants have actually object to their own -- objected to their own exhibit. But be that as it may, Your Honor, we don't think that the motion is appropriate at this late date and, in fairness, to the claimant and to all the parties that all of the evidence generated since the matter was referred to mediation should be allowed in.

RULING ON MOTION:

COMMISSIONER: Okay. And I will go ahead and allow the -- the submissions to come in and will deny the motion. Are there any other objections at this time?

MR. CROSLAND: Nothing from the claimant.

MR. BAXLEY: No, sir.

COMMISSIONER: Without objection, the Commission file becomes a part of the record with the exception of self-serving declarations and unstipulated medical reports. Mr. Baxley, we are here today, sir, on the Form 21 that you filed with the Commission, so, if you would, please put your position on the record and let us know exactly what you're seeking here today, sir.

POSITION STATEMENT BY MR. BAXLEY:

MR. BAXLEY: Sure. Mr. Nelson had injuries to three different body parts. He had a left leg, left lower extremity, right ankle, and right thumb. He was released at maximum medical improvement for all three of those injuries, the last one being the left leg with Dr. Caldwell, which occurred on February 8, 2018. We then filed the stop pay on February 12, 2018. It would be our position that we are entitled to stop payment of temporary total disability compensation as of February 8, 2018; that we are entitled to a credit for over-payment of all temporary benefits paid since that date; and that Mr. Nelson is entitled to an award of permanent partial disability under 42-9-30 for the left lower extremity, he has an eleven percent rating from Dr. Caldwell. And to the right thumb, he has a five percent rating from Dr. Ernst. We would argue that there is no permanent disability to the right ankle, that was a zero percent rating from Dr. Lowery. We would also assert based upon the vocational opinion of Joel Leonard, vocational expert, that Mr. Nelson is not entitled to an award

under either 42-9-10 for total wage loss, or 42-9-20 for partial wage loss.

COMMISSIONER: Okay. All right. Thank you, sir.

MR. BAXLEY: Yes, sir.

COMMISSIONER: Mr. Crosland?

POSITION STATEMENT BY MR. CROSLAND:

MR. CROSLAND: Thank you, Commissioner. Commissioner, as reflected by our WCC Form 22 dated March 29th, 2018, it's our contention that two things. First, that a stop pay or to pay is not appropriate at this time based upon the report of Dr. Schaaf that we put into evidence. Dr. Schaaf's report and evaluation of the claimant establishes that he is not at maximum medical improvement and that an additional evaluation via an MRI of his admitted left knee injury is required. Claimant's had a really bad recovery from what you would think would be a pretty straight-forward arthroscopic surgery. 57 years old and has done labor, hard work all of his life. And, for whatever reason, his recovery has been pretty miserable. Dr. Schaaf most recently looked at him in I wanna say March or April and says there's something going on in this knee.

He doesn't know what it is, but the only way to find out -- one of two ways, either another surgery, go in and look around, but, of course, the predicate to that would be to get an MRI to see why he's had such a poor recovery. Is there a new tear? Is there something going on here in the knee that has prevented Mr. Nelson from having a better recovery? And is there more treatment that would lessen his disability and allow him to get back to some type of work? He'd love to do that. His plan always was to try and, you know, work his time through the City of Charleston and then retire and do what work he wanted to do or needed to do with the ILA. There is no way given his restrictions he can perform any longshore work and that would be really a great goal for him to get him more mobile and to get him in a situation where he could actually be more productive. That to him would be -- that would be the best possible outcome. So, that's what he wants and we would contend that that MRI is necessary in order to determine is there anything else that can be done to help improve his condition. So that's our first position based on our Form 22.

Second position is if the Commission is to deny all additional medical treatment and find that Mr. Nelson has reached maximum medical improvement, vocationally, we're looking at a gentleman who is, as I said, advanced age at age 57 -- I know, scary, but that's the truth. That's how the Social Security Administration looks at people that are 57. He, as I mentioned in pre-trial, he does not have a valid high school diploma. He thought he did, but it technically is not an accepted high school diploma by the South Carolina Department of Education. He has worked at the same job that he can no longer do for about 30 years. He has impairment ratings and restrictions, more importantly, of no climbing, no crawling, no use of a ladder, and minimum squatting from Dr. Schaaf. No kneeling, no climbing, no squatting, essentially the same restrictions, from the authorized treating physician. And no lifting of more than 35 pounds. Dr. Schaaf has also given him an impairment rating to his right leg because of his ankle injury and symptoms of five percent, and Dr. Ernst has given him a rating of five percent to the right

thumb. From a vocational perspective, our testing from Mr. Price that was not contested by the defendant's expert reflects that he tests -- had for sentence comprehension in the 16th percentile, 12th percentile in math computation. The Full Scale Beta Intelligence Testing puts him at 86. I thought it was lower than that, but that's in the 18th percentile. And without a high school or valid high school diploma, he really is limited to manual labor-type work given his age and given the lack of a high school diploma. So when you load those restrictions on top of him, it's impossible to conclude other than that he, at a minimum, has a significant wage loss under Section 42-9-10 -- excuse me, 42-9-20, or that he has been rendered totally disabled under paragraph (1) of section 42-9-10. We think he's got a complete destruction of his earning capacity when you look at the total man, the total picture, of his educational background, his physical restrictions, and his various impairments. And we see nothing that the defendants have produced that would contraindicate that. Even their vocational

consultant in his three scenarios, the first two, he agrees that he's totally disabled. It's only when you get to the third scenario where he only looks at the impairment rating and restrictions from Dr. Caldwell that he says, well, maybe there's something he can do. But even that assessment generates a significant wage loss over 340 weeks. So that's our position.

COMMISSIONER: Okay. And Mr. Baxley, anything more?

MR. BAXLEY: No, sir.

INSTRUCTIONS:

COMMISSIONER: Okay. Mr. Frederick, I have a couple of quick things to run through with you. If you would, please, speak up, speak clearly for us so that we can all hear your responses to the questions. If you're asked a yes or no question, please give us a verbal yes or no answer. You can shake your head yes or no like I do all the time, just make sure you please accompany that with a verbal yes or no answer. And try and stay away from things like uh-huh and huh-uh just because that can be easily misunderstood on the record. So, if you could help me out with that, I appreciate it, okay.

All right. Please raise your right hand. Do you swear and affirm the testimony you're about to give is the truth, the whole truth, and nothing but the truth?

MR. NELSON: I do.

COMMISSIONER: Okay. And you can put your hand down and please state and spell your name for the record, sir.

MR. NELSON: Frederick Nelson. F-R-E-D-E-R-I-C-K, N-E-L-S-O-N.

COMMISSIONER: Okay. Thank you, Mr. Nelson. And Mr. Baxley, are you gonna defer to Mr. Crosland for ---

MR. BAXLEY: Yes, sir.

COMMISSIONER: All right. Mr. Crosland, your witness.

MR. CROSLAND: Thank you.

FREDERICK NELSON, having been duly sworn, testifies as follows:

MR. NELSON - DIRECT EXAMINATION BY MR. CROSLAND:

Q: Mr. Nelson, you are married or single?

A: Married.

Q: And how old are you now?

A: Just turned 58 yesterday.

Q: And how many children do you have?

A: Five.
Q: Any of them still dependent upon you?
A: One.
Q: How old is that child?
A: 16.
COURT REPORTER: I'm sorry, you said 16?
A: Yeah.
COURT REPORTER: Thank you. Speak up just a little bit for me. When you talk to him, I just couldn't hear.
Q: And tell me what is the last grade of school that you actually finished or completed?
A: Ninth.
Q: After the ninth grade, did you return to any sort of formal education in the school system or college anywhere?
A: No.
Q: All right. After the -- you completed the ninth grade, what type of work did you go into?
A: I went into -- started work at Moore Drums.
Q: Moore Drums does what? What are they -- do they buy, sell drums, what do they do?
A: Buy and sell, load, offload, clean.
Q: And when we say drums, are we talking about ---
A: 55 gallon.

Q: --- musical instruments?
A: 55 gallon drums.
Q: Made of what?
A: Oil drums.
Q: Oil drums. And what was your job at Moore Drums?
A: Loading, unloading trucks, delivering trucks -- drums to different place- -- oil companies.
Q: Was there any stooping involved?
A: Yeah, uh-huh.
Q: Any kneeling?
A: Yeah.
Q: Any lifting?
A: Yeah, a lot of lifting.
Q: How much would you have to lift by yourself on a regular basis during a work day, in terms of weight?
A: Each drum could weigh from 60 pounds to galvanized 110.
Q: All right. And how long did you stay in that job?
A: About a year and a half. Almost a year and a half.
Q: And after Moore Drums, do you recall your next employer?

A: State Ports Authority.
Q: What did you do for the South Carolina Ports Authority?
A: Started out as a laborer. Loading and unloading trucks and railcars.
Q: Was there -- were you doing that by hand?
A: Physical, yeah.
Q: And was there any lifting involved?
A: Yeah.
Q: Was there any lifting involved in excess of 35 pounds?
A: Oh, yeah.
Q: What's the heaviest amount of weight you would lift on a daily basis?
A: Well, railcars you can lift from 60 to 80 pounds. Trucks you can lift from -- anywhere from 80 to 110 pounds.
Q: Was there bending involved?
A: Yes.
Q: Stooping?
A: Yes.
Q: Crawling?
A: Yes.
Q: And how long did you stay working for the Ports Authority?

A: I stayed there almost a year. Reaganomics cutback, and I lost my job.
Q: Other than the loading and unloading with the Ports Authority, was there any other job you were trained to do there?
A: Clamp operator.
Q: What does a clamp operator do at the Ports Authority?
A: It's a clamp that grabs rolls of paper and you unload it out of the truck and bring it into the warehouse.
Q: Was there any climbing involved in that job?
A: No. Well, on the -- on the machine, yeah.
Q: How many steps up to get into the machine?
A: You have one step.
Q: Was there any lifting involved?
A: No.
Q: Bending or stooping?
A: Yeah.
Q: Kneeling?
A: Yeah, uh-huh.
Q: And after the year at the Ports Authority, what did you next do?
A: Started with the City of North Charleston.
Q: And how long did your employment last at the

City of North Charleston?

A: 30 years and four months.

Q: And your job at the time that you separated from North Charleston, what was your job description?

A: Equipment Operator II.

Q: Okay. Now, before we get into the actual work that you did at the City of North Charleston, before the accident we're here about today, Mr. Nelson, did you have any permanent problems with your left knee that affected your ability to work?

A: No.

Q: Did you have any permanent problems or symptoms with your right ankle that affected your ability to work?

A: No.

Q: Did you have any injuries or symptoms or problems with your right thumb before the accident we're here about today that affected your ability to work?

A: No.

Q: Did you have any physical problems that affected your ability to come into work every day over those 30 years for the City of North

Charleston?

A: No.

Q: Now, before we get to your job duties when you separated from the City of North Charleston, had you ever done any work for the ILA, International Longshoreman's Association?

A: Yes, I did.

Q: Now, did you ever have an actual card or -- or were you a member?

A: Yeah, I had -- I had a union card.

Q: Did you do that on a part-time basis, work for them?

A: Yes.

Q: And was that physical, demanding work?

A: Yes.

Q: Was there any lifting involved?

A: Yes.

Q: Did the lifting exceed on a regular basis 35 pounds?

A: Yes.

Q: Was there any kneeling involved?

A: Yes.

Q: Stooping?

A: Yes.

Q: And would you stoop and kneel on an infrequent,

frequent basis?
A: Frequent, yes.
Q: Now, the job duties that you had with the City of North Charleston when you left, you mentioned you were an equipment operator. What type of equipment did you operate?
A: I operated the street sweeper.
Q: Was that your primary piece of equipment?
A: Yes.
Q: Did you operate anything else routinely, daily?
A: Only when the street sweeper is down. When it's broken down, then I have to go to another -- different job, different type job.
Q: And on a -- kind of an average or normal year, how often would the street sweeper break down so that you would have to do --
A: Quite often.
Q: Quite often?
A: Yeah.
Q: Not a very reliable street sweeper, huh?
A: No, they -- they only got two.
Q: And you were one operator?
A: Yeah, I was -- at one time, I was the only operator.
Q: At the time you were last working for the City

of North Charleston operating the street sweeper, I wanna talk a little bit about what the physical demands were of operating that machine.

A: Okay.

Q: Was there any climbing involved?

A: Yes.

Q: How so?

A: Had to climb in and out of the truck.

Q: How many steps to get up into the operator's compartment?

A: Two to three.

Q: Was there any kneeling involved?

A: Yes.

Q: Why would you have to kneel to operate the sweeper?

A: You have to kneel to get the debris out of the bottom when it gets stuck in the suction hood. You have to get the stuff out. You have to kneel to get up under there and pull it out or either take a shovel and knock it out. You have to kneel to change the brushes. You had to physically change those brushes. The mechanics don't change them; you have to change them.

Q: How often would you change brushes?
A: Every month.
Q: And when you say brushes, is this the big roll that looks like a hairbrush?
A: You have a big -- big brush on each side. You have two brush and then you have a big roller in the middle. Now, the roller in the middle, I don't change that. Mechanics change that one.
Q: The two on the side is the responsibility of the operator?
A: Right.
Q: And how much do those rollers weigh when you change them out?
A: They weigh about 45 pounds or more.
Q: Do you do that by yourself or with
A: Yeah.
Q: --- assistance?
A: By myself.
Q: And as you are operating the street sweeper on a normal day, do you just sit in the cab all day and drive up and down the streets?
A: No.
Q: Why not?
A: Because you have different debris in the road.

You can have anything from tires to cinder blocks. You can have carpet. You have different trucks driving down -- up and down different highways and they drop debris off of the trucks and you -- you're sweeping the streets. You have to -- in order to sweep, you gotta move those debris out of the way in order to continue work.

Q: As you're operating the street sweeper, do you have an assistant or anyone to help you move debris out of the road?

A: No, just a one-man job.

Q: And how much do you have to lift on a regular basis on an average day when you're moving debris? What's the variation in weight?

A: You can have to move anything from one pound to 50 pounds, 60 pounds. Sometimes carpet weighs up to 200 pounds. You just have to drag it off the road.

Q: Now, given your restriction that you have placed upon you, just considering those of Dr. Caldwell, would you be able to return to your job as a street sweeper or operator for North Charleston?

A: No.

Q: What about the other equipment? You said when the street sweeper is down, not operable, you would operate other equipment. Can you describe that equipment for us?

A: Front-end loader. It's a loader that load dirt, gravel, debris, different things like that onto a dump truck.

Q: And would that be the main piece of equipment that you'd operate if you weren't operating the sweeper?

A: No, I would operate a dump truck if it's available. I operate a dump truck, as well.

Q: And with regard to the front-end loader, is there any climbing involved to get into the operator's position?

A: Yes.

Q: How many steps do you have to pull yourself up into?

A: It's about three, four steps. That's pretty -- pretty up there.

Q: All right. And to get up there, you've got to go up those steps using --

A: You got to use your two hand rails and you've gotta use your foot to get up.

Q: Is it similar to climbing a ladder?

A: Oh, yeah.
Q: And do you just stay up in the operator's position with a front-end loader?
A: Stay up as you load and then after you load, then you get down and you drive your dump truck that you just load.
Q: And are there steps to get into the dump truck?
A: Yes.
Q: How many of those?
A: Two.
Q: And is there any climb -- any crawling involved or kneeling in either one of those jobs, operating the dump truck or the front-end loader?
A: Well, you have to check your equipment out. You have to look under it, you know, different things like that.
Q: Are you given a pre- -
A: Pre-trip -- pre-trip test.
Q: And the pre-trip test, what all does that involve for either piece of equipment?
A: That's checking out every piece of equipment on the truck, make sure the truck is safe, make sure the front-end loader's safe, make sure the street sweeper's safe, whatever you are driving

or operating.

Q: Then do you have to check the tire pressure?

A: Yes, you do.

Q: Do you have to kneel as part of your ---

A: Yes.

Q: --- your pre-trip check?

A: Uh-huh.

Q: Is that a yes?

A: Yes. Uh-huh.

Q: And is that for both pieces of equipment?

A: Yes. All equipment.

Q: For all equipment?

A: Yes.

Q: Is there lifting involved -- involved in the operation of the front-end loader or the dump truck?

A: No lifting involved with the front-end loader. Dump truck, you may have to climb up on the back and take your shovel and get all the gravel or the dirt or whatever's in the bed of the truck out by hand, physically.

Q: Is there any other use of a shovel or equipment in operating either one of those pieces of equipment?

A: The street sweeper, as well, you have to --

when you dump it, you have to go up in there and get all that muck and dirt and stuff out of there. If you don't, the machine won't operate right.

Q: Any squatting involved in operating the dump truck?

A: Just checking the equipment out.

Q: How about for the front-end loader?

A: Just checking it out, as well.

Q: And to operate both of those pieces of equipment, as I understand your testimony, there is climbing involved?

A: Yes.

Q: With respect to your various injuries, your thumb -- did you receive any surgery to your thumb?

A: Yes, I did.

Q: Can you show the Commissioner where the incision was, hold your hand up and show him?

A: In the middle. Right in there (indicating).

COMMISSIONER: Okay. So you're -- for the record, you're indicating down at the bottom of your thumb?

A: Right in the base right there (indicating).

COMMISSIONER: There at the base of your thumb,

okay?

A. Yeah.

Q. Can you close your thumb and make a fist like I'm making just now (indicating)?

A. That's -- that's all I can do right there (indicating).

Q. So you cannot close your thumb ---

A. I cannot close my thumb.

Q. --- and then -- to make a fist?

A. That's it.

Q. Has that affected your grip strength of your right hand?

A. Yeah.

Q. Are you right or left-handed?

A. I write with my left hand; I throw with my right hand, both hands.

Q. Ambidextrous?

A. Yeah.

Q. And are there any symptoms other than the limitation on moving your thumb or closing, bending your thumb? Do you have any pain at the incision site?

A. Yeah, I do. I have pain.

Q. Can you describe that pain? What's it feel like?

A: It's sharp -- sharp. Real sharp, stabbing pain.
Q: How often do you experience pain in the base of your thumb?
A: Any time I try to do this or any time I try to open any -- I have difficulty opening a jar, difficulty grabbing anything with weight.
Q: Can you use your thumb to grab objects and lift them?
A: I have problems.
Q: Do you have any difficulty dropping things?
A: Yeah.
Q: With respect to your grip strength of your right hand, can you estimate for us the extent of loss in your estimate of your grip strength? What percentage?
A: 50 percent.
Q: 50?
A: (Nods head.)
Q: Would a loss of your grip strength affect your ability to operate the equipment that you operated for the City of North Charleston?
A: Yes.
Q: How so?
A: Because you gotta use this hand to -- in order

to use your gears and stuff to -- for your equipment to open and close, you know, that's a all-day routine. As long as you operating that equipment, you gonna have to use this hand because everything is on the right side.

Q: Now, with respect to your ankle, you injured your ankle as a result of this accident, is that correct?

A: Correct.

Q: Which ankle?

A: Right.

Q: And are you currently today having any symptoms in your right ankle that you relate to the accident we're here about?

A: Yes.

Q: Where are those symptoms with respect to your right ankle?

A: Right across the base. Matter of fact, my ankle swole up right now.

Q: When you say the base, you've got on sort of a short -- short sock. Can you point to where the symptom is?

A: Right across here where that blade got a hold of my foot (indicating).

Q: Is that the site of your tripping?

A: Yeah.
Q: And that's kind of where you tie your shoe laces on your shoes there, sort of right underneath where the lace is, is that right?
A: Correct.
Q: Or where the bow is for the lace?
A: Correct. If I take this lace off right now, my -- my feet will start swelling up to -- it'll swell up a little bit more.
Q: And how often do you have swelling at that location?
A: Any time I go for a -- say a 30 minute walk or if I try to go uphill. Anything hilly, downhill.
Q: To get into the building that we're in just now there's a handicap walkway that's slightly elevated, did you use that entrance?
A: Yeah, I did.
Q: Did that help?
A: Yeah, I was -- I was -- I was kind of skeptical when I saw those steps and I drove around and I saw a handicap ---
Q: Coming up the handicap access stairway, did that have any effect on your ankle?
A: Yes, it did.

Q: And can you describe that effect?
A: It's a sharp pain going up -- coming up and that's where I -- I always keep this cane with me.
Q: If you don't know where you're going?
A: Correct.
Q: Do you use the cane around your house?
A: If I go for a walk, yeah, I use my cane. If I go for like a walk in my neighborhood down to the end, I'll take my cane because the road go up.
Q: Can you go -- well, walking up stairs ---
A: Uh-huh.
Q: --- does that affect your right ankle?
A: Yeah, it's difficult.
Q: Does going -- climbing stairs, ascending stairs, does that affect your left knee?
A: Yes.
Q: How if you go upstairs, if you have your preference, how do you get up a set of stairways?
A: Funny thing about it, man, I have to try to go up sideways. If it's a lot -- like, my daughter got stairs at her home. I can't even go up to the second floor in her home.

Q: Why not?
A: Because it's too many stairs and it's too painful.
Q: If you have to go upstairs, there's no choice, how do you get upstairs?
A: Well, I try to go up sideways and my -- the funny thing about it, I tried to go up sideways in her house and had to come back down because it's difficult. It's really difficult. The pain in my knee -- not only my knee, but because of the injury to my knee, my right leg and right ankle, as well, has taken such a beating from, you know, the injury of my left knee, 'til this side of my leg is weak.
Q: When you walk today --
A: Uh-huh.
Q: --- can you tell us which leg you put more weight on?
A: Well, right now, I got my cane, so I put my weight on -- with my cane, but before my ankle got swelling, like this foot right here would be the foot -- the leg that I would put my weight -- most weight on (indicating).
Q: And when you say this, you're referring to which?

A: This right leg (indicating).
Q: Right leg?
A: Uh-huh. My right leg.
Q: With respect to your left knee, are you having any symptoms in the knee?
A: Yes, I am.
Q: Again, I wanna be clear.
A: Uh-huh.
Q: Before your fall ---
A: Uh-huh.
Q: --- when you tripped, the accident we're here about today, any problems with that left knee that affected your ability to work?
A: No problem.
Q: Where do you have symptoms in the left knee today?
A: I have symptoms on the inside of the left knee.
Q: Yes, sir.
A: Behind the left knee.
Q: Yes, sir.
Q: This bone on the side that's sticking out for some reason, I don't know why, but it's sticking out (indicating).
Q: It appears that you're pointing to kind of the lower knee on the outside?

A: On the outside.
Q: Yes, sir.
A: And, as well as my knee right in here, kneecap (indicating).
Q: Your kneecap?
A: Yeah.
Q: Now, the symptom in your kneecap, is it on top of the knee or underneath the kneecap? Where do you feel the pain?
A: It's right here in the -- this area here (indicating).
Q: And what does it feel like?
A: This area here, any time if I try to go upstairs, my knee'll give (indicating).
Q: And you're pointing to your kneecap?
A: Because -- yeah, because of the, you know, the pressure.
Q: How about the pain -- the symptom that you described on either side and behind the knee, what do those symptoms feel like?
A: The inside feel like this. It's just a pain like somebody's got a -- a instrument, just sticking me right like that (indicating).
Q: Yes, sir.
A: On the inside right here (indicating). Back

here, when I get this problem when I try to walk (indicating)

Q. When you say this here, where are you

A. In the back calf.

Q. Behind the knee?

A. Uh-huh.

Q. Yes, sir.

A. And then over here (indicating)

Q. On the side?

A. --- where this bone sticking out at

Q. Yes, sir.

A. It's pain -- always painful. And, as well, as I get popping, cracking, always.

Q. And when did you have your surgery to the left knee?

A. I think in May.

Q. Of?

A. 2017.

Q. And did you participate in physical therapy after the surgery?

A. A lot of physical therapy.

Q. Did you do what was asked of you in physical therapy?

A. I did.

Q. Have you had, in your judgment, a good result

from the surgery performed by Dr. Caldwell?

A: No, no. He's a good doctor, but the surgery wasn't a success at all.

Q: You saw Dr. Schaaf at my request, is that correct?

A: Yes, I sure did.

Q: And has Dr. Schaaf recommended any testing or any other procedures or treatment that you would like to have done?

A: Yeah, he -- he offered an MRI, another MRI to see what's going on. He also offered --

MR. BAXLEY: Objection to anything the doctor said.

MR. CROSLAND: It's in the report, Your Honor.

MR. BAXLEY: Fair enough.

COMMISSIONER: Okay. Thank you.

Q: Do you want the treatment recommended by Dr. Schaaf?

A: Yes.

Q: Have you had a post-surgery MRI from Dr. Caldwell after he did his surgery?

A: No.

Q: Nobody's seen what's in the knee by radiographic means since before your surgery? After the surgery nobody's done an MRI?

A: No, no.

Q: Based on your restrictions and the symptoms that you've told us about today, is there any work that you've done over the 30 years that you worked at the City of North Charleston that you could return to today?
A: No.
Q: Is there any work that you did prior to working at the City of North Charleston that you could return to today given the extent of your injuries and restrictions?
A: No.
Q: What about working at the ILA, could you go back and work as a longshoreman?
A: No.
Q: Why not?
A: Because with my restriction, I have to be 100 percent to go work there. I sure would like to.
Q: Would you like to get that knee fixed and your ankle fixed?
A: Yes.
Q: How long can you walk before you need to sit?
A: 15 minutes into a walk. A good 15 minutes.
Q: And then what happens?
A: Then I start -- the pain will start and a good

20 minutes into the walk, my knee'll start giving. My ankle will start bothering me, as well.

Q: How often do you try to walk?

A: I used to try at least three days out of week, but after every walk, I wound up finding myself icing my knee, icing my ankle, and I won't be able to return for a walk the next day, maybe the next two, three days.

Q: Was walking a recommended treatment by any of your doctors?

A: Yeah, he recommended that I -- uh-huh.

Q: Now, in terms of the level of pain in your knee, the analog pain scale, your therapist may have asked you about it, zero is no pain; ten is the worst pain you can imagine. On an average day, Mr. Nelson, how would you rate the pain in your left knee?

A: About a four.

Q: On a bad day, what is it?

A: Could be a six.

Q: What is it today?

A: About a four.

Q: How about your ankle, your right ankle, on a bad day, what is it?

A: About a six-seven.
Q: On a good day?
A: About a three.
Q: And how about your thumb, on a bad day?
A: On a bad day, about maybe a four.
Q: How about on a good day?
A: About a two.
Q: All right. Are you taking any medications to treat any of your symptoms?
A: No, nothing prescribed, over-the-counter.
Q: Now, Mr. Nelson, after Dr. Caldwell released you last February, did you make any effort to go and apply for, try and find any jobs?
A: Yes, I did.
Q: And have you continued to look even up to last month?
A: Yes.
Q: And you've had an opportunity, I believe, to review our pre-hearing submissions that we put into evidence and do the exhibits contained in Plaintiff's Exhibit -- or APA Exhibit Number 12, those job listings, are those the jobs or some of them that you have applied for?
A: Yes.
Q: Have you gone in person to try and apply for

work?
A. I have, yes, yes.
Q. Have you applied on-line to those employers who request an on-line application be completed?
A. Yes, I had my daughter go on-line for me.
Q. Do you know how to operate a computer and ---
A. No.
Q. Do you know how to type?
A. No.
Q. Do you do any work on a computer?
A. No.
Q. Have you ever done any work on a computer?
A. No.
Q. Did you get any responses from any potential employers?
A. Yes, I did.
Q. Who?
A. Dollar General.
Q. And what was the position at Dollar General that was available?
A. Stockman.
Q. To stock?
A. Uh-huh.
Q. Did you do ---
A. Load and off-load trucks.

Q: And what were you -- did you do an interview?
A: Yes, I did.
Q: Were you hired?
A: No.
Q: Do you know why not?
A: Well, when I told her about my restrictions, she said that ---
MR. BAXLEY: Objection to anything she said.
COMMISSIONER: Sustained.
Q: Do you know ---
A: The person that interview me stated that ---
MR. BAXLEY: Objection ---
COMMISSIONER: You ---
MR. BAXLEY: --- to anything that person said.
Q: You can't say what they said.
A: Okay.
Q: Do you know why you didn't get the job?
A: Because of my restrictions.
Q: Was the work within your restrictions, the lifting part?
A: No.
Q: Bending, stooping?
A: No.
Q: Was that the only person that called you back out of all the jobs you applied for?

A: I had another call.
Q: Did you go in for an interview?
A: Yes.
Q: And did they hire you?
A: No.
Q: Did you tell them of your restrictions?
A: Yes.
Q: Was the job once you interviewed within your restrictions?
A: No.
Q: And has anyone else called you back?
A: No.
Q: How many jobs would you estimate you've looked for since Dr. Caldwell discharged you from his care?
A: Maybe 20, 30.
Q: And the exhibit that we've put into evidence, does that contain all the job applications or just some of them?
A: Just some of them.
Q: Mr. Nelson, is there any work out there that you know of that you can do with the constellation of injuries from the accident we're here about today and the restrictions that you're under?

A: No.

MR. CROSLAND: That's all I've got right now.

COMMISSIONER: Okay. Mr. Baxley?

MR. BAXLEY: Thank you, Commissioner.

MR. NELSON - CROSS-EXAMINATION BY MR. BAXLEY:

Q: Mr. Nelson, let's start with your thumb ---

A: Yes.

Q: --- your right thumb. You showed us earlier that you can't completely close it into a fist, correct?

A: Correct.

Q: Okay. And that when you try to close it or grab something, that's when you can feel pain in your thumb, correct?

A: Correct.

Q: Other than when you're trying to grab something with the hand, you don't have pain in the thumb, correct?

A: Unless I move it.

Q: Okay. Do you remember me taking your deposition, sir?

A: Yes.

Q: I asked you do you have pain at the base of your thumb all of the time or just when you try to grab something ---

MR. BAXLEY: Malcolm, this is page 24.

Q: --- and you said, anytime I grab something. Anytime I move it like that, I have pain.

A: Correct.

Q: And I said, but like sitting here right now or when you're not trying to grab anything, does it hurt you, and your answer was no. Is that accurate?

A: That's correct.

Q: Okay. So if you're not trying to grab something with that hand, it doesn't hurt you, correct?

A: Correct.

Q: So sitting here right now, the thumb feels good?

A: Correct.

Q: Okay. And when you say grab something, like if you were to grab a fork to eat something, that wouldn't hurt your thumb, would it?

A: Yes, it will.

Q: Okay. So anything you grab hurts your thumb?

A: Yes.

Q: But just sitting here like right now relaxing your thumb, you're good; you're pain free?

A: Right.

Q: Okay.
A: I wouldn't say pain free.
Q: Well, doesn't hurt and pain free would be the same thing.
A: I can feel a, you know, a pain, but it's not where it's killing me.
Q: Okay. So your testimony here today is that at all times you feel something in that right thumb?
A: No, not at all times.
Q: Okay. So there are periods of time when the thumb is fine; you don't feel anything?
A: Correct.
Q: Okay. With regard to your right ankle, you indicated that especially when you go for long walks ---
A: Yes.
Q: --- that you'll feel that ankle ---
A: Yes.
Q: --- and the pain that you described earlier right where the lace of your shoe is, that's when you -- that's where you feel it, correct?
A: Yes. Most, yes.
Q: And I asked you at that deposition if you had any pain when you were sitting down in the

chair and you said [redacted]

A: Yes.

Q: [redacted] that you did not.

A: At that time.

Q: Okay. How about sitting here today?

A: Yes. Oh, yeah.

Q: Okay. So normally, when you're sitting and relaxing, do you have pain in the right ankle?

A: Yes.

Q: So your testimony in your deposition was when you go on a walk, that's when you can feel the pain in your ankle, is that correct?

A: Yes. Correct.

Q: And sitting there at the deposition, you had no pain in the ankle at all?

A: I don't remember that. I may have stated that.

Q: And, for instance, sitting here right now not walking, do you have pain in the ankle, and your answer was no.

A: I may have stated that at that time.

Q: Okay. So there are periods of time when you're sitting down or relaxing where you don't have pain in that ankle, correct?

A: All depends.

Q: Depends on what?

A: Just depends on if I got my foot crossed, yeah, I feel the pain. Relaxing -- I got a recliner. If I sit in that recliner ---

Q: Yes, sir.

A: --- with my foot crossed, yeah, I feel that pain.

Q: And I'm assuming at that point, you would uncross your feet?

A: Correct.

Q: Okay. And when you uncross your feet, it feels better?

A: Yes, it does. Uh-huh.

Q: Okay. So, again, when you're sitting or you're in a recliner or you're relaxing, the right ankle feels pretty good?

A: Yeah, when I -- when I relax it like this right here if I --- (indicating).

Q: Okay. You testified earlier that you got some -- you got some swelling in that ankle today.

A: Yes, I do.

Q: We could only see one of your legs. Can you show us both of your legs?

A: Yes, sir. (Witness complies). And as you can see, this leg here is swollen and this leg ---

Q: No, sir, I can't see that at all. So you ---

A: You must be ---

Q: You point to me ---

A: You must be can't see.

Q: --- where you think it is.

A: It's swole up right here (indicating). Matter of fact, I can untie the shoe and show you what I mean.

Q: Okay.

A: And it was swole up worse than that yesterday. I iced it.

COMMISSIONER: Okay. All right. Thank you.

A: You mean to tell me you can't see that swole right there (indicating)? That's swollen.

Q: Okay.

COMMISSIONER: Okay. Thank you.

MR. BAXLEY: Commissioner, I'll let you describe for the record what you see.

COMMISSIONER: Well, I do see some -- I do see some -- I don't know how to describe. I see some swelling. Obviously the top of the foot seems to be a little bit more enlarged, I guess, from the swelling, than the other -- the other foot.

MR. BAXLEY: Okay.

COMMISSIONER: Thank you.

Q: You mentioned to Mr. Crosland earlier that when

you walk, you walk for about 15 minutes and at 20, you get to the point where your ankle's bothering you and your knee starts to give out, is that correct?

A: When I get 15 minutes in the walk, I feel a pain in my ankle coming on.

Q: Okay.

A: My knee pain will start coming on. The more I walk, the more the pain'll start and I'll stop -- I stop and rest for a little while and then I'll continue. And if it start bothering me where I can't take the pain, then I'll go back home and ice it and I might recline and just rest it.

Q: You told me in your deposition that you were walking every other day and walking ---

A: Correct.

Q: --- for about 20 to 30 minutes every other day.

A: Correct.

Q: Is that still accurate?

A: No.

Q: Okay. So what's happened since your deposition that it's gotten worse?

A: Well, my knee pain has gotten worse and my ankle pain has gotten worse. And some -- from

time to time my ankle will swell up from me putting most of the pressure on this leg because of the weakness of this leg, my calf in this leg is so weak until my quads is so small, it's a shame. It's ridiculous how small my quad is on this side than how big it is on this side (indicating). And the physical therapist, as well, addressed it that my quad was so small ---

Q. Yes, sir, I don't wanna hear what the physical therapist said.

A. Okay.

Q. You just tell me what your problems are.

A. My problem is I have pain when I get 15 minutes into the walk and I try to complete the walk. If I can't complete the walk, then I turn around and go home.

Q. What's caused it to worsen since you deposition was taken just in March that you can't walk nearly as long now as you were back then?

A. What's causing me ---

Q. To get worse.

A. Walking, I guess.

Q. Okay. You have a CDL, don't you?

A. I do.

Q: Class A CDL?
A: I do.
Q: But you haven't applied for any driving jobs?
A: No, I haven't.
Q: Even driving jobs that would allow you to simply drive, correct?
A: Correct.
Q: But you have a valid Class A CDL, right?
A: Right.
Q: Which is hard to get?
A: Correct.
Q: Only a number of people have them?
A: Correct.
Q: It's something that you can use out there that separates -- separates you from all of the rest of the job force.
A: Correct.
Q: But you haven't applied for a single job where a CDL is necessary?
A: Correct.
Q: And I understand, some driving jobs require you to drive and do labor, but there are ---
A: Correct.
Q: --- jobs that require you to drive, right?
A: Correct.

Q: But you haven't applied for any of those?
A: Correct, because of my ankle problem and my knee problem. You have to use both legs with clutches, as well as the brakes, on those big trucks. And I'm not gonna risk my life and somebody else life if I can't stop a big truck. Those trucks weigh a lot; they haul a lot of dirt; and it's a dangerous job if you can't stop one of those vehicles.
Q: Sir, there are plenty of those trucks that are large trucks that have automatic transmissions and you don't have to require -- it doesn't require you to use a clutch.
A: You still have to use the brakes.
Q: So you're telling me you can't operate brakes on a vehicle?
A: It's a -- it's a constant -- it's a constant moving of your feet. You have to press your gas; you have to put your brake. A big truck is not like a car. That's a vehicle that takes a lot of skill and take a lot of using your feet.
Q: When you say big truck, what do you mean?
MR. CROSLAND: Your Honor, need to let him finish the answer.

COMMISSIONER: You can complete your answer.

A: Big truck takes a lot of physical work when you're stopping and driving. You're using your feet. Those trucks are not like a car.

Q: Understood. What do you mean when you say big truck?

A: Dump trucks, any truck that require you to drive using your CDL. Those are big heavy duty trucks.

Q: How about just delivery trucks?

A: Delivery trucks, the same thing big trucks. Those trucks, those are big trucks.

Q: Yes, sir.

A: They carry a load.

Q: All automated inside and you haven't applied for any of those jobs?

A: I applied at Lowe's, yes, I did.

Q: For a driving job?

A: I applied for a job at Lowe's.

Q: Okay. And you've submitted a number of the applications that you have done and if you were to get any of those jobs, I know that at this point no one's offered you one, but if someone offered you one of those jobs, you'd go back to work, correct?

A: It'll be a problem. I'll have to take breaks. I won't be able to perform like the employer would want me to perform.
Q: Then, sir, why'd you apply for the jobs?
A: Because I had to apply for jobs.
Q: Why?
A: Because I had to apply for them.
Q: Why?
A: I was told to apply for jobs.
Q: Who told you that?
A: My attorney.
Q: Okay. So when you applied for these jobs, you're not applying for these jobs because you really want to work, you're applying for them for purposes of litigation, right?
A: I applied for a job. If they hire me within the guidelines of my restriction where I feel that I can handle, then I'll -- I'll accept the job and try to do the job.
Q: Okay.
A: I'm not running away from work.
Q: Okay. Do you think you can do the jobs that are all these places you applied to?
A: No.
Q: So, again, did you apply to those jobs so that

you could really go back to work or did you apply for it so that you could sit here today and say I applied for jobs that nobody will hire me?

A: No, I applied for some of them because I thought that I would be able to do them, you know, if they had something within my restrictions.

Q: Okay. So you do believe that there are jobs that you could do; you just haven't been able to secure one of those jobs yet, correct?

A: There's job that I can try to do, put it like that.

Q: Are you qualified for retirement with the City?

A: Yes.

Q: Okay. And you're getting a retirement check?

MR. CROSLAND: Objection, based on relevance, Your Honor.

COMMISSIONER: You can respond. Go ahead.

MR. BAXLEY: It goes to kind of what he's doing and whether or not he's got any motivation to go back to work.

COMMISSIONER: Okay. I'll allow it.

MR. CROSLAND: I think that's speculative, Your Honor.

COMMISSIONER: Okay. Well ...

Q: Are you collecting a retirement check at this point?

A: Yes, I am.

Q: And how much is that retirement check?

A: 1,400 and probably 25 cents, something in there.

Q: You told me in your deposition it was 1600. Has something happened with the amount or were you just wrong about that?

A: After tax.

Q: Oh, that's after taxes, okay. Are you still -- do you still have health insurance through the City?

A: Yes.

Q: You're having to pay those premiums?

A: Yes.

Q: You mentioned earlier that you're unhappy with the state of your left knee, correct?

A: Correct.

Q: Dr. Schaaf, who you saw way back in March of this year, recommended an MRI, correct?

A: Yes, he did.

Q: Why didn't you get it?

A: Workman's comp never authorized it.

Q: Sir, my question was why didn't you get it. You got health insurance.
A: Well, I didn't know that I could being that I'm under workman's comp, I didn't know that I could.
Q: If it's that important to you, why didn't you look into getting something done on your knee?
A: Repeat the question.
Q: Sure. You've testified here today ---
A: Yes.
Q: --- that you want to go to a different doctor ---
A: Yes.
Q: --- and get an MRI and maybe even have more treatment on your knee.
A: Yes.
Q: If it's that important, why sit at home and wait for somebody else to do it when you've got health insurance and you could do it yourself?
A: Well, this the first time I ever went through this and all I know is you gotta wait for workman's comp to authorize your -- your physician or your MRI. It has to be done through workman's comp. That's what I was told.

Q: Did you ever even look into getting the MRI on your own?
A: No.
Q: You mentioned earlier that you had an interview with Dollar General [redacted]
A: Yes.
Q: [redacted] about a job. You also mentioned there was a second employer that you interviewed with. Who was that second employer?
A: That was -- I think it was Dollar -- I know one of them was Dollar General and the other one was Dollar Tree. Yeah, Dollar Tree.
Q: You're not on any prescription medications at this time for either your thumb, your ankle, or your knee, correct?
A: Correct.
Q: No further questions.
COMMISSIONER: Okay. Thank you. Mr. Crosland?
MR. CROSLAND: Thank you, Commissioner.
MR. NELSON - REDIRECT EXAMINATION BY MR. CROSLAND:
Q: Mr. Nelson, do you know whether or not if you were to try and get an MRI using your health insurance, do you know whether they would accept that once they found out it's a workers' comp covered injury?

A: I don't -- I wouldn't know. I -- I wouldn't think they would do it.

Q: And the responsibility of the MRI in your judgment to pay for it would be who?

A: Workman's comp.

MR. CROSLAND: That's all I've got.

COMMISSIONER: Okay.

MR. BAXLEY: I've got one in follow-up.

COMMISSIONER: Sure.

MR. NELSON - RECROSS-EXAMINATION BY MR. BAXLEY:

Q: So it's your opinion that you can only get treatment that workers' comp sets up, right?

A: As far as I know.

Q: Sir, you saw Dr. Schaaf that we didn't set up; you saw Dr. Wartinbee that we didn't set up; you went to David Price that we didn't set up. Didn't you go to all those folks?

A: From my knowledge, workman's comp was authorizing these visits, from my knowledge.

Q: Okay.

A: Because workman's comp would authorize all my MRI, my doctor's visits, my physical therapy, so within my knowledge thinking, workman's comp was the one who set these up, okayed it that I could go see these doctors.

Q: Even though your attorney's the one that sent you to those places?

A: Correct.

Q: Okay.

MR. BAXLEY: Nothing further.

COMMISSIONER: All right. Mr. Crosland, any more?

MR. CROSLAND: Nothing further, Your Honor. I -- I am a little bit remiss. I appreciate Johnnie reminding we did have another evaluation of the thumb done by Dr. Wartinbee. You'll see his report in the record, as well, who assigned an eleven percent impairment to the right upper extremity.

COMMISSIONER: All right. Thank you. And Mr. Frederick, thank you for being here today. I appreciate your testimony here today and your time. And there being nothing further, then that concludes today's hearing. And hope everybody has a wonderful afternoon.

MR. CROSLAND: Thank you, sir.

COMMISSIONER: Good to see everybody.

(There being nothing further, the commissioner's hearing concluded at 3:52 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of sixty one (61) 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 August 6, 2018.

Amanda J. Creel Godfrey
Court Reporter

Notary Public for South Carolina
My Commission Expires: August 17, 2021

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1618027

Frederick Nelson,

Claimant,

v.

City of North Charleston,

Employer,

and

City of North Charleston,

Carrier/Defendants.

FULL COMMISSION HEARING

****

Tuesday, November 19, 2019
10:04 a.m. - 10:31 a.m.

COPY

The Full Commission Hearing was heard before Commissioners Susan S. Barden, T. Scott Beck, and Gene McCaskill, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 19th day of November 2019, before Cortney N. Glover, Court Reporter and Notary Public in and for the State of South Carolina.

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INDEX

PAGE

CALL TO ORDER:
Court Reporter 3

ARGUMENT BY THE APPELLANT:
Mr. Baxley 4

ARGUMENT BY THE RESPONDENTS:
Mr. Crosland 14

REBUTTAL STATEMENT BY THE APPELLANT:
Mr. Baxley 24
Certificate 27

EXHIBITS

(There were no exhibits marked during the hearing.)

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.

CALL TO ORDER:

COURT REPORTER: Today is November 19th, 2019. This is South Carolina Workers' Compensation Case Number 1618027. This is the case of Frederick Nelson, claimant, versus City of North Charleston, employer, and City of North Charleston, carrier.

The appellant is the defendant, represented by Johnnie W. Baxley, III. The respondent is represented by Malcolm M. Crosland.

Each side is allowed ten minutes for oral argument and the appellant, three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

COMMISSIONER BECK: All right. Before we get started, I am aware of a motion to recuse that has been filed with the Commission by Mr. Crosland and a supporting affidavit from his client, Mr. Nelson. Based on the rules, that motion belongs solely to the commissioner being asked to recuse, that being Commissioner Barden. And I'm gonna to allow her to address and deal with that issue before we start.

Ms. Barden?

COMMISSIONER BARDEN: All right. Thank you,

Mr. Chairman. Mr. Crosland, I've reviewed your client's affidavit as well as your motion for recusal. And based upon my review of these documents, there are insufficient grounds for your claim of bias or prejudice as you're -- you know, you're required to show bias or prejudice. So therefore I'm denying your motion to recuse.

COMMISSIONER BECK: Mr. Baxley?

ARGUMENT BY THE APPELLANT:

MR. BAXLEY: Thank you, Commissioner. May it please the Commission.

This is actually the second time in front of the full commission on this particular case. The first go-around, Commissioner Campbell had found that the claimant was not at MMI, despite the fact that all three treating physicians have released the claimant at MMI.

This commission found that the single commissioner should not have relied upon the one-time IME report from Dr. Schaaf which said not at MMI and remanded the case back to the single commissioner for a consideration of permanent disability. The single commissioner got it back and found that the claimant was

totally and permanently disabled. We have now appealed that decision back to this body.

I think the easiest way to look at this case, before we get into a deep dive on the arguments, is look at the kind of big picture. This is a man who had a admitted injury at the City of North Charleston. Injured three body parts: his right ankle, his right thumb, and his left knee. I'm just gonna talk about the treating physicians here. He had lengthy, extensive medical treatment.

On his right ankle, the MRI showed only a mild contusion. He was released at maximum medical improvement in February of 2017 with a zero percent rating and no work restrictions. We continued to complain of significant pain. He went back to that same doctor who did another course of treatment and released him again for a second time at MMI in October of 2017, again, with a zero percent rating, no restrictions, and no future medicals.

The right thumb, the only doctor he's seen for the right thumb, did a surgery for a trigger-thumb release, and he was released at maximum medical improvement in July of 2017

with a 5 percent rating and no restrictions. With regard to the left knee, he had an MRI with Dr. Caldwell that showed a small tear in his medial meniscus. Surgery was recommended. At first, he did not want to proceed, and then he finally agreed to have it. He underwent the scope. He was released at maximum medical improvement with an 11 percent rating.

So that's what we've got. We've got a zero to the right ankle, a 5 to the right thumb, and an 11 to the left knee from the authorized treating physicians. We've got an FCE that shows that he could do light to medium duty. This man has a Class A CDL and no criminal record. Those are the basic facts.

COMMISSIONER BECK: Is the CDL current?

MR. BAXLEY: It is.

COMMISSIONER BECK: Medical as well?

MR. BAXLEY: It is.

COMMISSIONER BECK: Okay.

MR. BAXLEY: Without even looking at credibility or anything else, those are the basic facts. I would argue to this panel that that does not qualify for total and permanent disability. But let's take a deep drive into the actual

facts of this case. There are significant credibility issues. The commissioner, in his decision in Finding of Fact Number 70 and Conclusion of Law Number 10, sort of hints at a credibility finding by saying that the claimant's description of his injuries and resulting problems was consistent with the medical evidence. I'm not sure that's necessarily true.

Dr. Caldwell stated in his medical reports at Defendant's APA 3, Claimant has made progress in therapy but continues to complain of discomfort that subjectively is greater than is noted with his objective exam which is favorable. He complains of diffuse peripatellar pain and continues to utilize a cane for ambulation even though he has a very smooth gait pattern. At this point, I am concerned about a degree of malingering; however, his therapy will be increased to three times per week for the next month.

Next visit: Claimant's clinical complains are out of proportion to what would be expected at this point, and I have encouraged him to discontinue use of the cane, but he continues

to use it.

By the way, that's from September of 2017. We're still using the cane at the hearing.

And then finally Dr. Caldwell noted that he had some concerns about whether or not he really wanted to improve and whether or not he had motivation to get better at all.

In addition, the claimant's complaints are inconsistent between deposition testimony and hearing testimony. At his deposition he said that he did not have pain in his thumb at rest, only when he was grabbing something. At the hearing, that changed and he had pain in his thumb even when he was just sitting there resting.

He also testified about two pages later in the transcript that it really only bothers him when he grabs stuff but that it also hurts at rest, which is inconsistent with his deposition testimony.

He also testified in his deposition testimony that his ankle didn't hurt when he was just sitting. It only hurt with use. At the hearing, he testified that he experiences pain in the ankle while sitting and relaxing. He

testified at his deposition that he could walk for 20 to 30 minutes every other day. In fact, he was doing it. At the hearing, he testified that he could not walk, hence the use of a cane.

There are significant credibility issues. When those are combined with the fact that there's just not enough medical evidence to find that someone's totally and permanently disabled, I frankly have no idea how the single commissioner found that he was totally and permanently disabled.

COMMISSIONER BECK: Well, how do we reconcile the vocational assessments?

MR. BAXLEY: Thank you for segueing me into that point, Commissioner. Number one, I think the single commissioner used the wrong standard here when even looking at the vocational reports. The commissioner in Findings of Fact 16, 17, and 18 and Conclusion of Law Number 10 focuses on the fact that he could not go back to his job at the City, which of course, is not the standard. The standard is whether or not he can return to substantial gainful employment. But I think the key here is to

look at those vocational reports at length. Joel Leonard does what Mr. Leonard does on all of these reports.

COMMISSIONER BECK: Option A, B, and C.

MR. BAXLEY: A, B, and C. Option A is if you believe everything the guy says, he's totally disabled. And then he goes on and states, I explicitly do not endorse that profile. He explicitly did not endorse that profile because he sat with the guy and read all the medical records, and you can't believe everything the guy is saying.

COMMISSIONER BECK: The commissioner found him credible.

MR. BAXLEY: Well, no. The commissioner did not find him credible. The commissioner said that his complaints were consistent. There's no credibility finding in the order.

COMMISSIONER BECK: Okay.

MR. BAXLEY: In fact ---

COMMISSIONER BECK: Isn't a akin to that?

MR. BAXLEY: It skirts it. And, again, Commissioner, I'm going to assert to you, nobody can sit here and listen to this guy testify and find that he's credible. There is

no medical evidence to support this guy's complaints of pain, his continued use of a cane, and his exaggerated behaviors at the hearing in this case.

What Joel actually said was B and C are the more likely scenarios. B is that he can go back to work a variety of jobs. He's got a Class A CDL. There's variety of jobs that he could do. Option C was he might need more medical treatment. Well, this commission has eliminated Option C by finding that he was at MMI.

So realistically, the one that applies is Scenario B, which says there are a number of jobs that he could go back and do. The -- or the claimant has relied upon the opinion of Dr. Price, David Price. If you look at Mr. Price's report, it says the claimant could not meet the requirements of sedentary employment, and therefore he can't go back to work. He doesn't have sedentary work restrictions. Nobody has put those work restrictions on him. The FCE says light to medium. The only doctor that put restrictions on him is Dr. Caldwell for the knee after a

meniscal repair. And it said light to medium. Mr. Price is saying he can't do sedentary work and therefore he's totally disabled. That is inconsistent with the medical evidence in this case. He's inventing his own facts. Then using those invented facts to justify a conclusion on the back end, which is not what the vocational experts are supposed to so. I would assert to you that there is no basis for finding total and permanent disability on this case.

The other thing that's very interesting in this case is this man came in and said, well, I have applied for 20 or 30 jobs and I haven't gotten a call back. And so I've asked him about that. And he said, well, I have applied for jobs. I couldn't do any of them. And I asked very plainly, why did you apply for jobs that you couldn't do? And he said specifically that he had to. This is actually page 55 of the transcript.

Then, sir, why did you apply for the jobs?

Because I had to apply for jobs.

Why?

Because I had to apply for them.

Why?

I was told to apply for jobs.

Who told you that?

My attorney.

Okay. So when you applied for these jobs, you were not applying for these jobs because you really want to work; you're applying for them for the purposes of litigation, right?

And he said, I applied for a job. If they hire me within the guidelines of my restriction where I feel that I can handle it, then I'll accept the job and try to do the job.

Okay.

I'm not running away from work.

Okay. Do you think you could do all the jobs to all these places that you applied to?

No.

He also admitted that he'd never applied for a single job with a CDL. He agreed with the questioning at the hearing this it's hard to get a CDL. That is a skill set that not a lot of people have. That makes you marketable. Didn't apply for a single job requiring a CDL. Went out an applied for a bunch of other jobs. This is a man who was ---

(Timer chimes.)

--- manufacturing evidence to prove that he was disabled, as opposed to the fact that he could work.

COMMISSIONER BECK: Thank you, Mr. Baxley.

Mr. Crosland?

ARGUMENT BY THE RESPONDENTS:

MR. CROSLAND: Thank you. Boy, where do I start? First, I think the proper place to start when you're assessing whether or not the order from the hearing commissioner, who reviewed this case now for a second time, should be supported is you've got to look at the entire record, and you've got to look at this gentleman as an individual. And what the defense in this case wants you to ignore is his age, 57 years old. He left school in the ninth grade. He does not have a high school diploma, that he has an IQ test, that was not challenged by Mr. Price or by anybody in the record, of 71.

COMMISSIONER BECK: What makes him incapable of driving a truck?

MR. CROSLAND: His restrictions, Commissioner, are that of no kneeling, climbing, squatting, lifting greater than 35 pounds. And I think if

you read Mr. Price's evaluation, there is no commercial truck driving job, that he's aware of, that doesn't require some climbing into and out of a truck. In fact, he testified why we couldn't go back to doing the equipment-operating job that the City of North Charleston had him do for 30 years and why he couldn't go back to operating the heavy equipment, which is really no different than operating a truck, is because you've got to take two, three steps to get up into the cab; two, three steps to get out; and you do that on a regular basis. So I think that's the basis of it. There's no climbing. Those are his restrictions. So you're dealing with a man who is virtually ---

COMMISSIONER BARDEN: Where is the climbing?

MR. CROSLAND: Excuse me?

COMMISSIONER BARDEN: Is that -- the climbing restriction ---

MR. CROSLAND: From Dr. Caldwell.

COMMISSIONER BARDEN: Dr. Caldwell. Okay.

MR. CROSLAND: In his 2/13/18.

COMMISSIONER BARDEN: I was looking at Finding of Fact 17. And, I guess the commissioner just

didn't include that.

MR. CROSLAND: Now, so if you look at this gentleman from that perspective, he is an older individual. He has significant restrictions on himself. He is virtually functionally illiterate. Even the defendants' vocational consultant offered the opinion that there would be no jobs for this gentleman that require any degree of academic training. He is not suited for any occupations that require that particular aspect of employment. In other words, he is good only for labor work.

What was predicted when the case came from appeal from the first hearing before the hearing commissioner when the commissioner simply said there's something wrong with his gentleman's knee. It has not gotten better. Dr. Schaaf looked at him just before the hearing and said there is something wrong with his knee. We need to get an MRI to figure out what's wrong with the knee, why he has not improved. Whatever reason, that didn't -- wasn't what the commission wanted to have happen. The case went back to the hearing commissioner, who then said, then I'm really

left with no choice. Given this vocational profile, given his restrictions, his age, then he's totally disabled. That's exactly what we predicted would happen, and unfortunately that is what has happened.

So if you want to look just even at the defendants' evidence, I would dispute that the defendants' vocational expert says that Profile A, if you believe everything that the claimant says, that -- and I don't -- that he can't go back to work. I don't see that in his report. What he says in the report is that given the profile based upon his presentation to him, the vocational testing that was done by Mr. Price, his educational background and restrictions, that there is no work for him, no competitive employment. In fact, he says, return to competitive employment is unlikely. Profile B, he says, well, gosh, if he got additional medical treatment and he didn't have the knee problems, then perhaps there would be something for him. But that's not available because that hasn't been provided to him.

So then that take us to Profile C where perhaps he could do other lighter-duty jobs. Well, we

provided 50 pages in the APA of jobs he had applied for. Mr. Baxley is wrong. He got one call back out of all of the jobs that he applied for. And, yes, he applied for those jobs because that's what he has to do. That's his burden of proof. Under Coleman versus Quality Concrete Products, the claimant has some duty to go out and apply for jobs to see whether or not anyone will hire him. He did that. You know, you're really damned if you do; damned if you don't with the defendants in these cases. If the claimant applies for jobs, that's no good. Then that shows he can to some work. If he doesn't, well then he hasn't applied for jobs. So how do we know he can't do any work?

COMMISSIONER BECK: Doesn't he say on page 128 of the defendants' briefs that based upon Mr. Nelson's vocational evaluation it's his opinion that his perspective employability is properly binding by the conclusions and outcome cited in Section 8. Relative to such, the undersigned does not consider Mr. Nelson to be vocationally disabled in a manner consistent with Profile A?

MR. CROSLAND: Well, I can only tell you what I read under Profile A when he did the analysis in the report that return to competitive employment, given those factors, is unlikely.

COMMISSIONER BECK: This was in his conclusions.

MR. CROSLAND: Under profile B, he says, you know, he didn't get the treatment, so he can't -- that he wouldn't even consider those factors. And under C, he says, well, what about lighter-duty jobs?

So, you know, we can't just ignore the fact that he's gone out and applied for multiple, multiple jobs from stocking to light-duty jobs, jobs that at least sort of fitted, he thought perhaps, within his physical restrictions. He got one call back from a Dollar General store manager. Interviewed him and never got a call back.

COMMISSIONER BECK: How do you deal with his testimony that the jobs he applied for were jobs that he didn't even believe he could do? Well, that's not really what he said. If you look at the whole -- all of his testimony, what he said was, I'm not running from any work. I applied for the jobs. If they were to call me

back, I would talk to them. He got one call back.

You know, again, I just -- I don't really -- I think that's parsing his testimony a little bit unfairly. I really don't think that's the -- if you look at the entire testimony. When he's asked ten times by -- or five times by Mr. Baxley, why did you apply for the jobs; why did you apply for the jobs? He told them. He said, 'cause I need to -- I have to in order to establish that he is totally disabled. That's the legal requirement. But I don't think -- I think he -- and if you look -- if you really listen to the wording of the question, that what he said was he didn't think he could do all of the jobs that he applied for. But he applied for them, nonetheless.

So, I mean, again, it's very much a catch-22. If he applies for a myriad of jobs, you know, and he doesn't get one, well, that doesn't seem to be good enough. If he doesn't apply for any jobs, then that doesn't seem to satisfy the defendants. So I think you have to look at this gentleman in the context of the entire vocational profile.

Furthermore, with regard to the defendants' contention that there was some malingering, there was never any finding by any physician in this case that there was any malingering. You can tell Mr. Caldwell is frustrated that he's not getting better. You know, the defendants hired a private investigator. They took video of him when he was not aware. He's out there with his cane slowly walking along the sidewalk in front of his house. As he testified, that's about as much as he can do. What Dr. Caldwell should have done was ordered a follow-up MRI. What Dr. Lowery should have done with regard to the ankle is to provide a bone scan to find out why there was continuous swelling and edema in the ankle. Even the commissioner who heard the evidence and looked at the knee and ankle found that there was swelling in the foot at the time of the hearing. So there's just no evidence of any malingering the defendants want to try and put that square peg in a round hole. But when you look at the functional capacity evaluation, passes that with flying colors. Full effort. Now, they won't want to talk about. There's no evidence of any malingering when he

participated in that test, which, again, only tested his knee. And by the way, there was additional impairment found by Dr. Wardenby [ph], who looked at his thumb injury prior to the hearing, found that, unlike Dr. Ernst, he found that he had sustained a 12 percent impairment to the hand.

And so we have a 12 percent to the hand, not just a 5 percent to the hand. We've got profound restrictions on a gentleman who is virtually functionally illiterate with a 71 IQ who has done ---

COMMISSIONER BECK: Mr. Crosland, tell me how I reconcile Dr. Price's vocational evaluation, when it appears on at least two instances, first he's basically limited your client to light -- sedentary to light and then in the next paragraph ---

MR. CROSLAND: Uh-huh.

COMMISSIONER BECK: --- sedentary.

MR. CROSLAND: Uh-huh.

COMMISSIONER BECK: And if I'm not mistaken, the restrictions were light to medium?

MR. CROSLAND: Right. Well, and that's why I tell you even when you consider the defendants'

vocational evaluation. I don't think this gentleman can work. I mean, if -- and there is some inconsistency there -- I acknowledge that -- with Mr. Price's vocational report. I think that, at best if you're asking me, I think he could do perhaps light-duty work. But you have just -- that's just one aspect of employability. The others, you can't get around. He doesn't have a high school diploma. That eliminates a significant number of jobs that are essentially labor jobs. That's all he can really do. He's got a 71 IQ. He can't been retrained to do anything. Even their vocational expert says that.

COMMISSIONER BECK: But he got this job without a high school education.

MR. CROSLAND: Well, he did. That's true. He was younger, and he didn't have all these impairments. I don't know what the restrictions were or what the requirements were for the City of North Charleston 30 years ago ---

(Timer chimes.)

COMMISSIONER BECK: Finish your thought.

MR. CROSLAND: But I can tell you, they're not the

same now.

COMMISSIONER BECK: Thank you, sir.

Mr. Baxley?

REBUTTAL STATEMENT BY THE APPELLANT:

MR. BAXLEY: Thank you, Commissioner. And let me clarify one thing that I said in my original argument. I'd mixed up profiles B and C. I said that Profile B was the one about MMI and Profile C -- those were reversed. Profile B was the one about if he needed more treatment. Profile C is the one he actually endorsed.

And, Commissioner, you correctly pointed out in his conclusions that he does not endorse Profile A. If you actually flap back one page to page 127, he addresses it more clearly. He says on page 127, with regard to suck circumstances, the parties are advised that I do not consider Mr. Nelson to be vocationally disabled as set forth in Profile A. More specifically, I do not believe that he is vocationally abled, absent any ongoing dispute as to the need for an updated MRI. That's the part about the MMI.

He makes it abundantly clear that he is not relying upon Profile A. He doesn't believe

that it's accurate. And yet that's what the commissioner relies upon to establish that he's totally and permanently disabled.

I think you've hit the nail on the head with regard to employability. The medical diagnoses and impairment ratings and restrictions do not qualify this man for total disability. The vocational opinions do not qualify this man for total disability. Frankly, the circumstances around him looking for jobs is suspect, to say the least. And with regard to all of that, I understand Mr. Crosland's argument about having a high school diploma. That would be important for certain jobs. It would not be important for the jobs that Mr. Leonard identifies in his report specifically. And frankly, if not having a high school diploma renders you totally unemployable, then the state of South Carolina's about to have a 35 to 40 percent unemployment rate because that's the rate of human beings that live in this state that do not have a high school diploma.

Clearly, that does not disqualify you from being employable in this state. Mr. Leonard, who is well respected by this commission, knew

that this man did not have a high school diploma and yet identifies under Profile C a variety of jobs that he can do without that high school diploma within the restrictions set forth by the physicians, not made-up restrictions that he advocated on his own. Thank you.

COMMISSIONER BECK: Okay. Thank you, sir. That conclude this proceeding. Thank you, gentlemen.

(There being nothing further, the full commission hearing concluded at 10:31 a.m.)

CERTIFICATE

This is to certify that the within hearing consisting of twenty six (26) 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 May 14, 2020.

Cortney N. Glover
Court Reporter

Notary Public for South Carolina
My Commission Expires: December 1, 2025

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1618027

Claimant's Name:	Frederick Nelson	Employer's Name:	City Of North Charleston
Address:	[redacted]	Address:	P. O. Box 190016
City:		City:	N Charleston State: SC Zip: 29419
Home Phone:	(843) 952-5784 Work Phone:	Carrier:	Planned Administrators, Inc. (PAI)
Preparer's Name:	Johnnie W. Baxley, III	Preparer's Phone #:	(843) 284-1082

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $575.70 2. AWW: $ 863.51 **Date of Injury:** 11/29/2016
3. Type of injury and body part(s): Right ankle, left thumb and left knee
4. Facts in controversy: Defendants admit injuries to right ankle, left thumb and left knee. Claimant has been released at MMI for all injuries. Issues are stop payment of TTD, credit for overpayment of TTD, extent of permanent disability, and future medicals.
5. Legal issues involved: See #4 above.
6. Unusual aspects: Defendants reserve the right to and may move to either postpone or adjourn the scheduled hearing to exercise due process rights afforded by law to cross examine, respond to, and otherwise oppose evidence presented by the claimant.
7. Witnesses (designate if expert):* Employer Representative; Investigator Frederick R. from Woodall & Broome; Leslie Mitchum.
8. Exhibits: Claimant's Employment/Personnel File; Payroll Records; Deposition of Claimant, Video investigation surveillance
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): SEE APA SUBMISSION
10. Name, address, and specialty, if any, of the treating physician: Robert Lowery, M.D., Charleston Bone & Joint, Charleston, SC; Orthopaedic Specialists of Charleston, Kenneth Caldwell & John Ernst, both of Charleston, SC
11. Impairment rating(s); body part(s); physician and date of opinion: 11%; Left Lowery Extremity; Dr. Caldwell, 2/8/18; 0%; right ankle; Dr. Lowery, 2/13/17; 5%; right thumb.; Dr. Ernst, 8/10/17,
12. I am amending my Form 50/51 in the following manner: n/a

☐ **Mediation**
- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify that I have served this document pursuant to R.67-212 by delivering a copy to: Malcolm M. Crosland, Jr., 61 Broad Street, PO Box 9, Charleston, SC 29402 on the 27th day of June, 2018 by ☒ first class mail ☐ personal service ☐ certified mail.

Certifier, Holly S. Horsman

Signature: Johnnie W. Baxley, III, Willson Jones Carter & Baxley, P.A. Email: jwbaxley@wjlaw.net

Date of hearing: 7/12/2018 Time needed for hearing: 30 mins

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615, as wel as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right t admit expert witnesses at hearings.

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: **1618027**
Carrier File #: **810020000582**
Carrier Code #:
Employer FEIN #:

Claimant's Name: Frederick Nelson SSN: [redacted]
Address: [redacted]
City: [redacted]

Employer's Name: City Of North Charleston
Address: P. O. Box 190016
City: N Charleston State: SC Zip: 29419

Home Phone: (843) 952-5784 Work Phone:
Insurance Carrier: Planned Administrators, Inc. (PAI)

Johnnie W. Baxley, III (Preparer's Name) 421 Wando Park Boulevard, Suite 100, Mt. Pleasant, SC 29464 (Address) (843) 284-1082 (Phone #)

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
AND MALCOLM M. CROSLAND, JR., ESQUIRE, ATTORNEY FOR CLAIMANT

YOU ARE HEREBY NOTIFIED THAT DEFENDANTS, pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330, (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the defendants, to wit:

NAME OF PHYSICIAN/OTHER	DATE OF REPORT	PAGE
APA (1) Dr. Robert Lowery	12/22/16 – 10/23/17	1-10
APA (2) Dr. John Ernst	2/23/17 – 8/10/17	11-33a
APA (3) Dr. Kenneth Caldwell	3/2/17 – 2/13/18	34-61
APA (4) CCOH	11/29/16 – 2/17/17	62-92
APA (5) FCE	1/23/18	93-118
APA (6) Joel Leonard, vocational expert	6/8/18	119-129

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into the evidence on behalf of the employer-defendant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the defendants: See Pre-Hearing Brief.

Johnnie W. Baxley, III
Willson Jones Carter & Baxley, P.A.
421 Wando Park Boulevard, Suite 100
Mt. Pleasant, SC 29464

June 27, 2018

July 12, 2018
(hearing date)

APA #1

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male [redacted]

Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPERTTC Payer ID: PAPER
Appointment Facility: Chas Bone And Joint East Bay

12/22/2016

ROBERT B LOWERY, MD

Current Medications
None

Review of Systems
Endocrine:
Thyroid problem No. Diabetes No.
Respiratory:
Asthma No. TB or exposure to TB No. Coughing up blood No. Emphysema No.
Cardiovascular:
Stroke No. Cardiac pacemaker or defibrillator No. Heart problems No. Circulatory problems No.
Gastrointestinal:
Jaundice No. Stomach ulcers No.
Women Only:
Regular menses No. Pregnant No.
Musculoskeletal:
Arthritis No. Gout No.
Hematology:
AIDS/HIV No. Anemia No.
Genitourinary:
Kidney problems No.
Neurologic:
Seizures No.
Psychiatric:
Depression No.
Cancer Self-Management:
Cancer No.
General:
Hearing problems No.

Reason for Appointment
1. W/C NP (R)ANKLE AND (L)KNEE

History of Present Illness
Symptom(s):
The patient is a 56-year-old gentleman who presents today at the request of Dr. Mary Wise glass. In consultation. This gentleman injured his right ankle about a month ago. He states she was walking to his truck and ran into the Forks of a forklift. He states she had a hyperflexion injury to his right ankle. He also states he fell back and injured his knee and also his right thumb. He was seen at Carolina Center for occupational health where physical examination and x-rays were performed. He states he has pain that is 6-8 on a 10 scale worse with activities improved by rest. He states she is has not been taking any anti-inflammatory's. He denies any physical therapy. He states she also has pain in his left knee and right thumb. He has not returned to work. He feels like his pain is not progressing. He did have an MRI scan which did not accompany him today. We we will were eventually able to obtain the results of this which took several hours. This did show some bruising of the soft tissues and mild bruising of the bone. Some posterior tibialis tendon and flexor hallucis tendons sheath swelling was noted.

The patient complains about pain primarily on the anterior aspect of his foot and ankle. No radiation is noted. No fevers chills are noted.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index, RR 18 /min.

Examination
General Examination:
HEAD: normocephalic, atraumatic.
EYES: pupils equil round, sclera non-icteric.
EARS: without deformity.
NOSE: no lesions.
ORAL CAVITY: mucosa moist.
NECK: supple.
CARDIOVASCULAR: extremities perfused, no JVD, no edema.
LUNGS: clear, no audible wheezes or rhonchi.
CHEST: normal shape and expansion, no gross rib deformity.
PSYCH: alert, oriented, cooperative with exam, speech clear.
SPINE supple.
UPPER EXTREMITIES good range of motion shoulder, elbow, wrist, tenderness to the right thumb is noted.
LOWER EXTREMITIES He does have good range of motion of his hips and knees. Some tenderness of the left knee is noted. He does have mild swelling of his right foot and ankle. Mild tenderness of the anterior aspect of the foot and ankle are noted. Good strength is noted. No tenderness in the posterior tibialis tendon or posterior ankle region is noted. Mild tightness of his gastroc is noted. Subtalar motion is good. Distal neurovascular exam is intact. Good stability is noted. No skin lesions present.

Assessments
1. Contusion of right ankle, initial encounter - S90.01XA (Primary)

Treatment
1. Contusion of right ankle, Initial encounter
Start Meloxicam Tablet, 15 MG, 1 tablet, Orally, Once a day, 30 day(s), 30, Refills 02
Notes: We have reviewed his MRI scan as well as an examination with him. At this point I do think he has some bruising. I do not see any pathological issues. We are going to initiate physical therapy and start him on Mobic. He can return to a light duty. We have given him a note to initiate physical therapy and we'll see him back in 6 weeks if needed. Otherwise he is to follow up with Dr. Wiseglass.
Cc Dr. Wiseglass
Referral To RSF-ATI Physical Therapy - Goose Creek P.T/OT Physical Therapy
Reason: "PLEASE EVALUATE AND TREAT" "PATIENT TO CALL TO SCHEDULE APPOINTMENT." ROM, Strengthening, Stretching and modalities x 12"



Electronically signed by ROBERT LOWERY MD on 12/23/2016 at 09:30 AM EST
Sign off status: Completed

Chas Bone And Joint East Bay
255 EAST BAY STREET
CHARLESTON, SC 29401-2632
Tel: 843-853-3474
Fax: 843-606-8056

CF20161227082001

Charleston Bone & Joint
ROPER ST. FRANCIS PHYSICIANS

To:
Fax
Date: 12/22/19

Return to work Recommendations

Name: FREDERICK NELSON	DOB: [redacted]
Company:	Claim #:
Injury Date:	Follow Up Appointment:

_____ Initial Treatment Diagnosis:
_____ Follow-up Treatment
_____ Work Related
_____ Non Work Related

Treatment	Work Status	Physical Ability
___ Wound Care ___ Suture Removal ___ X- Rays ___ Lab Work ___ Meds Prescribed ___ Other	___ Return to regular duty on: _____ x_ Return to Modified Duty on _____ ___ Unable to return until _____ ___ Discharge from current care on _____	___ Restricted Standing walking ___ Restricted climbing Bending, stooping ___ Limit use of R/L hand / Arm ___ No work around moving machinery ___ Driving Yes/ No ___ Alternate Position Sit, Stand, Walk ___ Weight Lifting Restrictions ___ 0-15, _____ 16-35, ___35-50 ___ No Overhead Work ___ Keep Dressing Clean and Dry ___ Other

Return to Follow Up with Dr. Lowery on _____ at _____
Instructions: ordered physical therapy. may return to work with light duty. F/u in 6 wks if needed.

Physicians Signature Date : 12/22/2016

I hereby Authorize my attending physician to release any information or copies of thereof acquired in the course of my examination treatment for the above identified injury to my employer or representative. I understand that return to work recommendations are made based on medical evaluations.

Employee Signature: _____ Date: _____

Robert Lowery, MD * Keith Merrill, MD * Harry Rudolph, MD * William Carroll, III, MD
Jeff Armstrong, DPM, ATC * Brian Ralph, DPM
255 East Bay Street, Charleston, SC 29403
Phone: (843) 853-3474 Fax: (843) 853-3500

3

CF20170206039001

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK
56 Y old Male DOB [redacted]

Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPER TTC Payer ID: PAPER
Appointment Facility: Chas Bone And Joint East Bay

02/02/2017

ROBERT B LOWERY, MD

Current Medications
Taking
- Meloxicam 15 MG Tablet 1 tablet Orally Once a day, stop date 03/22/2017
- Medication List reviewed and reconciled with the patient

Review of Systems
Endocrine:
Thyroid problem No. Diabetes No.
Respiratory:
Asthma No. TB or exposure to TB No. Coughing up blood No. Emphysema No.
Cardiovascular:
Stroke No. Cardiac pacemaker or defibrillator No. Heart problems No. Circulatory problems No.
Gastrointestinal:
Jaundice No. Stomach ulcers No.
Women Only:
Regular menses No. Pregnant No.
Musculoskeletal:
Arthritis No. Gout No.
Hematology:
AIDS/HIV No. Anemia No.
Genitourinary:
Kidney problems No.
Neurology:
Seizures No.
Psychiatric:
Depression No.
Cancer Self-Management:
Cancer No.
General:
Hearing problems No.

Reason for Appointment
1. W/C 6 WK F/U

History of Present Illness
Symptom(s)
The patient is seen today for follow-up of his right ankle injury contusion. He states she is doing better. He notes that he cannot run yet. He notes she has some pain with going up and down stairs and standing for long. To time. He states she has been working in physical therapy. He feels like there is more pain more posteriorly. We did previously see his MRI scan and report which was unremarkable except for some soft tissue contusion.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index, RR 18 /min.

Examination
General Examination
HEAD: normocephalic, atraumatic.
EYES: pupils equil round, sclera non-icteric.
EARS: without deformity.
NOSE: no lesions.
ORAL CAVITY: mucosa moist.
NECK: supple.
CARDIOVASCULAR: extremities perfused, no JVD, no edema.
LUNGS: clear, no audible wheezes or rhonchi.
CHEST: normal shape and expansion, no gross rib deformity.
PSYCH: alert, oriented, cooperative with exam, speech clear.
SPINE supple.
UPPER EXTREMITIES good range of motion shoulder, elbow, wrist, tenderness to the right thumb is noted.
LOWER EXTREMITIES He does have good range of motion of his hips and knees. Some tenderness of the left knee is noted. No swelling of his right foot and ankle: Mild tenderness of the posterior aspect of his left ankle on the medial side today. No swelling induration or erythema is noted. Some mild pain on the posterior lateral aspect of his ankle is noted. Again mte he induration or swelling is noted. This is different from his initial examination.

Assessments
1: Contusion of right ankle, initial encounter - S90.01XA (Primary)

Treatment
1. Contusion of right ankle, initial encounter
Notes: We have reviewed his studies was again. His examination is unremarkable. I do think he can return to regular duty at work. He can complete physical therapy. I do not see any other beneficial therapeutic options needed. No restrictions are given.



CF20170206039001

Electronically signed by ROBERT LOWERY MD on 02/02/2017 at 06:00 PM EST
Sign off status: Completed

Chas Bone And Joint East Bay
255 EAST BAY STREET
CHARLESTON, SC 29401-2632
Tel: 843-853-3474
Fax 843-606-8056

Patient: NELSON, FREDERICK DOB: 07/11/1960 Progress Note: ROBERT B LOWERY, MD 02/02/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

CF20170222091001

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675
www.wcc.sc.gov

Physician's Statement

Claimant's Name: Frederick Nelson
Employer's Name: City of North Charleston
Physician's Name: Dr. Robert Lowery
Insurance Carrier: City of North Charleston / Companion TPA
Practice/Clinic: Charleston Bone & Joint
SCWCC File No: 1618077
Preparer's Name:
Phone:

The undersigned physician has been authorized to evaluate or treat this Claimant for his or her work injury or illness pursuant to *South Carolina Code Sections* 42-15-60, 42-15-80, 42-1-172, or 42-11-10.

Date of injury: 11/29/16 Date of first office visit: 12/22/16 Date of last office visit: 2/2/17

The medical opinions below are stated to a reasonable degree of medical certainty.

Diagnosis or nature of injury or illness: Contusion right ankle

Body part(s) injured: RIGHT ANKLE Body part(s) affected:

Date of **maximum medical improvement:** 2/2/17

Has the Claimant sustained **permanent physical impairment** as a result of the work injury? ____ Yes ✓ No

If so, the permanent physical impairment is: ____ % medical impairment to the _____ (injured body part).

If there is a permanent physical impairment to other body part(s) as a result of the work injury, please indicate below:
0 % medical impairment to the right ankle (additional body part injured or affected).

The impairment rating(s) above are based upon the following:

____ The AMA's *Guides to the Evaluation of Permanent Impairment* ____ Edition; or
____ Other medical treatise: _____ or
____ Other: _____

Does the Claimant have **permanent physical limitations** as a result of the injury? ____ Yes ✓ No

If so, the permanent physical limitations are: _____

Does the Claimant **possess retained hardware** as a result of the injury? ____ Yes ✓ No

If so, the retained hardware is: _____

Is there **medical, surgical, hospital or other treatment** that the Claimant needs as a result of the injury for an additional time that will tend to lessen the period of disability or maintain the current level of function? ____ Yes ✓ No

If so, the medical care and treatment that is needed is/are:

"An indication or statement that future medical care 'may be necessary' or 'might be necessary' is not sufficient and will require further clarification."

I certify that I am a physician or other licensed healthcare provider, I have personally read and prepared this document, and the opinions reflected above are mine.

Treating or Evaluating Physician — Date 2/15/17

WCC Form #148
12/2016

14B

Physician's Statement

CF20170206041001

Charleston Bone & Joint
ROPER ST. FRANCIS PHYSICIANS

To:
Fax
Date02/02/17

Return to work Recommendations

Name: FREDERICK NELSON	DOB : 07/11/1960
Company:	Claim #:
Injury Date :	Follow Up Appointment:

____ Initial Treatment Diagnosis: ankle injury
____ Follow-up Treatment
____ Work Related
____ Non Work Related

Treatment	Work Status	Physical Ability
___ Wound Care	___ Return to regular duty on 02/06/17	___ Restricted Standing walking
___ Suture	___ Return to Modified Duty on ____	___ Restricted climbing Bending, stooping
Removal	___ Unable to return until	___ Limit use of R/L hand / Arm
___ X- Rays	____	___ No work around moving machinery
___ Lab Work	___ Discharge from current care on	___ Driving Yes/ No
___ Meds Prescribed	____	___ Alternate Position Sit, Stand, Walk
___ Other		___ Weight Lifting Restrictions
		___ 0-15, _____ 16-35, ___35-50
		___ No Overhead Work
		___ Keep Dressing Clean and Dry
		Other

Return to Follow Up with Dr. Lowery on _____ at _____
Instructions : _____
can return to regular duty.

Physicians Signature Date : 2/2/2017

I hereby Authorize my attending physician to release any information or copies of thereof acquired in the course of my examination treatment for the above identified injury to my employer or representative. I understand that return to work recommendations are made based on medical evaluations.

Employee Signature: _____ Date: _____

Robert Lowery, MD * Keith Merrill, MD * Harry Rudolph, MD * William Carroll, III, MD
Jeff Armstrong, DPM, ATC * Brian Ralph, DPM
255 East Bay Street, Charleston, SC 29403
Phone: (843) 853-3474 Fax: (843) 853-3500

7

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

57 Y old Male, DOB [redacted]
Account Number: [redacted]

Guarantor: NELSON, FREDERICK Insurance: COMPANION TPA Payer ID: 5861
PCP: ZZ NO PCP
Appointment Facility: RSFPP Orthopaedics CBJDT

10/23/2017

ROBERT B LOWERY, MD

Current Medications
Taking
- Amlodipine Besylate
- Medications reported as directed by the ordering provider

Not-Taking/PRN
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Review of Systems
Endocrine:
Thyroid problem No. Diabetes No.
Respiratory:
Asthma No. TB or exposure to TB No. Coughing up blood No. Emphysema No.
Cardiovascular:
Stroke No. Cardiac pacemaker or defibrillator No. Heart problems No. Circulatory problems No.
Gastrointestinal:
Jaundice No. Stomach ulcers No.
Women Only:
Regular menses No. Pregnant No.
Musculoskeletal:
Arthritis No. Gout No.
Hematology:
AIDS/HIV No. Anemia No.
Genitourinary:
Kidney problems No.
Neurologic:
Seizures No.
Psychiatric:
Depression No.
Cancer Self-Management:
Cancer No.
General:
Hearing problems No.

Reason for Appointment
1. RT ANKLE FOLLOW UP

History of Present Illness
Symptom(s):
The patient is seen today for worsening of his condition. He states that his right ankle is giving him more problems. He states that he had knee surgery did a trigger finger release. One performed by Dr. Ernst someone performed by Dr. Caldwell. We have reviewed her notes. He states that he was in physical therapy which required him to do walking and other activities such as lifting. He notes this aggravated his ankle pain. He notes his pain is over the anterior aspect of his ankle. He notes his pain is 6-8 on a 10 scale. Worse with walking and activities and improved by rest. He feels like his symptoms have gotten worse and aggravated by his physical therapy. He denies any additional injuries. He currently is utilizing a cane. We have reviewed his notes from Dr. Caldwell and his intraoperative findings.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index, RR 18 /min.

Examination
General Examination:
HEAD: normocephalic, atraumatic.
EYES: pupils equil round, sclera non-icteric.
EARS: without deformity.
NOSE: no lesions.
ORAL CAVITY: mucosa moist.
NECK: supple.
CARDIOVASCULAR: extremities perfused, no JVD, no edema.
LUNGS: clear, no audible wheezes or rhonchi.
CHEST: normal shape and expansion, no gross rib deformity.
PSYCH: alert, oriented, cooperative with exam, speech clear.
SPINE supple.
UPPER EXTREMITIES good range of motion shoulder, elbow, wrist,...
LOWER EXTREMITIES He does have good range of motion of his hips and knees. Well-healed surgical incision of the left knee is noted. He does have good range of motion of his hips knees and ankles. Comparative ankle examination today reveals no swelling of his right ankle. He does have pes planus. No tenderness or swelling subtalar ankle joint itself is noted. He does have 5 degrees of dorsiflexion with his right side. He does have tenderness over the anterior ankle and sinus tarsi region without signs of swelling heat or induration. Distal neurovascular exam is intact.

Assessments
1. Pain in right ankle and joints of right foot - M25.571 (Primary)
2. Other chronic pain - G89.29

Treatment
1 **Pain in right ankle and joints of right foot**
Notes: We have reviewed his previous x-rays his previous MRI scan. We've reviewed this with the patient at great length. We have explained to him that his MRI scan only showed a mild contusion. He had physical therapy for this in the past. He does have flatfeet and is wearing nonsupportive shoes. We have recommended that he wear good supportive shoes with arch supports. Continue stretching exercises. I do think he is at maximal medical improvement. I do not see any further diagnostic or therapeutic interventions that would be of any benefit for him. We have discharged him today. He has no impairment based on his injury to his foot and ankle.



Electronically signed by ROBERT LOWERY MD on 10/23/2017 at 06:42 PM EDT
Sign off status: Completed

RSFPP Orthopaedics CBJDT
255 EAST BAY STREET
CHARLESTON, SC 29401-2632
Tel: 843-853-3474
Fax: 843-606-8056

Patient: NELSON, FREDERICK DOB: 07/11/1960 Progress Note: ROBERT B LOWERY, MD 10/23/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Charleston Bone & Joint
ROPER ST. FRANCIS PHYSICIANS

To:
Fax:
Date:

Charleston Bone & Joint, P.A.
Daily Progress Note
Phone (843) 853-3474 Fax (843) 853-3500

Return to Work Recommendations

Name: Frederick Nelson	DOB: 11/60
Company:	Claim #:
Injury Date:	Follow Up Appointment

- o **Initial Treatment**
- o **Follow-up Treatment**
- o **Work Related**
- o **Non Work Related**

Diagnosis Rt foot pain

Treatment	Work Status	Physical Ability
o Wound Care	o Return to regular duty on: 10/23/17	o Restricted standing, walking
o Suture Removal	o Return to modified duty on	o Restricted climbing, bending , stooping
o X-Rays		o Limit use of R / L hand / arm
o Lab Work	o Unable to return until	o No work around moving machinery
o Meds Prescribed		o Driving Yes / No
o Other	o Discharge from current care on 10/23/17	o Alternate Position Sit , Stand, Walk
		o Weight Lifting Restrictions __0-15 , __16-35, __ 35-50
		o No Overhead Work
		o Keep dressing clean and dry
		o Other

Return for Follow-up with Dr. _____ on _____ at _____

Instructions _____

Physicians Signature _____ Date: 10/23/17

I hereby Authorize my attending physician to release any information or copies thereof acquired in the course of my examination treatment for the above identified injury to my employer or representative. I understand that returns to work recommendations are made based on medical evaluations.

Employee Signature _____ Date _____

Robert Lowery, MD • Keith Merrill, MD • Barry Rudolph, MD
Jeff Armstrong, DPM, ATC • Brian Ralph, DPM
255 East Bay Street, Charleston, South Carolina 29403
Phone: (843) 853-3474 Fax: (843) 853-3500

10

APA #2

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]
Account Number: [redacted]
Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPER ITC Payer ID: PAPER
Appointment Facility: OSC Trident

02/23/2017 Progress Notes: John M Ernst MD

Current Medications
Taking
- Amlodipine Besylate
- Medication List reviewed and reconciled with the patient

Past Medical History
Hypertension.

Surgical History
No Surgical History documented.

Family History
No Family History documented.

Social History
Tobacco Use:
Tobacco Use/Smokeless: Denies
Tobacco cessation
Patient counselled on the dangers of tobacco 02/23/2017
Cessation: *Not applicable*

Allergies
N.K.D.A

Hospitalization/Major Diagnostic Procedure
No Hospitalization History.

Review of Systems
General/Constitutional:
Night sweats denies. Fatigue denies. Fever denies. Change in activity level denies.
Allergy/Immunology:
Allergies denies. Infection after surgery denies. Latex denies.
ENT:
Tinnitus denies. Nosebleed denies. Hearing loss denies.
Ophthalmologic:
Change in vision denies. Glaucoma denies.
Endocrine:

Reason for Appointment
1. WC NP DOI: 11-29-16 // RT THUMB PAIN SINCE FALL
2. WC referral notes

History of Present Illness
Upper Extremity Problems:
DEMOGRAPHICS 56 yr old male.
HPI SUMMARY 02/23/17 - Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history patient's affect quite concerning patient wearing a Velcro thumb splint.

EXAM SUMMARY 02/23/17 - Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation no guarding on MP stress.
ASSESSMENT/TREATMENT SUMMARY 02/23/17 - History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease. Recommended A1 pulley injection. Moderation of use patient declines injection at this time patient given trigger finger instruction educational pamphlet. Ill-defined GI history do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion..

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
General Examination:
RADIOGRAPHS ____ .

Take insulin? denies.
Hypoglycemia denies. Dizziness denies.
Thyroid problem denies. Diabetes denies.

Respiratory:
O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.

Cardiovascular:
Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure denies. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.

Gastrointestinal:
GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.

Musculoskeletal:
Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.

Hematology:
Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.

Genitourinary:
Blood in urine denies. Frequent UTI denies. Kidney problems denies.

Neurologic:
Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.

Psychiatric:
Depression denies. Mental fogginess denies. Anxiety denies.

Dermatology:
Skin rash denies. Poor wound healing denies.

02/23/17 - Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active. IP 0/20 right 0/60 left Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation.

Assessments

1. Thumb pain - M79.646 (Primary)

02/23/17 - History and exam consistent of right thumb stenosing flexor Tita synovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease./Recommended A1 pulley injection. Moderation of use. Oral anti-inflammatories. Serial assessment.

Treatment

1. **Thumb pain**

IMAGING: PR XR FINGER(S) 2 OR MORE VIEWS ROUTINE

3V right thumb Radial angulation thumb MP joint. Well-rounded ossification radial to CMC nonacute. Mild osteoarthritic changes radial IP joint. Minute changes dorsal thumb metacarpal base at CMC remaining CMC benign. Mild contour changes volar metacarpal head nonacute normal sesamoids. Mild spurring dorsal IP joint lateral view. Slight volar translation lateral view. No fractures noted.

2. **Others**

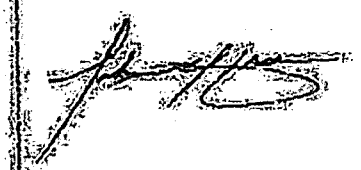
Continue Medications reported as directed by the ordering provider, -, as directed

Procedure Codes

73140 X-RAY FINGER(S) (SIM 30182)

Follow Up

patient declines treatment. Release from my care.



Electronically signed by JOHN ERNST MD on 02/23/2017 at 03:39 PM EST

CF20170224087001

James K. Avenoso, MD
John M. J. Ernst, MD
James L. Price, MD
Joshua Lamb, MD
Blake L. Ohlson, MD
Kate Eden, PA-C

Janice P.
803-870-8943

ORTHOPAEDIC SPECIALISTS OF CHARLESTON

ROPER ST. FRANCIS PHYSICIANS

Kenneth M. Caldwell, MD
Erin N. Watrobski, PA-C
John M. Graham Jr., MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C

(843) 958-2500

PATIENT STATUS REPORT

EMPLOYER:
CLM# 8100200001552

NAME: Frederick Nelson
OUR CHART# 3022332
DATE OF INJURY: 11-29-14

Dx: Right Ring Finger

Follow Treatment
D/C

Work Limitations & Restrictions

Present Condition: Improved

Work Related Injury? Y

DISABILITY STATUS:

Patient is working? N

Tests Required? N Surgery Required? N

MAY BE ABLE TO RETURN TO WORK WITH LIMITATIONS NOTED ABOVE:

DATE OF RETURN TO WORK WITH FULL USE:

DATE OF MEDICAL DISCHARGE AND IMPAIRMENT RATING:

Out under my care

NEXT APPOINTMENT: 2-28-14 @ 10:45am

DATE: 2/25/14 PHYSICIAN:

- THE PATIENT WILL RECEIVE A CURRENT STATUS REPORT AT EACH VISIT.
- A COPY OF THIS REPORT WILL BE FORWARDED TO EMPLOYER'S INSURANCE CARRIER.
- PERMANENT AND PARTIAL IMPAIRMENT RATINGS WILL BE DETERMINED AT THE FINAL PATIENT VISIT.

Revised 4/6/2016

13

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]

Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPERTIC Payer ID: PAPER
Appointment Facility: OSC Trident

02/28/2017 John M Ernst MD

Current Medications

Taking
- Medications reported as directed by the ordering provider – as directed
- Amlodipine Besylate
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

No Surgical History documented.

Family History

No Family History documented.

Social History

Tobacco Use:
Tobacco Use/Smokeless: Denies .
Tobacco cessation
Patient counselled on the dangers of tobacco *02/28/2017*
Cessation: *Not applicable*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Review of Systems

General/Constitutional:
Night sweats denies. Fatigue denies. Fever denies. Change in activity level denies.
Allergy/Immunology:
Allergies denies. Infection after surgery denies. Latex denies.
ENT:
Tinnitus denies. Nosebleed denies. Hearing loss denies.
Ophthalmology:
Change in vision denies.

Reason for Appointment

1. RT THUMB INJECTION. OSC_ INJ TRIGGER_ ERNST.

History of Present Illness

Upper Extremity Problems:

DEMOGRAPHICS 56 yr old male.

HPI SUMMARY **02/23/17**_-Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history.patient's affect quite concerning.patient wearing a Velcro thumb splint.

02/28/17_-patient has discussed situation with Dr. Weisglass and here to proceed with treatment. Still has triggering right thumb with hesitation to flex. Wearing thumb spica Velcro splint.no sensory complaints.

EXAM SUMMARY **02/23/17**_-Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active. IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable.negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation.no guarding on MP stress.

02/28/17_-Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL. MP motion 0/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on sudomotor evaluation. Stable NP IP joint. No guarding on stress.

Glaucoma denies.
Endocrine:
Take insulin? denies.
Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.
Respiratory:
O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.
Cardiovascular:
Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure admits. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.
Gastrointestinal:
GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.
Musculoskeletal:
Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.
Hematology:
Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.
Genitourinary:
Blood in urine denies. Frequent UTI denies. Kidney problems denies.
Neurologic:
Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.
Psychiatric:
Depression denies. Mental fogginess denies. Anxiety denies.
Dermatology:
Skin rash denies. Poor wound healing denies.

ASSESSMENT/TREATMENT SUMMARY 02/23/17 - History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease./Recommended A1 pulley injection. Moderation of use. patient declines injection at this time.patient given trigger finger instruction educational pamphlet. Ill-defined GI history do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion.

02/28/17 - history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

INTERVENTION SUMMARY 02/28/17 - Status post right thumb A1 pulley injection DOI 2/28/17 after injection with encouragement patient had full composite flexion with significant crepitus at the A1 pulley, good FPL strength.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
General Examination:
02/28/17 - Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL, MP motion 0/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on sudomotor evaluation. Stable NP IP joint. No guarding on stress.

Assessments
1. Trigger thumb, right thumb - M65.311 (Primary)

02/28/17 - history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

Treatment
1. Trigger thumb, right thumb
Notes: 02/28/17 - history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

2. Others
Continue Medications reported as directed by the ordering provider, –,

as directed

Procedures

Injection:

Injection

LOCATION: A1 pulley of the involved right thumb under evaluation

PREP: After sterile preparation & using standard sterile technique

INJECTION: 40 mg. Depo-Medrol / 1cc. 1% lidocaine was injected

OBSERVATION: The patient was monitored for 15 min. with no untoward effects.

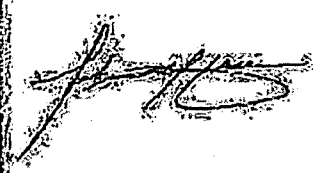
POST INJECTION OUTCOME: Exam demonstrated apparent triggering

Procedure Codes

J1030 INJ METHYLPREDNISOLONE ACTAT 40 MG
Lidocaine 1%
20550 Tendon Sheath

Follow Up

3 Weeks



Electronically signed by JOHN ERNST MD on 02/28/2017 at 03:34 PM EST

Sign off status: Completed

CF20170301161001 8100200005 82

James K. Aymond, MD
John M.J. Ernst, MD
James L. Price, MD
Joshua Lamb, MD
Blake L. Ohlson, MD
Katie Eden, PA-C

ORTHOPAEDIC SPECIALISTS OF CHARLESTON
ROPER ST. FRANCIS PHYSICIANS

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Kenneth A. Caldwell, MD
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John M. Graham Jr., MD
Kelly Bailey Kruse, PA-C
Robert Schadrack, MD
Matthew Fabyanic, PA-C

Janice P.
F: 803-870-8043

PATIENT STATUS REPORT

EMPLOYER: CLM# 8100200005 82

NAME: Frederick Nelson
OUR CHART# 3022332
DATE OF INJURY:

Dx: Right thumb / D, adhesive

5th ray right hand
no restrictions on right hand

Work Limitations & Restrictions

Present Condition: check xrays
Work Related Injury? Y
Patient is working? N
DISABILITY STATUS: partial
Tests Required? N
Surgery Required? ?

MAY BE ABLE TO RETURN TO WORK WITH LIMITATIONS NOTED ABOVE: continue
DATE OF RETURN TO WORK WITH FULL USE: pending
DATE OF MEDICAL DISCHARGE AND IMPAIRMENT RATING:

NEXT APPOINTMENT: 3rd 3/21/17 @ 9:15am

DATE: 2/28/17
PHYSICIAN:

- THE PATIENT WILL RECEIVE A CURRENT STATUS REPORT AT EACH VISIT.
- A COPY OF THIS REPORT WILL BE FORWARDED TO EMPLOYER'S INSURANCE CARRIER.
- PERMANENT AND PARTIAL IMPAIRMENT RATINGS WILL BE DETERMINED AT THE FINAL PATIENT VISIT.

Revised 4/6/2016

17

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB [redacted]

[redacted]

COOPERTTC Payer ID: PAPER

Appointment Facility: RSFPP Orthopaedics OSCTR

03/21/2017

John M Ernst MD

Current Medications

Taking

- Amlodipine Besylate
- Medications reported as directed by the ordering provider - as directed.
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

No Surgical History documented.

Family History

No Family History documented.

Social History

Tobacco Use:

Tobacco Use/Smoking

Are you a *nonsmoker*

Tobacco Use/Smokeless: Denies

Tobacco cessation

Patient counselled on the dangers of tobacco *03/21/2017*

Cessation: *Not applicable*

Drugs/Alcohol:

Alcohol Screen

Did you have a drink containing alcohol in the past year? *No*

Points *0*

Interpretation *Negative*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Review of Systems

General/Constitutional:

Night sweats denies. Fatigue denies. Fever denies. Change in activity level denies.

Allergy/Immunology:

Reason for Appointment

1. WC: RT THUMB 3WK FU TLD TRI

History of Present Illness

Upper Extremity Problems:

DEMOGRAPHICS 56 yr old male.

HPI SUMMARY 02/23/17_-Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history patient's affect quite concerning patient wearing a Velcro thumb splint.

02/28/17_-patient has discussed situation with Dr. Weisglass and here to proceed with treatment. Still has triggering right thumb with hesitation to flex. Wearing thumb spica Velcro splint no sensory complaints.

03/21/17_-(right thumb) reports some residual aching right thumb A1 pulley with triggering and locking. Some moderation after injection no sensory complaints.

EXAM SUMMARY 02/23/17_-Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation no guarding on MP stress.

02/28/17_-Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL. MP motion 0/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on

Allergies denies. Infection after surgery denies. Latex denies.
ENT:
Tinnitus denies. Nosebleed denies. Hearing loss denies.
Ophthalmologic:
Change in vision denies. Glaucoma denies.
Endocrine:
Take insulin? denies. Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.

Respiratory:
O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.
Cardiovascular:
Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure admits. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.
Gastrointestinal:
GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.
Musculoskeletal:
Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.
Hematology:
Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.
Genitourinary:
Blood in urine denies. Frequent UTI denies. Kidney problems denies.
Neurologic:
Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.
Psychiatric:
Depression denies. Mental fogginess denies. Anxiety denies.
Dermatology:
Skin rash denies. Poor wound healing denies.

sudomotor evaluation. Stable NP IP joint. No guarding on stress.

03/21/17_-(Right thumb) tender A1 pulley with triggering/locking. Symmetrical range of motion with boutonniere posturing stable nontender and PIP joints. Normal EPL FPL. Light touch intact Normal 2 point discrimination. CMS intact

ASSESSMENT/TREATMENT SUMMARY 02/23/17_-History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease. Recommended A1 pulley injection. Moderation of use, patient declines injection at this time patient given trigger finger instruction educational pamphlet. Ill-defined GI history do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion.

02/28/17_-history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

03/21/17_-Range of motion improved with some residual tenderness triggering and locking after A1 pulley injection. Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed

INTERVENTION SUMMARY 02/28/17_-Status post right thumb A1 pulley injection DOI 2/28/ 17.after injection with encouragement patient had full composite flexion with significant crepitus at the A1 pulley .good FPL strength..

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
General Examination:
03/21/17_-(Right thumb) tender A1 pulley with triggering/locking. Symmetrical range of motion with boutonniere posturing stable nontender and PIP joints. Normal EPL FPL. Light touch intact Normal 2 point discrimination. CMS intact.

Assessments
1. Trigger thumb, right thumb - M65.311 (Primary)
2. Encounter for pre-operative laboratory testing - Z01.812

03/21/17_-Range of motion improved with some residual tenderness

triggering and locking after A1 pulley injection./Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed.

Treatment

1. Trigger thumb, right thumb

LAB: PL CBC AND AUTO DIFF WBC COUNT

Notes: 03/21/17_ -Range of motion improved with some residual tenderness triggering and locking after A1 pulley injection./Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed.

2. Others

Continue Medications reported as directed by the ordering provider, --, as directed

Follow Up

postoperative



Electronically signed by JOHN ERNST MD on 03/21/2017 at 11:57 AM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCTR
2891 TRICOM ST
NORTH CHARLESTON, SC 29406-7110
Tel: 843-958-2500
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CF20170322068001 8100020000582

James K. Aymond, MD
John H.T. Ernst, MD
James L. Price, MD
Joshua Lamb, MD
Blake L. Ohlson, MD
Kate Eden, PA-C

Janice P.

CM#8100020000582

ORTHOPAEDIC SPECIALISTS OF CHARLESTON
ROPER ST. FRANCIS PHYSICIANS

(843) 958-2500

Kenneth M. Caldwell, MD
Erin N. Watrobski, PA-C
John M. Graham Jr., MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C

PATIENT STATUS REPORT

EMPLOYER:

NAME: Frederick Nelson

OUR CHART# 3022332

DATE OF INJURY: 11-29-16

Dx: Rupture biceps tendon

5th case on hand

Work Limitations & Restrictions

Present Condition: Unchanged

Work Related Injury? Y

Patient is working? N

DISABILITY STATUS: Partial

Tests Required? N

Surgery Required? Yes

MAY BE ABLE TO RETURN TO WORK WITH LIMITATIONS NOTED ABOVE: Continue

DATE OF RETURN TO WORK WITH FULL USE: Indefinite

DATE OF MEDICAL DISCHARGE AND IMPAIRMENT RATING:

NEXT APPOINTMENT: Post op

DATE: 2/6/17 PHYSICIAN:

- THE PATIENT WILL RECEIVE A CURRENT STATUS REPORT AT EACH VISIT.
- A COPY OF THIS REPORT WILL BE FORWARDED TO EMPLOYER'S INSURANCE CARRIER.
- PERMANENT AND PARTIAL IMPAIRMENT RATINGS WILL BE DETERMINED AT THE FINAL PATIENT VISIT.

Revised 4/6/2016

21

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]
Account Number: [redacted]
Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPERTTC Payer ID: PAPER
Appointment Facility: RSFPP Orthopaedics OSCWA

05/31/2017 Sawyer A. Langston, PA-C

Current Medications

Taking
- Medications reported as directed by the ordering provider -- as directed
- Amlodipine Besylate
- Medications reported as directed by the ordering provider
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

right trigger thumb 05/19/17

Family History

No Family History documented.

Social History

Tobacco Use:
Tobacco Use/Smoking
Are you a *nonsmoker*
Additional Findings: Tobacco Non-User
Non-smoker for personal reasons
Tobacco Use/Smokeless: Denies ...
Tobacco cessation
Patient counselled on the dangers of tobacco *03/21/2017*
Cessation: *Not applicable*
Drugs/Alcohol:
Alcohol Screen
Did you have a drink containing alcohol in the past year? *No*
Points: *0*
Interpretation: *Negative*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Review of Systems

General/Constitutional:
Night sweats denies. Fatigue denies.

Reason for Appointment

1. RIGHT TRIGGER THUMB RELEASE

History of Present Illness

Upper Extremity Problems:

DEMOGRAPHICS 56 yr old male.

HPI SUMMARY 02/23/17_-Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history patient's affect quite concerning patient wearing a Velcro thumb splint.

02/28/17_-patient has discussed situation with Dr. Weisglass and here to proceed with treatment. Still has triggering right thumb with hesitation to flex. Wearing thumb spica Velcro splint no sensory complaints.

03/21/17_-(right thumb) reports some residual aching right thumb A1 pulley with triggering and locking. Some moderation after injection no sensory complaints.

05/31/2017 (Sawyer) -PAtient status post right trigger thumb release date of surgery 5/19/2017. Complains of some stiffness but doing much better overall.

EXAM SUMMARY 02/23/17_-Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation no guarding on MP stress.

02/28/17_-Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL. MP motion 0/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on sudomotor evaluation. Stable NP IP joint. No guarding on stress.

Fever denies. Change in activity level denies.
Allergy/Immunology:
Allergies denies. Infection after surgery denies. Latex denies.
ENT:
Tinnitus denies. Nosebleed denies. Hearing loss denies.
Ophthalmologic:
Change in vision denies.
Glaucoma denies.
Endocrine:
Take insulin? denies.
Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.

Respiratory:
O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.
Cardiovascular:
Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure admits. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.
Gastrointestinal:
GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.
Musculoskeletal:
Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.
Hematology:
Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.
Genitourinary:
Blood in urine denies. Frequent UTI denies. Kidney problems denies.
Neurologic:
Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.
Psychiatric:
Depression denies. Mental fogginess denies. Anxiety denies.
Dermatology:
Skin rash denies. Poor wound

03/21/17_-(Right thumb) tender A1 pulley with triggering/locking. Symmetrical range of motion with boutonniere posturing stable nontender and PIP joints. Normal EPL FPL. Light touch intact Normal 2 point discrimination. CMS intact

05/31/2017 (Sawyer)-right thumb: Incision healing well clean dry no drainage no warmth no erythema sutures me today in office no complications Betadine was placed over incisional site patient was finger Band-Aid over that. Full range of motion of the thumb with tenderness to palpation sensation intact to point determination intact normal pulp refill turgor and sudomotor evaluation.

ASSESSMENT/TREATMENT SUMMARY **02/23/17**_-History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease./Recommended A1 pulley injection. Moderation of use. patient declines injection at this time patient given trigger finger instruction educational pamphlet. Ill-defined GI history do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion.

02/28/17_-history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

03/21/17_-Range of motion improved with some residual tenderness triggering and locking after A1 pulley injection./Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed

05/31/2017 (Sawyer)-status post right trigger thumb release date of surgery 5/19/2017. Sutures me today in office no complications patient given instructions on wound care range of motion exercises lifting restrictions and will follow-up in 3 weeks for reevaluationHe was given Worker's Comp. she stating that he is currently restricted to 1 pound weight use he may increase to 2 pound weight use next week and 3 pounds the following week. He may return to work in 3 weeks.

INTERVENTION SUMMARY **02/28/17**_-Status post right thumb A1 pulley injection DOI 2/28/ 17.after injection with encouragement patient had full composite flexion with significant crepitus at the A1 pulley .good FPL strength.

05/31/2017 (Sawyer)-status post right trigger thumb release date of surgery 5/19/2017.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

General Examination:

05/31/2017 (Sawyer)-right thumb: Incision healing well clean dry no drainage no warmth no erythema sutures me today in office no complications Betadine was placed over incisional site patient was finger Band-Aid over that. Full range of motion of the thumb with tenderness to palpation sensation intact to point determination intact

healing denies.

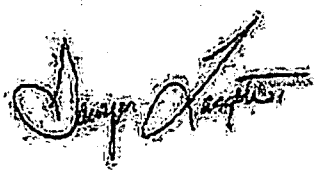
normal pulp refill turgor and sudomotor evaluation.

Assessments
1. Orthopedic aftercare - Z47.89 (Primary)
2. Trigger thumb, right thumb - M65.311

Treatment
1. Orthopedic aftercare
Clinical Notes: 05/31/2017 (Sawyer) status post right trigger thumb release date of surgery 5/19/2017. Sutures me today in office no complications patient given instructions on wound care range of motion exercises lifting restrictions and will follow up in 3 weeks for reevaluation.

2. Others
Continue Medications reported as directed by the ordering provider, --, as directed

Follow Up
3 Weeks



Electronically signed by SAWYER LANGSTON PA-C on 05/31/2017 at 02:15 PM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
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Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Jonna P.
FAX #803 870 8943

PATIENT STATUS REPORT

EMPLOYER:
CUM#810020000582

NAME: Frederick Nelson 7/11/60
OUR CHART# 30-22-33-2
Dx: Right trigger thumb.
DATE OF INJURY: 5/19/17

restricted to 1# lb. use this week.
2 lb. restriction next wk.
& 5 lb. use of Right hand in 2 wks

Work Limitations & Restrictions

Present Condition: improved
Work Related Injury? Yes
Patient is working? No
DISABILITY STATUS: partial
Tests Required?
Surgery Required? Yes
MAY BE ABLE TO RETURN TO WORK WITH LIMITATIONS NOTED ABOVE: Yes.
DATE OF RETURN TO WORK WITH FULL USE: 3 wks
DATE OF MEDICAL DISCHARGE AND IMPAIRMENT RATING:
NEXT APPOINTMENT: 3 wks. 6/21/17 @ 10:30 am
DATE: 5/31/17
PHYSICIAN:

- THE PATIENT WILL RECEIVE A CURRENT STATUS REPORT AT EACH VISIT.
- A COPY OF THIS REPORT WILL BE FORWARDED TO EMPLOYER'S INSURANCE CARRIER.
- PERMANENT AND PARTIAL IMPAIRMENT RATINGS WILL BE DETERMINED AT THE FINAL PATIENT VISIT.

25

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]
Account Number: 000[redacted]

Guarantor: NELSON, FREDERICK
Insurance: COMPANION TPA Payer ID: 5861
Appointment Facility: RSFPP Orthopaedics OSCWA

06/21/2017

Progress Notes: Sawyer A. Langston, PA-C

Current Medications

Taking
- Medications reported as directed by the ordering provider
- Medications reported as directed by the ordering provider – as directed
- Medications reported as directed by the ordering provider – as directed

Unknown
- Amlodipine Besylate
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

right trigger thumb 05/19/17

Family History

No Family History documented.

Social History

Tobacco Use:
Tobacco Use/Smoking:
Are you a *nonsmoker*.
Additional Findings: Tobacco Non-User
Non-smoker for personal reasons
Tobacco Use/Smokeless: Denies
Tobacco cessation:
Patient counselled on the dangers of tobacco *06/21/2017*
Cessation: *Not applicable*
Drugs/Alcohol:
Alcohol Screen
Did you have a drink containing alcohol in the past year? *No*
Points *0*
Interpretation *Negative*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Reason for Appointment

1. 3WK FU RT TRIGGER FINGER TOLD WA

History of Present Illness

Upper Extremity Problems:

DEMOGRAPHICS 56 yr old male.

HPI SUMMARY 02/23/17 - Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history patient's affect quite concerning patient wearing a Velcro thumb splint.

02/28/17 - patient has discussed situation with Dr. Weisglass and here to proceed with treatment. Still has triggering right thumb with hesitation to flex. Wearing thumb spica Velcro splint no sensory complaints.

03/21/17 - (right thumb) reports some residual aching right thumb A1 pulley with triggering and locking. Some moderation after injection no sensory complaints.

05/31/2017 (Sawyer)-PAtient status post right trigger thumb release date of surgery 5/19/2017. Complains of some stiffness but doing much better overall

06/21/2017 (Sawyer)-patient status post right trigger thumb release date of surgery 5/19/2017. Complaining of stiffness with limited range of motion and icing tingling or numbness patient currently on crutches for recent knee surgery done by Dr. Caldwell

EXAM SUMMARY 02/23/17 - Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill

Review of Systems

General/Constitutional:
Night sweats denies. Fatigue denies. Fever denies. Change in activity level denies.
Allergy/Immunology:
Allergies denies. Infection after surgery denies. Latex denies.
ENT:
Tinnitus denies. Nosebleed denies. Hearing loss denies.
Ophthalmologic:
Change in vision denies. Glaucoma denies.
Endocrine:
Take insulin? denies. Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.
Respiratory:
O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.
Cardiovascular:
Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure admits. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.
Gastrointestinal:
GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.
Musculoskeletal:
Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.
Hematology:
Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.
Genitourinary:
Blood in urine denies. Frequent UTI denies. Kidney problems denies.
Neurologic:
Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.
Psychiatric:
Depression denies. Mental

color turgor and sudomotor evaluation.no guarding on MP stress.

02/28/17 - Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL. MP motion 0/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on sudomotor evaluation. Stable NP IP joint. No guarding on stress.

03/21/17 - (Right thumb) tender A1 pulley with triggering/locking. Symmetrical range of motion with boutonniere posturing stable nontender and PIP joints. Normal EPL FPL. Light touch intact Normal 2 point discrimination. CMS intact

05/31/2017 (Sawyer) -right thumb: Incision healing well clean dry no drainage no warmth no erythema sutures me today in office no complications Betadine was placed over incisional site patient was finger Band-Aid over that. Full range of motion of the thumb with tenderness to palpation sensation intact to point determination intact normal pulp refill turgor and sudomotor evaluation.

06/21/2017 (Sawyer) -right thumb: Incision healed well clean dry no drainage no warmth no erythema. Full range of motion of thumb passively after significant stretching session. Limited range of motion actively in flexion sensation intact two point discrimination intact normal pulp refill turgor and sudomotor evaluation.

ASSESSMENT/TREATMENT SUMMARY **02/23/17** - History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease./Recommended A1 pulley injection. Moderation of use. patient declines injection at this time patient given trigger finger instruction educational pamphlet. Ill-defined GI history do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion.

02/28/17 - history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

03/21/17 - Range of motion improved with some residual tenderness triggering and locking after A1 pulley injection. /Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed.

05/31/2017 (Sawyer) -status post right trigger thumb release: date of surgery 5/19/2017. Sutures me today in office no complications, patient given instructions on wound care range of motion exercises lifting restrictions and will follow-up in 3 weeks for reevaluationHe was given Worker's Comp. she stating that he is currently restricted to 1 pound weight use he may increase to 2 pound weight use next week

fogginess denies. Anxiety denies.
Dermatology:
Skin rash denies. Poor wound healing denies.

and 3 pounds the following week. He may return to work in 3 weeks

06/21/2017 (Sawyer)-patient status post right trigger thumb release, date of surgery 5/19/2017. He was given instructions on scar massage with vitamin E oil today in office. Patient was dispensed a yellow and red putty and given instruction sheet with putty exercises and scar massage listed on it. He was referred to occupational therapy 2 times a week for the next 2 weeks for gentle stretching and range of motion exercises. He was given a patient status post reports she stating that he can return to work for his right thumb with full use no restrictions starting today. He will follow-up in 1 month for his Worker's Comp evaluation impairment rating with Dr. Ernst

INTERVENTION SUMMARY 02/28/17 -Status post right thumb A1 pulley injection DOI 2/28/17 after injection with encouragement patient had full composite flexion with significant crepitus at the A1 pulley good FPL strength.

05/31/2017 (Sawyer)-status post right trigger thumb release, date of surgery 5/19/2017.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
General Examination:
06/21/2017 (Sawyer)-right thumb: Incision healed well clean dry no drainage no warmth no erythema. Full range of motion of thumb passively after significant stretching session. Limited range of motion actively in flexion sensation intact two point discrimination intact normal pulp refill turgor and sudomotor evaluation.

Assessments
1. Orthopedic aftercare - Z47.89 (Primary)
2. Trigger thumb, right thumb - M65.311

Treatment
1. Orthopedic aftercare
Notes: Patient Educated with: OSC JME Putty Exercises.pdf (OSC JME Putty Exercises.pdf).
Clinical Notes: 06/21/2017 (Sawyer)-patient status post right trigger thumb release, date of surgery 5/19/2017. He was given instructions on scar massage with vitamin E oil today in office. Patient was dispensed a yellow and red putty and given instruction sheet with putty exercises and scar massage listed on it. He was referred to occupational therapy 2 times a week for the next 2 weeks for gentle stretching and range of motion exercises. He was given a patient status post reports she stating that he can return to work for his right thumb with full use no restrictions starting today. He will follow-up in 1 month for his Worker's Comp evaluation impairment rating with Dr. Ernst.
Referral To:Occupational Therapy RSFH St Francis Occupational Therapy
Reason:right trigger thumb release 5/19/2017|work on range of

motion strengthening and scar massage 2 times a week for 2 weeks

2: Others
Continue Medications reported as directed by the ordering provider.

Procedure Codes
99070 BISHOP'S PUTTY, Units: 2.00

Follow Up
4 Weeks



Electronically signed by SAWYER LANGSTON PA-C on 06/21/2017 at 11:19 AM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
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Tel: 843-958-2500
Fax: 843-606-8058

CF20170626119001

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Robert Schoderbek, MD
Matthew Fahrnic, PA-C
Sawyer Langston, PA-C

(843) 958-2500

Janice P.
FAX# 803 870 8943

PATIENT STATUS REPORT

7/11/60

EMPLOYER: CM# 810020000582

NAME: Nelson, Frederick

OUR CHART: 3 0.2233 2

DATE OF INJURY: 5/19/17

DX: Right trigger thumb

No restrictions
Full use right thumb

Work Limitations & Restrictions

Present Condition: improving

Work Related Injury? Yes

DISABILITY STATUS: partial

Patient is working? No

Tests Required?

Surgery Required? Yes

MAY BE ABLE TO RETURN TO WORK WITH LIMITATIONS NOTED ABOVE: yes

DATE OF RETURN TO WORK WITH FULL USE: 6/2/17

DATE OF MEDICAL DISCHARGE AND IMPAIRMENT RATING:

NEXT APPOINTMENT: 1 month 07/19/17 @ 10:15 am

DATE: 6/21/17

PHYSICIAN:

- THE PATIENT WILL RECEIVE A CURRENT STATUS REPORT AT EACH VISIT.
- A COPY OF THIS REPORT WILL BE FORWARDED TO EMPLOYER'S INSURANCE CARRIER.
- PERMANENT AND PARTIAL IMPAIRMENT RATINGS WILL BE DETERMINED AT THE FINAL PATIENT VISIT.

30

Consultation Notes for FREDERICK NELSON on 07/19/2017

Reason for Appointment
1. 4WK FU RT TRIGGER FINGER TOLD WA

History of Present Illness

Upper Extremity Problems

DEMOGRAPHICS 56 yr old male.. HPI SUMMARY **02/23/17** -Patient reportedly at work tripped over a forklift blade holding a stainless steel cup right hand with ill-defined stress right thumb developing swelling around MP joint no bruising. Seen and followed at Concentra medical. Reportedly initial x-rays negative. Prior office notes reviewed. Patient followed serially. Reports pain right thumb A1 pulley region was one episode of locking no triggering no sensory complaints. No prior history patient's affect quite concerning patient wearing a Velcro thumb splint.

02/28/17 -patient has discussed situation with Dr. Weisglass and here to proceed with treatment. Still has triggering right thumb with hesitation to flex. Wearing thumb spica Velcro splint.no sensory complaints.

03/21/17 -(right thumb) reports some residual aching right thumb A1 pulley with triggering and locking. Some moderation after injection no sensory complaints.

05/31/2017 (Sawyer) -Patient status post right trigger thumb release date of surgery 5/19/2017. Complains of some stiffness but doing much better overall

06/21/2017 (Sawyer) -patient status post right trigger thumb release date of surgery 5/19/2017. Complaining of stiffness with limited range of motion and cing tingling or numbness patient currently on crutches for recent knee surgery done by Dr. Caldwell

07/19/17 -(right thumb) reports some residual thumb tenderness. No sensory complaints denies any triggering Status post knee surgery Dr. Caldwell using cane.. EXAM SUMMARY **02/23/17** -Exam right thumb demonstrates no lacerations or abrasions contusions or ecchymosis. Full extension symmetrical composite flexion MP 0/40 compared to 0/60 left decrease active: IP 0/20 right 0/60 left. Grade 1 UCL RCL laxity MP joints symmetrical. Tender right thumb A1 pulley with nodularity. Intact EPL and FPL. Light touch intact. Benign CMC stable negative grind/crepitus. Benign first compartment/intersection area negative Finkelstein's maneuver. CMS intact. Normal pulses. Normal pulp refill color turgor and sudomotor evaluation,no guarding on MP stress.

02/28/17 -Exam right thumb demonstrate bilateral mild ulnar drift EPL with good extension no snapping. Symmetrical nontender no acute injury. Nontender MP IP joint and benign CMC. Intact EPL MP motion 10/20/60 IP 0/15/50 with hesitation to flex. Tender A1 pulley with triggering. Light touch intact. Normal pulp refill color turgor on sudomotor evaluation. Stable NP IP joint. No guarding on stress.

03/21/17 -(Right thumb) tender A1 pulley with triggering/locking. Symmetrical range of motion with boutonniere posturing stable nontender and PIP joints. Normal EPL FPL. Light touch intact.Normal 2 point discrimination. CMS intact.

05/31/2017 (Sawyer) -right thumb. Incision healing well clean dry no drainage no warmth no erythema sutures me today in office no complications Betadine was placed over incisional site patient was finger Band-Aid over that .Full range of motion of the thumb with tenderness to palpation sensation intact to point determination intact normal pulp refill turgor and sudomotor evaluation

06/21/2017 (Sawyer) -right thumb. Incision healed well clean dry no drainage no warmth no erythema. Full range of motion of thumb passively after significant stretching session. Limited range of motion actively in flexion sensation intact two point discrimination intact normal pulp refill turgor and sudomotor evaluation

07/19/17 -Incision healed some residual induration is anticipated reports residual tenderness. Intact EPL FPL variable effort with strength testing and composite flexion. A1 pulley benign no triggering CMS intact. Normal pulp refill color turgor and sudomotor evaluation. Normal 2 point discrimination. Stable MP IP joint no lacerations or abrasions.. ASSESSMENT / TREATMENT SUMMARY **02/23/17** -History and exam consistent of right thumb stenosing flexor tenosynovitis. Pre-existing symmetrical MP laxity no guarding on stress. No fractures or significant degenerative disease. /Recommended A1 pulley injection. Moderation of use. patient declines injection at this time.patient given trigger finger instruction educational pamphlet. Ill-defined GI history

do not believe he is a candidate for oral anti-inflammatories. Patient advised that have no other recommendations or treatment options at this time. Patient welcome to seek another opinion.

02/28/17_-history and exam remains consistent with component of right thumb stenosing flexor tenosynovitis/recommend A1 pulley injection. Discontinue Velcro splint gentle range of motion avoid overuse. Serial assessment. Hold on oral anti-inflammatories.

03/21/17_-Range of motion improved with some residual tenderness triggering and locking after A1 pulley injection./Patient may consider the option of additional observation versus A1 pulley release. The operative procedure risks and complications and postop recovery discussed.

05/31/2017 (Sawyer)-status post right trigger thumb release date of surgery 5/19/2017. Sutures me today in office no complications patient given instructions on wound care range of motion exercises lifting restrictions and will follow-up in 3 weeks for reevaluationHe was given Worker's Comp. she stating that he is currently restricted to 1 pound weight use he may increase to 2 pound weight use next week and 3 pounds the following week. He may return to work in 3 weeks.

06/21/2017 (Sawyer)-patient status post right trigger thumb release date of surgery 5/19/2017. He was given instructions on scar massage with vitamin E oil today in office. Patient was dispensed a yellow and red putty and given instruction sheet with putty exercises and scar massage listed on it. He was referred to occupational therapy 2 times a week for the next 2 weeks for gentle stretching and range of motion exercises. He was given a patient status post reports she stating that he can return to work for his right thumb with full use no restrictions starting today. He will follow-up in 1 month for his Worker's Comp. evaluation impairment rating with Dr. Ernst

07/19/17_-Status Post Right Trigger Thumb Release Some Residual Wound Tenderness that Should Dissipate with Time./continue with full use and Theraputty.no addltional therapy required. Entirely dependent on patient's efforts and compliance at this time Patient at MMI..I would assign a 5 percent permanent partial impairment right thumb for the residual range of motion and postsurgical changes. Do not anticipate any future medical treatment will be required. Patient rated release.. INTERVENTION SUMMARY **02/28/17**_-Status post right thumb A1 pulley injection DOI 2/28/ 17 after injection with encouragement patient had full composite flexion with significant crepitus at the A1 pulley. good FPL strength.

05/31/2017 (Sawyer)-status post right trigger thumb release date of surgery 5/19/2017.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

General Examination:

07/19/17_-Incision healed some residual induration is anticipated reports residual tenderness. Intact EPL FPL. variable effort with strength testing and composite flexion. A1 pulley benign no triggering.CMS intact. Normal pulp refill color turgor and sudomotor evaluation. Normal 2 point discrimination. Stable MP IP joint no lacerations or abrasions.

Assessments

1. Trigger thumb, right thumb - M65.311 (Primary)

07/19/17_-Status Post Right Trigger Thumb Release Some Residual Wound Tenderness that Should Dissipate with Time./continue with full use and Theraputty.no additional therapy required. Entirely dependent on patient's efforts and compliance at this time Patient at MMI. I would assign a 5 percent permanent partial impairment right thumb for the residual range of motion and postsurgical changes. Do not anticipate any future medical treatment will be required. Patient rated release.

Treatment

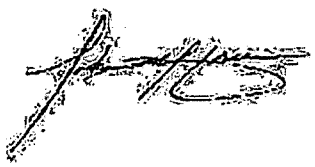
1. Trigger thumb, right thumb

Notes: 07/19/17_-Status Post Right Trigger Thumb Release Some Residual Wound Tenderness that Should Dissipate with Time./continue with full use and Theraputty.no additional therapy required. Entirely dependent on patient's efforts and compliance at this time Patient at MMI. I would assign a 5 percent permanent partial

impairment right thumb for the residual range of motion and postsurgical changes. Do not anticipate any future medical treatment will be required. Patient rated release.

2. Others
Continue Medications reported as directed by the ordering provider

Images



Electronically signed by JOHN ERNST MD on 07/19/2017 at 02:56 PM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: NELSON, FREDERICK
DOB: 07/11/1960

Provider: JOHN M ERNST, MD
Date: 07/19/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

CF20170811102001

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675
www.wcc.sc.gov

Physician's Statement

Claimant's Name: Frederick Nelson
Physician's Name: Dr. John Ernst
Practice/Clinic: RSFPP Orthopaedics
Preparer's Name:

Employer's Name: City of North Charleston
Insurance Carrier: City of North Charleston / Companion TPA
SCWCC File No: 1618027
Phone:

CM#:8100L0000502

The undersigned physician has been authorized to evaluate or treat this Claimant for his or her work injury or illness pursuant to *South Carolina Code Sections* 42-15-60, 42-15-80, 42-1-172, or 42-11-10.

Date of injury: 11/29/16 Date of first office visit: 2/23/17 Date of last office visit: 7/19/17

The medical opinions below are stated to a reasonable degree of medical certainty.

Diagnosis or nature of injury or illness: Right thumb stenosing flexor tenosynovitis

Body part(s) injured: RIGHT THUMB Body part(s) affected: RIGHT THUMB

Date of **maximum medical improvement:** 7/19/17

Has the Claimant sustained **permanent physical impairment** as a result of the work injury? X Yes ____ No

If so, the permanent physical impairment is: 5 % medical impairment to the RIGHT THUMB (injured body part).

If there is a permanent physical impairment to other body part(s) as a result of the work injury, please indicate below: N/A % medical impairment to the ____ (additional body part injured or affected).

The impairment rating(s) above are based upon the following:

X The AMA's *Guides to the Evaluation of Permanent Impairment* 5th Edition; or
____ Other medical treatise: ____ or
____ Other: ____

Does the Claimant have **permanent physical limitations** as a result of the injury? ____ Yes X No

If so, the permanent physical limitations are: ____

Does the Claimant **possess retained hardware** as a result of the injury? ____ Yes X No

If so, the retained hardware is: ____

Is there **medical, surgical, hospital or other treatment** that the Claimant needs as a result of the injury for an additional time that will tend to lessen the period of disability or maintain the current level of function: ____ Yes X No

If so, the medical care and treatment that is needed is/are:

An indication or statement that future medical care "may be necessary" or "might be necessary" is not sufficient and will require further clarification.

I certify that I am a physician or other licensed healthcare provider, I have personally read and prepared this document, and the opinions reflected above are mine.

Treating or Evaluating Physician **Date** 8/10/17

WCC Form #14B
12/2016

14B

Physician's Statement

33A

APA #3

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK
56 Y old Male, DOB: [redacted]
[redacted]
Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPERTTC Payer ID: PAPER
Appointment Facility: RSFPP Orthopaedics OSCMP

03/02/2017

Progress Notes: Kenneth M Caldwell MD

Current Medications
Taking
- Medications reported as directed by the ordering provider -- as directed
- Amlodipine Besylate
- Medication List reviewed and reconciled with the patient

Past Medical History
Hypertension.

Surgical History
No Surgical History documented.

Family History
Non-Contributory

Social History
Tobacco Use:
Tobacco Use/Smokeless: Denies
Tobacco cessation
Patient counselled on the dangers of tobacco 02/28/2017
Cessation: *Not applicable*
Tobacco Use/Smoking
Are you a *nonsmoker*

Allergies
N.K.D.A.

Hospitalization/Major Diagnostic Procedure
No Hospitalization History.

Review of Systems
General/Constitutional
Weight gain denies. Weight loss denies.
Respiratory:
Shortness of breath denies.
Cardiovascular:
Chest pain denies.
Musculoskeletal:
Joint stiffness denies. Pain at night denies. Pain at rest denies. Back pain denies. Neck Pain denies. Leg

Reason for Appointment
1. NEW PATIENT - LEFT KNEE INJURY
2. -WORKERS COMP

History of Present Illness
Reason for Visit:
What: Left knee.
How: Hyperflexion twisting injury.
When: 29 November 2016.
Where: Working for the city of North Charleston.
Mr. Nelson is a 56-year-old male who works for the City of North Charleston driving equipment in cleanup and maintenance. He has no previous history of significant left knee injury her pain but states that he was on the job on the above stated date when he was walking and his foot was caught under the blades of a forklift which was stationary. He describes a flexion twisting injury to his left knee. He also had a right ankle and a right thumb injury which have been managed by Dr. Robert Lowry and Dr. John Ernst, respectively. He was initially evaluated and treated with therapy through CCOH by Dr. Barry Weissglass. He had persistent left knee pain that did not respond and recently had MRI scanning and is seen today with results. He has not returned to work since his injury. He has a relatively smooth gait pattern in the office today. He is utilizing a cane in his left upper extreme.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

Left knee:
INSPECTION: no effusion or erythema, no ecchymosis present, no significant swelling.
ALIGNMENT: normal.
PALPATION: Very specific medial joint line tenderness, increased discomfort with loading of knee into varus no McMurray. He has no joint line pannus. There is mild popliteal discomfort but no palpable cyst.
ROM: He has full extension with flexion limited at 120 degrees secondary to medial pain.
LIGAMENTOUS LAXITY (NEG): all ligaments appear stable.
LEG EXAMINATION: calf soft and non-tender; NVI intact distally,

swelling denies. Swollen joints denies. Redness denies. Muscle aches denies. Weakness denies. Limited range of motion denies.

Hematology:

Bleeding problems denies. Blood clots No.

Peripheral Vascular:

Edema denies. Cold extremities denies. Pain/cramping in legs after exertion denies.

Skin:

Bleeding or bruising from minor injury denies.

Psychiatric:

Anxiety denies. Difficulty sleeping denies.

Dermatology:

Skin rash denies.

the distal edema, good capillary refill with palpable dorsalis pedis and posterior tibial pulses.

TESTS: negative McMurray's, negative patella grind.

General Examination:

GENERAL APPEARANCE: alert, in no acute distress.

HEAD: atraumatic, normocephalic.

NECK: neck supple.

CHEST: normal shape and expansion.

ABDOMEN: benign.

RADIOGRAPHS:

Interpretation MRI of the left knee is available for review dated 14 February 2017 performed Low country orthopaedics. The scan shows an undersurface tear of the posterior horn of the medial meniscus probably representing a small flap tear. There is mild marginal abnormality of the lateral meniscus but no tearing of the body. Mild patellofemoral chondromalacia is noted but no clear full-thickness loss.

Right knee:

INSPECTION: no effusion or erythema, no ecchymosis present, no significant swelling.

ALIGNMENT: normal.

PALPATION: no specific tenderness on palpation.

ROM: full flexion and extension, essentially painless.

LIGAMENTOUS LAXITY (NEG): all ligaments appear stable.

LEG EXAMINATION: calf soft and non-tender, NVI intact distally, no distal edema, good capillary refill.

TESTS: negative McMurray's, negative patella grind.

Assessments

1. Acute pain of left knee - M25.562 (Primary)
2. Pain in left knee - M25.562 (Primary)
3. Acute medial meniscus tear of left knee, initial encounter - S83.242A

Treatment

1. Acute pain of left knee

Notes: I have discussed treatment with him. He does appear to have a small undersurface tear of the medial meniscus but he's had no specific therapy to address his lower extremity. In light of this I would recommend a course of physical therapy 2 times per week for 4-6 weeks in attempt to improve mobility, improve strength and diminished pain. I discussed the importance of this with him and if he is seen in follow-up and has persistent pain, arthroscopy may be indicated with the left lower extremity. He has understanding. He is not at maximum improvement. He is out of work until follow-up. He states there is no light duty capability.

Referral To RSF-ATT Physical Therapy - NC/Northbrook Blvd PT/OT Physical Therapy

Reason/diagnosis: Left knee pain with imaging evidence of undersurface tear of the posterior horn of the medial meniscus. Physical therapy 2 times per week for weeks. Active, active-assisted range of motion of left knee with resistance exercises to maximize quadriceps, hamstring and core strength.

2. Others

Continue Medications reported as directed by the ordering provider, --, as directed

Follow Up
4-6 weeks



Electronically signed by KENNETH CALDWELL MD on 03/02/2017 at 03:38 PM EST

Sign off status: Completed

RSFPP Orthopaedics OSCMP
594 LONE TREE DR
MOUNT PLEASANT, SC 29464-8170
Tel: 843-958-2500
Fax: 843-606-8058

CF20170306024001

Janice P.
803-870-8943

ORTHOPAEDIC SPECIALISTS OF CHARLESTON
ROPER ST. FRANCIS PHYSICIANS

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Kate Eden, PA-C

Kenneth M. Caldwell, MD
Erin N. Watrobski, PA-C
John M. Graham, Jr, MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

CLM#81002000582

Date: 3/2/17 Chart # 36-22-23-2

Patient: Frederick Nelson 07-11-60 Diagnosis: (L) Knee

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 3/2/17

[ ] May return to full duty on _____

[ ] May return to light duty on _____

[✓] May not return to work/school until re-evaluated in 4-6 wks for (L) Knee

[ ] May not participate in _____ until _____

Add'l Comments _____

NEXT APPOINTMENT 04-10-17 @ 9:50 am **TESTS REQUIRED** PT

RESTRICTIONS
(circle choices)

____ **Avoid**

Bending
Twisting
Squatting
Climbing
Stooping

____ **Avoid repetitive**

Excessive Walking
Excessive Running & Cutting
Prolonged Sitting/Standing
Horizontal Lifting
Overhead Activities

No Lifting Over 1, 5, 10, 15, 20, 25, 50 lbs.

Sedentary Work Only

Physician's Signature

Mt Pleasant Office
Building 6
594 Long Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2891-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, [redacted]

Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPER TN Payer ID: PAPER

Appointment Facility: RSFPP Orthopaedics OSCMP

04/10/2017

Kenneth M Caldwell MD

Current Medications

Taking

- Amlodipine Besylate
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

No Surgical History documented.

Family History

No Family History documented.

Social History

Tobacco Use

Tobacco Use/Smoking

Are you a: *nonsmoker*

Tobacco Use/Smokeless: Denies

Tobacco cessation

Patient counselled on the dangers of tobacco: *04/21/2017*

Cessation: *Not applicable*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Review of Systems

Endocrine:

Gout denies.

Respiratory:

Shortness of breath denies. Productive cough No.

Cardiovascular:

Chest pain denies. Syncope denies.

Gastrointestinal:

GERD denies. Pain denies.

Musculoskeletal:

Pain at rest denies. Swollen joints denies. Redness denies.

General:

Reason for Appointment

1. LEFT KNEE FOLLOW-UP
2. -WORKERS COMP

History of Present Illness

Symptom(s):

Mr. Nelson is seen in follow-up with his left knee. He was initially seen in the office in early March and physical therapy was initiated. His therapy was performed in Goose Creek and he states recently the intensity has picked up somewhat. He continues to ambulate with a cane. He has previous imaging evidence of medial meniscus tearing but has not desired consideration of surgical management to date. He feels he is better with therapy but still has sharp pain and again continues to use a cane for ambulation. His gait is relatively smooth.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index,

Examination

Left knee:

INSPECTION: no effusion or erythema, no ecchymosis present, mild synovial thickening.

ALIGNMENT: normal.

PALPATION: Very specific medial joint line tenderness, increased discomfort with loading of knee into varus no McMurray. He has no joint line pannus. There is mild popliteal discomfort but no palpable cyst.

ROM: He has full extension with flexion limited at 120 degrees secondary to medial pain.

LIGAMENTOUS LAXITY (KT-2): all ligaments appear stable.

LEG EXAMINATION: calf soft and non-tender, NVI intact distally, the distal edema, good capillary refill with palpable dorsalis pedis and posterior tibial pulses.

TESTS: negative McMurray's, negative patella grind.

Assessments

1. Other tear of medial meniscus, current injury, left knee, subsequent encounter - S83.242D (Primary)

Treatment

1. Other tear of medial meniscus, current injury, left knee,

Joint pain denies.
Dermatology
Skin rash denies. Itching denies.

subsequent encounter
Notes: I have discussed treatment options with him again today. He has been out of work since his injury in November but again was initially seen in our office only in early March. I discussed surgical management with with him today but he does not desire arthroscopy at this point for he has improved. His therapy will be continued with emphasis on improving motion and strength. He complains of some right knee discomfort due to "compensation". I suggested that he be consistent with improving his left lower extremity strength which should help resolution of this and he should discontinue the cane as soon as his gait is stable. I will reassess in 6 weeks and arthroscopy again may be indicated and recommended at that point. He again states that light duty is not available but if it were available I would allow him work with no kneeling climbing squatting or excessive walking at this point. He will be placed on a 20 pound lifting restriction. He will continue light duty until follow up in 6 weeks if it is available.
Referral To:RSF-ATI Physical Therapy - Goose Creek PT/OT Physical Therapy

Reason diagnosis: Renal meniscus tear left knee. Continue physical therapy 2 times per week for 4-6 weeks with emphasis on active range of motion with resistance exercises for quadriceps, hamstring and core strengthening. Be very specific with home exercise program.

2. Others
Continue Medications reported as directed by the ordering provider, --, as directed

Follow Up
6 Weeks

Electronically signed by KENNETH CALDWELL MD on 04/10/2017 at 02:46 PM EDT
Sign off status: Completed

CF20170412016001

Janice P
803-870-8943

ORTHOPAEDIC SPECIALISTS OF CHARLESTON

(843) 958-2500

CLM# 810020000562

James K. Aymond, MD
John M. Ernst, MD
James L. Price, Jr. MD
Joshua Lamb, MD
Alexander Miller, PA-C
Blake L. Ohlson, MD
Kate Eden, PA-C

Kenneth M. Caldwell, MD
Erin N. Watroba, PA-C
John M. Graham, Jr. MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date 4/10/17 Chart # 30 22 332

Patient: Frederick Nelson Diagnosis: (L) Knee

07.11.60

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 4/10/17

[ ] May return to full duty on

[✓] May return to light duty on 4/11/17

[ ] May not return to work/school until

[ ] May not participate in until

Add'l Comments Restrictions on left knee
Surgery to be scheduled

NEXT APPOINTMENT 05.25.17 @ 9:40 am TESTS REQUIRED

RESTRICTIONS
(circle choices)

Avoid

Bending
Twisting
Squatting
Climbing
Stooping

Avoid repetitive

No Excessive Walking
Excessive Running & Cutting
Prolonged Sitting/Standing
Horizontal Lifting
Overhead Activities

No Lifting Over 5, 10, 15, 20, 40, 50 lbs.

Sedentary Work Only

Physician's Signature

Mt Pleasant Office
Building 8
594 Lone Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Tricom Medical Campus
2091-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

40

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]

Guarantor: NELSON, FREDERICK Insurance: THOMAS COOPERTTC Payer ID: PAPER
Appointment Facility: RSFPP Orthopaedics OSCMP

05/25/2017 Kenneth M Caldwell MD

Current Medications
Taking
- Amlodipine Besylate

Medication List reviewed and reconciled with the patient

Past Medical History
Hypertension.

Surgical History
Denies Past Surgical History

Family History
Non-Contributory

Social History
Tobacco Use:
Tobacco Use/Smoking
Are you a *nonsmoker*
Tobacco Use/Smokeless: Denies
Tobacco cessation
Patient counselled on the dangers of tobacco *03/21/2017*
Cessation: *Not applicable*

Allergies
N.K.D.A.

Hospitalization/Major Diagnostic Procedure
Denies Past Hospitalization

Review of Systems
Endocrine:
Gout denies.
Respiratory:
Shortness of breath denies. Productive cough No.
Cardiovascular:
Chest pain denies. Syncope denies.
Gastrointestinal:
GERD denies. Pain denies.
Musculoskeletal:
Pain at rest denies. Swollen joints denies. Redness denies.
General:

Reason for Appointment
1. LEFT KNEE FOLLOW-UP
2. -WORKERS COMP

History of Present Illness
Symptom(s):
Mr. Nelson is seen for ongoing management of his left knee and continues to have knee pain that has not improved recently. He injured the knee in late November 2016 while working with the city of North Charleston and had subsequent imaging study showing evidence of medial meniscal pathology and early degenerative change. He has had ongoing physical therapy and has not improved recently. He is seen today discuss ongoing management. He continues to ambulate with a cane.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
Left knee:
INSPECTION: no effusion or erythema, no ecchymosis present, mild synovial thickening.
ALIGNMENT: normal.
PALPATION: Very specific medial joint line tenderness, increased discomfort with loading of knee into varus no McMurray. He has no joint line pannus. There is mild popliteal discomfort but no palpable cyst. This is unchanged from previous visit.
ROM: He has full extension with flexion limited at 120 degrees secondary to medial pain.
LIGAMENTOUS LAXITY (NEG): all ligaments appear stable.
LEG EXAMINATION: calf soft and non-tender, NVI intact distally, the distal edema, good capillary refill with palpable dorsalis pedis and posterior tibial pulses.
TESTS: negative McMurray's, negative patella grind.

Assessments
1. Other tear of medial meniscus, current injury, left knee, subsequent encounter - S83.242D (Primary)

Treatment
1. Other tear of medial meniscus, current injury, left knee,

Joint pain denies.

Dermatology:

Skin rash denies. Itching denies.

subsequent encounter

Continue Medications reported as directed by the ordering provider

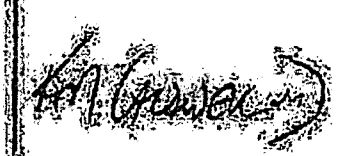
Notes: He continues to complain of sharp mechanical pain at the medial aspect of his left knee and intermittent popliteal discomfort. He has been out of work now for about 6 months. Previous MRI imaging showed evidence of medial meniscal pathology. He does not appear to have severe knee arthritis. He did not have a good experience with his visit in therapy recently. I discussed his ongoing discomfort and at this point would recommend proceeding to left knee arthroscopy. I would recommend arthroscopy with partial medial meniscectomy. I discussed the technique with him today. The importance of postop rehabilitation is discussed at length. I am concerned about his motivation and have discussed this with him today. He voices a desire to get better. He recently has had a right hand procedure by Dr. Ernst and is in recovery. Arthroscopy of his left knee will be set up for the near future. He is out of work until that point. He is encouraged to do the home exercises he is learned.

2. Others

Notes: The need for surgery was discussed at length with the patient. Risks versus benefits including the risk of infection, anesthetic complications, blood clots, and failure of surgical success were discussed with the patient as well. Decision was made with the patient to proceed with scheduling the surgery.

Follow Up

postoperative



Electronically signed by KENNETH CALDWELL MD on 05/25/2017 at 01:46 PM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCMP
594 LONE TREE DR
MOUNT PLEASANT, SC 29464-8170
Tel: 843-958-2500
Fax: 843-606-8058

CF20170531044001

Janice P.
F# 803-870-8043

ORTHOPAEDIC SPECIALISTS OF CHARLESTON

FORMERLY ST. FRANCIS PHYSICIANS

(843) 958-2500

CLM # 810020000582

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Kate Eden, PA-C

Kenneth M. Caldwell, MD
Erin N. Walrobski, PA-C
John M. Graham, Jr, MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date: 5/25/17 Chart # 30 22 33 8

Patient: Frederick Nelson 07/11/40 Diagnosis: (L) Knee

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 5/25/17

[ ] May return to full duty on _____

[ ] May return to light duty on _____

[✓] May not return to work/school until after Surgery (L) Knee

[ ] May not participate in _____ until _____

Add'l Comments: Left Knee Surgery. To be scheduled Arthroscopy - Meniscectomy

NEXT APPOINTMENT SURGERY TESTS REQUIRED 10-29981

RESTRICTIONS (circle choices)

_____ Avoid

Bending
Twisting
Squatting
Climbing
Stooping

_____ Avoid repetitive

Excessive Walking
Excessive Running & Cutting
Prolonged Sitting/Standing
Horizontal Lifting
Overhead Activities

No Lifting Over 1, 5, 10, 15, 20, 25, 50 lbs.

Sedentary Work Only

K. Kruse
Physician's Signature

Mt Pleasant Office:
Building 6
594 Lone Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2891-A Tricom St.
N. Charleston, SC 29406

West Ashley Office:
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

43

Final Report

Operative Report
James Island
Kenneth M Caldwell, MD
Service Date: 06/14/2017

PREOPERATIVE DIAGNOSES:
1. Medial meniscus tear of the left knee.
2. Degenerative arthritis of the left knee.

POSTOPERATIVE DIAGNOSES:
1. Complex posterior horn tear left medial meniscus. ICD-10 is S83.242A.
2. Degenerative arthritis of the left knee. ICD-10 is M17.9.

PROCEDURE PERFORMED: Arthroscopic partial left medial meniscectomy. CPT is 29881.

SURGEON: Dr. Kenneth Caldwell

ASSISTANT: Erin Wanopski, PA-C

ANESTHESIA: General by Dr. Jonathan Kirshtein.

TOURNIQUET TIME: Left lower extremity 15 minutes.

INDICATIONS: Mr. Nelson is a 56-year-old male who works for the city of North Charleston. He was on the job in November 2016 when he suffered a twisting injury to his left knee. He had persistent mechanical pain that did not respond to activity modification, therapy, and medications. He had persistent pain leading to imaging

Result type:	Operative Report
Result date:	June 14, 2017 20:56 EDT
Result status:	Auth (Verified)
Result title:	Operative Report
Performed by:	CALDWELL-MD, KENNETH M on June 14, 2017 12:10 EDT
Verified by:	CALDWELL-MD, KENNETH M on June 27, 2017 19:15 EDT
Encounter Info:	1716500271 RHJ OR & PM SJA Outpt Amb Surg James Is RH, 6/14/2017 - 6/14/2017
Contributor system:	Nuance

studies showing evidence of meniscal pathology. With ongoing symptoms that did not improve, he came at this point to arthroscopy.

FINDINGS AT SURGERY: The patient had a complex marginal tear of the posterior horn of the medial meniscus involving approximately 20% of the marginal surface; that portion of the meniscus was resected, but the hoop was not compromised, and the mid-third and anterior horn of the meniscus were normal. There was diffuse Grade II chondromalacia of the femoral trochlea and the patella, but no flap tears were noted, and no chondroplasty was required. The medial compartment had diffuse Grade II chondromalacia also, but no chondroplasty was required. The cruciate ligaments were intact. The lateral compartment had no articular defects, and the lateral meniscus was normal.

The assistance of the PA expedited the case for instrument management and wound closure.

DESCRIPTION OF THE PROCEDURE: The patient was brought as an outpatient to operating room number 1 and placed in a supine position on the operating table. After an adequate level of general anesthesia was achieved, the left knee was examined and found to be stable. After examination under anesthesia, the pneumatic tourniquet was positioned about the left proximal thigh. He was placed in the Johnson leg holder. The extremity was scrubbed and prepped with ChloraPrep and draped to provide a sterile field in the usual fashion. Two grams of Ancef were given IV preoperatively per protocol. The extremity was exsanguinated using an Esmarch tourniquet inflated to 300 mmHg.

Two portals were utilized for the case with an inferolateral portal fashioned first with a stab wound adjacent to the patellar tendon. A blunt trocar was used to introduce the arthroscopic sheath with a 4.0 mm 30 degree scope was passed into the joint. The joint was distended with sterile lactated Ringer's solution with gravity inflow. Good visualization was achieved. Photographs were taken of all aspects of the joint during the case.

The patellofemoral articulation was visualized first and found to be

Result type:	Operative Report
Result date:	June 14, 2017 20:56 EDT
Result status:	Auth (Verified)
Result title:	Operative Report
Performed by:	CALDWELL-MD, KENNETH M on June 14, 2017 12:10 EDT
Verified by:	CALDWELL-MD, KENNETH M on June 27, 2017 19:15 EDT
Encounter info:	17-1650027-1, RHJI OR & PM SJA Outpt Amb Surg James Isl RH, 6/14/2017 - 8/14/2017
Contributor system:	Nuance

Operative Report
Final Report

NELSON, FREDERICK - 78401

clear with central tracking with Grade II chondromalacia diffusely. There was an isolated area of a Grade II chondral defect more medially, but no chondroplasty was required. The patella had Grade II changes diffusely. The gutters were inspected medially and laterally and were clear. The knee was placed under abduction stress and the scope advanced medially where the medial meniscus tear was encountered and defined with a meniscal hook. Duckbill basket forceps were used to resect the marginal tear back to a smooth surface, and a 4.0 shaver was then used to transition the meniscus to a smooth surface at the mid-third. After completion of the partial meniscectomy, the remainder of the joint was inspected. Chondromalacia was documented in the medial compartment, but the lateral compartment was clear. There was no tearing of the lateral meniscus, and the cruciate ligaments were intact. At this point the joint was copiously irrigated, suctioned dry, and infiltrated with 20 mL of 0.5% plain Marcaine solution. A sterile compressive dressing was applied and the tourniquet released. The patient was awakened and taken to the recovery area in stable condition. He tolerated the procedure well. There were no complications. Final instrument, needle, and sponge counts were correct.

DISPOSITION. He was to be discharged to home, could begin weightbearing as tolerated, use crutches as needed, and he is to be seen in followup in approximately a week. Could remove his dressing and shower on the 4th postoperative day and received a prescription for Norco for pain.

Kenneth M Caldwell, MD
TR: n DD: 06/14/2017 12:10 TD: 06/14/2017 20:56 Job#: 000094
X090909 DOC#: 890511
X090909

Signature Line
Electronically Signed on 06/27/2017 07:15 PM EDT

CALDWELL-MD, KENNETH M

Result type:	Operative Report
Result date:	June 14, 2017 20:56 EDT
Result status:	Auth (Verified)
Result title:	Operative Report
Performed by:	CALDWELL-MD, KENNETH M on June 14, 2017 12:10 EDT
Verified by:	CALDWELL-MD, KENNETH M on June 27, 2017 19:15 EDT
Encounter info:	171650027a, RHJ OR & PM SJA Outpt Amb Surg James Isl RH, 6/14/2017 - 6/14/2017
Contributor system:	Nuance

Final Report

Indication for Surgery
Persistent left knee medial pain after work injury Nov 2016. MRI shows Medial meniscus tear

Preoperative Diagnosis
#1 Medial meniscus tear left knee
#2 Degenerative arthritis left knee

Postoperative Diagnosis
#1 Posterior horn medial meniscus tear left knee
#2 Degenerative arthritis left knee

Operation
#1 Arthroscopic partial left medial menisectomy

Surgeon(s):
Caldwell

Assistant:
Erin Watrobski PA-C

Anesthesia
General, DR. Jonathon Kirshtein, Tourniquet time left lower extremity 15 min

Estimated Blood Loss
0

Complications
None

Signature Line
Electronically Signed on 06/14/2017 11:45 AM EDT

CALDWELL MD, KENNETH M

Completed Action List:

Result type:	Postoperative Note
Result date:	June 14, 2017 11:40 EDT
Result status:	Auth (Verified)
Result title:	Brief Op Note
Performed by:	CALDWELL-MD, KENNETH M on June 14, 2017 11:45 EDT
Verified by:	CALDWELL-MD, KENNETH M on June 14, 2017 11:45 EDT
Encounter Info:	171650027, RHJI OR & PM, SJA Outpt Amb Surg James Is RH, 6/14/2017 - 6/14/2017

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

56 Y old Male, DOB: [redacted]

[redacted]

Guarantor: NELSON, FREDERICK
Insurance: COMPANION TPA Payer ID: 5861
Appointment Facility: RSFPP Orthopaedics OSCMP

06/27/2017

Appointment Provider: ERIN N WATROBSKI, PA

Current Medications

Unknown
- Amlodipine Besylate
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication list reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

right trigger thumb 05/19/17
Left knee arthroscopy PMM/chondroplasty-Caldwell 6/14/17

Family History

Non-Contributory

Social History

Tobacco Use:
Tobacco Use/Smoking
Are you a *nonsmoker*
Additional Findings: Tobacco Non-User
Non-smoker for personal reasons
Tobacco Use/Smokeless: Denies
Smokeless Tobacco: *No*
Tobacco cessation:
Patient counselled on the dangers of tobacco 06/21/2017
Cessation: *Not applicable*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

See surgery history

Review of Systems

General/Constitutional:
Fever denies. Medication Compliance admits.
Allergy/Immunology:
Cough denies.
Endocrine:

Reason for Appointment

1. Post-op LEFT Knee Arthroscopy
2. Caldwell patient
3. WC injury

History of Present Illness

Symptom(s):

Patient is seen today for his LEFT knee. He is now 2 weeks out from a LEFT knee arthroscopy with a partial medial meniscectomy performed by Dr. Caldwell. The patient was supposed to be seen for his first postoperative visit last week however the patient rescheduled which he states was due to LEFT knee pain and transportation issues. The patient states that he does have diffuse discomfort about the LEFT knee. He is still utilizing both crutches for assistance with ambulation, however he is partially weightbearing on his LEFT lower extremity.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

General Examination:
GENERAL APPEARANCE: alert, in no acute distress.
HEAD: atraumatic, normocephalic.
NECK: neck supple.
CHEST: normal shape and expansion.
ABDOMEN: normal.

Post-Op:
Signs and Symptoms of Infection erythema negative, edema negative, minimal effusion.
Pain tolerable.
Wound clear, no drainage.
Neurologic normal.
Vascular normal.
Calf supple, non tender, (-) Homan.
Work Status none until further evaluation in 3 weeks.
Tolerates 10-80 degrees of flexion actively.

Upper extremity:
INSPECTION: unremarkable.
RANGE OF MOTION: unremarkable.
EXTREMITIES: neuorvasularly intact.

Cervical Spine/Neck:

Gout denies.

Respiratory:
Sleep Apnea denies. Asthma denies.

Cardiovascular:
Chest pain denies. Cardiac pacemaker or defibrillator denies. Blood clots denies.

Gastrointestinal:
GERD denies. Stomach ulcers denies.

Hematology:
Clotting disorder denies.

Peripheral Vascular:
Varicose veins denies.

Neurologic:
Balance difficulty denies.

Dermatology:
Psoriasis denies.

C SPINE EXAM: normal lordotic curvature.
RANGE OF MOTION OF NECK: normal in all directions.

Lumbar Spine/Lower back:
INSPECTION: normal lordotic curvature of spine.
LUMBAR ROM within functional limits.

Assessments

1. Other orthopedic aftercare - Z47.89 (Primary), DOS: 6/14/17, Left knee
2. Primary osteoarthritis of left knee - M17.12, Mild to moderate medial/PF DJD

Treatment

1. Other orthopedic aftercare

Notes: I discussed the patient's procedure, pathology, and reviewed his arthroscopy pictures with him. He will complete a course of physical therapy as listed in the note. He was instructed to stay consistent with this routine on his own as well. He will remain out of work until further evaluation in 3 weeks.

Referral To:RSF-ATI Physical Therapy - NC/Northbrook Blvd PT/OT Physical Therapy

Reason:s/p left knee arthroscopy with PMM/chondroplasty: PT eval and treat 2-3x/week for 4 weeks for modalities, regain full ROM, LE strengthening and flexibility, education for HEP|WC info attached

2. Others

Continue Medications reported as directed by the ordering provider

Follow Up

3 Weeks

Appointment Provider: ERIN N WATROBSKI, PA



Electronically signed by ERIN WATROBSKI PA on 06/27/2017 at 10:11 AM EDT

Sign off status: Completed

Janice P.
F#803-810-8943

ORTHOPAEDIC SPECIALISTS OF CHARLESTON
ROPER ST FRANCIS PHYSICIANS

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James K. Aymond, MD
John M. Ernst, MD
James L. Price, Jr. MD
Joshua Lamb, MD
Alexander Miller, PA-C
Blake L. Ohlson, MD
Kate Eden, PA-C

CUM#810020000582

Kenneth M. Caldwell, MD
Erin N. Watroba, PA-C
John M. Graham, Jr. MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date: 6/27/17 Chart # 302332

Patient: Frederick Nelson 7/11/60 Diagnosis: s/p Knee arthroscopy

Please be advised that the above named patient:

[x] Was seen in this office on the following date(s): 6/27/17

[ ] May return to full duty on

[ ] May return to light duty on

[x] May not return to work/school until further notice

[ ] May not participate in until

Add'l Comments

NEXT APPOINTMENT 7/17/17 @ 10:20am 3 weeks TESTS REQUIRED PT

RESTRICTIONS (circle choices)

Avoid

Bending
Twisting
Squatting
Climbing
Stooping

Avoid repetitive

Excessive Walking
Excessive Running & Cutting
Prolonged Sitting/Standing
Horizontal Lifting
Overhead Activities

No Lifting Over 1, 5, 10, 15, 20, 25, 50 lbs.

Sedentary Work Only

Physician's Signature PAC

Mt Pleasant Office
Building 6
594 Long Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2891-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

50

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

57 Y old Male, DOB: [redacted]
Account Number: [redacted]
Guarantor: NELSON, FREDERICK
Insurance: COMPANION TPA Payer ID: 5861
Appointment Facility: RSFPP Orthopaedics OSCWA

08/15/2017 Progress Notes: Kenneth M Caldwell MD

Current Medications

Taking
- Medications reported as directed by the ordering provider

Unknown
- Amlodipine Besylate
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Surgical History

right trigger thumb 05/19/17
Left knee arthroscopy PMM/chondroplasty; Caldwell 6/14/17

Family History

No Family History documented.

Social History

Tobacco Use:
Tobacco Use/Smoking
Are you a *nonsmoker*
Additional Findings: Tobacco Non-User
Non-smoker for personal reasons
Tobacco Use/Smokeless: Denies
Smokeless Tobacco: *No*
Tobacco cessation:
Patient counselled on the dangers of tobacco *07/19/2017*
Cessation: *Not applicable*

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

See surgery history

Review of Systems

Endocrine:
Gout denies.
Respiratory:
Shortness of breath denies. Productive

Reason for Appointment

1. LEFT KNEE 9 WEEKS POST OP
2. -WORKERS COMP

History of Present Illness

Symptom(s):

Mr. Nelson is 9 weeks out from left knee arthroscopy for partial meniscectomy and limited chondroplasty. He continues to make slow progress in therapy. He is now ambulatory with a cane. He is noted to have a smooth gait pattern however. He complains of left knee pain that is diffuse. He is seen for ongoing management.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

Post-Op:

Signs and Symptoms of Infection erythema negative, edema negative, minimal effusion .

Pain tolerable, improving .

Wound clear, no drainage , thickening with healing ridge of medial portal .

Neurologic normal .

Vascular normal .

Calf supple, non tender, (-) Homan .

Work Status none until further evaluation in 3 weeks .

He has full passive extension but guards the knee with motion. He tolerates flexion to about 110 degrees.

Assessments

1. Other orthopedic aftercare - Z47.89 (Primary), DOS: 6/14/17, Left knee

Treatment

1. Other orthopedic aftercare

Notes: He has made progress in therapy but continues to complain of discomfort that subjectively is greater than is noted with his objective exam, which is favorable. His no joint effusion. He complains of diffuse peripatellar pain and continues to utilize a cane for ambulation even though he has a very smooth gait pattern. At this point I am concerned about a degree of malingering however his therapy will be increased to

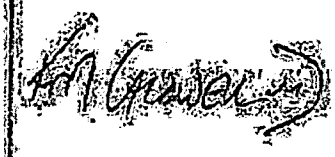
cough No.
Cardiovascular:
Chest pain denies. Syncope denies.
Gastrointestinal:
GERD denies. Pain denies.
Musculoskeletal:
Pain at rest denies. Swollen joints denies. Redness denies.
General:
joint pain denies.
Dermatology:
Skin rash denies. Itching denies.

3 times per week for the next month. Emphasis will be given to strength training. He is not at maximum improvement but I discussed with him that he needs to be motivated to return to work. He voices an understanding. Light duty will be considered at his next visit.
Referral To: RSF-ATI Physical Therapy - NC/Northbrook Blvd PT/OT Physical Therapy
Reason: diagnosis: That is postarthroscopy with partial meniscectomy with chondroplasty. Continue physical therapy 3 times per week for 1 month with increasing intensity strength training for quadriceps, hamstrings and core with anticipated return to work capability in 1 month.

2. Others
Continue Medications reported as directed by the ordering provider

Procedure Codes
99024 Postop visit

Follow Up
4 Weeks



Electronically signed by KENNETH CALDWELL MD on 08/15/2017 at 06:48 PM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
2093 HENRY TECKLENBURG DR
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Janice P.

F# 803-870-8943

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CUM# 810012000058Z

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Erin N. Watrobski, PA-C
John M. Graham, Jr, MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date: 8-15-17

Chart # 0000362232

Patient: Frederick, N. 1800 7/11/40

Diagnosis: R/O Knee Sepsis

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 8/15/17

[ ] May return to full duty on: _____

[ ] May return to light duty on: _____

[✓] May not return to work/school until: 4 wks f/u

[ ] May not participate in _____ until _____

Add'l Comments: _____

NEXT APPOINTMENT 9/19/17 @ 10:20 am TESTS REQUIRED PT

RESTRICTIONS
(circle choices)

____ Avoid	____ Avoid repetitive
Bending	Excessive Walking
Twisting	Excessive Running & Cutting
Squatting	Prolonged Sitting/Standing
Climbing	Horizontal Lifting
Stooping	Overhead Activities

No Lifting Over: 1, 5, 10, 15, 20, 25, 50 lbs.

Sedentary Work Only

Physician's Signature

Mt Pleasant Office
Building 6
594 Lone Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2691-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

53

ROPER ST. FRANCIS
PHYSICIAN PARTNERS

NELSON, FREDERICK

57 Y old Male, DOB: [redacted]
Account Number: 00[redacted]
Home: [redacted]
Guarantor: NELSON, FREDERICK
Insurance: COMPANION TPA Payer ID: 5861
PCP: ZZ NO PCP
Appointment Facility: RSFPP Orthopaedics OSCWA

09/19/2017 Kenneth M Caldwell MD

Current Medications

Taking
- Medications reported as directed by the ordering provider
- Amlodipine Besylate

Not Taking/PRN
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Allergies

N.K.D.A.

Review of Systems

Endocrine:
Gout denies.
Respiratory:
Shortness of breath denies. Productive cough No.
Cardiovascular:
Chest pain denies. Syncope denies.
Gastrointestinal:
GERD denies. Pain denies.
Musculoskeletal:
Pain at rest denies. Swollen joints denies. Redness denies.
General:
Joint pain denies.
Dermatology:
Skin rash denies. Itching denies.

Reason for Appointment

1. LEFT KNEE 3 MONTHS POST OP
2. -WORKERS COMP

History of Present Illness

Symptom(s):

Mr. Nelson is seen in follow-up with his left knee. He is now 3 months out from partial medial meniscectomy and very limited chondroplasty for early osteoarthrosis that preexisted his injury. He has been attending physical therapy recently and subjectively states he is better but he continues to ambulate with a cane. He has a smooth gait pattern in the office but states that he needs to cane for he still has problems going up and down stairs. States that he is consistent with his exercise program.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

Left knee:

INSPECTION: no effusion or erythema, no ecchymosis present, mild thigh atrophy.

ALIGNMENT: normal.

PALPATION: no specific tenderness on palpation, subjective diffuse discomfort that he states is more medial. No soft tissue induration or swelling.

ROM: He has full extension with flexion passively to 125 degrees but guards the knee in flexion somewhat.

LIGAMENTOUS LAXITY (NEG): all ligaments are stable.

LEG EXAMINATION: calf soft and non-tender, NVI intact distally, no distal edema..

TESTS: negative McMurray's, negative patella grind.

Right knee:

INSPECTION: no effusion or erythema, no ecchymosis present, no significant swelling.

ALIGNMENT: normal.

PALPATION: no specific tenderness on palpation.

ROM: full flexion and extension, essentially painless.

LIGAMENTOUS LAXITY (NEG): all ligaments appear stable.

LEG EXAMINATION: calf soft and non-tender, NVI intact distally.

TESTS: negative McMurray's, negative patella grind.

Assessments
1. Pain in left knee - M25.562 (Primary)
2. Primary osteoarthritis of left knee - M17.12, Mild to moderate medial/PF DJD

Treatment
1. Pain in left knee
Notes: He continues to make very slow progress in therapy. He continues to use a cane due to complaint of knee pain. He has no knee swelling and no laxity. There is no joint pannus to suggest ongoing joint line issues. He continues subjective pain complaints in therapy. I'm concerned about malingering. Physical therapy will be continued however with a stepped up program for progression of motion and strengthening. I will see him in 6 weeks. He will be allowed light duty in 1 month. Therapy will be continued until his return to work. I'll see him in follow-up in 6 weeks.
He made me aware today for the first time that he has minimal at go from his job and has no work to return to. He will be allowed light duty on 16 October 2017. He is not at maximum improvement.
Referral To:RSF-ATI Physical Therapy - NC/Northbrook Blvd PT/OT Physical Therapy
Reason:diagnosis: Medial meniscus tear left knee post arthroscopy. Continue physical therapy 3 times per week for 1 month with specific emphasis on strength recovery using resistance techniques. Be very specific with his home exercise program. Anticipate return to light duty work in 1 month.

2. Others
Continue Medications reported as directed by the ordering provider

Follow Up
6 Weeks



Electronically signed by KENNETH CALDWELL MD on 09/19/2017 at 11:31 AM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
2093 HENRY TECKLENBURG DR
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: NELSON, FREDERICK DOB: 07/11/1960 Progress Note: Kenneth M Caldwell MD 09/19/2017

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

56

810020000582

ORTHOPAEDIC SPECIALISTS OF CHARLESTON

ROPER ST. FRANCIS PHYSICIANS

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Kate Eden, PA-C

Kenneth M. Caldwell, MD
Erin N. Watrobski, PA-C
John M. Graham, Jr, MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date: 9/19/17

Chart # 0000322832

Patient: Kendrick Nelson

Diagnosis: S/p Knee Scope

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 9/19/17

[ ] May return to full duty on _____

[✓] May return to light duty on 16 OCT 17

[✓] May not return to work/school until 16 OCT 2017

[ ] May not participate in _____ until _____

Add'l Comments _____

NEXT APPOINTMENT _____ **TESTS REQUIRED** _____

RESTRICTIONS
(circle choices)

_____ **Avoid**

Bending
Twisting
Squatting
Climbing
Stooping

No

_____ **Avoid repetitive**

Excessive Walking
Excessive Running & Cutting
Prolonged Sitting/Standing
Horizontal Lifting
Overhead Activities

No Lifting Over: 1, 5, 10, 15, (20), 25, 50 lbs.

Sedentary Work Only

X _____
Physician's Signature

Mt Pleasant Office
Building 6
594 Lone Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2891-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

51

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK

57 Y old Male, DOB: [redacted]
Account Number: 000[redacted]
Home: [redacted]
Guarantor: NELSON, FREDERICK
Insurance: COMPANION TPA Payer ID: 5861
PCP: ZZ NO PCP
Appointment Facility: RSFPP Orthopaedics OSCWA

10/31/2017

Kenneth M Caldwell MD

Current Medications

Taking:
- Amlodipine Besylate
- Medications reported as directed by the ordering provider

Not Taking/PRN:
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Past Medical History

Hypertension.

Allergies

N.K.D.A.

Review of Systems

Endocrine:
Gout denies.

Respiratory:
Shortness of breath denies. Productive cough No.

Cardiovascular:
Chest pain denies. Syncope denies.

Gastrointestinal:
GERD denies. Pain denies.

Musculoskeletal:
Pain at rest denies. Swollen joints denies. Redness denies.

General:
joint pain denies.

Dermatology:
Skin rash denies. Itching denies.

Reason for Appointment

1. LEFT KNEE FOLLOW-UP
2. -WORKERS COMP

History of Present Illness

Symptom(s):
Mr. Nelson is seen in follow-up with his left knee. He is 4-1/2 months out from left knee arthroscopy for partial meniscectomy and limited chondroplasty. He may very slow progress in physical therapy and began work hardening about 3 weeks ago. He has continued to ambulate with a cane and continues that today. He states that his left knee is perhaps a little improved with the work hardening program but he is not tolerating squatting or kneeling. He continues with a cane and a mildly antalgic gait favoring his left lower extremity. He also states that his right ankle continues to bother him though he has been treated and released by Dr. Ohlson.

Vital Signs

Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination

Left knee:
INSPECTION: no effusion or erythema, no ecchymosis present, mild thigh atrophy, persistent.
ALIGNMENT: normal.
PALPATION: no specific tenderness on palpation, subjective diffuse discomfort that he states is more medial. No soft tissue induration or swelling.
ROM: He has full extension with flexion passively to 125 degrees but guards the knee in flexion somewhat, this is unchanged.
LIGAMENTOUS LAXITY (NEG): all ligaments are stable.
LEG EXAMINATION: calf soft and non-tender, NVI intact distally, no distal edema.
TESTS: negative McMurray's, negative patella grind.

Assessments

1. Primary osteoarthritis of left knee - M17.12 (Primary), Mild to moderate medial/PF DJD

Treatment

1. Primary osteoarthritis of left knee

Notes: He continues to make very slow progress in therapy. He states that his knee is "popping" on stairs he has pain associated with this. His clinical complaints are out of proportion to what would be expected at this point and I have encouraged him to discontinue the use of the cane but he continues to use it. I would recommend continuing his work hardening 3 times per week to it's completion in about 4 weeks. A Functional Capacity Evaluation will be ordered at that point and I will see him with results of the study. I tried to encourage him today with his efforts at improving his strength and mobility. He voices understanding. He is not at maximum improvement at this point. His physical therapy note dated 20 October 2017 was reviewed.

2. Others
Continue Medications reported as directed by the ordering provider

Follow Up
with FCE result



Electronically signed by KENNETH CALDWELL MD on 10/31/2017 at 12:28 PM EDT

Sign off status: Completed

RSFPP Orthopaedics OSCWA
2093 HENRY TECKLENBURG DR
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

ORTHOPAEDIC SPECIALISTS OF CHARLESTON
ROPER ST. FRANCIS PHYSICIANS

(843) 958-2500

James K. Aymond, MD
John M. Ernst, MD
James L. Price, Jr. MD
Joshua Lamb, MD
Alexander Miller, PA-C
Blake L. Ohlson, MD
Kate Eden, PA-C

Kenneth M. Caldwell, MD
Erin N. Watrobski, PA-C
John M. Graham, Jr, MD
Kelly Bailey Kruse, PA-C
Robert Schoderbek, MD
Matthew Fabyanic, PA-C
Sawyer Langston, PA-C

Date: 10-31-17

Chart # [illegible]

Patient: Frederick Nelson

Diagnosis: [illegible] Knee

Please be advised that the above named patient:

[✓] Was seen in this office on the following date(s): 10/2/17

[ ] May return to full duty on _____

[ ] May return to light duty on _____

[ ] May not return to work/school until completion of work hardening / FCE

[ ] May not participate in _____ until _____

Add'l Comments: to have work hardening to complete the FCE

NEXT APPOINTMENT: after FCE TESTS REQUIRED: FCE

RESTRICTIONS
(circle choices)

____ Avoid	____ Avoid repetitive
Bending	Excessive Walking
Twisting	Excessive Running & Cutting
Squatting	Prolonged Sitting/Standing
Climbing	Horizontal Lifting
Stooping	Overhead Activities

No Lifting Over: 1, 5, 10, 15, 20, 25, 50 lbs.

Sedentary Work Only

[signature]
Physician's Signature

Mt Pleasant Office
Building 6
594 Lone Tree Drive
Mt. Pleasant, SC 29464

North Charleston Office
Trident Medical Campus
2891-A Tricom St.
N. Charleston, SC 29406

West Ashley Office
St. Francis East Medical Office Building
2093 Henry Tecklenburg Dr., Ste 200
Charleston, SC 29414

ROPER ST. FRANCIS PHYSICIAN PARTNERS

NELSON, FREDERICK
[redacted]

02/03/2018 Kenneth M Caldwell MD

Current Medications
Taking
- Amlodipine Besylate
- Medications reported as directed by the ordering provider

Not-Taking/PRN
- Norco 5-325 MG Tablet 1 to 2 tablets Orally every 4 hours prn pain
- Medication List reviewed and reconciled with the patient

Past Medical History
Hypertension.

Allergies
N.K.D.A

Review of Systems
Endocrine:
Gout denies.
Respiratory:
Shortness of breath denies. Productive cough No
Cardiovascular:
Chest pain denies. Syncope denies.
Gastrointestinal:
GERD denies. Pain denies.
Musculoskeletal:
Pain at rest denies. Swollen joints denies. Redness denies.
General:
joint pain denies.
Dermatology:
Skin rash denies. Itching denies.

Reason for Appointment
1. LEFT KNEE FCE REVIEW
2. WORKERS COMP

History of Present Illness
Symptom(s):
Mr. Nelson is seen in follow-up with his left knee. He suffered an on-the-job injury working in maintenance with the city of North Charleston which resulted in arthroscopy to treat a torn meniscus and limited debridement of a pre-existing degenerative condition. He went through an extended course of physical therapy and had very slow progress. He recently completed work hardening and had a functional capacity evaluation. He is in today with results of the functional capacity evaluation to determine his work capability. He has a relatively smooth gait pattern today. He has been utilizing a cane at each previous visit but for the first time today is not on a cane. He states that he keeps it in his car for he does needed especially when he's been on his feet for a time. The FCE result is available today.

Vital Signs
Ht 71 in, Wt 226 lbs, BMI 31.52 Index.

Examination
Left knee:
INSPECTION: no effusion or erythema, no ecchymosis present, moderate thigh atrophy, persistent.
ALIGNMENT: normal.
PALPATION: no specific tenderness on palpation, subjective diffuse discomfort that he states is more medial. No soft tissue induration or swelling.
ROM: He has full extension with flexion passively to 125 degrees but guards the knee in flexion somewhat, this is unchanged..
LIGAMENTOUS LAXITY (NEG): all ligaments are stable.
LEG EXAMINATION: calf soft and non-tender, NVI intact distally, no distal edema..
TESTS: negative McMurray's, negative patella grind.

Assessments
1. Other tear of medial meniscus, current injury, left knee, subsequent encounter - S83.242D (Primary)
2. Primary osteoarthritis of left knee - M17.12, Mild to moderate medial/PF DJD

Treatment
1) Other tear of medial meniscus, current injury, left knee, subsequent encounter
Notes: His functional capacity evaluation is available for review dated 3 January 2018. The study was felt to be reliable and thorough in assessing his capability. He

was found to give good effort during the testing. The evaluation found him to be capable of a LIGHT/MEDIUM work capability with most difficulties being in kneeling, squatting and lifting heavier loads. His job description requires this. In light of this evaluation in my opinion he is not capable of returning to an unrestricted status with his previous job description as a municipal maintenance worker. I discussed this with him and the fact that he needs to continue to work in maintaining his mobility and strength which she has learned through an extensive course of therapy. In light of his evaluation, I would therefore place him on permanent restrictions with no kneeling, climbing, squatting or lifting more than 35 pounds. He understands the nature of this. The restriction form is given.
In my opinion he has reached maximum medical improvement from his on-the-job injury which occurred on 29 November 2016. This resulted in arthroscopy of his left knee on 14 June 2017 for partial medial meniscectomy and limited chondroplasty of pre-existing chondromalacia. He has had persistent atrophy of his left thigh musculature which continues to be present which contributes to his impairment. His permanent restrictions were outlined above. The fifth edition of the AMA guides to the evaluation of permanent impairment are utilized in assigning his impairment. For his persistent moderate atrophy I would assess a 10 percent impairment of his left lower extremity with aggravation of his pre-existing degenerative arthritis by the on-the-job injury. He also has a 2 percent impairment of the extremity for partial medial meniscectomy. Using the combined values chart, he would have an 11 percent impairment of his left lower extremity as a direct result of his on-the-job injury. He is released with permanent restrictions. I would not anticipate need of future treatment for his left knee in reference to this injury to a reasonable degree of medical certainty.

2. Others
Continue Medications reported as directed by the ordering provider.

99455 Rate and Release

released

Electronically signed by [illegible] on 02/08/2018 09:37 AM EST

Sign off Status: Completed

[illegible]
[illegible]

Patient: NELSON, FREDERICK [illegible]
Report created by [illegible]

MOUNT PLEASANT, SC 29464-8170
Tel: 843-958-2500
Fax: 843-606-8688

Patient: NELSON, FREDERICK DOB: 07/11/1960 Progress Note: Kenneth M Caldwell MD 02/08/2018

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

60c.

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South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675
www.wcc.sc.gov

Physician's Statement

Claimant's Name: Frederick Nelson
Physician's Name: Dr. Kenneth Caldwell
Practice/Clinic: RSFPP (Ortho Specialists of Charleston)
Preparer's Name:

Employer's Name: City of North Charleston
Insurance Carrier: City of North Charleston / PAI
SCWCC File No: 1618027
Phone:

The undersigned physician has been authorized to evaluate or treat this Claimant for his or her work injury or illness pursuant to *South Carolina Code Sections* 42-15-60, 42-15-80, 42-1-172, or 42-11-10.

Date of injury: 11/29/2016 Date of first office visit: 03/02/17 Date of last office visit: 02/08/18

The medical opinions below are stated to a reasonable degree of medical certainty.

Diagnosis or nature of injury or illness: Medial Meniscus Tear

Body part(s) injured: LEFT KNEE Body part(s) affected: LEFT LEG

Date of **maximum medical improvement**: 2/8/18

Has the Claimant sustained **permanent physical impairment** as a result of the work injury? ✓ Yes ____ No

If so, the permanent physical impairment is: 11 % medical impairment to the D. Lower Extremity (injured body part).

If there is a permanent physical impairment to other body part(s) as a result of the work injury, please indicate below:
____ % medical impairment to the ____ (additional body part injured or affected).

The impairment rating(s) above are based upon the following:

✓ The AMA's *Guides to the Evaluation of Permanent Impairment*: 5th Edition; or
____ Other medical treatise: ____ or:
____ Other: ____

Does the Claimant have **permanent physical limitations** as a result of the injury? ✓ Yes ____ No

If so, the permanent physical limitations are: No Kneeling, Climbing, Squatting or lifting more than 35 lbs

Does the Claimant **possess retained hardware** as a result of the injury? ____ Yes ✓ No

If so, the retained hardware is: ____

Is there **medical, surgical, hospital or other treatment** that the Claimant needs as a result of the injury for an additional time that will tend to lessen the period of disability or maintain the current level of function: ____ Yes ✓ No

If so, the medical care and treatment that is needed is/are:

*An indication or statement that future medical care "may be necessary" or "might be necessary" is not sufficient and will require further clarification.

I certify that I am a physician or other licensed healthcare provider, I have personally read and prepared this document, and the opinions reflected above are mine.

Treating or Evaluating Physician

Date 2/13/18

WCC Form #14B
12/2016

14B

Physician's Statement

APA #4

H216337251001

Carolina Center For Occupational Health
4600 Goer Drive, Suite 205
North Charleston, SC 29406-6500
(843) 554-1029 FAX: (843) 554-1103

Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Boyd, Colleen H
Diagnosis: S66.099A

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 11/29/2016

Subjective: **Initial Chief Complaint**

Patient states "Foot got cough on falklif blade"

Present Complaint

The patient is a 56 year old male, presenting for a new patient visit with the following condition(s):

PRESENTING PROBLEM: fall and injuries.

WORK RELATEDNESS: Patient indicated on intake that that their injury occurred while at work.

LOCATION: Right Ankle and left Knee, R thumb.

DURATION: This morning at 3:30 AM.

CONTEXT / MECHANISM: PT states that he was walking with two cups in his hand and tripped when his foot went under a fork lift blade. He states that he twisted his R ankle, fell onto his L knee, and fell in an awkward way with his cup into his thumb, sounds like he got an axial load onto the thumb, now can't bend it all the way.

AGGRAVATING FACTORS: Range of motion.

Patient Histories

Completed review of past medical history, and documented in the confidential medical record.

Review of Systems

MUSCULOSKELETAL: Claims joint pain, denies muscle pain, claims swelling, denies back pain and denies neck pain.

SKIN: Patient denies: easy bruising, rash, redness, or skin sores.

NEUROLOGICAL: Patient denies: headache, light headedness, numbness, poor balance, tingling, or weakness.

CONSTITUTIONAL: Patient denies: change in appetite, chills, fatigue, fever, sweats, or unintended weight loss.

Objective: **Examination**

Blood Pressure: 150/80. Pulse: 74. Respiration: 16. Pulse Ox: 98%. Height: 71 inches. Weight: 226 pounds. Temperature: 98.6.

CONSTITUTIONAL:
Station: Normal gait
Distress: Mild

EYE:
no redness, purulence or tearing.

NEUROLOGICAL:

62

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Supplemental Charting Notes

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Employer: City of N. Chas Public Works
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Diagnosis: S66.099A

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 11/29/2016

Focal findings:Negative
Facial Palsy: Negative
Weakness Unilateral: Negative
PSYCHOLOGICAL:
Anxious: Negative
Tearful: Negative
Uncooperative: Negative. SKIN:
Erythema: Negative
Pale: Negative
Jaundice: Negative
Rash: Negative

CARDIOVASCULAR:
Diaphoresis: Negative
Tachycardia: Negative
Bradycardia: Negative
Central Cyanosis: Negative

RESPIRATORY:
Respiratory Distress: Negative
Tachypnea: Negative
Hypoapnea: Negative
Accessory Muscle Use: Negative.

FINGER EXAM:
The following finger(s) are involved: right thumb.
The First phalanx has no pain, swelling, limitation of range of motion or laceration.
The Second phalanx has no pain, swelling, limitation of range of motion or laceration.
The distal phalanx has no pain, swelling, limitation of range of motion or laceration.
The nail appears normal without evidence of injury, infection or deformity.
MCP has normal and painless ROM w/o swelling, deformity or evident injury
Normal ROM and strength when tested vs. resistance.
R thumb diminished ability to flexion, no deformity

MUSCULOSKELETAL - ANKLE:
Site: right
Open Wound: Negative
Joint Deformity: Negative
Difficulty Ambulation: Negative
Anterior Ankle: TTP.
Posterior Ankle: negative
Lateral Malleolus: TTP.
Medial Malleolus: TTP.
Mortise Instability: Negative
Decreased ROM: Negative
Decreased Strength: Negative
Decreased Sensation: Negative

KNEE EXAM:

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Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Boyd, Colleen H
Diagnosis: S66.099A

Social Security #: [redacted]
Birth Date:
Injury Date: 11/29/2016
Visit Date: 11/29/2016

The following knee(s) were examined: left.
Knee is examined in flexion and extension.
No ecchymosis, swelling, erythema, warmth or effusion.
Patella is mobile and non-tender.
There was no tenderness to palpation medially, laterally or on the patella or the area surrounding the patella.
No crepitus noted.
No muscle atrophy was noted.
No effusion is noted.
RANGE OF MOTION: Left Knee
Flexion: 140 degrees (NL-140 degrees)

Diagnostic Test Results

RADIOLOGY RESULTS:
The X-ray(s) is/are taken of the R hand, R ankle, L knee.
Xray appears as normal
Patient was advised that this was a preliminary interpretation and images may be sent to radiology for final interpretation. Patient was counseled about follow-up care and to return to the clinic if symptoms do not resolve or worsen..

Assessment: **Assessment**

Initial Inj long flexor musc/fasc/tend thmb at wrs/hnd lv, init, right, acute, currently appearing controlled. Condition complicated. No additional work-up required. Intractable pain - not applicable

TreatmentPlan: **Treatment / Orders / Work Restrictions**

RADIOLOGY ORDER:
The following X-ray was ordered: Ankle 2V
Location: Right

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain and Twisting injury

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities
http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf
RADIOLOGY ORDER:
The following X-ray was ordered: Hand 2V
Location: Right

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Inability to flex joint to 90 degrees and Pain

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Practice Parameter for the Performance of Radiology of the Extremities
http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

64

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Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Boyd, Colleen H
Diagnosis: S66.099A

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 11/29/2016

RADIOLOGY ORDER:
The following X-ray was ordered: Knee 2V
Location: Left

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain and Trauma

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities
http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

HAND SURGEON REFERRAL:
The patient is referred to the following hand specialist(s): company's choice The patient is referred because of: Possible tendon injury.
LOCATION: Right hand.
Additionally: aluminum brace given. Pt unable to flex thumb to 90 degrees reportedly after fall this AM..

Patient was given the following DME and instructed on use: aluminum splint.

Right Ankle Restrictions Include:
- Weight bearing as tolerated.
- must use brace/splint.

Right Finger Restrictions Include:
- Limit gripping, grasping or squeezing
- Splint / support and Must use brace/splint.

Left Knee Restrictions Include:
- Weight bearing as tolerated

DME: Patient was fitted with ace wrap , and instructed in the use of the device.

Patient Instructions

PATIENT RETURN INSTRUCTIONS:
Return to clinic in 2 days for problem follow-up.

Signature: Colleen H Boyd FNP **Date:** 11/29/2016

65

Date 11/29/16

Carolina Center For Occupational Health
4600 Goer Drive
Suite 205
North Charleston, SC 29406-6500
(843) 554-1029, Fax: (843) 554-1103

Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson [redacted]

Attention: Beth Woltz
Telephone: (843) 745-1026
Fax: (843) 745-1099
bwoltz@northcharleston.org
Provider: Boyd, Colleen H
Visit Date: 11/29/16 Time In: 10:25AM Out: 12:50PM

Ident: [redacted] DOB: [redacted]
Department:
Job Title:
Phone: [redacted]
Purpose: Work Comp - New Injury

Insurance Information

Companion Third Party Administrators
P.O. Box 100159
Columbia, SC 29202

Contact: Janice Pinckney
Telephone: (800) 845-2724 Ext:
Fax:

Presenting Problem

Date of Injury: 11/29/16 Case Number: 2016-00037 Claim Number: [redacted]

Patient states "Foot got cough on falklif blade"

Diagnosis

ICD-10 S66.099A Inj long flexor musc/fasc/tend thmb at wrs/hnd lv, init

Current Work Restrictions

Restrictions - Ankle — Starting: 11/29/16 Continuing
Right Ankle Restrictions Include:
- Weight bearing as tolerated.
- must use brace/splint.

Restrictions - Fingers — Starting: 11/29/16 Continuing
Right Finger Restrictions Include:
- Limit gripping, grasping or squeezing
- Splint / support and Must use brace/splint.

Restrictions - Knee — Starting: 11/29/16 Continuing
Left Knee Restrictions Include:
- Weight bearing as tolerated

Orders & Instructions

Date 11/29/16

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Provider: Boyd, Colleen H
Visit Date: 11/29/16 Time In: 10:25AM Out: 12:50PM

Ident: [redacted]
Department:
Job Title:

DOB: [redacted]
Phone: [redacted]

Purpose: Work Comp - New Injury

S66.099A DME Dispense - WC
Patient was given the following DME and instructed on use: aluminum splint.

S66.099A RTC - 2 Days - Problem Follow up
PATIENT RETURN INSTRUCTIONS:
Return to clinic in 2 days for problem follow-up.

S66.099A Xray - Lower Extremities
RADIOLOGY ORDER:
The following X-ray was ordered: Ankle 2V
Location: Right

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain and Twisting injury

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities

http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

S66.099A Xray - Upper Extremities
RADIOLOGY ORDER:
The following X-ray was ordered: Hand 2V
Location: Right

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Inability to flex joint to 90 degrees and Pain

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Practice Parameter for the Performance of Radiology of the Extremities

http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

67

Date 11/29/16

Carolina Center For Occupational Health
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Suite 205
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Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson [redacted]

Attention: Beth Woltz
Telephone: (843) 745-1026
Fax: (843) 745-1099
bwoltz@northcharleston.org
Provider: Boyd, Colleen H
Visit Date: 11/29/16 Time In: 10:25AM Out: 12:50PM

Ident: [redacted] DOB: [redacted]
Department:
Job Title:
Phone [redacted]
Purpose: Work Comp - New Injury

S66.099A Xray - Lower Extremities
RADIOLOGY ORDER:,
The following X-ray was ordered: Knee 2V
Location: Left

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain and Trauma

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities

http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

S66.099A Ortho DME Foot/Ankle
DME: Patient was fitted with ace wrap , and instructed in the use of the device.

S66.099A Referral - Hand Surgeon
HAND SURGEON REFERRAL:
The patient is referred to the following hand specialist(s): company's choice The patient is referred because of: Possible tendon injury.
LOCATION: Right hand.
Additionally: aluminum brace given. Pt unable to flex thumb to 90 degrees reportedly after fall this AM..

Work Status

Work Status: Return to Work with Restrictions, as of 11/29/16

Follow Up

Follow-up Appointments: 12/01/16 at 9:00AM Work Comp - Follow Up Boyd, Colleen H

Signature: [signature] Date: 11/29/16

68

CF20161206096001

CCOH
Carolina Center for Occupational Health
4600 Goer Drive
Charleston, SC 29406
Phone: 843-554-1029 Fax: 843-554-1103

INJURY TREATMENT RAPID REPORT

Date: 11/29/16 Time in: **INJURY DATE:** Nov 29,2016

Department / Fax Number:

Nelson, Frederick [redacted] Work Related? ☑ Yes ☐ No
Patient Name SSN

City of N. Chas Public Works
Employer Department Contact / Phone

Assessment R thumb - tendon injury. Referred to hand specialist.
(R) ankle - sprain - free wrap.
(L) knee - contusion.

Rx given: Do not drive or operate machinery while taking this medication

- ☑ X-rays were taken (R) thumb (R) ankle, (L) knee
- ☐ Keep affected part elevated
- ☑ No / Limit weight bearing
- ☐ Keep area clean and dry
- ☑ Other free wrap (R) ankle
- ☑ Use cane / splint / crutches as directed (R) thumb
- ☑ Apply ice to affected area
- ☐ Exercises

ACTIVITY / WORK RESTRICTIONS

A ☐ May return to work without restrictions.

- ☐ Sedentary Duty
- ☑ Restrict standing / walking
- ☑ Restrict climbing, bending, stooping
- ☐ Alternate position (sit, stand, and walk)
- ☐ No work around moving machinery

B ☑ May return to work with with the following restrictions.

- ☐ No lifting greater than _____ lbs.
- ☑ Restrict pushing / pulling
- ☐ No overhead work
- ☑ Limit use / repetitive movement of affected part
- ☐ Driving restriction:

ICD/CPT _____ **Diagnosis:** _____ **Level:** _____ **Supply:** _____ **Procedure:** _____

☐ Unable to return to return to work for the following reason:

RESTRICTIONS ARE IN EFFECT UNTIL THE NEXT SCHEDULED FOLLOW-UP VISIT UNLESS OTHERWISE NOTED

Follow-up Instructions:

- ☑ Recommend referral to specialists
- ☐ Discharged from care
- ☑ Next appointment date: 12-1-16 9:00am
- ☑ **Time released:** 12:05

Comments: Follow up 2 days for lower extremity injury. He may drive truck if safely able to lift himself into the vehicle.

Provider: Boyd, Colleen H Signature: Colleen Boyd NP

Patient Signature: I have read and understand these instructions: X [signature]

69

Carolina Center For Occupational Health
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North Charleston, SC 29406-6500
(843) 554-1029 FAX: (843) 554-1103

Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 12/16/2016

Subjective: **Initial Chief Complaint**

Patient states "Foot got cough on falklif blade"

Present Complaint

PROBLEM: Ankle problem:
SNS and SXS: Instability, ankle pain and Weakness.
SEVERITY WORST: 8 /10.
SEVERITY NOW: unchanged.
QUALITY: aching, sharp, tight and stiff.
LOCATION: Right and Lateral Malleolus.
DURATION (units): since injury/illness began.
TIMING: Waxes and Wanes and Activity dependent.
CONTEXT: Follow up.
AGGRAVATES: weight bearing.

PRESENTING PROBLEM: PROBLEM: Knee problem:
SNS and SXS: Knee pain, Denies clicking, Denies popping, Denies radiation and Denies swelling.
SEVERITY WORST: 7 /10.
SEVERITY NOW: worse.
QUALITY: aching and sharp.
LOCATION: Left, medial and popliteal fossa.
DURATION (units): since injury/illness began.
TIMING: Waxes and Wanes and Activity dependent.
CONTEXT: Follow up.
AGGRAVATES: Direct pressure, Stepping up/climbing, Stepping down and weight bearing.
AGGRAVATES: stairs, going down and stairs, going up.
PROBLEM: hand problem
SNS and SXS: Pain.
SEVERITY NOW: unchanged.
QUALITY: aching.
LOCATION: Right and Volar/palmar.
LOCATION: Right and Thumb.
DURATION (units): since injury/illness began.
TIMING: Waxes and Wanes and Activity dependent.
CONTEXT: Follow up.
AGGRAVATES: Direct pressure.

Patient Histories

Completed review of past medical history, and documented in the confidential medical record.

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 12/01/16 at 10:10AM).

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 12/05/16 at 12:17PM).

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry,

10

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Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 12/16/2016

12/16/16 at 9:29AM).

Review of Systems

CONSTITUTIONAL: Patient denies: change in appetite, chills, fatigue, fever, sweats, or unintended weight loss.

CARDIOVASCULAR: Patient denies: chest pain or pressure, fainting, or irregular heart beat.

RESPIRATORY: Patient denies: congestion, cough, shortness of breath, or wheezing.

GASTROINTESTINAL: Patient denies: abdominal pain, diarrhea, nausea, urinary / bowel changes, or vomiting.

ENDOCRINE SYSTEM: Patient denies: frequent urination, excessive thirst, heat or cold intolerance.

SKIN: Patient denies: easy bruising, rash, redness, or skin sores.

Either the complete ROS which was performed during a previous encounter was re-examined or today's ROS, if the initial one, was reviewed with the patient. Updates, if any, have been made elsewhere in the ROS section or the rest of the chart. For details, please refer to previous note in this chart. (Weissglass, Barry MD , 12/16/2016).

Objective: **Examination**

Blood Pressure: 156/82. Pulse: 83. Respiration: 16. Pulse Ox: 97% RA. Height: 71 inches. Weight: 226 pounds. Temperature: 98.

CONSTITUTIONAL:
Station: antalgic gait and limps off affected part.
Distress: None
Lethargy: Negative

EYE:
no redness, purulence or tearing.

NEUROLOGICAL:
Focal findings:Negative
Facial Palsy: Negative
Weakness Unilateral: Negative
PSYCHOLOGICAL:
Anxious: Negative
Tearful: Negative
Uncooperative: Negative. SKIN:
Erythema: Negative
Pale: Negative
Jaundice: Negative
Rash: Negative

CARDIOVASCULAR:
Tachycardia: Negative
Bradycardia: Negative

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North Charleston, SC 29406-6500
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Supplemental Charting Notes

Patient Name:	Nelson, Frederick	**Social Security #:**	[redacted]
Employer:	City of N. Chas Public Works	**Birth Date:**	[redacted]
Case Number:	2016-00037	**Injury Date:**	11/29/2016
Provider:	Weissglass, Barry	**Visit Date:**	12/16/2016
Diagnosis:	S66.099D Unspecified Site Of Ankle Sprain		Page: 3

RESPIRATORY:
Respiratory Distress: Negative

MUSCULOSKELETAL - ANKLE:
Site: right
Lateral Malleolus: TTP and Swelling.
Achilles Tendon: negative
Findings: swelling latreally is better but ROM and associated pain not better

KNEE EXAM:
The following knee(s) were examined: left.
Knee is examined in flexion and extension.
Initial inspection revealed no abrasions, contusions, lacerations, surgical scars or masses.
Patella is mobile and non-tender.
There was tenderness noted on exam in the following area(s): medially, patella and popliteal fossa.
No crepitus noted.
No muscle atrophy was noted.
No effusion is noted.

MUSCULOSKELETAL - FINGERS:
Site: right.
1st Digit/Thumb: TTP
Findings: only area of tenderness is at the sesamoid bone on the base of the right thumb and on the flexor surface.
No pain with range of motion testing or flexion, extension, etc. against resistance.

Assessment: **Assessment**

Subsequent Inj long flexor musc/fasc/tend thmb at wrs/hnd lv, subs, right, Proximal, acute, currently appearing controlled. Condition uncomplicated, stable. Intractable pain - not applicable

Subsequent Sprain of unspecified ligament of right ankle, subs encntr, right, acute, under questionable degree of control. Condition uncomplicated, stable. Intractable pain - not applicable

Subsequent Contusion of left knee, subsequent encounter, left, acute, under questionable degree of control. Condition worsening. Intractable pain - not applicable

Work Status / Assesment

Patient is to continue restriction(s): Restrictions - Ankle, Restrictions - Fingers, Restrictions - Knee.

TreatmentPlan: **Treatment / Orders / Work Restrictions**

ORTHOPEDIST REFERRAL:
The patient is referred to the following orthopedist(s): company's choice orthopedist/group.
The patient is referred for the following: abnormal MRI involved area and Persistent pain involved joint.

12

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Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date:
Injury Date: 11/29/2016
Visit Date: 12/16/2016

Additional Information: Right ankle pain with MRI showing torn anterior talofibular ligament. Persistent left knee pain after contusion and trauma..

Patient Instructions

AFTER CARE INSTRUCTIONS:
Patient instructed in applying cold to affected area(s).

AFTER CARE INSTRUCTIONS:
Call or return to clinic if any problems, new or persistent issues or any concerns.

FOLLOW UP:
I recommended follow-up in 10 day(s).
The patient should return if worsens, new symptoms develop or is not improving.
For the following reason(s): Worker's Comp F/U.
(Inj long flexor musc/fasc/tend thmb at wrs/hnd lv, init - S66.099A).

Signature: Barry Weissglass, MD **Date:** 12/16/2016

13

CF20161216050001
810020000582

Date 12/16/16

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Suite 205
North Charleston, SC 29406-6500
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Page 1

Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson [redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org
Provider: Weissglass, Barry
Visit Date: 12/16/16 Time In: 8:35AM Out: 9:40AM

Ident: [redacted] DOB: [redacted]
Department:
Job Title:
Phone: [redacted]
Purpose: Work Comp - Follow Up

Insurance Information

Companion Third Party Administrators
P.O. Box 100159
Columbia, SC 29202

Contact: Janice Pinckney
Telephone: (800) 845-2724 Ext:
Fax:

Presenting Problem

Date of Injury: 11/29/16 Case Number: 2016-00037 Claim Number [redacted]

Patient states "Foot got cough on falklif blade"

Current Work Restrictions

Restrictions - Ankle — Starting: 11/29/16 Continuing
Right Ankle Restrictions Include:
- Weight bearing as tolerated,
- must use brace/splint,

Restrictions - Fingers — Starting: 11/29/16 Continuing
Right Finger Restrictions Include:
- Limit gripping, grasping or squeezing
- Splint support and Must use brace splint,

Restrictions - Knee — Starting: 11/29/16 Continuing
Left Knee Restrictions Include,
- Weight bearing as tolerated

Orders & Instructions

14

Date 12/16/16

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Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC, 29419-0016

Employee: Frederick Nelson
[redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org
Provider: Weissglass, Barry
Visit Date: 12/16/16 Time In: 8:35AM Out: 9:40AM

Ident: [redacted] DOB: [redacted]
Department:
Job Title:
Phone

Purpose: Work Comp - Follow Up

Return Instruction Per CCOH
FOLLOW UP:
I recommended follow-up in 10 day(s).
The patient should return if worsens, new symptoms develop or is not improving.
For the following reason(s): Worker's Comp F/U.
(Inj long flexor musc/fasc/tend thmb at wrs/hnd lv, init - S66.099A).

Instructions - Cold
AFTER CARE INSTRUCTIONS:
Patient instructed in applying cold to affected area(s).

Instructions - Call if Any Problems
AFTER CARE INSTRUCTIONS:
Call or return to clinic if any problems, new or persistent issues or any concerns.

Referral - Orthopedist
ORTHOPEDIST REFERRAL:
The patient is referred to the following orthopedist(s): company's choice orthopedist group.
The patient is referred for the following: abnormal MRI involved area and Persistent pain involved joint.
Additional Information: Right ankle pain with MRI showing torn anterior talofibular ligament. Persistent left knee pain after contusion and trauma.

Work Status

Work Status: Return to Work with Restrictions, as of 11/29/16

Comments

The MRI scan shows a torn ligament in the left ankle. He is having worsening left knee pain as well. The right thumb is most likely a bone bruise which may take some more time to resolve. He has good function with it other than the discomfort. Recommend orthopedist to evaluate ankle and knee. We'll monitor thumb.

15

Date 12/16/16

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Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson
[redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org
Provider: Weissglass, Barry
Visit Date: 12/16/16 Time In: 8:35AM Out: 9:40AM

Ident: [redacted]
Department:
Job Title:

DOB: [redacted]

Phone: [redacted]

Purpose: Work Comp - Follow Up

Signature: Frederick Nelson

Date: 12/16/16

I acknowledge the instructions given above.

Patient Signature

16

CF20161216050001

CCOH
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4600 Goer Drive
Charleston, SC 29406
Phone: 843-554-1029 Fax: 843-554-1103

INJURY TREATMENT RAPID REPORT

Date: 12/16/16 Time in: _____ **INJURY DATE:** Nov 29,2016

Department / Fax Number: _____

Nelson, Frederick [redacted] Work Related? ☒ Yes ☐ No
Patient Name SSN

City of N. Chas Public Works _____ _____
Employer Department Contact / Phone

Assessment [redacted] - lumbar shows for injured
[redacted] - worsening pain
[redacted] would best benefit from [redacted]

Rx given: _____ Do not drive or operate machinery while taking this medication

- ☐ X-rays were taken _____
- ☐ Keep affected part elevated
- ☐ No / Limit weight bearing
- ☐ Keep area clean and dry
- ☐ Other: _____
- ☐ Use cane / splint / crutches as directed
- ☐ Apply ice to affected area
- ☐ Exercises _____

ACTIVITY / WORK RESTRICTIONS

A ☐ May return to work without restrictions.

- ☐ Sedentary Duty
- ☒ Restrict standing / walking
- ☐ Restrict climbing, bending, stooping
- ☐ Alternate position (sit, stand, and walk)
- ☐ No work around moving machinery

B ☐ May return to work with with the following restrictions.

- ☐ No lifting greater than _____ lbs.
- ☐ Restrict pushing./ pulling
- ☐ No overhead work
- ☐ Limit use / repetitive movement of affected parts
- ☐ Driving restriction _____

ICD/CPT _____ **Diagnosis:** _____ **Level:** _____ **Supply:** _____ **Procedure:** _____

☐ Unable to return to return to work for the following reason: _____

RESTRICTIONS ARE IN EFFECT UNTIL THE NEXT SCHEDULED FOLLOW-UP VISIT UNLESS OTHERWISE NOTED

Follow-up Instructions:

- ☒ Recommend referral to specialists – Orthopedist
- ☐ Discharged from care
- ☐ Next appointment date: _____
- ☐ **Time released:** 9:30 AM

Comments: I will see him in follow up in two weeks

Provider: Chalfa Nicolai / Barry Wescoe, MS Signature: [signature]

Patient Signature: I have read and understand these instructions. [signature]

77

6/13/2017 Print HF20170613005001

The Carolina Center for Occupational Health
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North Charleston, SC 29406 - 6500
Tel: 843 554-1029
Fax: 843 554-1103

Nelson, Frederick
Sex: Male, Date of Birth: [redacted]
Employer:
Attending Provider: Barry Weiseglass, M.D.
Encounter Date: 02-03-2017
Start Time: 09:45 am
End Time: 10:00 am

Chief Complaint: Ankle Problem
Other Complaints: Knee Problem, Hand/Finger Problem

History of Present Illness
Ankle Problem
Ankle Sprain: Ankle Context: follow up.
Severity: mild to moderate.
Swelling: none.
Loss of motion and function: moderate pain with stepping up and down.
He is able to bear his weight with minimal pain.

Associated Symptoms: Bruising: Denies
Swelling: Reports

Knee Problem
General HPI Questions: Symptom quality: aching.
Symptom severity: mild to moderate.

Knee: Knee pain location: left knee popliteal fossa.
The patient describes the pain as aching.
Duration: since the illness/injury start date.
Worsening: with climbing stairs, with descending stairs and when bearing weight.
Change since last visit: no change.
Context: follow up .

Associated Symptoms: Clicking denies. Locking denies. Popping denies.
Rash: Denies.

Redness: Denies.
Swelling: Reports

Hand/Finger Problem
General HPI Questions: Problem: finger pain.
Symptom quality: sharp and aching.
Duration: since the onset of the illness/injury.
There has been a not changing of symptoms since onset.
The context of the problem is as follows follow up and f/u after PT.
Alleviated by: not using the involved part.
Exacerbated by: using involved part and direct pressure.

Past Medical History
No Known Past Medical History

Surgical History
No Known Surgical History

Family History
Non-contributory Family History.

Vaccination History

No Known Vaccination History

Allergy
No Known Drug Allergies.

Vitals
Height (inches): 71 Weight (lbs): 227 ***BP Systolic: 150 mmHg.*** BP Diastolic: 82 mmHg. Pulse Ox: 97%. **Pulse:** 78 per min. **Pulse rhythm regular:** Yes. **Respiration:** 18 breaths per min. ***BMI: 32.***

Review of Systems
Constitutional Symptoms: The patient denies having the following symptoms fever/chills or night sweats. Malaise/fatigue: he does not report fatigue or malaise.

Eyes: The patient denies having the following symptoms blurred/double/visual changes.
Cardiovascular: The patient denies having the following symptoms chest pain or irregular heartbeat.
Respiratory: The patient denies having the following symptoms cough or shortness of breath.
Gastrointestinal: He denies heartburn. The patient denies having the following symptoms nausea/vomiting or abdominal pain.
Integumentary: The patient denies having the following symptoms rashes.
Neurological: The patient denies having the following symptoms weakness or numbness.
Psychiatric: The patient denies having the following symptoms anxiety or depression.
Endocrine: The patient denies having the following symptoms heat/cold intolerance, excessive urination or excessive thirst.
Hematologic/Lymphatic: Denies getting bruises or bleeding easily.

Physical Examination
General: He is well developed and well nourished and in NAD. Distress: Mild and has brae on right hand.
Patient has good hygiene.
HEENT: Examination of the head reveals the following: : normocephalic and atraumatic.
Heart: The heart evaluation reveals: normal rate and rhythm.
Respiratory: Evaluation of the lungs reveals:no evidence of respiratory distress with a normal and unlabored respiratory rate.
Musculoskeletal Ankle Exam: Tenderness to Palpation: pain laterally, right, pain medially and right.
Range of motion of the ankle is restricted / painful. Decreased in all directions.
Musculoskeletal Knee Exam: Knee ROM:: LT-extension normal and LT - flexion decreased. Evaluation of the Anterior Drawer Test reveals: negative on the left. Evaluation of stressing the MCL reveals: normal on the left. Evaluation of stressing the LCL reveals negative on the left. Comments: no effusion; tender behind the left knee in the popliteal fossa.
Musculoskeletal Hand Exam: On palpation there is RT - tenderness over base of thumb on the flexor surface. No clicking or instability.
There is restriction to the thumb opposition to the distal palmar crease at the base of the little finger. Pain with pincer motion right thumb Finger sensation: RT - Normal.

Skin: The skin exam revealed: Turgor, color and WNL. There is no significant rash/eruption.
Neurological: Motor exam reveals the following::WNL and taking pain into acccount.
Xamination of the reflexes reveals the following:*2+ and equal and symmetric bilaterally. Sensation: normal.

Psychiatric: The patient's mood is best described as: normal

Occupational Medicine
CCOH - Injury Treatment Rapid Report
Injury Treatment Rapid Report - Provider: 11-29-2016 Work related? Yes
Work restrictions: No or limited weight lifting, limit griping with right hand, Restrict pushing or pulling, Limit use or repetitive movement of affected part, Driving restriction and use splint/sling/brace.
Follow-up Instructions: Next appointment date.

Assessment and Plan
ICD: Ankle sprain (S93.409A)
ICD: Knee pain (M25.569)
ICD: Contusion of right thumb (S60.011A)
Office/outpatient Visit Est (99214)

HF20170613005001

Radiology Order
Order No: RAD00071 Dated: 02-03-2017 Rad: One Call Care Diagnostics
MRI: Left Knee MRI

Consults Ordered
Orthopedist LET - Referral to Orthopedics Price,James,, Physical Therapist LET - Referral to Specialist_ Generic Pt,Goose Creek
Orthopedist persistant right thumb pain , Physical Therapist in goose creek. Continue ankle and left knee PT . Eval and treat.

Follow up:1 Week

Barry Weissglass, MD

Barry Weissglass, M.D.

This has been electronically signed on 02-03-2017

Addendum:left out exam of the right thumb
Reason: Misc:
Modified By: Weissglass,Barry,M.D. 2017.02.05 21:04:35

80

Nelson, Frederick Male 07-11-1960

The Carolina Center for Occupational Health
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North Charleston, SC 29406 - 6500
Tel: 843 554-1029
Fax: 843 554-1103

Nelson, Frederick
Sex: Male, Date of Birth: [redacted]
Employer:
Attending Provider: Barry Weissglass, M.D.
Encounter Date: 02-03-2017
Start Time: 09:45 am
End Time: 10:00 am

Chief Complaint: Ankle Problem
Other Complaints: Knee Problem, Hand/Finger Problem

History of Present Illness

Ankle Problem
Knee Problem
Hand/Finger Problem

Past Medical History
No Known Past Medical History

Surgical History
No Known Surgical History

Family History
Non-contributory Family History.

Vaccination History
No Known Vaccination History

Allergy
No Known Drug Allergies.

Vitals
Height (inches): 71 Weight (lbs): 227 ***BP Systolic: 150 mmHg.*** BP Diastolic: 82 mmHg. Pulse Ox: 97%. **Pulse:** 78 per min. **Pulse rhythm regular:** Yes. **Respiration:** 16 breaths per min. ***BMI: 32.***

Occupational Medicine

Nelson, Frederick Male 07-11-1960

CCOH - Injury Treatment Rapid Report - Provider

Assessment and Plan
ICD: Ankle sprain (S93.409A)
ICD: Knee pain (M25.569)
ICD: Hand pain (M79.643)

Follow up:1 Week

Barry Weissglass, MD

Barry Weissglass, M.D.

This has been electronically signed on 02-03-2017

02-03-2017

CF20170206032001 810020000582

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4600 Goer Drive ste 205
North Charleston, SC 29406 - 6500
Tel: 843 554-1029
Fax: 843 554-1103

INJURY TREATMENT RAPID REPORT

Date: 02-03-2017	Time In: 09:51 am	INJURY DATE: 11-29-2016

Department / Fax Number:

Patient Name: Frederick Nelson	SSN:	Work Related Yes
Employer:	Department:	Contact / Phone: [redacted]

Assessment:
ICD: Ankle sprain (S93.409A)
ICD: Knee pain (M25.569)
ICD: Contusion of right thumb (S60.011A)

Rx given: Do not drive or operate machinery while taking this medication

	X-rays were taken		Use cane / splint / crutches as directed
	Keep affected part elevated		Apply ice to affected area
	No / Limit weight bearing		Exercises
	Keep area clean and dry		
	Other		

ACTIVITY / WORK RESTRICTIONS

	A. May return to work without restrictions	X	B. May return to work with with the following restrictions
	Sedentary Duty	X	No lifting greater than lbs
	Restrict standing / walking	X	Restrict pushing / pulling
	Restrict climbing, bending, stooping		No overhead work
	Alternate position (sit, stand, and walk)	X	Limit use / repetitive movement of affected part
	No work around moving machinery	X	Driving restriction

ICD/CPT: Office Outpatient Visit 25 Minutes (99214)	Diagnosis: Ankle sprain (S93.409A), Knee pain (M25.569), Contusion of right thumb (S60.011A)	Level:	Supply:	Procedure:

	Unable to return to work for the following reason:

CF20170206032001

RESTRICTIONS ARE IN EFFECT UNTIL THE NEXT SCHEDULED FOLLOW-UP VISIT UNLESS OTHERWISE NOTED

Follow-up Instructions:

X	Recommend referral to specialists:	X	Next appointment date:
	Discharged from care:		Time released: 12:27 pm

Comments:

Barry Weissglass, MD

Barry Weissglass M.D.
This has been electronically signed by Weissglass,Barry,M.D. on 02-03-2017.

Patient Signature: I have read and understand these instructions

H217054264019

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North Charleston, SC 29406-6500
(843) 554-1029 FAX: (843) 554-1103

Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain.

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 2/17/2017

Subjective: **Initial Chief Complaint**

Patient states "Foot got cough on falklif blade"

Present Complaint

PROBLEM: Knee problem.
SNS and SXS: Knee pain and Swelling.
SEVERITY NOW: unchanged.
QUALITY: aching and sharp.
LOCATION: Left and popliteal fossa.
DURATION (units): since injury/illness began.
TIMING: Waxes and Wanes and Activity dependent.
CONTEXT: Follow up.
AGGRAVATES: Direct pressure, Stepping up/climbing, Stepping down and weight bearing.
AGGRAVATES: walking.

Patient Histories

Completed review of past medical history, and documented in the confidential medical record.

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 12/01/16 at 10:10AM).

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 12/05/16 at 12:17PM).

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 12/16/16 at 9:29AM).

Completed a review of patient's allergies, current medications, active and chronic problems. (Weissglass, Barry, 2/17/17 at 4:18PM).

Review of Systems

CONSTITUTIONAL: Patient denies: change in appetite, chills, fatigue, fever, sweats, or unintended weight loss.

CARDIOVASCULAR: Patient denies: chest pain or pressure, fainting, or irregular heart beat.

RESPIRATORY: Patient denies: congestion, cough, shortness of breath, or wheezing.

GASTROINTESTINAL: Patient denies: abdominal pain, diarrhea, nausea, urinary / bowel changes, or vomiting.

SKIN: Patient denies: easy bruising, rash, redness, or skin sores.o swelling.

MUSCULOSKELETAL: Claims joint pain. Now states his left great toe has been hurting form the accident. Pain with wt bearing. No swelling

ENDOCRINE SYSTEM: Patient denies: frequent urination, excessive thirst, heat or cold intolerance.

65

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(843) 554-1029 FAX: (843) 554-1103

Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 2/17/2017

HEMATOLOGIC / LYMPHATIC: Patient denies: frequent infections and swollen glands.

Either the complete ROS which was performed during a previous encounter was re-examined or today's ROS, if the initial one, was reviewed with the patient. Updates, if any, have been made elsewhere in the ROS section or the rest of the chart. For details, please refer to previous note in this chart. (Weissglass, Barry MD, 2/17/2017).

Objective: **Examination**

Blood Pressure: 146/86. Pulse: 85. Respiration: 16. Pulse Ox: 98% RA. Height: 71 inches. Weight: 227 pounds. Temperature: 98.

CONSTITUTIONAL:
Station: antalgic gait and limps off affected part.
Distress: None
Lethargy: Negative

EYE:
no redness, purulence or tearing.

NEUROLOGICAL:
Focal findings: Negative
Facial Palsy: Negative
Weakness Unilateral: Negative.
PSYCHOLOGICAL:
Anxious: Negative
Tearful: Negative
Uncooperative: Negative. SKIN:
Erythema: Negative
Pale: Negative
Jaundice: Negative
Rash: Negative

CARDIOVASCULAR:
Tachycardia: Negative
Bradycardia: Negative

RESPIRATORY:
Respiratory Distress: Negative

KNEE EXAM:
The following knee(s) were examined: left.
Knee is examined in flexion and extension.
Patella is mobile and tender:
There was tenderness noted on exam in the following area(s): medial joint line, lateral joint line and popliteal fossa.
No crepitus noted.
No muscle atrophy was noted.
No effusion is noted.

MUSCULOSKELETAL - TOES:

86

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North Charleston, SC 29406-6500
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Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 2/17/2017

Site: left
1st Digit: TTP, no Swelling and no Bruising.
MTP: TTP, no Swelling and no Heat.

Diagnostic Test Results

MRI of left Knee.
Findings: probable left post horn meniscus tear

RADIOLOGY RESULTS:
The x-ray(s) is/are taken of the left and foot.
X-ray appears to have possible degenerative changes.
bunion; no fractures.
Patient was advised that this was a preliminary interpretation and images may be sent to radiology for final interpretation. Patient was counseled about follow-up care and to return to the clinic if symptoms do not resolve or worsen..

Assessment: **Assessment**

Subsequent Knee - Tear - Meniscus, Medial - Left - Subsq, left, Posterior, acute, currently uncontrolled. Condition uncomplicated, stable. Intractable pain - not applicable.

TreatmentPlan: **Treatment / Orders / Work Restrictions**

Left Knee Restrictions Include:
- Weight bearing as tolerated
- Limited bending, No repetitive bending, no kneeling and no squatting bending or twisting
Restrictions: no ladders.

RADIOLOGY ORDER:
The following X-ray was ordered: Foot 2V
Location: Left

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities
http://www.acr.org/~/media/ACR/Documents/PGTS/guidelines/Extremity_Radiography.pdf

HAND SURGEON REFERRAL:
The patient is referred to the following hand specialist(s): Dr. J. Price and Dr. J. Ernst The patient is referred

81

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North Charleston, SC 29406-6500
(843) 554-1029 FAX: (843) 554-1103

Supplemental Charting Notes

Patient Name: Nelson, Frederick
Employer: City of N. Chas Public Works
Case Number: 2016-00037
Provider: Weissglass, Barry
Diagnosis: S66.099D Unspecified Site Of Ankle Sprain

Social Security #: [redacted]
Birth Date: [redacted]
Injury Date: 11/29/2016
Visit Date: 2/17/2017

because of: Persistent pain.
LOCATION: Right wrist and Right hand.
The following is/are the result(s) of the stud(ies)/treatment: NSAID's no help and PT/OT did not help.
ORTHOPEDIST REFERRAL:
The patient is referred to the following orthopedist(s): Ortho Spec of Chas.
The patient is referred for the following: abnormal MRI knee and Persistent pain involved joint.
The following Is/are the affected body part(s): Left and Knee.
Additional Information: probable post horn meniscus tear.

Patient Instructions

AFTER CARE INSTRUCTIONS:
Call or return to clinic if any problems, new or persistent issues or any concerns.

AFTER CARE INSTRUCTIONS:
Patient instructed in applying cold to affected area(s).

Signature: Barry Weissglass, MD Date: 2/17/2017

86

Date 02/17/17

Carolina Center For Occupational Health
4600 Goer Drive
Suite 205
North Charleston, SC 29406-6500
(843) 554-1029, Fax: (843) 554-1103

Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson [redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org

Ident:
Department:
Job Title:

DOB: [redacted]
Phone: [redacted]

Provider: Weissglass, Barry
Visit Date: 2/17/17 Time In: 3:04PM Out: 4:25PM

Purpose: Work Comp - Follow Up

Insurance Information

Companion Third Party Administrators
P.O. Box 100159
Columbia, SC 29202

Contact: Janice Pinckney
Telephone: (800) 845-2724 Ext:
Fax:

Presenting Problem

Date of Injury: 11/29/16 Case Number: [redacted] Claim Number:810020000582

Patient states "Foot got cough on falklift blade"

Visit Referrals

Referred To: Price, James Date: 2/17/17 (843) 958-2500
Referred To: Ortho Spec Of Char Date: 2/17/17 (843) 958-2500

Current Work Restrictions

Restrictions - Ankle — Starting: 11/29/16 Continuing
Right Ankle Restrictions Include:
- Weight bearing as tolerated.
- must use brace-splint.

Restrictions - Fingers — Starting: 11/29/16 Continuing
Right Finger Restrictions Include:
- Limit gripping, grasping or squeezing.
- Splint support and Must use brace-splint.

Restrictions - Knee — Starting: 11/29/16 Continuing
Left Knee Restrictions Include:
- Weight bearing as tolerated

89

Date 02/17/17

Carolina Center For Occupational Health
4600 Goer Drive
Suite 205
North Charleston, SC 29406-6500
(843) 554-1029, Fax: (843) 554-1103

Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson [redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org
Provider: Weissglass, Barry
Visit Date: 2/17/17 Time In: 3:04PM Out: 4:25PM

Ident:
Department:
Job Title:

DOB: [redacted]

Phone: [redacted]

Purpose: Work Comp - Follow Up

Restrictions - Knee

Starting: 2/17/17 Continuing

Left Knee Restrictions Include:
- Weight bearing as tolerated
- Limited bending, No repetitive bending, no kneeling and no squatting bending or twisting
Restrictions: no ladders.

Orders & Instructions

Instructions - Call if Any Problems
AFTER CARE INSTRUCTIONS:
Call or return to clinic if any problems, new or persistent issues or any concerns.

Instructions - Cold
AFTER CARE INSTRUCTIONS:
Patient instructed in applying cold to affected area(s).

Xray - Lower Extremities
RADIOLOGY ORDER:
The following X-ray was ordered: Foot 2V
Location: Left

RAD MEDICAL NECESSITY:
Patient meets the following criteria and / or clinical parameters: Pain

PRACTICE PARAMETER SOURCE:
ACR - SPR - SSR Pratice Parameter for teh Performance of Radiography of the Extremities

http://www.acr.org/~/media/ACR/Documents/PGTS-guidelines/Extremity_Radiography.pdf

90

Date: 02-17-17

Carolina Center For Occupational Health
4600 Goer Drive
Suite 205
North Charleston, SC 29406-6500
(843) 554-1029, Fax: (843) 554-1103

Work Status Summary

Company: City of N. Chas Public Works
P.O. Box 190016
North Charleston, SC 29419-0016

Employee: Frederick Nelson
[redacted]

Attention: Nicole Gilliard
Telephone: (843) 745-1026
Fax: (843) 745-1099
ngilliard@northcharleston.org

Ident:
Department:
Job Title:

DOB: [redacted]

Provider: Weissglass, Barry.
Visit Date: 2-17-17 Time In: 3:04PM Out: 4:25PM

Purpose: Work Comp - Follow Up

Phone: [redacted]

Referral - Hand Surgeon
HAND SURGEON REFERRAL:
The patient is referred to the following hand specialist(s): Dr. J. Price and Dr. J. Ernst The patient is referred because of: Persistent pain.
LOCATION: Right wrist and Right hand.
The following is/are the result(s) of the study(ies)/treatment: NSAID's no help and PT-OT did not help.

Referral - Orthopedist
ORTHOPEDIST REFERRAL:
The patient is referred to the following orthopedist(s): Ortho Spec of Chas.
The patient is referred for the following: abnormal MRI knee and Persistent pain involved joint.
The following is/are the affected body part(s): Left and Knee.
Additional information: probable post horn meniscus tear.

Work Status

Work Status: Return to Work with Restrictions, as of 11-29-16

Comments

MRI shows probable left post horn meniscus tear. Recommend orthopedic referral. Also, no improvement of his right hand. Recomend hand specialist referral. He now complains of left great toe pain since his injury. Xray and exam reveals bunion. His right wrist and hand continues to hurt with no improvement.

Signature: Frederick Nelson Date: 2/17/17

I acknowledge the instructions given above.

Patient Signature

91

CF20170220151001

CCOH
Carolina Center for Occupational Health
4600 Goer Drive
Charleston, SC 29406
Phone: 843-554-1029 Fax: 843-554-1103

INJURY TREATMENT RAPID REPORT

Date: 2/10/17 Time in: _____ **INJURY DATE:** Nov 29, 2016

Department / Fax Number: _____

Nelson, Frederick
Patient Name

[redacted]
SSN

Work Related? ☒ Yes ☐ No

City of N. Chas Public Works
Employer

Department

Contact / Phone

Assessment Left wrist strain/sprain with tenderness (no signs of fracture on xrays)

Rx given: _____ Do not drive or operate machinery while taking this medication

- ☐ X-rays were taken _____
- ☒ Keep affected part elevated
- ☐ No / Limit weight bearing
- ☐ Keep area clean and dry
- ☐ Other: _____
- ☒ Use cane / splint / crutches as directed
- ☒ Apply ice to affected area
- ☐ Exercises _____

ACTIVITY / WORK RESTRICTIONS

A ☐ May return to work without restrictions.

- ☒ Sedentary Duty
- ☒ Restrict standing / walking
- ☐ Restrict climbing, bending, stooping
- ☐ Alternate position (sit, stand, and walk)
- ☒ No work around moving machinery

B ☑ May return to work with with the following restrictions.

- ☐ No lifting greater than ___ lbs.
- ☐ Restrict pushing / pulling
- ☐ No overhead work
- ☐ Limit use / repetitive movement of affected part
- ☐ Driving restriction: _____

ICD/CPT _____ **Diagnosis:** _____ **Level:** _____ **Supply:** _____ **Procedure:** _____

☐ Unable to return to return to work for the following reason: _____

RESTRICTIONS ARE IN EFFECT UNTIL THE NEXT SCHEDULED FOLLOW-UP VISIT UNLESS OTHERWISE NOTED

Follow-up Instructions:

- ☐ Recommend referral to specialists
- ☐ Discharged from care
- ☐ Next appointment date: _____
- ☐ **Time released:** 1250

Comments: _____

Provider: Weissglass, Barry Signature: _____

Patient Signature: I have read and understand these instructions. _____

98

APA #5

FUNCTIONAL CAPACITY EVALUATION
OF
Mr. Frederick Nelson

REQUESTED BY

Kenneth Caldwell, MD
RSFPP Orthopaedics OSCWA
2093 Henry Tecklenburg Dr.
Suite 200
Charleston, SC 29414

PREPARED BY

Robyn Szablewski, PT, DPT, CWcHP, CSCS
Roper St. Francis powered by ATI
2070 Northbrook Blvd
Suite A-9
North Charleston, SC 29406
P: 843-824-2183
F: 843-553-3221
robyn.szablewski@atipt.com

ASSESSED

01/23/2018

93

FUNCTIONAL CAPACITY EVALUATION
SUMMARY REPORT

Client:	Mr. Frederick Nelson
Date of Birth	[redacted]
Date of service:	01/23/2018
Diagnosis:	• primary osteoarthritis of the left knee • medial meniscus tear Left knee
Date of injury:	11/01/2016
Position:	Maintenance Worker, Municipal
Referred by:	Kenneth Caldwell, MD

Reasons for Referral

Mr. Nelson was referred to Roper St. Francis powered by ATI for participation in a functional capacity evaluation today.

1. Did Mr. Nelson provide high levels of physical effort through-out the testing day?
2. Are Mr. Nelson]'s reports of pain and disability reliable?
3. Is Mr. Nelson capable of performing his pre-injury job?
4. What are Mr. Nelson's physical work tolerances in Department of Labor terminology?
5. Did Mr. Nelson demonstrate safe work habits?

Any questions can be directed to evaluating therapist, Robyn Szablewski, PT, DPT, CWcHP, CSCS at 843-824-2183.

Mr. Nelson underwent a functional capacity evaluation on 01/23/2018. Following an intake interview, a series of standardized tests was conducted to ensure the client's safety for testing, to determine his level of participation in the testing process and, to answer the referral questions. A summary of the findings of this evaluation is presented here; details of the evaluation follow in the body of the report.

Musculoskeletal Evaluation

Lower Extremity				
LEFT			RIGHT	
ROM	STRENGTH		ROM	STRENGTH
WFL	4+/5	HIP FLEXION	WFL	5/5
WFL	4/5	ABDUCTION	WFL	5/5
WFL	4/5	EXTENSION	WFL	5/5
-20 (ACTIVE) 0 (PASSIVE)	4/5	KNEE EXTENSION	WFL	5/5
99 (ACTIVE)	4+/5	KNEE FLEXION	WFL	5/5
WFL	4+/5	ANKLE DF	WFL	5/5

Physical Abilities and Job Match

The following table identifies whether or not the client's demonstrated physical abilities match the critical physical demands of the job in question.

Mr. Nelson's target job is Maintenance Worker, Municipal. Any questions regarding the accuracy of the job demands listed below should be directed to the employer.

	Job Demand	Demonstrated Functional Tolerance	Job Match?
Position			
Static Standing	Occasional (Up to 1/3 Day)	Frequent (1/3 to 2/3 of the day). Total time 1 hour 52 minutes, longest duration 56 min 38 seconds.	Yes
Dynamic Standing	Occasional (Up to 1/3 Day)	Frequent (1/3 to 2/3 of the day). Total time 1 hour 52 minutes, longest duration 56 min 38 seconds.	Yes
Walking	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). Total time 20 min 40 sec, longest duration 10 min 7 seconds and moderately slow community pace.	Yes
Sitting	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). Total time 42 min 56 seconds, longest duration 22 min 9 seconds.	Yes
Weight/Force			
Lifting	75 lb, 0 to 36 in, Occasional (Up to 1/3 Day)	Occasional/Light-Medium (35 pounds up to 1/3 of the work day). Client able to perform 45# and 40# from 12" and 0" from floor to waist lift respectively with Fair-Good Mechanics and safe HR response.	No
Lifting	35 lb, 36 to 48 in, Occasional (Up to 1/3 Day)	Occasional/Medium-Heavy (35 to 75 pounds up to 1/3 of the work day). Client able to perform 35# lift from waist to shoulder with good mechanics and HR response.	Yes
Carrying	75 lb, Occasional (Up to 1/3 Day)	Occasional/Light-Medium. Client performed 45# two hand carry for 20 feet x2 with good mechanics and HR response. Attempted 50# but could not complete due to knee pain.	No
**Pushing	75 lb force, Occasional (Up to 1/3 Day)	Occasional/Medium (20 to 50 pounds up to 1/3 of the work day). Client performing pushing with sled for 50 feet at 50# of force before requesting to stop due to L knee pain.	No
**Pulling	75 lb force, Occasional (Up to 1/3 Day)	Occasional/Light-Medium. Client able to perform 45# of force pulling with sled for 50 feet before requesting to stop due to knee pain.	No
Agility			
Climbing	Occasional (Up to 1/3 Day)	Never. Client unable to perform stair climbin without offloading onto B UE's with B handrails without knee buckling or external support.	No

Balancing	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). SLS limited to approx 5 seconds on L, however, patient able to complete tandem balance and walk with limited UE use.	Yes
Stooping	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). Total time 19 min 14 seconds in mild and moderate stoop. Longest duration 7 min 31 seconds.	Yes
Crouching	Occasional (Up to 1/3 Day)	Never. Patient unable safely assume position without significant UE support due to knee pain.	No
Crawling	Occasional (Up to 1/3 Day)	Never. Attempted crawling, however, patient unable to transition from kneeling to crawl due to L knee pain. Requiring tester and support from walls to ascend again and unable to perform safely without accomodations.	No
Low-Level Work	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). Total time 4 min 18 seconds in tall kneel.	Yes
Dexterity			
Reaching Forward	Frequent (1/3 to 2/3 Day)	Frequent (1/3 to 2/3 of the day). Total time 16 min 7 seconds, longest duration 7 min 27 seconds full ROM. Client reports no limitations..	Yes
Handling	Frequent (1/3 to 2/3 Day)	Frequent (1/3 to 2/3 of the day). Total time 18 min 11 seconds, longest duration 8 min 54 seconds. Client reports no limitations.	Yes
Fingering	Frequent (1/3 to 2/3 Day)	Frequent (1/3 to 2/3 of the day). Total time 19 min 27 seconds, longest duration 7 min 46 seconds. Client reports no limitations.	Yes
Above-shoulder Work	Occasional (Up to 1/3 Day)	Occasional (up to 1/3 of the day). Total time 16 min 37 seconds in full ROM B.	Yes

Test	Max Wt	Safe Wt	Heart Rate	Pain	Reason for Pain	Body Mechanics
Floor to Knuckle	40	40	124	3.75	Knee pain	Fair
Knuckle to Shoulder	35	35	121	3.75	Test completed	Good
12 inch to Knuckle	45	45	123	3.75	Knee pain	Good

Reliability Of Pain and Disability Reports Testing

Reliability of Pain and Disability Report testing is comprised of a battery of tests designed to better assess the dependability and accuracy of the client's subjective reports of pain and/or disability. The battery includes tests which evaluate the presence or absence of non-organic findings (findings that have more to do with illness behavior than underlying physical disease) as well as tests which compare a client's subjective reports to what he is actually capable of doing through the use of distraction based testing and observations of ability/disability.

Areas of testing, which fall under the Reliability of Pain and Disability Reports umbrella, include: symptom magnification, inappropriate illness behavior, somatic amplification, and non-organic signs.

Pain Scales

Various pain scales were implemented with Mr. Nelson to evaluate both the consistency and reliability of his subjective (verbal) reports. Subjective ratings of pain matched well with distraction-based clinical observations. Repetitive movement reports matched well with clinical observations.

Pain Assessment/Questionnaires

Mr. Nelson completed a number of standard assessment questionnaires to assess the presence and impact of Chronic Pain Syndrome. These questionnaires have been published in peer-reviewed journals and are widely used in the industrial rehabilitation field.

Questionnaire/Assessment	Score	Interpretation
Functional Pain Scale	3.75 /10	Pain that is starting to affect your ability to perform the current activity (.i.e. decreased movement, decreased speed and/or the need to briefly rest and/or stretch in order to continue completing the current activity).
Lower Extremity Functional Scale		31/80= 38.7% (100% is no disability)

Physical Effort Findings: High Levels

Overall test findings, in combination with clinical observations, suggest the presence of high levels of physical effort on Mr. Nelson's behalf.

Physical effort determination is made through analysis of any combination of heart rate response, clinical inconsistencies, and competitive test performance shown during the following types of tests: grip strength testing, strength testing, material handling strength testing, fitness/cardiovascular testing, mobility testing, dexterity testing and handling testing.

Reliability of Pain and Disability Reports Findings: Fully Reliable Reports

Overall test findings, in combination with clinical observations, suggest the presence of fully reliable reports of pain and disability.

Summary of Findings

Mr. Nelson reported his perceived ability between Light and Medium, which was consistent with demonstrated abilities during the evaluation at a full LIGHT-MEDIUM capacity with some abilities within a Medium and Medium-Heavy ranges.

Return to Work

Mr. Nelson is not capable of performing the physical demands of the target job of Municipal Maintenance Worker. The mismatch between his demonstrated ability and the physical demands of the target job are outlined in the Physical Abilities and Job Match table.

Physical Tolerances

The results of testing indicate that Mr. Nelson demonstrates a full LIGHT-MEDIUM capacity with abilities into the MEDIUM and MEDIUM-HEAVY range. Positional limitations were demonstrated in crouching, crawling and stairs, along with limitations in floor to waist and carrying tests.

Safe Worker

Mr. Nelson demonstrated safe work habits throughout his evaluation.

The results of this evaluation were reviewed with Mr. Nelson at the conclusion of the evaluation.

Thank you for your referral of Mr. Nelson.

Signed, , PT, DPT, CWcHP, CSCS

Robyn Szablewski, PT, DPT, CWcHP, CSCS
Roper St. Francis powered by ATI
2070 Northbrook Blvd
Suite A-9
North Charleston, SC 29406

P: 843-824-2183
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robyn.szablewski@atipt.com

TABLE OF CONTENTS

Summary Report 2
Client Profile 8
Intake Interview 9
Physical Effort Testing 13
Reliability of Pain And Disability Reports Testing 15
Grip Strength 16
Dexterity Testing 16
Handling Testing 17
Fitness Testing 19
Mobility Testing 19
Range of Motion Testing 21
Sustained Activity and Positional Tolerances 22
Strength Testing 22
Summary Of Findings 25
Additional Information 25

CLIENT PROFILE

Client:	Mr. Frederick Nelson
Date of Birth	[redacted]
Date of service:	01/23/2018
Diagnosis:	• primary osteoarthritis of the left knee • medial meniscus tear Left knee
Date of injury:	11/01/2016
Position:	Maintenance Worker, Municipal
Age at time of evaluation:	57
Referred by:	Kenneth Caldwell, MD

Reported Functional Tolerances

Mr. Nelson reports his functional tolerances as follows:

	Client's Estimate of Maximum Tolerance	Limited By
Position		
Static Standing	15-30 minutes	
Dynamic Standing	15-30 minutes	
Walking	15-30 minutes	
Sitting	30-60 minutes	
Weight/Force		
Lifting	31-40# from the floor	
Lifting	21-30# from waist level	
Carrying	21-30#	
Pushing (lbs of force)	medium doors	
Pulling (lbs of force)	medium doors	
Agility		
Climbing	moderate difficulty	
Balancing	moderate difficulty	
Stooping	extreme difficulty	
Crouching	extreme difficulty	
Low-Level Work	≤15 minutes	
Dexterity		
Reaching Forward	None Reported	No reported limitation
Handling	None Reported	No reported limitation
Fingering	None Reported	No reported limitation
Above-shoulder Work	15-30 minutes	

Client's Work-Related Goals

Mr. Nelson states that his current vocational goals are:

To return to similar type of work full time as he was doing prior.

Client's Description of Injury

November 2016- Right foot got caught under forklift blade and fell straight onto L knee on concrete slab.

INTAKE INTERVIEW

Prior to beginning the evaluation, an intake interview was performed by Robyn Szablewski, PT, DPT, CWcHP, CSCS. The client, Mr. Nelson, signed the "Consent to Evaluate" form prior to participating in the evaluation.

The following information was obtained during the interview:

Date of Birth	[redacted]
Height	61 in
Weight	228 lb
Hand Dominance	Left

Mr. Nelson's sitting resting heart rate was 117 beats per minute.

Previous Treatment

Mr. Nelson reports having attended the following treatments in an attempt to rehabilitate his condition:

Treatment	Approximate Date	Results	Comments
Physical Therapy		Roper St. Francis powered by ATI N. Charleston	client reports helped somewhat
Other		Roper St. Francis powered by ATI FIRST Program N. Charleston	client reports helped somewhat with strength

Investigations

Mr. Nelson reports having had the following investigations:

Investigation	Current Injury?	Date	Results/Comments
X-Ray	Yes		
MRI	Yes		

Medical History

Mr. Nelson indicates the following medical history:

- High Blood Pressure
- Diabetes

Mr. Nelson also provides the following medical history and medication information:

Area	Description
Prescription Medications	amlod-valsa HCTZ, Janumet XR

JOB DEMANDS

The table below reflects the job demands considered in this functional capacity evaluation.*

Mr. Nelson's target job is Maintenance Worker, Municipal (Identifier Code 899.684-046) in the Government Ser. industry classification (Industry Code 4947).

The target job is described as follows:

Performs any combination of following duties to maintain and repair property of municipality, using variety of machines, tools, and equipment: Receives written work orders or verbal instructions from municipal administrator. Cuts grass and trims weeds on town property and parks, using lawn mower and weed trimmer. Digs flower beds and plants flowers, using gardening tools. Constructs decorative flower garden borders from wood, using handtools. Cleans buildings, washes windows, and empties trash cans, using brooms, cleaning supplies, and floor buffer. Paints interior and exterior walls and trim, using paint and painting tools. Operates backhoe to dig trenches for water and sewer pipe. Drives truck and loads fallen tree limbs and roadside trash onto truck, and delivers refuse to landfill. Repairs streets and sidewalks with asphalt, cold patching materials, and concrete, using shovel, hand roller, trowel, level, and long-handled tamp. Removes and replaces damaged parking meters and traffic signs. Operates snow removal equipment to maintain streets, sidewalks, and driveways. Reads water meters and records reading in logbook. Maintains and repairs municipal buildings' plumbing and electrical systems, including replacing worn or defective parts, such as switches and fuses. Repairs or replaces building brick, stone, and concrete. Maintains and repairs wood parts of buildings, using carpenter tools. Replaces worn or damaged parts, such as hoses, wiring, and belts, in machines and equipment, such as truck, street sweeper, and riding mower. Hand washes vehicles.

	Job Demand
Position	
Static Standing	Occasional (Up to 1/3 Day)
Dynamic Standing	Occasional (Up to 1/3 Day)
Walking	Occasional (Up to 1/3 Day)
Sitting	Occasional (Up to 1/3 Day)
Weight/Force	
Lifting	75 lb, 0 to 36 in, Occasional (Up to 1/3 Day)
Lifting	35 lb, 36 to 48 in, Occasional (Up to 1/3 Day)
Carrying	75 lb, Occasional (Up to 1/3 Day)
**Pushing	75 lb force, Occasional (Up to 1/3 Day)
**Pulling	75 lb force, Occasional (Up to 1/3 Day)
Agility	
Climbing	Occasional (Up to 1/3 Day)
Balancing	Occasional (Up to 1/3 Day)
Stooping	Occasional (Up to 1/3 Day)
Crouching	Occasional (Up to 1/3 Day)
Crawling	Occasional (Up to 1/3 Day)
Low-Level Work	Occasional (Up to 1/3 Day)
Dexterity	

Reaching Forward	Frequent (1/3 to 2/3 Day)
Handling	Frequent (1/3 to 2/3 Day)
Fingering	Frequent (1/3 to 2/3 Day)
Above-shoulder Work	Occasional (Up to 1/3 Day)

*These values were determined by reference to the 1991 *Dictionary of Occupational Titles and to Selected Characteristics of Occupations Found in the Dictionary of Occupational Titles.* The DOT strength classification has been expanded to give an example of the lifting, carrying, pushing, pulling and standing demands that may exist in the target job.
**Pushing and pulling values are measured as lbs of force.

Physical Demand Level (PDL)

Mr. Nelson's target job has been identified as having a physical demand level, or PDL, of Medium-Heavy.

The Physical Demand Characteristics of Work chart describes Medium as consisting of lifting, carrying, pushing or pulling forces of 35 to 75 pounds for up to one-third of the hours worked daily.

MUSCULOSKELETAL EVALUATION

Lower Extremity				
LEFT			RIGHT	
ROM	STRENGTH		ROM	STRENGTH
WFL	4+/5	HIP FLEXION	WFL	5/5
WFL	4/5	ABDUCTION	WFL	5/5
WFL	4/5	EXTENSION	WFL	5/5
-20 (ACTIVE) 0 (PASSIVE)	4/5	KNEE EXTENSION	WFL	5/5
99 (ACTIVE)	4+/5	KNEE FLEXION	WFL	5/5
WFL	4+/5	ANKLE DF	WFL	5/5

PHYSICAL EFFORT FINDINGS

Through out the course of this evaluation distraction-based Physical Effort Testing was conducted. This type of testing is used to evaluate whether or not evaluation results accurately represent a client's physical abilities. If a client does not partake in his testing day with high levels of physical effort, an evaluator cannot be confident that observed performances represent current abilities.

Maximum Voluntary Effort (MVE) Testing: Five-Position Grip Testing

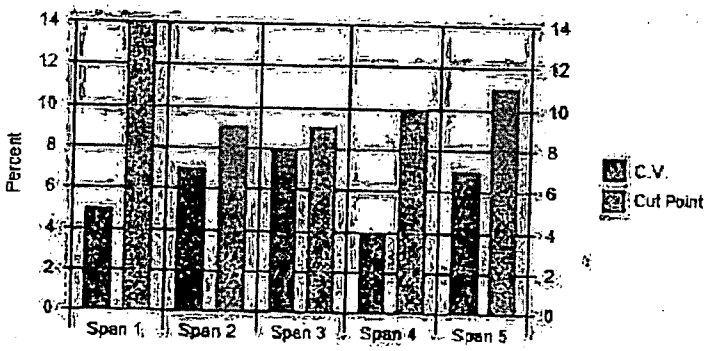
Mr. Nelson underwent a formal screening procedure to query maximum voluntary effort during testing. This test uses the hand dynamometer (Serial No. 1516362) to measure isometric force generated by the hand. The hand dynamometer is used to present ten maximum gripping measurements, each repeated three times. Studies indicate that out of 10 coefficients of variation calculated, no more than two will exceed experimentally derived "cut-points" if the individual is demonstrating maximum voluntary effort.

The results (in pounds) of Mr. Nelson's testing are presented below:

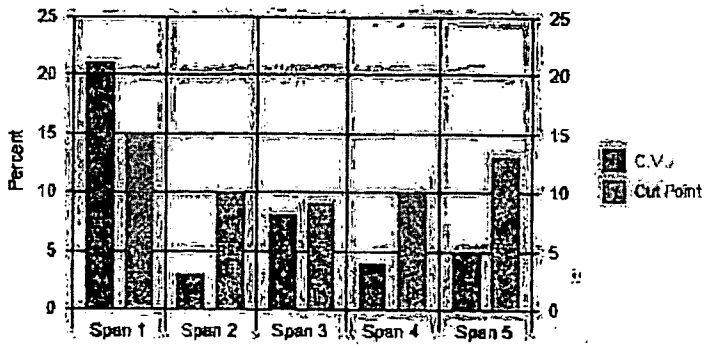
Grip Span	Test 1		Test 2		Test 3	
	Dom	Non	Dom	Non	Dom	Non
1	118	81	104	49	111	60
2	142	74	135	75	121	80
3	100	62	115	65	120	75
4	111	60	105	55	100	55
5	100	60	85	55	90	53

Grip Span	Coefficient of Variation		Exceed Cut Point?	
	Dom	Non	Dom	Non
1	5.15	20.96	No	Yes
2	6.58	3.44	No	No
3	7.61	8.25	No	No
4	4.27	4.16	No	No
5	6.8	5.26	No	No

Un-Impaired Dominant Upper Extremity Chart



Un-Impaired Non-Dominant Upper Extremity Chart



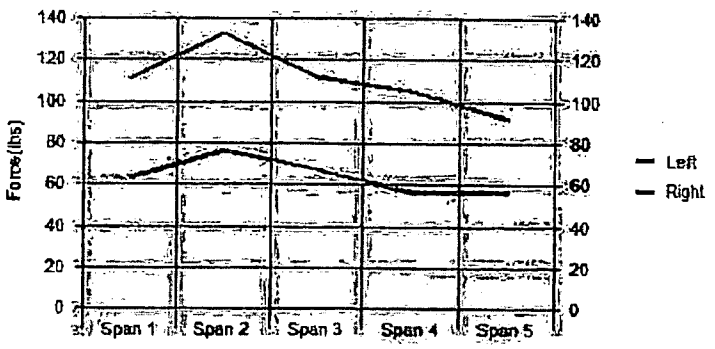
Analysis of the client's scores demonstrates 1 coefficients of variation above the permissible cut-points. As a total of two scores are allowed above the cut-points, this is suggestive of maximum voluntary effort during testing.

During the grip strength test, the client was noted to show no signs of physical discomfort.

Mr. Nelson was observed to demonstrate the following signs of competitive test performance during grip strength testing:
Muscular recruitment

Grip Curve Analysis

A second method of screening for the presence of maximum voluntary effort relates to the analysis of score distribution. If an evaluee is providing maximum effort on the hand dynamometer, a bell curve pattern of score distribution is expected.



Such a bell curve pattern was observed in Mr. Nelson's case for his left hand and was present for his right hand. This is suggestive of maximum voluntary effort on the left and of maximum voluntary effort on the right. (Serial No. 1516362).
A second method of using bell curve analysis to gauge a client's level of physical effort relates to analysis of standard deviation. Clinical studies indicate that if a person is partaking in testing with full physical effort, a specific pattern of score distribution is expected.

Left Upper Extremity: Mr. Nelson's left hand grip scores, produced a well distributed bell curve (S.D. = 13.22). Clinical studies suggest this standard deviation to be indicative of a high level of effort.

Right Upper Extremity: Mr. Nelson's right hand grip scores, produced a well distributed bell curve (S.D. = 7.5). Clinical studies suggest this standard deviation to be indicative of a high level of effort.

Physiological Analysis: Heart Rate Analysis

To further gauge Mr. Nelson's overall level of physical effort, clinical heart rate analysis was used throughout his testing day. Matheson-trained work capacity evaluators are trained to look for heart rate measures nearing or exceeding aerobic target levels in individuals providing high levels of effort on repetitive, large muscle group activity.

Test	Standing Resting HR	Maximum HR	% Δ
Isoinertial Lift	117 bpm	124 bpm	6%
Carrying	104 bpm	106 bpm	2%
Pushing	110 bpm	120 bpm	9%
Pulling	110 bpm	120 bpm	9%
5 Minute Walk	108 bpm		

Overall heart rate analysis suggest full effort on Mr. Nelson's behalf.

Patient attempting next weight resistance for each lift even after becoming into heavy category, until unable to control it to complete lift.

RELIABILITY OF PAIN AND DISABILITY REPORTS TESTING

Reliability of Pain and Disability Report testing is comprised of a battery of tests designed to better assess the dependability and accuracy of the client's subjective reports of pain and/or disability. The battery includes tests which evaluate the presence or absence of non-organic findings (findings that have more to do with illness behavior than underlying physical disease) as well as tests which compare a client's subjective reports to what he is actually capable of doing through the use of distraction based testing and observations of ability/disability.

Pain Scales

Various pain scales were implemented with Mr. Nelson to evaluate both the consistency and reliability of his subjective (verbal) reports. Subjective ratings of pain matched well with distraction-based clinical observations. Repetitive movement reports matched well with clinical observations.

Pain Assessment/Questionnaires

Mr. Nelson completed a number of standard assessment questionnaires to assess the presence and impact of Chronic Pain Syndrome. These questionnaires have been published in peer-reviewed journals and are widely used in the industrial rehabilitation field.

Questionnaire/Assessment	Score	Interpretation
Functional Pain Scale	3.75/10	Pain that is starting to affect your ability to perform the current activity (.i.e. decreased movement, decreased speed and/or the need to briefly rest and/or stretch in order to continue completing the current activity).
Lower Extremity Functional Scale		31/80= 38.7% (100% is no disability)

GRIP STRENGTH

Five-Position Grip Testing

As a function of hand dynamometer testing, information about the client's grip strength was collected.

Dominant		Non-Dominant	
Client	Norm Group	Client	Norm Group
132.67	83.2	76.33	101

Results are in pounds. As can be seen from this table, the client demonstrates the dominant hand as being stronger than the normative group. His non-dominant hand demonstrates as being similar to the normative group.(Serial No. 1516362)

During the grip strength test, the client was noted to show no signs of physical discomfort.

Mr. Nelson was observed to demonstrate the following signs of competitive test performance during grip strength testing:
Muscular recruitment

DEXTERITY TESTING

Matheson Dexterity and Range of Motion Panel System

The Matheson Dexterity and Range of Motion Panel System (MPS) is a functional capacity evaluation device which assesses an individual's ability to perform the physical demands present in standing, table height and floor level assembly and disassembly tasks that require dexterity and sustained positional tolerances. The client's ability to hear, comprehend, and follow verbal instructions may also be assessed.

The time a client achieves on the MPS can be compared to the industrial time standard set for the protocol selected. Referring to the tables below, compare the clients' time achieved to the Time Standard (100%). Completion of the protocol in fewer seconds than the Time Standard is suggestive of an above-average "Work Rate," or in other words, an ability to work at a rate faster than the industrial time standard for the combination of physical demands present in the protocol chosen. Assuming full effort during the test, completion of the protocol in more seconds than the Time Standard is suggestive of a below-average "Work Rate," or an inability to work at the rate required by the industrial time standard for the combination of physical demands present in the protocol chosen.

Pins

	Time in Seconds	MTM Rank
Placing/Displacing Circuit	454	70

The client exhibited no signs of physical discomfort during the Pins Placing and Displacing protocol.

The Pins Placing and Displacing protocol was terminated due to successful test completion.

Test performed in standing with mild stoop.

Medium Screws

	Time in Seconds	MTM Rank
Assembly/Disassembly Circuit	249	99

The client exhibited the following signs of physical discomfort during the Medium Screw Assembly and Disassembly protocol:
Facial grimace/wince

The Medium Screw Assembly and Disassembly protocol was terminated due to successful test completion.

Test performed in KNEELING position on airex pad with both knees bent- slight observed offloading of L LE, however, able to maintain WB through both sides. Requiring UE support to rise and descend.

HANDLING TESTING

Matheson Dexterity and Range of Motion Panel System

The Matheson Dexterity and Range of Motion Panel System (MPS) is a functional capacity evaluation device which assesses an individual's ability to perform the physical demands present in standing, table height and floor level assembly and disassembly tasks that require dexterity and sustained positional tolerances. The client's ability to hear, comprehend, and follow verbal instructions may also be assessed.

The time a client achieves on the MPS can be compared to the industrial time standard set for the protocol selected. Referring to the tables below, compare the clients' time achieved to the Time Standard (100%). Completion of the protocol in fewer seconds than the Time Standard is suggestive of an above-average "Work Rate," or in other words, an ability to work at a rate faster than the industrial time standard for the combination of physical demands present in the protocol chosen. Assuming full effort during the test, completion of the protocol in more seconds than the Time Standard is suggestive of a below-average "Work Rate," or an inability to work at the rate required by the industrial time standard for the combination of physical demands present in the protocol chosen.

Bolt, Washer and Nut

	Time in Seconds	MTM Rank
Assembly/Disassembly Circuit	244	98

The client exhibited no signs of physical discomfort during the Bolt, Washer and Nut Assembly and Disassembly protocol.

The Bolt, Washer and Nut Assembly and Disassembly protocol was terminated due to successful test completion.

Panel one positioned at waist level for bending/stooping position while standing.

Bennett Hand Tool Dexterity Test

The Bennett Hand Tool Dexterity Test is designed to measure an individual's ability to use ordinary factory tools. The test involves prolonged standing, sustained neck flexion, and medium dexterity. Measured against a normative group comprised of maintenance mechanics at a mass transportation system in the northeastern United States, Mr. Nelson achieved the following results:

	Time in Seconds	Percentile
Trial One	540	3
Trial Two	NT	

The client exhibited no signs of physical discomfort during the Bennett Hand Tool Dexterity Test.

The Bennett Hand Tool Dexterity Test was terminated due to successful test completion.

Test performed with Bennett tool on shelf at chest level in standing.

FITNESS TESTING

Aerobic Testing

Aerobic testing was done to help evaluate the client's ability to exercise continuously for extended periods without tiring.

10 Minute Walk

During this test, the evaluator observed whether or not Mr. Nelson displayed any antalgic symptoms in his gait. An antalgic gait is a limp adopted so as to avoid pain on weight-bearing structures, characterized by a very short stance phase. Antalgia was noted at the onset of the test on the left. .

Mr. Nelson was observed to demonstrate the following signs of physical discomfort: Increased lean on nearby surfaces.

Comments: 10 minute TM walk performed, with client instruction to move to a speed that he can maintain for the entire 10 minutes. TM speed at 0.6 mph for 10 minutes for a total distance of 0.12 miles. Equal step length B, however, overall slow pace compared to community walking speed.

MOBILITY TESTING

Balance

Balance assessment is used to evaluate the patient's ability to maintain appropriate posture during functional activities.

		Time (Seconds)	Norm Group	Rating
Right Leg	Eyes Open	30	29.4	Average
Left Leg	Eyes Open	5	29.4	Below Average

Note: Studies show that there is a correlation between age and lower normative scores (the higher the age, the lower the score). Studies also show that, regardless of age, the subjects' scores for "Eyes Closed" testing will be lower than the "Eyes Open".[1]

Tandem walk performed for 50 feet: occasional UE tap on wall required but no LOB requiring scissoring of feet or step out from tandem.

[1] R. Bohannon et al. Decrease in Time Balance Test Scores with Aging. Physical Therapy Journal, Vol. 64, No. 7. July, 1984.

Repetitive Movement Screening Test

A Repetitive Movement Screening Test was conducted to further quantify the validity of Mr. Nelson's subjective reports. His performance is presented as follows:

Region	Trials	Time of Day	Pain Rating	Time (Secs)	Range
Trunk Flexion	1	8:31a	3.7/10	43	75% ROM
Trunk Flexion	1	10:26a	4.5/10	65	75% ROM
Forward reaching	1	8:33a		13	full ROM
	2	10:27a		24	full ROM
Squatting	1	8:33a		48	75% ROM
	2	10:28a			25% ROM without UE support
Upward Reaching	1	8:35a		16	full ROM
	2	10:29a	4.5/10	19	full ROM

Comments

Squatting : offloading of L LE at bottom, pain upon ascent throughout. can only complete 4 repetitions x5 reps due to pain L knee

x10 reps each trial unless otherwise specified

Crawling

Mr. Nelson was observed to crawl a total distance of 0 of a maximum distance of 100 Feet. He was noted to rise slowly and required assistance to rise. He was noted to slow down during this test.

The client demonstrated the following signs of physical discomfort during this test:
Facial grimace; Pausing/Slowing

The test was terminated due to:
Request to stop (increase in reported symptoms)

Attempted kneel in hallway to assess crawling; Patient able to get to tall kneel, however, could not lean forward from this position to place hands on ground due to knee pain. Requiring tester and UE support at wall to rise back up.

Climbing and Descending Stairs

Mr. Nelson was observed to climb and descend 6 floors of 5 steps. He completed this without a break.

The client demonstrated the following signs of physical discomfort during the stairs test: Increased lean on nearby surfaces

Patient requiring use of B HR's to complete, however, able to perform reciprocally. Lack of knee flexion on descent on L with increased forward bend and offloading to UE's. HR post 2 minute stair climb = 131 bpm.

Repeated task, asking client to not perform with handrails: unable to push up throug L LE to ascend reciprocally, requiring use of HR's. Observed knee buckling occurring even with light HR use.

RANGE OF MOTION TESTING

Matheson Dexterity and Range of Motion Panel System

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The time a client achieves on the MPS can be compared to the industrial time standard set for the protocol selected. Referring to the tables below, compare the clients' time achieved to the Time Standard (100%). Completion of the protocol in fewer seconds than the Time Standard is suggestive of an above-average "Work Rate," or in other words an ability to work at a rate faster than the industrial time standard for the combination of physical demands present in the protocol chosen. Assuming full effort during the test, completion of the protocol in more seconds than the Time Standard is suggestive of a below-average "Work Rate," or an inability to work at the rate required by the industrial time standard for the combination of physical demands present in the protocol chosen.

Overhead to Knee

	Time in Seconds	MTM Rank
Transfer	460	83

The client exhibited no signs of physical discomfort during the Overhead to Knee Transfer protocol.

The Overhead to Knee Transfer protocol was terminated due to successful test completion.

Client utilizing increased lumbar flexion and decreased knee flexion with transfer from panel one (lower panel) screws.

SUSTAINED ACTIVITY AND POSITIONAL TOLERANCES

During a total evaluation time of 2 hours 40 minutes 16 seconds, Mr. Nelson's total sitting, standing, walking, and other position and combinations of positions time was recorded. His results from this continuous observation and recording are presented as follows:

	Total Time (Hrs: and Min:)	Longest Duration
Neck Flexion	00:11:36	00:07:25
Sitting	00:42:56	00:22:09
Handling	00:18:11	00:08:54
Stooping Mild	00:08:52	00:07:31
Stooping Moderate	00:10:22	00:06:07
Reaching Above Shoulder	00:16:37	00:08:56
Fingering	00:19:27	00:07:46
Reaching	00:16:07	00:07:27
Standing	01:52:43	00:56:38
Kneeling	00:04:18	00:04:18
Walking	00:20:40	00:10:07
Total Time for Evaluation	02:40:16	

STRENGTH TESTING

Pushing

Mr. Nelson was observed to push a sled weighing over a level terrain. The results are presented below:

	Handle Height	Distance	Force	Percentile	Rating
Initial	37(in)	50(ft)	50(lbsf)	<10	Below Average
Sustained	37(in)	50(ft)	50(lbsf)	50	Average

The client was noted to show the following signs of physical discomfort:
Post-test - lean on nearby surfaces; Pausing intermittently

Standing Resting Heart Rate	110 bpm
Maximum Heart Rate	120 bpm
Post-Test Heart Rate	118 bpm

The test was terminated due to:
Request to stop (increase in reported symptoms)

(# of force, perceived resistance, heart rate)
45#/medium/120
50#/heavy/118
55#/ performed for 5 feet, client asked to stop due to increased L knee and R ankle pain

with decreased step length, increased time to perform task (2-2:30 to perform each set of 100 feet)

Pulling

Mr. Nelson was observed to pull a sled weighing over a level terrain. The results are presented below:

	Handle Height	Distance	Force	Percentile	Rating
Initial	37(in)	50(ft)	45(lbsf)	≤10	Below Average
Sustained	37(in)	50(ft)	45(lbsf)		

Mr. Nelson's pain rating for this test was 4.5/ 10.

The client was noted to show the following signs of physical discomfort:
Post-test - lean on nearby surfaces; Pausing intermittently

Standing Resting Heart Rate	110 bpm
Maximum Heart Rate	120 bpm
Post-Test Heart Rate	118 bpm

The test was terminated due to:
Request to stop (increase in reported symptoms)

(# of force, perceived resistance, heart rate)
40#/medium/120
45#/heavy/118
50#/performed for 5 feet, client asked to stop due to increased L knee and R ankle pain

Carrying

Mr. Nelson was observed to carry a loaded box weighing 45lbs over a level terrain. The results are presented below:

Handle Height	Distance	Weight	Rating
12"	20 feet x2	45(lbs)	Good

The client demonstrated no signs of physical discomfort.

Standing Resting Heart Rate	104 bpm
Maximum Heart Rate	106 bpm
Post-Test Heart Rate	106 bpm

The test was terminated due to:.
Request to stop (increase in reported symptoms)

10#/light/
20#/light/
30#/medium/104
40#/heavy/
45#/heavy/106
50#attempted, however, client reports increased medial and lateral knee pain on L

all two hand carries performed for 20 feet x2

Lifting

Isoinertial Lifting Evaluation

Mr. Nelson completed the Maximum Isoinertial Lifting Evaluation during the evaluation process. Prior to testing, the client's heart rate was found to be 117 bpm and his blood pressure was 138/88 mm Hg. His functional pain rating was 3.75/10.

The results for the 13 inch width (center of body to hands) of this evaluation are as follows:

Test	Max. Wt	Safe Wt	Heart Rate	Pain	Reason for Pain	Body Mechanics
Floor to Knuckle	40	40	124	3.75	Knee pain	Fair
Knuckle to Shoulder	35	35	121	3.75	Test completed	Good
12 inch to Knuckle	45	45	123	3.75	Knee pain	Good

The client's post-test heart rate was 121 bpm, his post-test blood pressure was / mm Hg and his post-test pain rating was 3.75/10.

The client demonstrated the following signs of physical discomfort during the test:
Pausing intermittently, Facial wince, Holding breath/sighing,

The test was terminated due to:
Request to stop (increase in reported symptoms)

Comments

12" to waist (weight, perceived resistance, heart rate)
10#/light/107
20#/light/
30#/medium/115
40#/heavy/126
45#/heavy/123 with anterior and med/lat R knee pain

Floor to waist
20#/light/113
35#/medium/122
40#/heavy/124
45#/ attempted, however, unable to perform safely (excess lumbar flexion, decreased knee flexion), patient stopping due to increased R knee

Waist to shoulder
10#/light/111
20#/light/125
30#/medium/125
35#/heavy/121

SUMMARY OF FINDINGS

Mr. Nelson reported his perceived ability between Light and Medium, which was consistent with demonstrated abilities during the evaluation at a full LIGHT-MEDIUM capacity with some abilities within a Medium and Medium-Heavy ranges.

Return to Work
Mr. Nelson is not capable of performing the physical demands of the target job of Municipal Maintenance Worker. The mismatch between his demonstrated ability and the physical demands of the target job are outlined in the Physical Abilities and Job Match table.

Physical Tolerances
The results of testing indicate that Mr. Nelson demonstrates a full LIGHT-MEDIUM capacity with abilities into the MEDIUM and MEDIUM-HEAVY range. Positional limitations were demonstrated in crouching, crawling and stairs, along with limitations in floor to waist and carrying tests.

Safe Worker
Mr. Nelson demonstrated safe work habits throughout his evaluation.

ADDITIONAL INFORMATION

The Physical Demand Characteristics of Work chart is appended here for your reference.

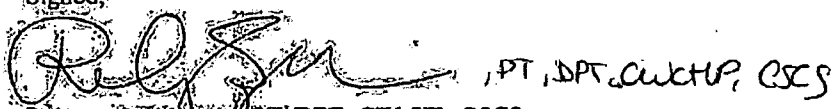
PHYSICAL DEMAND CHARACTERISTICS OF WORK
1993 Leonard N. Matheson, PhD

PHYSICAL DEMAND LEVEL	OCCASIONAL 0 - 33% of the workday	FREQUENT 34 - 66% of the workday	CONSTANT 67 - 100% of the workday	Typical Energy Required
SEDENTARY	10 lbs.	Negligible	Negligible	1.5 - 2.1 METS
LIGHT	20 lbs.	10 lbs	Negligible	2.2 - 3.5 METS
MEDIUM	20 to 50 lbs.	10 to 25 lbs.	10 lbs	3.6 - 6.3 METS
HEAVY	50 to 100 lbs.	25 to 50 lbs.	10 to 20 lbs	6.4 - 7.5 METS
VERY HEAVY	Over 100 lbs.	Over 50 lbs.	Over 20 lbs	Over 7.5 METS

The results of this evaluation were reviewed with Mr. Nelson at the conclusion of the evaluation.

Thank you for your referral of Mr. Nelson.

Signed,



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--- End Of Client Evaluation Report for Mr. Frederick Nelson ---

Version 05/31/11

APA #6

Leonard & Associates, Inc.

Vocational and Rehabilitation Consultants

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Certified Vocational Evaluator
Certified Rehabilitation Counselor

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VOCATIONAL EVALUATION:
PROSPECTIVE FEASIBILITY & IMPACT ASSESSMENT

Name:
Frederick Nelson

Date of Evaluation:
June 8, 2018

DOB – Age:
[redacted] 57

Status:
WC - SC

Referring Party:
Johnnie W. Baxley, III

Injury Date:
November 29, 2016

I. REFERRAL STATUS:

Mr. Frederick Nelson was referred for a vocational evaluation by Mr. Johnnie Baxley of the law firm Willson Jones Carter & Baxley, P.A. Mr. Nelson's referral is tied to a workers' compensation claim arising from an injury that occurred on or about November 29, 2016. Mr. Baxley seeks an opinion as to Mr. Nelson's prospective employability subsequent to the injury and its functional impact on his overall vocational profile.

Mr. Nelson was evaluated at the office of the Steinberg Law Firm, located in Goose Creek, South Carolina. The proceedings lasted just under 2.5 hours and consisted of a vocational interview as well as a series of routine tests intended to measure Mr. Nelson's intellectual competencies. All findings and conclusions contained herein are provided within a reasonable degree of professional vocational certainty and are offered irrespective of the referring source. As always, the cited conclusions are subject to amendment pending any directive changes in the functional record.

II. BASIC BACKGROUND:

Mr. Nelson sustained a work-related injury during the course of his employment as a street sweeper operator with the City of North Charleston. Reportedly, he was walking towards his sweeper in order to complete an inspection when he tripped over the tyne of a forklift and fell. Mr. Nelson states that he was aware of injuries affecting his left big toe, left knee, right ankle and right thumb in the immediate wake of the fall.

Subsequent to the injury, Mr. Nelson has been provided medical care within the bounds of the South Carolina Workers' Compensation Act. To date, such care is most notable for surgeries to his right

thumb and left knee. The treatment of his right ankle has maintained a conservative course. It does not appear that Mr. Nelson has received any treatment with regard to his left toe.

The authorized physicians associated with Mr. Nelson's claim have released him from further interventional care. They have issued impairment ratings to each injury as well as corresponding work restrictions. Of note, however, the record is significant for an independent medical evaluation that questions the presence of maximum medical improvement with respect to Mr. Nelson's left knee and recommends the completion of an updated MRI. As such, Mr. Nelson's prospective employability could be subject to a potential dispute concerning such circumstances.

III. SUBJECTIVE ASSERTIONS:

As a result of the November 2016 accident, Mr. Nelson asserts ongoing symptomatic difficulties affecting his left big toe, left knee, right ankle and right thumb. Of note, Mr. Nelson states that the surgery to his right thumb only slightly improved his symptoms. He denies any symptomatic benefit from the left knee surgery and, in fact, states that his left knee has actually gotten worse since the surgery.

Mr. Nelson reports the presence of left knee pain that is most noticeable when climbing stairs. His knee allegedly "gives away" if he walks too long. He also experiences constant "cracking" and "popping" of the knee; while further noting the presence of a bone that protrudes laterally. With respect to his right ankle, Mr. Nelson describes a constant pain where he struck the forklift tyne with his right foot. He reports an inability to move the tip of his right thumb in a purposeful manner or form a normal/full right fist. Lastly, Mr. Nelson describes an ongoing pain that runs across the top of his left big toe.

Functionally, Mr. Nelson asserts numerous limitations and deficits. He can only ascend stairs in a "sideways" manner and must use handrails. He cannot lift heavy items without the onset of sharp pain in his left knee. He cannot run or jog. Mr. Nelson experiences difficulty rising from a seated positon to include getting out of a vehicle. He cannot put pressure on his left knee while further noting the onset of a limp while walking. The various functional problems associated with his left knee tend to place additional stress on his right ankle, which also impacts his ability to stand and walk. Mr. Nelson describes a limited ability to perform tasks that stress his left knee; such as kneeling, bending, squatting, crouching and crawling. Such dynamic movements are also impacted by the onset of pain in and around Mr. Nelson's left toe. Last but not least, Mr. Nelson relates experiences difficulty gripping and grabbing items with his right due to the pain at the base of his right thumb. Of note, Mr. Nelson reports the use of different hands to perform gross manual and dexterous tasks (i.e.: shoots pool left-handed; throws right-handed).

With respect to his current capacity to work, Mr. Nelson does not believe that he is capable of returning to his previous position with the City of North Charleston. He notes an inability to remove heavy debris from the road as well as the inability to climb up and/or down from the sweeper. When asked to consider his potential to engage in less-physically demanding work, Mr. Nelson states that he is willing to consider other forms of employment; though he is not convinced that he is capable of working.

IV. PROFILE DEVELOPMENT – RELATIVE VOCATIONAL FACTORS:

A. Age, Education & Formal Training:

Mr. Nelson is a 57-year-old resident of Goose Creek, South Carolina. He left school in or around the ninth grade in favor of work. He later earned a high school diploma after attending a private educational program that provided eight weeks of in-person instructional activities/coursework. He denies any further training (academic or otherwise) beyond those activities associated with his past employment. Specifically, Mr. Nelson received training pertaining to the operation of commercial vehicles and heavy equipment during his employment with the City of North Charleston.

120

Mr. Nelson possesses a Class B commercial driver license (CDL) that was last renewed in June of 2015. It is valid until July of 2020; though Mr. Nelson does not hold a current medical card and denies undergoing such an exam subsequent to his workplace injury. He notes a history of exemptions with regard to such given his employment with a municipality. Mr. Nelson further denies any additional certifications, licensures or trade designations. He is not a member of any union and does not engage in any marketable hobbies or pastimes. He has never served in the military.

B. Work History:

Mr. Nelson reports a relevant work history defined by his longstanding employment with the City of North Charleston and states that he was employed by the municipality for just over thirty years. At the time of the injury, Mr. Nelson operated a street sweeper. He reports the performance of tasks most consistent with a "very heavy and semi-skilled" designation. During the operation of the sweeper, Mr. Nelson states that he was required to exit the sweeper to remove heavy debris from the roadway. He also changed out large brushes. When not operating the sweeper (such as when it was inoperable or undergoing repairs), Mr. Nelson was assigned to a work crew performing labor-based construction tasks and/or driving a truck. He earned at or around $21.86 per hour at the time of the injury. Prior to holding the position of a sweeper operator, Mr. Nelson drove a transfer truck.

Back in 2010, Mr. Nelson states that he worked at the "docks" on a temporary basis driving a yard dog and performing other longshoreman jobs. He notes that such work was performed concurrent to his employment with the City. He denies performing any such work following the November 2016 accident.

C. Acquired Skills:

Through his past employment, Mr. Nelson has developed skills that are transferrable to other occupations. Obviously, such skills are transferable to occupations that are similar in scope. The noted skills and associated work fields are as follows:

Commercial Vehicle Operation: knowledge of procedures and techniques pertaining to the safe operation of commercial grade trucks and specialized heavy equipment such as a street sweeper, yard dog, service truck, etc.; knowledge of DOT regulations; knowledge of related jargon and work codes; etc.

Outside of any emotional, intellectual or physical restrictions, Mr. Nelson's skills would be transferable to positions such as a water-truck operator, jockey-lot attendant, bus driver, skidder operator, etc.

D. Assessment Results:

Mr. Nelson's case file contains test results from a previous vocational evaluation performed by David Price, M. Ed., CRC (04/20/18). Per the corresponding report, Mr. Price administered the reading comprehension and math computation subsections of the Wide Range Achievement Test – Fourth Edition (WRAT-4). In association with his current evaluation, Mr. Nelson was administrated the Wide Range Intelligence Test (WRIT).

Testing observations indicate that Mr. Nelson put forth a reasonable effort, though some reservations persist as to the quickness in which he abandoned exercises/questions assessing his verbal aptitude. To that point, it would appear that his overall score on the WRIT is likely skewed (in a downward manner) by deficits in the area of verbal analogies. Specifically, Mr. Nelson's score on the verbal analogies subtest was quite low; and while verbal weaknesses were not

12

unexpected given Mr. Nelson's educational achievement, his scores were comparatively lower in relation to his performance on the other subtests. With regard to such, the undersigned suspects that Mr. Nelson's seemingly divergent score could potentially highlight a psycho-educational disorder or other associated process that impacts such capacities; though the score could also be indicative of a general verbal "weakness" in the absence of an underlying source. Regardless of such, caution is advised with regard to the strict application of the combined verbal scores as the corresponding impact on Mr. Nelson's general score.

With respect to Mr. Nelson's overall testing profile, the results suggest that he is able to comprehend varying sentence formats as long as the imbedded concepts are not too sophisticated. He can also perform routine mathematical operations. However, his ability to learn new job tasks is clearly limited. He is not considered a good candidate for further academic training and is not suited to occupations that require, or are based upon, academic competencies. He will likely have difficulty with more than routine pre-employment testing. Mr. Nelson's results are as follows:

Per David Price – 04/20/18

WRAT-4	**SS**	**%tile:**	**GE:**
Sentence Comprehension	85	16th	9.4
Math Computation	82	12th	4.8

Intelligence – Aptitude:

WRIT:	**Raw:**	**SS:**
Verbal/Crystallized:		
Verbal Analogies:	16	59*
Vocabulary	29	80
Visual – Fluid:		
Matrices	28	88
Diamonds	21	84
General:		
Verbal		66*
Visual		83
General IQ		71

E. Previous Compensable Claims & Concurrent Proceedings:

Mr. Nelson reports a history of two or three previous workers' compensation claims. Apparently, the associated injuries were all minor and resulted in no permanent functional difficulties. With regard to such, he returned to the same job he held prior to the injury.

Mr. Nelson continues to receive a weekly workers compensation benefit (estimated $575.00). Additionally, he draws a regular retirement benefit based upon his years of service with the City of North Charleston. He denies any additional proceedings concerning his capacity to work. He has not applied for disability benefits through the Social Security Administration nor has he received any unemployment benefits subsequent to the workplace accident. Reportedly, Mr. Nelson's claim before the South Carolina Workers' Compensation Commission is the only pending administrative/ legal action concerning his prospective employability.

122

F. Light Duty & Return to Work Status:

Mr. Nelson is retired from the City of North Charleston and reports that he is not presently working in any form or manner. He describes a short period of light duty work following the injury, but denies any work activity with the City subsequent to his surgeries.

Mr. Nelson is not presently seeking employment, though he reports exploring job opportunities with three retailers. Apparently, he was interviewed by a manager of a Dollar Tree; but upon discussing his depicted restrictions was not offered employment. Mr. Nelson states that he has also inquired about work with other retailers, but was turned away relative to his represented physical restrictions and limitations.

G. Psycho-Vocational Status – Emotional:

Mr. Nelson denies the onset of a psychological injury or overlay subsequent to the November 2016 injury. He is not presently under the care of a psychologist, psychiatrist or other mental health specialist. He does not take any psychotropic medications nor does he allege any corresponding symptoms. With respect to such, Mr. Nelson asserts that any and all deficits in his current ability to work are attributable solely to physical problems arising from his workplace accident.

Based upon my review of the record and my discussions with Mr. Nelson, it does not appear that his psycho-vocational status has been adversely impacted by the November 2016 injury. As such, no corresponding adjustment in his overall vocational profile is warranted.

H. Physio-Vocational Status – Admitted Injury:

Mr. Nelson's physio-vocational status is subject to the functional impact of admitted injuries involving his right thumb, right ankle and left knee. As noted previously, the authorized physicians associated with his claim have cited the presence of maximum medical improvement; though a recent independent medical evaluation questions such findings with respect to Mr. Nelson's left knee.

Following the workplace injury, Mr. Nelson came under the regular and ongoing care of Barry Weissglass, M.D., of the Carolina Center for Occupational Health. Mr. Nelson was followed for complaints involving his right ankle, left knee and right thumb. He underwent a conservative course of treatment without cited improvement. Dr. Weissglass eventually referred Mr. Nelson to an orthopaedic specialist for each admitted injury.

The treatment of Mr. Nelson's right ankle was managed by Robert Lowery, M.D., of Charleston Bone and Joint. The record reflects diagnostic impressions of a right ankle contusion. Dr. Lowery enacted a referral for physical therapy and monitored Mr. Nelson's progression. No surgery was recommended or advised. Dr. Lowery cited the presence of maximum medical improvement as of February 2, 2017. Within a Form 14B, he listed the specific absence of any rated impairment (zero percent) and recommended a return to work without any restrictions or limitations. Mr. Nelson returned to Dr. Lowery roughly eight months later. Dr. Lowery did not issue an amended impairment rating nor did he change/modify Mr. Nelson's previous functional release.

John Ernst, M.D., of Orthopaedic Specialists of Charleston, treated Mr. Nelson with respect to his right thumb. Upon initial examination, Dr. Ernst provided an assessment of "thumb pain" and recommended an "A-1 pulley injection" relative to "triggering" of the right thumb. Reportedly, the injections yielded some degree of benefit, though Mr. Nelson continued to complain of ongoing "triggering" and "locking." On May 19, 2017, Dr. Ernst performed a right

123

trigger thumb release. He noted improvement following the surgery and cited the presence of maximum medical improvement as of July 19, 2017. Dr. Ernst issued an impairment rating of 5% to the right thumb and recommended a return to work without restrictions.

Mr. Nelson was referred to Dr. Ernst's partner relative to his left knee complaints. On March 2, 2017, Kenneth Caldwell, M.D., completed an evaluation of Mr. Nelson and issued assessments depicting pain of the left knee concurrent to findings of an acute medial meniscus tear. Initially, Mr. Nelson reported his desire to avoid surgery; however, on June 14, 2017, he underwent a left arthroscopic medial meniscectomy. Subsequent to the surgery, Mr. Nelson was followed relative to subjective complaints of pain. With respect to Mr. Nelson's presentation, Dr. Caldwell noted concerns "about malingering" while continuing to monitor Mr. Nelson's post-surgery therapy. As of October 31, 2017, Mr. Nelson continued the use of a cane while complaining of "popping on stairs" and that pain was "associated with this." Dr. Caldwell was of the opinion that Mr. Nelson's complaints were out of proportion as to "what would be expected at this point." He noted Mr. Nelson's continued use of a cane as well as encouraged discontinuation of such. Dr. Caldwell recommended his continued participation in work hardening as well as the completion of a functional capacity evaluation.

Mr. Nelson underwent the requested FCE on January 23, 2018. Per the associated report, he put forth a "high levels of physical effort." Mr. Nelson's performance was found to be consistent with "a full LIGHT-MEDIUM capacity with abilities into the MEDIUM and MEDIUM-HEAVY range." With respect to positional limitations, significant deficits were cited in crouching, crawling, climbing stairs and lifting/carrying relative to his left knee injury. Mr. Nelson did not meet the exertional demands of his specific job.

Dr. Caldwell cited the presence of maximum medical improvement on February 3, 2018. He referenced the FCE results and issued restrictions of no kneeling, climbing, squatting or lifting more than 35 pounds. Dr. Caldwell discussed Mr. Nelsons' clinical progression relative to the injury while noting persistent atrophy of the left thigh musculature. Relative to such, Dr. Caldwell set forth an impairment rating of 11% to the left lower extremity. Such findings were reiterated within the bounds of a Form 14B that was signed by Dr. Caldwell on February 13, 2018.

On March 9, 2018, Mr. Nelson participated in an independent medical evaluation under the direction of Adam Schaaf, M.D., of Lowcountry Orthopaedics. Dr. Schaaf provided assessments of right ankle pain, left knee pain and a left tear of the medial meniscus. Dr. Schaaf recommended the completion of updated magnetic resonance imaging (MRI) to evaluate "for a recurrent tear or cartilage issue" of the left knee. He further noted that the endorsed presence of maximum medical improvement would depend on the results of the MRI. In the interim, Dr. Schaaf provided impairment ratings of 14% to the left lower extremity and 5% to the right lower extremity. Functionally, he restricted Mr. Nelson to no climbing, crawling or ladders. He advised the performance of minimal squatting while also noting that Mr. Nelson may need to take frequent breaks.

Based upon the contributing functional record, it would appear that Mr. Nelson's physio-vocational status has been adversely impacted by the November 2016 injury at work. At present, the functional record sets forth a limited-medium physio-vocational status that precludes a return to Mr. Nelson's pre-morbid position with the City of North Charleston. However, the current administrative posture of Mr. Nelson's claim is framed by a potential dispute within the medical evidence concerning the designated status of maximum medical improvement and the need (or not) for further diagnostic care pertaining to the left knee.

124

I. Secondary Conditions:

Mr. Nelson denies the presence of any medical conditions or disorders, unrelated to his workers' compensation claim, that could be expected to further limit his ability to engage in exertional tasks. Rather, he contends that any prospective limitations in his current ability to work result solely from the medical impairments arising from the workplace accident.

J. Analysis of Video Evidence & Surveillance Reports:

The case file associated with Mr. Nelson's referral is significant for surveillance reports covering three days (05/24/18; 06/01/18; 06/02/18). Additionally, the file also contains short clips of video evidence gathered over two of the listed days (6 minutes and 34 seconds – 05/24/18 and 06/01/18). The person depicted in the reports and video does appear to be Mr. Nelson. The video documents Mr. Nelson as he engages in tasks such as walking in his driveway, standing next to a vehicle with an open hood, carrying shopping bags while walking across a parking lot, talking on a phone, etc. Of note, the report concerning June 2, 2018, details a very brief period of activity in which Mr. Nelson purportedly walked in and out of his front door. There is no specific indication within the surveillance evidence that Mr. Nelson is actively engaged in some form of competitive employment.

Typically, one of the most useful aspects of video surveillance from a vocational perspective is the ability to gauge the difference in a claimant's presentation between settings. Such circumstances allow for a more salient consideration of a claimant's subjective assertions as to the degree and actual extent of alleged dysfunction. With respect to such, I have reviewed the surveillance footage within the context of the documentary record to include the results of Mr. Nelson's vocational interview. In a general context, Mr. Nelson did not specifically discount any of the activities that were documented by the video evidence.

V. PLACEMENT PROFILE ANALYSIS:

A placement profile analysis refers to an interactive assessment between the factors noted in Section IV and additional employment concerns. The goal is to determine the overall ease or difficulty associated with securing appropriately targeted employment. The areas outlined in Section IV are combined with other variables such as criminal standing, computer literacy, driving record, residential location, job seeking skills, personal presentation, etc.

Relative to the above concerns, Mr. Nelson retains a "borderline" placement profile. Certainly, he maintains a favorable employment history and resides within a large regional labor market. He possesses a valid license and reports a clean criminal record. However, Mr. Nelson reports no meaningful computer skills as well as a limited base of acquired skills. His test scores are considered to preclude various work fields and are not supportive of further academic training.

VI. PRE-MORBID EARNING CAPACITY:

Mr. Nelson's reported weekly worker's compensation benefit of $575.00 suggests that he was earning an average weekly wage of $862.50 in the year prior to his injury. However, as always, it is recommended that all wage determinations be verified against official employment records so as to ensure an accurate post-injury comparison.

VII. BEHAVIORAL OBSERVATIONS:

Mr. Nelson arrived on time for his scheduled appointment. He drove to the evaluation and was dressed in a casual manner appropriate for the proceedings. Upon introduction, Mr. Nelson was informed of my involvement relative to his claim and provided with a basic set of ground rules for the evaluation. He

was told to make himself comfortable, answer my questions truthfully and put forth a good effort on the associated testing. Mr. Nelson was further informed of the limited confidentiality surrounding the evaluation and the disclosure of the evaluation report. Verbal consent was sought to take his picture and commence with the evaluation. In response to such, Mr. Nelson asked to call his attorney relative to the picture request. Upon returning, after providing him with privacy to make the call, Mr. Nelson consented to the evaluation and picture (copy attached).

Mr. Nelson was pleasant and cordial throughout the evaluation. He attended to the evaluation in a seemingly diligent manner, though some reservations persist as to his propensity to quickly abandon questions on the verbal subtests of the WRIT. Mr. Nelson rotated his seated posture on an intermittent basis throughout the evaluation (up/down). He was also observed to extend and contract his left leg in a recurring manner. Within the bounds of his attorney's office, Mr. Nelson was observed to walk in an augmented manner that favored his left knee, though he did not exhibit an obvious or severe limp.

VIII. PROFILE & FEASIBILITY DETERMINATIONS:

Based upon the results of Mr. Nelson's vocational evaluation, to include my review and consideration of the contributing evidence, it is my opinion that his prospective employability is defined by three competing profiles relative to the available functional and medical evidence. In relation to such, the following profiles and vocational conclusions are offered for consideration within the context of Mr. Nelson's worker's compensation claim:

Profile A:

Profile A is based upon Mr. Nelson's assertions as to the severity of his physical limitations and his impression that a return to any form of competitive employment is unlikely. Profile A accepts, at face value, all of Mr. Nelson's symptomatic and functional assertions as noted in Section III.

Within the parameters of Profile A, Mr. Nelson would be considered vocationally disabled in an outright manner. As such, the November 2016 injury would fully erode his access to the open labor market and his ability to earn a competitive wage.

Profile B:

Profile B is based upon the recommendations of Dr. Schaaf concerning the completion of an updated MRI of Mr. Nelson's left knee. Relative to such, Profile B suspends a determination of maximum medical improvement until the directive impact of the MRI results are known with regard to the medical and administrative posture of Mr. Nelson's claim.

Within the parameters of Profile B, Mr. Nelson would be considered vocationally disabled in a provisional manner. Obviously, the parties would be required to revisit Mr. Nelson's vocational standing relative to the MRI and the resulting medical/administrative outcomes.

Profile C:

Profile C is based upon the findings of the authorized physicians to include the current administrative posture of Mr. Nelson's claim as to the stated presence of maximum medical improvement. Most notably, it considers Mr. Nelson's medical release with regard to his left knee as set forth by Dr. Waldow in Profile C dated January 2017. I have relied upon a composite of functional evidence to include the FCE as well as the narrative commentary provided by the authorized physicians associated with his workers' compensation claim.

126

Within the parameters of Profile C, Mr. Nelson would be precluded from returning to his past employment with the City of North Charleston as well as other work similar in exertional requirements. However, he would not be disabled from any and all work. Targeted occupations consistent with Mr. Nelson's overall vocational profile would include positions such as a medical lab courier, shuttle driver, assembly and process inspector, production worker, gate guard, etc. Relative to such, Mr. Nelson would maintain an estimated median earning capacity at or around $444.80 per week.

Based upon the results of Mr. Nelson's vocational evaluation, it is my opinion that his prospective employability is effectively and accurately defined by the above profiles. Obviously, the profiles are differentiated by issues pertaining to the need (or not) for further medical care as well as the degree of alleged functional impact arising from the injury. With regard to such circumstances, the parties are advised that I do not consider Mr. Nelson to be "vocationally disabled" as set forth in Profile A. More specifically, I do not believe that he is "vocationally disabled" absent any ongoing dispute as to the need for an updated MRI. Hence, it would appear that the designation of Mr. Nelson's prospective employability is subject to administrative and medical determinations pertaining to such circumstances.

Given that a particular endorsement of either Profile B or Profile C requires the undersigned to resolve a medical issue as to the need (or not) for further diagnostic care, I am not able to provide the parties with a final definitive opinion as to Mr. Nelson's prospective employability at this time. However, it is duly noted that the continued administrative posture of Mr. Nelson's claim, as directed by the findings of Dr. Caldwell, yield a vocational outcome consistent with the findings cited in Profile C. Obviously, an administrative determination consistent with Dr. Schaaf's opinion would result in a default finding of provisional disability as detailed in Profile B.

IX. SUMMARY CONCLUSIONS:

- Mr. Nelson alleges a work-related injury during the course of his employment with the City of North Charleston.
- The administrative posture of Mr. Nelson's claim is framed by admitted injuries to his left knee, right hand and right foot.
- Mr. Nelson has been provided with medical care for the admitted injuries. With respect to such, he has reached maximum medical improvement and been released from further interventional care by the authorized sources associated with his claim.
- The medical record is also significant for an independent medical evaluation that recommends the completion of a left knee MRI in order to further determine the presence, or potential absence, of maximum medical improvement.
- Mr. Nelson further alleges the occurrence of an injury to his left big toe. To date, the record does not reflect the admission of a left big toe injury or the provision of any corresponding care.
- Within the bounds of medical and functional evidence, it appears that Mr. Nelson's physio-vocational status is impacted only by residual functional deficits arising from his left knee injury.
- Mr. Nelson's physio-vocational status varies in application to include subjective assertions consistent with a job-preclusive designation as well as clinical commentary and performance sources most consistent with a "limited-medium" designation.

127

- Based upon the results of Mr. Nelson's vocational evaluation, it is my opinion that his prospective employability is properly defined by the conclusions and outcomes cited in Section VIII. Relative to such, the undersigned does not consider Mr. Nelson to be vocationally disabled in a manner consistent with Profile A.

- As always, the enclosed report is based upon the available evidence. Additional findings may or may not change the associated conclusions.

X. RECOMMENDATIONS:

- As noted in Section VI, it is recommended that Mr. Nelson's pre-morbid wage be determined from official documents so as to ensure accurate wage comparisons.

- Should Mr. Nelson undergo a left knee MRI as noted by Dr. Schaaf, it is recommended that any resulting medical and/or functional outcomes arising from such actions be forwarded for review and consideration.

- Should Mr. Nelson receive any monies in association with his workers' compensation claim, he is encouraged to consult the proper financial expert in order to ensure the long-term viability and use of such funds.

- Mr. Nelson is considered to be a borderline candidate for vocational rehabilitation services given his subjective functional assertions. However, should Mr. Nelson desire to pursue employment, he is advised to consider such services upon the resolution of his claim.

Respectfully Submitted, 06/15/18
Joel D. Leonard, CRC, CVE
Vocational Consultant

cc: file

188



129

South Carolina Workers' Compensation Commission
1333 Main St., Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1618027

Claimant's Name: Fredrick Nelson
Address: [redacted]
City: [redacted]
Home Phone: [redacted] Work Phone:
Preparer's Name: Malcolm M. Crosland, Jr.

Employer's Name: City of North Charleston
Address: P.O. Box 190016
City: Charleston State: SC Zip: 29419-9016
Carrier: City of North Charleston
Preparer's Phone #: (843) 720-2800

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $575.70 2. AWW: $863.51 **Date of Injury:** November 29, 2016
3. Type of injury and body part(s): left knee, left foot, right thumb, right ankle, See attached addendum.
4. Facts in controversy: Claimant contends he is not at MMI and needs left knee MRI to determine if a recurrent tear has occurred. Claimant needs orthotic brace for his admitted right ankle injury.
5. Legal issues involved: (1) Ongoing medical treatment for left knee and right ankle § 42-15-60; *Dodge v. Bruccoli, Clark, Layman, Inc.*, 334 S.C. 574, 514 S.E.2d 593 (Ct. App. 1999). (2) Entitlement to temporary compensation - §42-9-10 and wage loss §42-9-20; total disability under §42-9-10(A)
6. Unusual aspects: None to date.
7. Witnesses (designate if expert):* Claimant and any and all witnesses listed by the Defendant.
8. Exhibits: See Notice of Witnesses report.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See attached Notice of Witnesses and Written Medical Reports to be Introduced as Direct Evidence on Behalf of the Claimant.
10. Name, address, and specialty, if any, of the treating physician: Dr. Kenneth Caldwell, orthopedic, and Dr. John Ernst, orthopedic surgeon, 2093 Henry Tecklenburg Dr, Charleston. Dr. Robert Lowery, orthopedic, 255 East Bay St, Charleston.
11. Impairment rating(s); body part(s); physician and date of opinion: (1) On 3/12/18, Dr. Adam Schaaf opined Claimant is not at MMI. He recommends physical therapy and custom orthotics for Claimant's admitted right ankle injury and a repeat MRI of left knee to rule out recurrent tear given the amount of time that has passed since Dr. Caldwell performed left knee surgery on 6/14/17. If Claimant were at MMI, Dr. Schaaf assigned 14% to left lower extremity and 5% to right lower extremity. (2) 5% to right thumb by Dr. Ernst on 7/19/17. (3) FCE dated 1/23/18 indicates a full Light-Medium capacity. (4) 11% to left lower extremity by Dr. Caldwell on 2/8/18 with permanent restrictions of no kneeling, climbing, squatting, or lifting more than 35lbs. (5) 11% to right upper extremity by Dr. Daniel Wartinbee on 6/22/18; recommended a MRI to right thumb, "patient in the future may benefit from topical anti-inflammatories or pain medications on his thumb or hand. Potential cortisone injections of the thumb. Potential splinting or bracing, and potential occupational therapy, considering his stiffness."
12. I am amending my Form 50/51 in the following manner: Loss of earning capacity/total destruction of earning capacity §42-9-10(A).

x **Mediation** ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
X d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.
Questions regarding mediation may be submitted to **mediation@wcc.sc.gov**.

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

Signature: Email: mcrosland@steinberglawfirm.com

Date of hearing: 7/12/18 Time needed for hearing: 15 mins.

On behalf of ☒ Claimant ☐ Employer

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1901. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send

WCC Form 58 Addendum

WCC NO. 1618027

3. Claimant has been employed since March 1987 with the City of North Charleston as an equipment operator. At the time of his admitted accident of November 29, 2016, he operated a variety of heavy equipment for the City. Claimant sustained injuries to his right ankle, left knee, and right thumb when he fell after tripping on equipment on the employer's property. He underwent right trigger thumb surgery on May 19, 2017 and left knee arthroscopic surgery on June 14, 2017 to repair the causally related medial meniscus tear of the left knee. His right ankle, right thumb, and left knee remain symptomatic. As a result of his restrictions and injuries he has been unable to return to his previous job as an equipment/maintenance worker for the City. A recent Functional Capacity Evaluation dated 1/23/18 found "Mr. Nelson is **not capable** of performing the physical demands of the target job of Municipal Maintenance Worker." He is limited to light/medium work capacity as a result of his admitted injuries.

Claimant had a second opinion on 3/9/18 regarding his ongoing ankle and left knee symptoms with Dr. Adam Schaaf of Lowcountry Orthopedics. Dr. Schaaf recommends an additional left knee MRI to evaluate for a recurrent tear or cartilage issues given his poor surgical outcome and continuing pain. Dr. Schaaf recommends Claimant have a custom orthotic right ankle brace and physical therapy for his ongoing right ankle symptoms. Dr. Schaaf does not believe Claimant has reached MMI until these additional treatment/procedures and therapies are provided.

Claimant has undergone a vocational evaluation on April 20, 2018. His vocational testing showed he had a math computation score with a grade equivalent of 4.8. His sentence comprehension showed below average. He is unable to return to his previous work in the "heavy" category. Expert David Price opined "...based on the available information and with a reasonable degree of vocational certainty it is my conclusion that Fred Nelson is no longer capable of gainful employment and is in a state of complete vocational disability. This is an apparent result of impairments rising from his work accident of 11/29/2016. He is not a valid candidate for vocational rehabilitation. He has been retired since July 2017. I do not see a valid vocational option available to him and recommend no change in his status."

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1618027

FREDRICK NELSON, Employee,

Claimant,

vs.

CITY OF NORTH CHARLESTON, Employer, and

CITY OF NORTH CHARLESTON, Carrier,

Defendants.

NOTICE OF WITNESSES AND WRITTEN MEDICAL REPORTS TO BE INTRODUCED AS DIRECT EVIDENCE ON BEHALF OF THE CLAIMANT

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION, AND JOHNNIE W. BAXLEY, ESQUIRE, ATTORNEY FOR THE DEFENDANTS

YOU ARE HEREBY NOTIFIED that the Claimant, pursuant to the Regulations of the South Carolina Workers' Compensation Act and South Carolina Code Section 1-23-330 (1976, as amended), herewith submits the following medical reports as direct evidence on behalf of the Claimant, to wit:

APA/EX#	PROVIDER	DATED	PAGES
7	MRIs	12/14/16-2/14/17	130-131
8	Dr. Adam Schaaf	3/9/18	132-134
9	Dr. Daniel Wartinbee	6/22/18	135-140
10	Vocational Report	4/20/18	141-147
11	Job Description	2003	148-151
12	Employment Applications	4/16/18-6/13/18	152-204

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any of the physicians, experts or others, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER HEREBY NOTIFIED that the originals of the documents referred to herein, or photocopies of said originals received from said physicians, experts or others, will be forwarded to the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and for inclusion as evidence in the record of this claim on behalf of the Employee-Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant: The Claimant and any and all witnesses listed by the Defendant.

THE STEINBERG LAW FIRM, LLP
P.O. Box 9
Charleston, SC 29401
(843) 720-2800

By: Malcolm M. Crosland, Jr.
Attorney for the Claimant

June 28, 2018
Charleston, SC

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2018, I served the Defendant in the foregoing matter with a copy of the attached WCC Form 58 and *Notice of Witnesses and Written Medical Reports to be introduced as Direct Evidence on Behalf of the Claimant* by mailing a copy of same via email, and addressed as follows:

SC Workers' Compensation Commission
Via Ecase

Johnnie W. Baxley, Esquire
Wilson Jones Carter & Baxley, PA
421 Wando Park Boulevard, Suite 100
Mount Pleasant, SC 29464
jwbaxley@wjlaw.net
ATTORNEY FOR DEFENDANTS

By: _____
Tina Burgin, paralegal

810020000582

LOWCOUNTRY ORTHOPAEDICS

2880 Thorn Street
N Charleston, SC 29406
(844) 242-6009

PATIENT ID: [redacted]
PATIENT: FREDERICK NELSON
DATE OF BIRTH: 07/11/1960

EXAM DATE: 12/14/2016
ACCESSION #: 178F
REFERRED BY: BARRY WEISGLASS

MRI ANKLE - RIGHT

HISTORY
Right ankle injury and pain

COMPARISON STUDIES
None available

TECHNIQUE
1.5 Tesla MRI utilizing multiplanar multisequence imaging without contrast.

FINDINGS

Prominent subcutaneous edema. Moderate edema within the flexor hallucis longus muscle distally and this does extend proximal to the area imaged. This suggests a muscle strain with no discrete intratendinous tear, and the visualized portions of the distal tendon from the ankle through motion are intact. Moderate to severe tendinosis/tenosynovitis involving this tendon and also involving the posterior tibial, flexor digitorum longus, and to a lesser degree peroneal tendons. These tendons are intact at the ankle and hindfoot as well with no tendon rupture. The tibialis anterior, tibialis and the long extensor tendons are intact where visualized. The plantar fascia is intact. There is a small plantar calcaneal spur. No local inflammatory changes.

Small ankle and subtalar joint effusions are present. Articular cartilage is generally preserved with minimal chondromalacia in the ankle joint medially. The anterior and posterior talofibular ligaments are intact. The anterior talofibular ligament is torn and this may be an acute or chronic process as there is a focal calcification. There is moderate thickening of the calcaneofibular ligament indicating a moderate sprain. The posterior talofibular ligament is intact. There is even mild edema within the deltoid ligament indicating a mild sprain. There is patchy marrow edema in the medial talar dome and medial talus surrounding the deltoid ligament sprain and consistent with an associated bone contusion. There is also a small area of marrow edema indicating a mild bone contusion at the lateral margin of the distal tibia and also at the distal and medial margin of the navicular. No additional area of bone marrow edema at the ankle and hindfoot. Subtalar ligaments are grossly intact.

IMPRESSION

1. Moderate strain involving the flexor hallucis longus muscle. This may extend proximal to the area imaged
2. Moderate tenosynovitis involving posterior tibial, long flexor, and peroneal tendons
3. Torn anterior talofibular ligament. Sprains involving the calcaneofibular and deltoid ligaments
4. Multiple small bone contusions

Electronically signed by JIM THESING, DO on December 15, 2016 at 5:52:47 AM

B2

LOWCOUNTRY ORTHOPAEDICS
& SPORTS MEDICINE

2660 Tricom Street
N Charleston, SC 29406
(844) 242-8809
www.lowcountryortho.com

PATIENT ID: [redacted]
PATIENT: FREDERICK NELSON
DATE OF BIRTH: 07/11/1960

EXAM DATE: 02/14/2017
ACCESSION #: 1A2A
REFERRED BY: BARRY WEISGLASS

MRI KNEE - LEFT

HISTORY
Left knee pain.

COMPARISON STUDIES
None available.

TECHNIQUE
1.5 Tesla MRI utilizing multiplanar multisequence imaging without contrast.

FINDINGS

No joint effusion. Mild lateral tilt with no lateral subluxation to the patella. Small area of grade 2 chondromalacia at the central aspect of the patella with a small partial thickness chondral defect at the lateral margin of the trochlear groove measuring only a few mm. The quadriceps and patellar tendons are intact. Thickening of the distal patellar tendon with ossifications indicative chronic tendinopathy.

In the lateral compartment mild deformity of the anterior horn lateral meniscus appears degenerative. Free edge fibrillation involving the body but no discrete tear. Articular cartilage appears preserved.

In the medial compartment articular cartilage is preserved. Subtle deformity of the posterior horn medial meniscus suspicious for an oblique horizontal tear along the undersurface

The anterior cruciate ligament is thickened in a pattern consistent with chronic mucoid degeneration. The posterior cruciate ligament demonstrates a similar appearance. The medial collateral and lateral collateral ligaments are intact. No bone marrow edema with no findings of a recent osseous injury.

IMPRESSION

1. Minimal patellofemoral chondromalacia.
2. Probable posterior horn medial meniscus tear. Degenerative lateral meniscus.

Electronically signed by JIM THESING, DO on February 14, 2017 at 2:26:20 PM

B1

Encounters and Procedures

Clinical Encounter Summaries

Encounter Date: 03/09/2018 (Amendment closed by Adam C. Schaaf, MD on 03/22/2018 at 8:36am Last amended by Adam C. Schaaf, MD on 03/22/2018 at 4:23pm)

Patient

Name	NELSON, FREDERICK (57yo, M) ID# 2191847	**Appt. Date/Time**	03/09/2018 10:50AM
DOB	07/11/1960	**Service Dept.**	LCO_Tricom
Provider	ADAM C. SCHAAF, MD		
Insurance	Med Worker's Comp: ONE CALL CARE MANAGEMENT - DIAGNOSTICS Policy/Group # : OCMP01273874 Employer Name : CITY OF NORTH CHARLESTON PUBLIC WORKS Case # : OCMP01273874 Case Injury Date : 11/29/2016 Med Legal: STEINBERG LAW FIRM LLP Insurance # : 247330693 Case Injury Date : 11/29/2016 Prescription: CMX - Member is eligible. details		

Chief Complaint

Right Ankle problem, Left Knee

Vitals

Ht:	5 ft 11 in 03/09/2018 10:48 am	**Wt:**	228 lbs 03/09/2018 10:48 am	**BMI:**	31.8 03/09/2018 10:48 am
BP:	120/80 sitting 03/09/2018 11:01 am	**Pulse:**	64 bpm 03/09/2018 11:01 am	**Pain Scale:**	7 03/09/2018 11:01 am

Allergies

Reviewed Allergies
NKDA

Medications

Reviewed Medications

atorvastatin 40 mg tablet	02/20/18	filled
cloNIDine HCl 0.1 mg tablet	02/20/18	filled
ezetimibe 10 mg tablet TAKE 1 TABLET BY MOUTH EVERY NIGHT AT BEDTIME	02/21/18	filled
Janumet XR 100 mg-1,000 mg tablet,extended release TAKE ONE TABLET BY MOUTH EVERY MORNING	02/20/18	filled

Vaccines

None recorded.

Problems

Reviewed Problems
- Pain of right ankle joint - Onset: 03/09/2018
- Pain in left knee

Family History

Reviewed Family History

Social History

Reviewed Social History
Smoking Status: Never smoker
Medical Power of Attorney: N
Advance directive: N
Alcohol intake: None

132

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NELSON, FREDERICK [redacted]

Marital status: Married
Hand Dominance: Left

Surgical History

Reviewed Surgical History
left knee, right hand

Past Medical History

Reviewed Past Medical History
Diabetes: **Y**
High Blood Pressure: **Y**

Screening

None recorded.

HPI

Ankle7388
Reported by patient.

Location: right
Quality: aching
Severity: moderate
Duration: date of onset: **(11-29-16)**
Context: twisting; work injury
Previous Surgery: none
Prior Imaging: x ray

Knee7388
Reported by patient.

Location: left
Severity: moderate
Duration: date of onset: **(11-29-16)**
Context: fall; work injury
Previous Surgery: surgical procedure: **(arthroscopy)**
Prior Imaging: x ray; MRI
Notes:

Pt comes in today with cc of injury to right ankle and left knee occuring at work. His right foot got caught underneath a fort lift blade and he fell landing on his left knee.

He did not have any issues with left knee or right foot/ankle prior to accident. Injury occurred in November 2016. He was working for North Charleston City as an equipment operator.

He was seen that day by Dr Weissglass. He had xrays and had some conservative care. He was later seen at Roper and diagnosed with a meniscus tear and bone bruise in the right foot. He went on to have knee arthroscopy and conservative care of foot. He had min relief with the knee scope for the meniscus tear. He had extensive pt afterwards. He feels popping when he bends his knee. He does not wear a brace. He states he would like to try one. He has not had a cortisone injection. No locking left knee. No mri since surgery. Does feel grinding. Regarding foot he does not have orthotics. He has pain over the inside of his right foot and ankle. He has had some improvement with time but is still having issues with walking regarding his right foot and ankle. He did not get alot of relief with pt. He takes otc nsaids with mild relief.

ROS

None recorded.

Physical Exam

Patient is a 57-year-old male.

Patient is alert and oriented with pleasant mood and affect. Sits with a normal posture. Walks with a mildly antalgic gait. No assistive device. Left knee exam today shows full extension and flexion with a positive McMurray's maneuver and pain to palpation over the medial joint line. There is less lateral joint line pain. Skin is unremarkable sensation is intact. Some pf crepitus. The knee is ligamentously stable. Mild quad atrophy. Good cap refill skin unremarkable.
Right knee is normal exam capillary refill stability sensation and skin

Right foot and ankle exam shows pes planus and pain over post tib tendon skin ok sensation intact good cap refill. Some achilles tendon tightness. Mild laxity with ant drawer. Symmetric rom to uninjured side. Left foot and ankle normal exam.

Assessment / Plan

133

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NELSON, FREDERICK [redacted]

1. Ankle pain
M25.571: Pain in right ankle and joints of right foot
- XR, ANKLE
  Side: RIGHT Views (X-RAY, ANKLE): AP, Lateral & Mortise

2. Knee pain - Left
M25.562: Pain in left knee
- XR, KNEE
  Side: BILATERAL Views (X-RAY, KNEE): AP
- XR, KNEE
  Side: LEFT Views (X-RAY, KNEE): PA Flexion, Lateral, Sunrise

3. Tear of medial meniscus of knee - Left
S83.222A: Peripheral tear of medial meniscus, current injury, left knee, initial encounter

XR, ANKLE
- Side: RIGHT, Views (X-RAY, ANKLE): AP, Lateral & Mortise

negative

XR, KNEE
- Side: BILATERAL, Views (X-RAY, KNEE): AP

negative min oa

XR, KNEE
- Side: LEFT, Views (X-RAY, KNEE): PA Flexion, Lateral, Sunrise

negative min oa

Discussion Notes

All opinions rendered are mine within a reasonable degree of medical certainty. All recommendations are to decrease impairment and disability. I have reviewed his previous imaging.

We discussed he has continued pain over the medial joint line today. He has not had a repeat mri since his surgery and I would recommend one to eval for a recurrent tear or cartilage issues not evident on plain films. I also would recommend a brace and an injection for him. If MRI is negative for new findings he will essentially be at MMI for his knee.

Regarding right ankle I would recc'd pt and custom orthotics. I do not believe anything other than pt and bracing is warranted for his ankle at this time.

Impairment ratings bade on todays exam would be as follow according to ama fifth edition

left knee--8% mild quad atrophy, 3% meniscus tear, 3% traumatic chondromalacia for total of 14% to lle

right ankle--5% traumatic chondromalacia and mild anterior laxity to rle

Restrictions would be no climbing, crawling, or ladders. May need frequent breaks. Minimal squatting.

Please call with questions.

Sincerely

Adam Schaaf MD

Return to Office
None recorded.

Amendment Sign-Off
Encounter signed-off by Adam C. Schaaf, MD, 03/22/2018.

Encounter performed and documented by Adam C. Schaaf, MD
Encounter reviewed & signed by Adam C. Schaaf, MD on 03/12/2018 at 8:31am
Amendment closed by Adam C. Schaaf, MD on 03/22/2018 at 8:36am
Amendment closed by Adam C. Schaaf, MD on 03/22/2018 at 4:23pm

134

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Frederick NELSON
57yo M [redacted]

NELSON,F 07/11/60 #133276 INDEPE

* 8292188x1516 First Page Admin

Independent Medical Evaluation

Date: 06/22/2018

History of Present Illness:

Frederick Nelson, is a pleasant 57-year-old male. The patient presents to see me on request for IME evaluation for a work-related injury that specifically involved injury to his right thumb/hand. Specifically, the patient comes in with a history of sustaining an injury on the date of 11/29/2016 when at work. "Injury treatment rapid report" was reviewed and it says that the patient worked for the city of North Charleston in public works. The note says at that time the patient had a right thumb tendon injury and was referred to a hand specialist. He was placed in a thumb splint.

The patient attributes his right thumb and hand pathology to his work accident on the date of 11/29/2016.

Of note significant time was spent dedicated to the review of the patient's chart and the patient's medical care.

On reviewing the records, the following history of care is observed:

On the date of 11/29/2016 the patient was seen at Carolina Center for Occupational Health. Apparently, the patient was walking with 2 cups in his hands when he tripped when his foot went under a forklift blade. He twisted his right ankle and fell awkwardly with the cup in his thumb and had an axial load to the right thumb. The patient had difficulty bending it all the way. Physical exam showed pain at the right thumb. Right thumb has diminished ability to flex. No deformity. Assessment was for a right acute thumb injury. He was given an AlumaFoam splint for the thumb. Plan was for return to clinic in 2 days for re-evaluation.

On the date of 12/1/2016, the patient was seen again by Dr. Weissglass. He continues to have right thumb pain. He has tenderness on the palmar surface of the thumb between the MCP and IP. No swelling or bruising. Some discomfort with flexing and with resistance. No significant pain with extension resistance. No significant pain with passive range of motion. Assessment was for an acute right thumb injury. He recommended follow-up in 5 days for re-evaluation.

On the date of 12/5/2016, the patient again seen by Dr. Weissglass at the Carolina Center for Occupational Health. He noted his pain at the thumb is mild to moderate. He has tenderness along the palmar surface of the thumb at the MCP, close to where the sesamoid bones show up on x-ray. Diagnosis was an acute thumb injury. He questioned a bone bruise at the sesamoid. He recommended return in 2 days.

The patient was seen again by Dr. Weissglass on the date of 12/16/2016. He continues to have tenderness at the right thumb on the flexor surface. Assessment was a right acute thumb injury.

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The patient was seen on the date of 2/17/2017 by Dr. Weissglass. He notes continued right hand pain. Orthopedic referral entered.

The patient was seen by Dr. John Ernst on the date of 2/23/2017 at Roper Hospital. His clinic note say that the patient tripped over a forklift blade when at work on the date of 11/29/2016. He has had right thumb pain since the fall. Reportedly initial x-rays were negative. He was followed on a serial basis at occupational health. The patient reports pain at the A1 pulley region of the thumb with one episode of locking, no triggering, and no sensory complaints. He has been wearing a Velcro thumb splint. Exam of the right thumb demonstrates no lacerations. Full extension symmetrical composite flexion of the MP with decreased active flexion. He is tender at the right thumb at his A1 pulley region with nodularity. He has intact EPL and FPL. Benign CMC joint. Benign first compartment. Negative Finkelstein's test. Diagnosis is right thumb stenosing flexor tenosynovitis. No acute laxity found. No fracture. He recommended A1 pulley injection. The patient declines injection at that time. He had a defined GI history, and he did not believe the patient is a candidate for oral anti-inflammatories. No other recommendations or treatment options at that time. He was welcome to seek another opinion. The note says 3 views of the right thumb shows some radial angulation of the thumb MP. Mild arthritic changes at the interphalangeal joint.

The patient was seen by Dr. John Ernst on the date of 2/28/2017. The patient still is having triggering of the right thumb with hesitation to flex. He has been wearing a thumb spica Velcro splint. No sensory complaints. On exam his right thumb demonstrates mild ulnar drift. Symmetric bilaterally. Intact EPL. He is tender at the A1 pulley with triggering. History and examination are consistent with right thumb stenosing flexor tenosynovitis and he recommended an injection. Therefore, a right thumb A1 pulley injection was provided. Composite flexion with significant crepitation at his A1 pulley. Good FPL function. Diagnosis was a trigger thumb. Specifically, he was injected with Depo-Medrol.

The patient was seen by Dr. John Ernst on the date of 3/21/2017. He reports some residual aching at the right thumb A1 pulley with triggering and locking. Some moderation after injection and no sensory complaints. Exam shows some tenderness at the A1 pulley with triggering and locking and symmetrical range of motion, and normal EPL and FPL. On assessment his range of motion has improved with some residual tenderness and triggering and locking after the injection. The patient may consider the option of an additional period of observation versus A1 pulley release. The operative procedure risk and benefits were discussed. Also, postoperative recovery discussed.

On the date of 5/19/2017 the patient did undergo surgery with Dr. John Ernst. Specifically, for a recalcitrant trigger thumb. The operative note says that the patient had a digital nerve block provided. Standard transverse incision was made at the MP flexion crease and blunt dissection was performed under loupe magnification. A1 pulley was identified, and the neurovascular

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bundles protected. The A1 pulley was completely released and the tendon was freed of any adhesions with full excursion. The incision was closed with 5-0 nylon. Intraoperatively, the patient was found have a markedly thickened A1 pulley. With FPL changes beneath the pulley from chronic compression.

The patient was seen by Sawyer Langston on the date of 5/31/2017. He is status post right trigger thumb release and he complains of some stiffness but is doing much better overall. The incision has healed well without any concern for infection. He has full range of motion of his thumb with some tenderness to palpation. He has intact sensation. Sutures were removed without complication. Lifting restrictions were recommended with follow-up in 3 weeks for re-evaluation.

The patient was seen on the date of 6/21/2017 again by Sawyer Langston. The patient does complain of some stiffness with limited range of motion. The incision has healed well and is clean and dry. No warmth or erythema. Full range of motion of the thumb passively after a significant stretching session. Limited range of motion actively and flexion. Sensation is intact, 2-point discrimination is intact, and there is brisk capillary refill. The patient is status post trigger digit release and he is recommended to do scar massage. Putty dispensed for range of motion. Referred to occupational therapy 2 times a week for the next 2 weeks. Allowed to return to work with right thumb with full use and no restrictions starting that date. Follow-up in 1 month with Dr. Ernst. For impairment rating.

The patient was seen by Dr. John Ernst on the date of 7/19/2017. 4 weeks from trigger thumb release. The patient reports some residual thumb tenderness no sensory complaints denies any triggering. Exam shows some residual induration intact EPL and FPL, variable effort with strength testing composite flexion. A1 pulley is benign with no triggering. Normal pulp refill. 2-point discrimination is intact. He said the patient is status post release with some residual wound tenderness that should dissipate with time. No additional therapy is required. The patient is at MMI. He assigned a 5% permanent partial impairment of the right thumb for residual range of motion and postsurgical changes and he did not anticipate any further medical treatment would be required. The patient was rated and released.

The patient had a functional capacity evaluation performed on the date of 1/23/2018. Summary findings says that the patient reported his perceived ability is between the light and medium. This was consistent with demonstrated abilities during evaluation at a full light to medium capacity with some abilities within a medium and medium heavy range. It was felt that he was not capable of performing the physical demands of the targeted job of municipal maintenance worker. Physical tolerance testing indicated a full light-medium capacity with abilities into the medium and medium heavy range. Specifically, regarding the right upper extremity, grip strength testing shows the patient shows no significant signs of physical discomfort and

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appropriate Bell curve was observed. Suggestive of maximal voluntary effort. He did have decreased force in the right compared to left hand.

Specifically, the patient describes that his right hand and thumb pathology is directly related to his injury on 11/29/2016. He denies any pre-existing conditions. He says he has pain focally at the thumb near the metacarpal phalangeal joint.
Past medical and surgical history: Right thumb A1 pulley release.
Family history: Noncontributory.
Allergies: No known drug allergies.

Physical Examination:
General: A patient in no acute distress who is cooperative during the examination and encounter and appears the stated age.
Eyes: pupils equal and reactive to light and synchronous movements.
Cardiac: no complaints of chest pain.
Respiratory: no shortness of breath noted. No wheezes noted. non-labored breathing.
Vascular: no cyanosis, edema, or dysvascular changes in the upper extremity. No evidence of CRPS.
Neuro/Psych: normal mood and affect, oriented to person, place, and time.
Right Upper Extremity:
Very detailed examination has been performed of the right upper extremity today. Regarding the elbow he does not appear to have any significant pain or pathology. Very detailed examination of the right wrist and hand have been performed. Goniometer measurement of wrist extension is 45° wrist flexion of 40° ulnar deviation 25°. Radial deviation 10°. He lacks 15° of full supination. He has full pronation.

At the wrist he has a negative Finkelstein's test. No, de Quervain's tenosynovitis. No CMC base pain with a negative CMC grind test. No basilar thumb arthritis.

He does not have a focal trigger finger of the index long ring or small finger and he demonstrates intact FDS FDP terminal extensor and central slip to all of these digits. He has intact EPL and FPL to the thumb.

2-point discrimination is 5-6 mm in all digits. Brisk capillary refill.

He has a well-healed surgical incision site at the right thumb MCP flexion crease.

Regarding digital range of motion, he has full finger flexion and full finger extension he has significant stiffness of his thumb. Specifically, at the MCP and interphalangeal joint. He on goniometer measurement, has MCP flexion of 40°. Hyperextension is 15° short of neutral.

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Interphalangeal flexion is 40° and he has hyperextension to 5°. He fails to reach the tip of the long, ring, and small fingers on opposition with the thumb.

Important to note, he has clinical symptoms of aseptic tenosynovitis of the flexor pollicis longus tendon of the thumb with scar tissue formation and potential ganglion formation and residual stenosing was crepitation at the A1 pulley.

IMAGING: Right thumb three-view x-ray series have been obtained today. I do not see any significant interphalangeal arthritis of the thumb MCP or CMC arthritis.

Assessment/Impression:

Considering the symptoms did start with a work-related accident, it is appropriate to conclude within a reasonable degree of medical certainty that his right thumb and hand pathology is most probably directly a result of his work accident on the date of 11/29/2016.
After thorough review of the medical records, I do feel, to a reasonable degree of medical certainty, that the patient has had appropriate treatment to attempt to improve his thumb flexion with a trigger thumb release, however he has aseptic tenosynovitis and scar tissue formation and residual stenosing of the thumb. He has pain focally at the MCP region. To a reasonable degree of medical certainty, this is directly related to his work accident.

From a treatment standpoint, to a reasonable degree of medical certainty, I do feel that the patient would benefit from MRI to assess the right thumb at the MCP joint. For scar tissue formation, potential ganglion formation, and aseptic tenosynovitis of the flexor pollicis longus tendon. To a reasonable degree of medical certainty, the patient in the future may benefit from topical anti-inflammatories or pain medications on his thumb or hand. Potential cortisone injection of the thumb. Potential splinting or bracing, and potential occupational therapy, considering his stiffness. To a reasonable degree of medical certainty, if he continued to have significant crepitation of the thumb and scar tissue formation and aseptic tenosynovitis with residual crepitation and catching, potential revision trigger digit release with dedicated tenosynovectomy of the flexor pollicis longus tendon would be a possibility.

At this time, to a reasonable degree of medical certainty, I would follow his FCE recommendations with regards to his work restrictions. As the results of the FCE appeared to correlate with his functional level. And he appeared to have good effort on the testing.

If I were to assign an impairment rating, to a reasonable degree of medical certainty, based on the AMA fifth edition and in light of the continued crepitation, stiffness, and limitations in motion, I would assign an impairment rating of 11% to the right upper extremity. Which corresponded with 12% to the right hand. Specifically, this is from limitations of hand motion with wrist extension flexion supination and thumb range of motion with residual crepitation.

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My conclusion is based on physical exam findings, as well as the objective data and review of medical records.
Thank you very kindly for the referral of this patient.

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140

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Date: April 20, 2018

VOCATIONAL ASSESSMENT OF FRED NELSON

Introduction:

Fred Nelson is a fifty-seven year old Heavy Equipment Operator formerly employed by The City of North Charleston. He was at work on November 29, 2016 when he caught his right foot under the blade of a forklift and fell forward onto a concrete surface injuring his right ankle, right great toe, right thumb, and left knee. The thumb injury was diagnosed as "trigger thumb" and underwent surgical correction on May 19, 2017 by hand surgeon John Ernst. Mr. Nelson achieved maximum medical improvement (MMI) on July 19, 2017 and was released with no restrictions and an impairment rating of 5% of the thumb.

Left ankle injuries were treated by orthopaedic surgeon Robert Lowery and diagnosed as an ankle sprain. Treatment was conservative. Mr. Nelson was released at maximum improvement with no restrictions on activity.

Orthopaedic surgeon Kenneth Caldwell diagnosed Mr. Nelson's left knee injury as a tear of the posterior horn of the medical meniscus with patellofemoral chondromalacia. MRI of 02/14/2017 also revealed a degenerative lateral meniscus (*See radiology report of James Theising, D.O.).* On June 14, 2017 Dr. Caldwell intervened arthroscopically for medial meniscus repair and chondroplasty *(See operative report).* Postoperatively Mr. Nelson had physical therapy and work hardening. Despite the therapy he reported residual knee pain with intolerance to prolonged standing, bending, and weight bearing. He was prescribed Functional Capacity Evaluation (FCE) that recommended Light-Medium Physical Demand *(See FCE Report).* On February 8, 2018 Dr. Caldwell assigned MMI and noted that Mr. Nelson was incapable of returning to his former occupation. Permanent activity restrictions were put in place as:

No lifting greater than 35 pounds, no kneeling, climbing, and squatting.

Impairment was rated as 11% of the lower extremity.

141

Secondary to his persistent pain Mr. Nelson had Independent Medical Evaluation (IME) by orthopaedic surgeon Adam Schaaf on March 9, 2018. Dr. Schaaf recommended bracing, injection therapy, and updated MRI. To date there has been no follow-through on these recommendations. Impairment was assessed as 14% of the lower extremity for the knee injury and 5% for right ankle chondromalacia. Activity restrictions were recommended as:

No climbing, crawling, or ladders. Minimal squatting and frequent breaks.

As a result of his work accident Mr. Nelson could not return to his job and was terminated 07/14/2017. He had been an employee of North Charleston for thirty years. At the present time he continues to have residual knee and ankle pain and weakness of the left lower extremity. He cannot stand, walk, or carry weight for prolonged periods. Bending the knee, stooping, and squatting are painful. Mr. Nelson's altered gait is reportedly causing pain in the right knee and left hip. He also has a stiff and painful right thumb that limits his ability to grip, grasp, and hold. Mr. Nelson dropped out of school in the ninth grade. His employment history is exclusive to physically demanding manual labor. He has looked for alternative employment but has been unsuccessful. At this time he is unable to identify any job that he is qualified for that he can perform. As such Mr. Nelson is referred for vocational assessment.

To assist in the evaluation of Mr. Nelson a vocational interview was conducted on April 20, 2018. His medical file was reviewed. His educational and employment histories were taken. Mr. Nelson was given the opportunity to provide a detailed symptoms report and assessment of current functional capacity. Standardized intelligence and achievement testing was administered. Based on the available medical records, information provided by Mr. Nelson and objective test scores the conclusions and recommendations contained in this report are given with a reasonable degree of vocational certainty and represent my professional opinion as a certified vocational rehabilitation counselor.

Observations:

Mr. Nelson reported for vocational assessment on time and appropriately attired. He was noted to be 5'11", 230 lbs., African-American. He walked with an altered gait and was observed to have difficulty getting in and out of a seated position. When range of motion of the right thumb was demonstrated Mr. Nelson could not make a closed fist or bend his thumb fully. Mood was good. Mr. Nelson was oriented to person, place, time, and situation. Speech was fluent. Memory was intact. Mr. Nelson cooperated with the

142

interview process and answered interview question in a candid manner. There was no suspicion of symptoms embellishment, secondary gain, or malingering. Good effort was given on standardized testing. Results are considered valid.

Symptoms Report:

Mr. Nelson reports experiencing pain in his right thumb any time he attempts to bend it. There is pain when he tries to grip or grasp. There is pain holding objects. He expresses difficulty using the right hand for fine motor repetitive activities. There is weakness of the hand and fatigue with use.

Mr. Nelson states that there was no improvement in his left knee with surgery. It is essentially the same as before the operation. He states that he would not have the procedure again. He describes pain on the interior of his knee and a stretching pain in the left calf. He describes atrophy in the quadriceps, weakness, and easy fatigue. There is occasional swelling with weight bearing and ambulation. Elevation and ice are regular requirements. Mr. Nelson walks with a limp and occasionally requires a cane for balance and support. He cannot run or jump, climb ladders or repetitively go up and down stairs, he is unable to stoop, squat, bend, kneel, crouch or crawl with exacerbation of pain. There is increased pain standing on hard surfaces or walking over rough uneven terrain. Because of knee and ankle pain Mr. Nelson states that he cannot use his left leg for the repetitive operation of foot pedals such as a heavy duty clutch. For comfort he is primarily limited to soft footwear. Standing and walking tolerance is estimated at about 15 minutes. In an average day total ambulatory activities do not exceed three hours. Mr. Nelson states that he can lift-carry about 30-35 pounds maximum. He states that he cannot lift this much weight repetitively or consistently without exacerbating pain and swelling. When Mr. Nelson is not on his feet he spends his time in a recliner chair with his legs elevated. Ice is often applied to the knee and ankle. Sitting tolerance in an upright position is estimated at 60-90 minutes before stiffness and pain require a position change. Limping is reported to be causing overcompensation and pain in the left hip and right knee.

Mr. Nelson reports that he no longer is able to cut grass, rake leaves, or do heavy yard work. He does no vehicle maintenance or home repairs. His grandson takes the trash to the curb. Mr. Nelson has given up his hobbies of daily walks, fishing and shrimping. He no longer jogs or plays basketball and football. Most days he can be found sitting at home. Over-the-counter analgesics are utilized for pain management.

143

Social:

Mr. Nelson is a native of North Charleston, S.C. He has lived in Goose Creek for fifteen years. He has been married for thirty-two years. He has five independent children and eight grandchildren. Mr. Nelson has a valid driver's license. He has a CDL valid through 2020 but does not possess a current D.O.T physical card. He denies convictions for DUI, DUS, or felony. Current income is derived from $575.60 per week in worker's compensation benefits and $1400 per month in a retirement pension from The City of North Charleston.

Education:

Mr. Nelson dropped out of Chicora High School in the ninth grade. He did not take the GED test. On June 16, 2016 he was awarded a non-accredited high school diploma from Cornerstone Christian Correspondence School. No history is given for trade school, technical college, or military training.

Educational achievement was measured with *The Wide Range Achievement Test, 4th Revision, Blue Form.* Results are as follows:

	Standard Score	*Percentile*	*Grade Equivalent*
Sentence Comprehension-	*85*	*16*	*9.4*
Math Computation-	*82*	*12*	*4.8*

Reading Scores are in the *Below-Average Range.* Math Score is in the *Below-Average Range*

Intelligence was assessed with *The Revised BETA Intelligence Test:*

IQ Score- 86
Percentile- 18

Intelligence is measured in the *Low-Average Range.*

144

Employment History:

Mr. Nelson's *past relevant employment* is expressed in 30 years of service to The City of North Charleston as an Equipment Operator II. Mr. Nelson operated dump trucks, garbage trucks, doziers, back-hoes, grader's tractors, street sweeper's and front-end loaders. When not engaged in equipment operation he performed manual labor with requirement to lift 50-100 lbs. His occupation is therefore consistent with *The U.S. Department of Labor* designation of:

HEAVY WORK:

"Exerting 20 to 50 pounds of force occasionally, and/or 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects."

Conclusions and Recommendations:

Fred Nelson is a 57 year old Heavy Equipment Operator. He fell at work on 11/28/2016 and injured his right thumb, left knee, left ankle and left great toe. His thumb injury was diagnosed as trigger thumb. Mr. Nelson is status-post surgery for trigger thumb release. He has achieved MMI. He was assigned no impairment or activity restrictions. His right knee was diagnosed with a torn medial meniscus, degenerative lateral meniscus, and patellofemoral chondromalacia. He is s/p medial menisectomy and chondroplasty. Mr. Nelson's treating physician has rated him with 11% impairment of the lower extremity and permanently precluded lifts greater than 35 lbs., kneeling, climbing, and squatting. His right ankle injury was treated conservative as a sprain. He was placed at MMI with no impairment or restrictions assigned by the treating physician. Mr. Nelson had Independent Medical Evaluation. He was recommended for bracing of the left knee, injection therapy and updated MRI. There has been no follow-up. No treatment was recommended for the left ankle. The great toe injury has not been evaluated.

Mr. Nelson's medical restrictions prevented him from returning to his job and he was terminated July 14, 2017. At the present time he continues to report residual left toe, left ankle, and left knee pain. He states that persistent limping has led to left hip pain and right knee pain. He also reports residual pain and restricted motion in the right thumb. As a result of his work injuries Mr. Nelson was terminated and forced into early retirement. Because of his condition he cannot tolerate prolonged periods of standing, walking, or weight bearing. With these activities Mr. Nelson experiences increased pain and swelling. He is no longer able to use his dominant right hand for strenuous,

145

repetitive, or fine motor activities. Mr. Nelson cannot be on his feet longer than about 15 minutes at a time or for more than 3 hours per day. He limps, requires a cane, and is limited to ambulatory activities on a flat level surface. He cannot operate a heavy duty clutch with his left leg. Mr. Nelson must avoid all kneeling, climbing, and squatting per his physicians order. He is compromised in the performance of typical daily activities and requires assistance from family members. Because of pain he has given up most of his hobby activities. Because of pain, days are now primarily spent at home sitting in a recliner with elevated legs and utilizing ice to control swelling. If Mr. Nelson is on his feet too long or overexerts he will experience a severe or prolonged pain flare. To avoid this he has sheltered his lifestyle to sedentary-light levels.

As to future employment potential Mr. Nelson's prognosis must be considered negative. His entire life's work has been devoted to heavy manual labor. He has no skills or experience appropriate for the sedentary, sit-down work he would require going forward. Because of knee pain, swelling, and intolerance to prolonged sitting Mr. Nelson fails to meet the primary physical requirement of sedentary employment, which is working from a sitting position most of the time. Educationally he does not function at a high school level which is a basic requirement for the clerical, administrative, managerial or technical work associated with sedentary employment. Mr. Nelson has no competence with a computer.

Mr. Nelson cannot work on his feet or at a sustained, productive pace. He is slow and requires frequent and unscheduled breaks. He likely cannot meet expectations for daily attendance or working 8-hour days and 40-hour weeks. Mr. Nelson would require retraining to provide him with sedentary skills which have poor potential for success given his low academics, physical disability, and older worker status. In consideration of a history of worker's compensation claims, prolonged period of unemployment, need for retraining, and requirement for major workplace accommodations it is my overall conclusion that Mr. Nelson is unemployable. He cannot compete equitably in the open labor market because of his physical condition. Simply put, jobs are no longer available to him in viable numbers. This has become increasingly clear as Mr. Nelson has sought work but failed to get a positive response from potential employers.

Therefore, based on the available information and with a reasonable degree of vocational certainty it is my conclusion that Fred Nelson is no longer capable of gainful employment and is in a state of complete vocational disability. This is an apparent result of impairments rising from his work accident of 11/29/2016. He is not a valid candidate for

146

vocational rehabilitation. He has been retired since July 2017. I do not see a valid vocational option available to him and recommend no change in his status.

Should additional information come available on this case I would reserve the right to review it and modify or change my opinions as dictated by the evidence.

Submitted by:

David R. Price M. ED., CRC
Certified Vocational Rehabilitation Counselor

147

CITY OF NORTH CHARLESTON, SOUTH CAROLINA
JOB DESCRIPTION, JUNE 2003

JOB TITLE: EQUIPMENT OPERATOR II

GENERAL STATEMENT OF JOB

Under occasional supervision, operates a variety of heavy and light equipment and trucks in the construction, maintenance and/or repair of City properties, which may include grounds, roads and bridges, rights-of-way and/or drainage structures, or in the collection and disposal of solid waste materials. Performs related work as required. Reports to assigned supervisor.

SPECIFIC DUTIES AND RESPONSIBILITIES

ESSENTIAL JOB FUNCTIONS

Operates a variety of light and heavy automotive, construction or related equipment as required, which may include a bush hog, various mowers and tractors, backhoe, dump truck, loader, motorgrader, paving machine, bull dozer, roller, tractor trailer, pickup truck, knuckleboom loader, garbage truck, etc.

Uses equipment for various tasks, which may include hauling and moving materials; clearing trees and obstructions from City properties; mowing grass and removing overgrown vegetation; excavating earth; grading sites; scraping roads / removing snow; paving streets; digging and backfilling trenches; collecting solid waste from businesses, residences and/or convenience centers; hauling dirt, debris and other materials; etc.

Utilizes various types of small equipment and hand and power tools in the performance of duties, which may include motorized sprayers, chainsaws, etc.

Uses various tools which may include grounds maintenance tools and supplies, transit level, measuring devices, etc.

Loads equipment and materials onto / off of trucks and trailers.

Inspects machinery and equipment daily to ensure proper condition for the completion of daily responsibilities; performs minor repairs and maintenance, including washing, greasing, fueling, etc.; ensures bolts, hoses and pins are properly secured.

Performs duties in accordance with all division policies, procedures, and standards of quality and safety.

Prepares and submits daily work reports.

Interacts and communicates with various groups and individuals such as the immediate supervisor, other City personnel, co-workers, and the general public.

ESSENTIAL SAFETY FUNCTIONS

It is the responsibility of each employee to comply with established policies, procedures and safe work practices. Each employee must follow safety training and instructions provided by their supervisor. Each employee must also properly wear and maintain all personal protective equipment required for their job.

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Finally, each employee must immediately report any unsafe work practices or unsafe conditions as well as any on-the-job injury or illnesses.

Every manager/supervisor is responsible for enforcing all safety rules and regulations. In addition, they are responsible for ensuring that a safe work environment is maintained, safe work practices are followed and employees are properly trained.

ADDITIONAL JOB FUNCTIONS

Performs related duties as required.

MINIMUM TRAINING AND EXPERIENCE

Requires a high school diploma or GED equivalent supplemented by one to two years of experience in heavy equipment operations, or an equivalent combination of education, training and experience that provides the required knowledge, skills and abilities. Must possess a valid state CDL Class "A" driver's license.

MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED TO PERFORM ESSENTIAL JOB FUNCTIONS

Physical Requirements: Tasks involve the regular and at times sustained performance of moderately physically demanding work, typically involving some combination of climbing and balancing, stooping, kneeling, crouching and crawling, and which involves the lifting, carrying, pushing and/or pulling of items of moderately heavy weight (up to 50 pounds) and occasionally heavier weight (up to 100 pounds).

Data Conception: Requires the ability to compare and/or judge the readily observable functional, structural or compositional characteristics (whether similar to or divergent from obvious standards) of data, people or things.

Interpersonal Communications: Requires the ability of speaking and/or signaling people to convey or exchange information. Includes receiving direction and instruction from supervisor.

Language Ability: Requires ability to read a variety of policies and procedures, work orders, diagrams etc. Requires the ability to prepare simple records and forms with proper format. Requires the ability to speak with and before others with poise, voice control and confidence.

Intelligence: Requires the ability to apply common sense understanding to carry out instructions furnished in written, oral or diagrammatic form; to deal with problems involving several concrete variables in or from standardized situations. Requires the ability to learn and understand principles and techniques; to make routine independent judgments in absence of supervision; to acquire knowledge of topics related to primary occupation. Must have the ability to comprehend and interpret received information.

Verbal Aptitude: Requires the ability to record and deliver information, to follow verbal and written instructions. Must be able to communicate effectively and efficiently with co-workers and the general public.

Numerical Aptitude: Requires the ability to add and subtract totals, to multiply and divide and to determine time. Must be able to use practical applications of fractions, percentages, ratio and proportion.

Form/Spatial Aptitude: Requires the ability to inspect items for proper length, width and shape, and visually

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read various information.

Motor Coordination: Requires the ability to operate motor vehicles and heavy equipment.

Manual Dexterity: Requires the ability to handle a variety of items, control knobs, buttons, switches, catches, tools, etc. Must have significant levels of eye/hand/foot coordination.

Color Discrimination: Requires the ability to differentiate colors and shades of color.

Interpersonal Temperament: Requires the ability to deal with people beyond giving and receiving instructions. Must be adaptable to performing under stress when confronted with emergency situations or tight deadlines. The worker may be subject to danger or risk to a moderate degree.

Physical Communications: Requires the ability to talk and hear (talking, expressing or exchanging ideas by means of spoken words; hearing: perceiving nature of sounds by ear).

PERFORMANCE INDICATORS

Knowledge of Job: Has thorough knowledge of the methods, procedures and policies of the City department and division as they pertain to the performance of duties of the Equipment Operator II. Has the ability to comprehend, interpret and apply regulations, procedures and related information. Has knowledge of and skill in the operation of various trucks and light-to-heavy equipment; is able to operate equipment safely at all times. Is able to maintain and perform minor repairs to equipment and machinery as required. Has knowledge of the methods, materials, tools and equipment used in assigned maintenance work. Has knowledge of the occupational hazards and safety precautions of the industry; is able to work effectively despite occasional exposure to extreme weather and temperatures, wetness/humidity, machinery hazards, traffic hazards, dust, fumes, toxic agents, dirt, disease / pathogens, odors, etc. Has knowledge of the layout of City roads and streets as necessary to locate job sites. Has the ability to offer assistance to co-workers and employees of other departments as required. Has the ability to learn and utilize new skills and information to improve job performance and efficiency. Has the mathematical ability to handle required calculations. Is able to read and interpret materials pertaining to the responsibilities of the job. Is able to prepare routine records with accuracy and in a timely manner. Has knowledge of the terminology used within the department. Knows how to maintain effective relationships with personnel of other departments, professionals and members of the public through contact and cooperation. Knows how to react calmly and quickly in emergency situations.

Quality of Work: Maintains high standards of accuracy in exercising duties and responsibilities. Exercises immediate remedial action to correct any quality deficiencies that occur in areas of responsibility. Maintains high quality communication and interaction with internal and external entities with whom the position interacts.

Quantity of Work: Performs described Essential Functions and related assignments efficiently and effectively in order to produce quantity of work which consistently meets established standards and expectations.

Dependability: Assumes responsibility for completing assigned work. Completes assigned work within deadlines in accordance with directives, policy, standards and prescribed procedures. Maintains accountability for assigned responsibilities in the technical, human and conceptual areas.

Attendance: Attends and remains at work regularly and adheres to policies and procedures regarding absenteeism and tardiness. Provides adequate notice to higher management with respect to vacation time and leave requests.

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Initiative and Enthusiasm: Maintains an enthusiastic, self-reliant and self-starting approach to meet job responsibilities and accountabilities. Strives to anticipate work to be accomplished, and initiates proper and acceptable action for the completion of work with a minimum of supervision and instruction.

Judgment: Exercises analytical judgment in areas of responsibility. Identifies issues or situations as they occur and specifies decision objectives. Identifies or assists in identifying alternative solutions to issues or situations. Implements decisions in accordance with prescribed and effective policies and procedures and with a minimum of errors. Seeks expert or experienced advice where appropriate and researches issues, situations and alternatives before exercising judgment.

Cooperation: Accepts supervisory instruction and direction and strives to meet the goals and objectives of same. Questions such instruction and direction when clarification of results or consequences are justified, i.e., poor communications, variance with established policies or procedures, etc. Offers suggestions and recommendations to encourage and improve cooperation intra- and inter-departmentally

Relationships with Others: Shares knowledge with managers, supervisors and co-workers for mutual benefit. Contributes to maintaining high morale among all employees. Develops and maintains cooperative and courteous relationships inter- and intra-departmentally, and with external entities with whom the position interacts. Tactfully and effectively handles requests, suggestions and complaints in order to establish and maintain good will. Emphasizes the importance of maintaining a positive image.

Coordination of Work: Plans and organizes daily work routine. Establishes priorities for the completion of work in accordance with sound time-management methodology. Avoids duplication of effort. Estimates expected time of completion of work elements and establishes a personal schedule accordingly. Attends required meetings, planning sessions and discussions on time. Implements work activity in accordance with priorities and estimated schedules.

Safety and Housekeeping: Adheres to all established safety and housekeeping standards. Ensures such standards are not violated

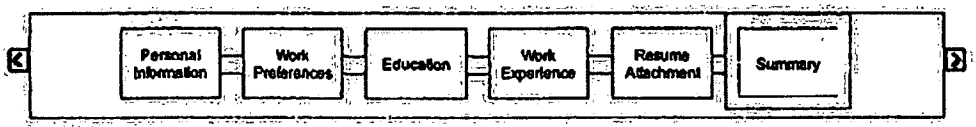
DISCLAIMER: **This job description is not an employment agreement or contract. Management has the exclusive right to alter this job description at any time without notice.**

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Frederick Nelson, you are signed in. | My Account Options My Job Cart (0 items) | Sign Out

Job Search | My Jobpage

General Profile Step 6 out of 6 |



Submit

Summary

This summary displays the information included in the job submission form. To modify some specific information, click "Edit" next to the relevant section. As a condition of employment with Family Dollar, you will be subject to and requested to execute a *Mutual Agreement to Arbitrate Claims*, which will require that both you and Family Dollar agree to arbitrate covered disputes, including, without limitation, disputes arising out of or in connection with the employment relationship.

Note: You must click the 'Submit' button to complete this application.

Personal Information | Edit

Job Posting Notification

Send an email notification whenever a new position matching this profile is posted.	No

Personal Information

Full Name	[redacted]
Street Address (line 1)	
Address (line 2)	
City	
Place of Residence	
Zip/Postal Code	
Preferred Phone Number	
Home Phone Number (e.g. 999-999-9999)	
Work Phone Number (e.g. 999-999-9999)	
Cellular Number (e.g. 999-999-9999)	
Email Address	

Source Tracking

Source Type	Family Dollar Web Site
Source	Career Section

152

Work Preferences | Edit

Basic Profile Information

Job Level	Entry Level
Education Level	High School Diploma/GED (±11 years)
Schedule	Variable
Shift	Variable
Employee Status	Regular
Have you ever worked at Family Dollar?	No
Have you ever worked at Dollar Tree or Deals?	No
Do you have any relatives working for Family Dollar?	No
Do you have any relatives working for Dollar Tree or Deals?	No
If you answered Yes to the previous question, please provide the name, relationship, and location of each relative.	
Were you referred to this job by a Family Dollar Associate?	No
Were you referred to this job by a Dollar Tree or Deals Associate?	No
If you answered Yes to the previous question, please indicate the name of the Assocoate who referred you.	

Job Field Preferences

Store Careers — Customer Service Team Members

Location Preferences

South Carolina — Goose Creek — 08441/1 SC GOOSE CRE

Education | Edit

Education

Education Level	High School Diploma/GED (±11 years)
Program	
Institution	
Location	

Work Experience | Edit

Work Experience

Current Job	No

Employer	City of North Charleston
Job Title	Truck Driver
Start Date	Jun 1987
End Date	Jul 2017

Resume Attachment | Edit

Attachments

Resume	File Name	Date	Comments

No files are attached.

Submit

(/DG-Careers/Pages/index.aspx) (https://jobs-dollargeneral.icims.com/jobs/search?ss=1)

Frederick Nelson
Dashboard | Log Out

Welcome to your Dashboard

Below are your options for managing your profile and reviewing the status of jobs you have applied to.

General Options

- Update your profile
- View current job opportunities
- Update your candidate questions
- Manage your email subscriptions

Additional Portals

If you do not see all of the jobs that you have applied to on your dashboard, please click one of the links below to be directed to another portal:

Distribution Center Career Portal
Distribution Center Management Career Portal
Driver Career Portal
District Manager/Regional Director Career Portal
Store Manager Career Portal
Store Support Center Career Portal

On the landing page, you may log in as a returning candidate or, if you have not previously applied to a job on that specific portal, you may do so by selecting a job listed

Previous Activity

Requisition ID	Job Title	Application Date	Status	Last Update
2016-117669	LEAD SALES ASSOCIATE-PT in GOOSE CREEK, SC	4/2/2018	Application Received	4/2/2018

Application FAQs

Software Powered by iCIMS

www.icims.com

SEARCH JOBS

(https://jobs-dollargeneral.icims.com/jobs/search?ss=1)

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(/DG-Careers/Pages/index.aspx) (https://jobs-dollargeneral.icims.com/jobs/search?ss=1)

E-Verify

(https://dollargeneral.icims.com/icims2/servlet/icims2?module=AppInert&action=download&id=967013&hashed=-154301605)

SC Customer Service Representative-CSR08441001 at Family Dollar

Human Resources <hr-familydollar@invalidemail.com>

Mon 4/2/2018 10:29 PM

To: CS-Nelson, Latonya (N Charleston) <latnel0110@students.ecpi.edu>;

1 attachments (3 KB)

this_message_in_html.html;

Dear Frederick Nelson:

Thank you for applying for the position of SC Customer Service Representative-CSR08441001. We have received your application and are currently reviewing your experience and qualifications.

Please click here if you would like to review your candidate file.

If your profile corresponds to our requirements, a member of our Human Resources Department will contact you soon.

We thank you for your interest in Family Dollar.

Best regards,
Human Resources Department
Family Dollar

If you applied for a job in the City of Los Angeles, in a manner consistent with the requirements of applicable state and local laws, including the City of Los Angeles' Fair Chance Initiative for Hiring Ordinance, we will consider for employment all qualified Applicants, including those with Criminal Histories.

Replies to this message are undeliverable and will not reach the Human Resource Department. Please do not reply.

Thank you for applying!

DOLLAR GENERAL @ icims <dollargeneral+autoreply@agents.icims.com>

Mon 4/2/2018 10:00 PM

To: CS-Nelson, Latonya (N Charleston) <latnel0110@students.ecpi.edu>;

Dear Frederick,

Thank you very much for your recent application to 2016-117669 - LEAD SALES ASSOCIATE-PT in GOOSE CREEK, SC. Your submission will be reviewed by our recruiting staff, and we will contact you soon if we feel that your experience and qualifications meet our current needs.

Sincerely,

Dollar General

This is an automated email response. Please do not reply.

If you no longer wish to receive e-mail from DOLLAR GENERAL, click here: https://dollargeneral.icims.com/icims2/?r=1F063995580&contactId=16159079&pid=84&hashed=-1111643877.

This message was sent to latnel0110@students.ecpi.edu. If you don't want to receive these emails from this company in the future, please go to: https://dollargeneral.icims.com/icims2/?r=1F063995580&contactId=16159079&pid=84.

Gmail

Latonya Nelson <latonyanelson00@gmail.com>

Part Time Retail Inventory Associate - Dist 478 - Charleston, SC-PRE01551 at RGIS,LLC

1 message

RGIS – Human Resources, Recruiting Team <recruiting@rgis.com> Tue, May 8, 2018 at 2:11 PM
To: Fredrick Nelson <latonyanelson00@gmail.com>

Sir or Madam:

Thank you for your interest in RGIS,LLC and the position of Part Time Retail Inventory Associate - Dist 478 - Charleston, SC-PRE01551. We are currently reviewing the information you provided on your application.

If your profile corresponds to our requirements, a member of our local district office will contact you soon.

Best regards,

RGIS,LLC

Replies to this message are undeliverable and will not reach the Human Resources Department. Please do not reply.

Set your account preferences anytime by accessing the My Account page.

this_message_in_html.html
2K

Gmail

Latonya Nelson <latonyanelson00@gmail.com>

Welcome to SC Works Online Services

1 message

SC Works Online Services <systemalert@geosolinc.com> Tue, May 8, 2018 at 1:55 PM
Reply-To: DONOTREPLY@geosolinc.com
To: latonyanelson00@gmail.com

Welcome to SC Works Online Services. This system is designed to assist you with meeting your employment needs and goals. It provides job search tools, career assistance, local labor market information, résumé assistance and much more... Employers are also able to view your résumés and see your employment qualifications which will enhance your employment opportunities.

You registered with the following user Name: [redacted]

You are receiving this email, because you are a registered member of SC Works Online Services, and you were selected as a recipient for an email from another member, staff, or an automated process. If you would like to unsubscribe to all emails from SC Works Online Services, Click Here.

[Individual Portfolio]

My Individual Profiles My Individual Plans

Résumés | Job Applications | Online Application | Virtual Recruiter | Employment Goals

This screen defaults to display applications that are still active. You may set any application to delete status if you are no longer interested. The drop down allows you to view applications that are active or inactive.

View All Current

[Enter an Offline Job Application]

To sort on any column, click a column title.

Job Title	Employer	Occupation	Date Viewed	Details	Action	Select
Stocking Associate	The Home Depot, Inc		5/8/2018		Details	
Stocking Associate	The Home Depot, Inc		5/8/2018		Details	

Delete

Page 1 of 1 Rows 100

2 Records Found

Date of Application: 5-11-18 (Applications must be fully completed and remain active only for up to 60 days from such date)
An Equal Opportunity Employer

Name: Frederick Nelson Email Address: N/A
Address: [redacted] City: [redacted]
Home Phone Number: [redacted] Mobile Phone #:

Desired Location: Date Available to Start Work? 5-11-18

Position(s) sought:
Store: Store Manager ___ Asst. Mgr. ___ Key Holder ___ Full-Time Hourly ✓ Part-Time Hourly ___
Pharmacy: Pharmacist-In-Charge ___ Staff Pharmacist ___ Relief/Floater Pharmacist ___ Pharmacy Tech ___
Floater Tech ___ Corp ___ DC ___ Other ✓

Are you willing to work overtime (if hourly)? Yes ✓ No ___
Are you willing to relocate? Yes ✓ No ___
Do you have the legal right to work in the U.S.? Yes ✓ No ___
Are you 18 years of age or older (minors will be required to provide proof of age)? Yes ✓ No

Availability:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
From	From Monday	From	From	From	From	From
To	To Friday	To	To	To	To	To

Work/Military History: List your four (4) most recent employers – begin with current/most recent.

Previous employers (name/address/phone)	Title/Responsibilities	Supervisor's name and title	Start Date	End Date	Reason for leaving
(Current or most recent employer*) City of North Chas	E.O.2 Maintenance worker equipment Operator	Van Daly Supervisor	1986	2017	was let go retired
South Caroline State Port Authority	lift truck operator loading and unloading trucks and cars		1984	1986	layOff
Moore Drums	loading and unloading trucks Picking up and transporting drums		1982	1984	work was slow layoff

* May we contact your current employer? Yes ✓ No

Have you ever been fired or forced to resign from a job? If yes, please explain I had Surgery on My Knee Could not hold Job was let go terminated
How were you referred to Fred's? Walk in

Prior Fred's employment? Yes ___ No ✓ Location ___ Dates ___ Reason for Leaving: ___

Revised 5-1-17

Education:

[redacted]	Name of School / Location	Number of Years Completed	Did you graduate?	Diploma obtained or Degree?	Years of Attendance	Course of Study
High School	Chicora High	2 Yrs	No			
College						
Graduate Work						

What special skills or licenses do you have which would qualify you for this position? (Pharmacists and techs must list licensing state and number and/or applicable certifications and whether or not in good standing.) _____

List any relatives currently working for Fred's including relationship and employment location: N/A

DISCLOSURES: CANDIDATES MUST INITIAL EACH OF THE BELOW SECTIONS AND SIGN BELOW

1. Felony[1]: Have you ever been convicted of or plead guilty to (or no contest) a felony, any drug-related offense and/or any offense regarding dishonesty (i.e., theft, fraud, etc.) in the past 7 years? A conviction will not automatically remove you from consideration, but failure to fully disclose may prevent employment. If yes, please explain. _____

1*. Yes__ No✓__ FN

2. OIG Excluded List: Have you ever been barred (or currently being investigated) from participating in any federal or state funded programs, or are you listed on the OIG Excluded List (or other similar list(s)) and have you ever had any work-related license revoked, suspended or been subjected to government disciplinary action? If yes, include details. _____

2. Yes__ No✓__ FN

3. Accuracy: I represent and certify that all information provided herein is accurate and complete. Any false, misleading or incorrect statements or omissions are cause for rejection and/or termination. I authorize investigation of all information given by me in this application and authorize any former employers to release any information requested by Fred's. If hired, I understand that before I begin working, I must verify my identity in accordance with federal and state law, I must pass a pre-employment drug screen, and I may be required to pass a background check. Otherwise, Fred's may withdraw any offer of employment.

3. Yes✓__ FN

4. Drug Free Workplace/Consent for Drug Screen: Fred's is a Drug Free Workplace. I may be subject to illegal drug/alcohol testing pursuant to Fred's policies, as may be modified in its sole discretion, at any time. I understand I will be required to submit to a pre-employment and potential post-hire drug tests. Refusal to submit to any drug test at any time will be deemed a positive result. Positive test results before employment may result in any offer to be withdrawn. Positive results during employment may result in termination. I agree to hold Fred's harmless from all claims arising out of any drug tests or results. I understand that if I am currently taking legal prescription medications that may cause a positive result, I may choose to notify a Medical Review Officer (MRO) of these medications to determine if the results of the test were adversely affected. I will notify Fred's of my desire to have the results reviewed by an MRO if the results are positive. Do not notify Fred's of your medications only the MRO.

4. Yes✓__ FN

5. Other: I acknowledge that I have had an opportunity to review the Job Description(s) for the position(s) sought, and if hired, I agree that I am able to perform each and every essential function of the Job Description, as may be modified by Fred's, with or without a reasonable accommodation.

5. Yes__

6. Waiver: **TO THE FULLEST EXTENT ALLOWED BY LAW,** I agree that (i) I voluntarily waive trial by jury in all matters relating to my application and/or employment with Fred's; (ii) I voluntarily waive and agree to waive the right to participate and/or proceed in any action as part of a class or collective action against Fred's and (iii) any claim or lawsuit relating to my application or employment with Fred's must be filed no more than one hundred eighty (180) days (or such other shorter period prescribed by law) after the date of the employment action that is subject of the claim and/or lawsuit, unless prohibited by law (i.e., FLSA claims). I knowingly and voluntarily waive any statute of limitations to the contrary. If any one or more of the provisions contained in this Application shall for any reason be held invalid, illegal or unenforceable in any respect, such shall not affect the validity or enforceability of any other provision hereof.

6. Yes__

I have read and understand all the above. Signature Fredricke Gilbert Date: 5-11-18

[1] * You are not obligated to disclose convictions that are sealed, expunged or otherwise not shown on a criminal record. Illinois applicants must not answer this question

FAIR CREDIT REPORTING ACT
DISCLOSURE AND AUTHORIZATION

Through this document, it is being disclosed to me and I understand that a Consumer Report or Investigative Consumer Report may be prepared about me as a part of my employment and/or continued employment (this includes volunteers and contracts for service). An "investigative consumer report" includes information as to your character, general reputation, personal characteristics and mode of living.

I authorize Freds to procure a Consumer Report from Data Facts, Inc. and its agents to retrieve necessary information and prepare such Consumer Report. I hereby, authorize all persons, schools, corporations, government agencies or other organizations to release information regarding my personal, employment and educational history, including law enforcement records without restrictions. If an Investigative Consumer Report is procured then "A Summary of Your Rights under the Fair Credit Reporting Act" will be provided to you at the time you receive this disclosure and authorization. I understand that my consent will apply throughout throughout my employment, to the extent permitted by law.

I may request a copy of any report that is prepared regarding me and "A Summary of Your Rights, under the Fair Credit Reporting Act". I may also request the nature and substance of all information about me contained in the files of the consumer reporting agency. I understand I have a right to inspect those files with reasonable notice during regular business hours. The consumer reporting agency is required to provide someone to explain the contents of my file. I understand proper identification will be required and I should direct my request to: Data Facts, Inc. 8520 Macon Rd, Ste 2, Cordova, TN 38018 (800)264-4110, 901-685-7599 www.datafacts.com

May your current employer be contacted? yes no not currently employed post hire only

California, Minnesota, or Oklahoma - Are you employed in, seeking employment in or a resident of one of these states? If so, do you wish to receive a copy of any Consumer Report of which you are the subject of? yes no

yes no

Maine and New York – You have the right, upon request, to be informed of whether a Consumer Report about you was requested by the above name company.

Signature of Applicant or Employee

Date

The following is for identification purposes (to perform the background check and will not be used for any other purpose)

First Name Frederick

Middle Name

Last Name Nelson

Drivers License # [redacted]

State Issued S.C.

Social Security Number [redacted]

Date of Birth [redacted]

Current Address [redacted]

City Goose Creek

State [redacted]

County

Length at Address 10 Yrs

Previous Address – list any counties, cities, states you have lived in the previous 7 years

Other Names – list any other last names you have used in the previous 7 years

Education - List any other last name under which you received your GED, High School Diploma or other academic credentials

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Application for Employment

PLEASE PRINT CLEARLY AND PROVIDE ALL REQUESTED INFORMATION

TODAY'S DATE: 5/14/18

If you believe you require a reasonable accommodation to complete this form, to participate in an interview, or any other aspect of the hiring process, please let us know

GENERAL INFORMATION

NAME (Last, First, Middle): Nelson, Frederick

AGE (If you are under 18, you may have to provide a work permit before starting work)
Are you at least 18 years old? ☑ YES ☐ NO Are you at least 18 years old? ☐ YES ☐ NO

STREET: [redacted]

ALTERNATE PHONE:

EMAIL ADDRESS:

POSITION

POSITION DESIRED: Open

FULL TIME (35+ Hrs/ Week) ☑ | PART TIME (Less Than 35 Hrs/Week) ☐ | SEASONAL ONLY ☐

WAGE DESIRED:

DATE AVAILABLE:

WILL YOU WORK OVERTIME HOURS IF NECESSARY? ☐ YES ☑ NO

AVAILABILITY

ENTER AVAILABLE START AND END TIME FOR EACH DAY	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		8-4	8-4	8-4	8-4	8-4	

NOTE: Although efforts to accommodate an individual's availability are made, business needs may require any or all of the following: extension of hours, a rotating work schedule, Saturday and/or Sunday hours, and overtime. Hiring decisions may be made based on your availability as described above.

EMPLOYMENT RECORD

PLEASE COMPLETE IN FULL EVEN IF YOU HAVE PROVIDED A RESUME. START WITH YOUR CURRENT EMPLOYER AND CONTINUE WITH FORMER EMPLOYERS

CURRENT/LAST EMPLOYER NAME AND ADDRESS

City of North Chas

PHONE NUMBER: 843-745-1026
TYPE OF BUSINESS: Publick Works
MAY WE CONTACT THE COMPANY? ☑ YES ☐ NO
JOB TITLE: EO 2 Maintenance Worker
DATES EMPLOYED (month & year) FROM: 1986 TO: 2017
SUPERVISOR NAME/TITLE: Van
REASON FOR LEAVING: knee surgery was let go
FINAL SALARY: 21.66

#2 EMPLOYER NAME AND ADDRESS

South Carolina State Port Authority

PHONE NUMBER:
TYPE OF BUSINESS: Shiping Co.
MAY WE CONTACT THE COMPANY? ☑ YES ☐ NO
JOB TITLE: Lift truck operator loading and unloading cargo
DATES EMPLOYED (month & year) FROM: 1984 TO: 1986
SUPERVISOR NAME/TITLE:
REASON FOR LEAVING: Lay off
FINAL SALARY: 14.00

#3 EMPLOYER NAME AND ADDRESS terminated

Moore Drums

PHONE NUMBER:
TYPE OF BUSINESS: Oil Drum Busin
MAY WE CONTACT THE COMPANY? ☑ YES ☐ NO
JOB TITLE: loading and unloading drums
DATES EMPLOYED (month & year) FROM: 1972 TO: 1984
SUPERVISOR NAME/TITLE:
REASON FOR LEAVING: Lay off work was slow
FINAL SALARY:

#4 EMPLOYER NAME AND ADDRESS

PHONE NUMBER:
TYPE OF BUSINESS:
MAY WE CONTACT THE COMPANY? ☐ YES ☐ NO
JOB TITLE:
DATES EMPLOYED (month & year) FROM: TO:
SUPERVISOR NAME/TITLE:
REASON FOR LEAVING:
FINAL SALARY:

PROFESSIONAL REFERENCES

List (3) persons familiar with your work ability (exclude relatives)

NAME	HOW DO YOU KNOW THIS PERSON	HOW LONG
Troy Green	friend	28 yrs
Chriss Collins	friend	27 yrs
Tyrone Dash	friend	25 yrs

[redacted]

PLEASE COMPLETE THE REMAINDER OF THE APPLICATION ON THE REVERSE SIDE

HIRING MANAGER WILL COMPLETE THIS SECTION AFTER AN OFFER OF EMPLOYMENT IS MADE

JOB TITLE	☐ T (TEMP) OR ☐ R (REG) ☐ FT (FULL-TIME) OR ☐ PT (PART-TIME)	LOCATION NUMBER	SOCIAL SECURITY NUMBER
DATE OF BIRTH	☐ HOURLY ☐ MIT ☐ SALARIED RATE (only if hourly): PER HOUR	START DATE	NEXT REVIEW DATE
PRINTED NAME & SIGNATURE OF HIRING INDIVIDUAL			

PHR025 10/17

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DISCLOSURE OF INTENT TO OBTAIN CONSUMER REPORT FOR EMPLOYMENT PURPOSES

Please be advised that Bed Bath & Beyond Inc. and/or its subsidiary companies may use a consumer reporting agency to obtain a consumer report ("Report") as part of its hiring process. Further, please be advised that if you are hired, to the extent permitted by law Bed Bath & Beyond may obtain further Reports from a consumer reporting agency so as to update, renew, or extend your employment.

Note to Applicant: Please retain this form for your records.

rev 8/16

Equal Employment Opportunity is THE LAW

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN
Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY
Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

AGE
The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

SEX (WAGES)
In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

GENETICS
Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

RETALIATION
All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED
There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected.
The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN
Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES
Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

RETALIATION
Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX
In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

INDIVIDUALS WITH DISABILITIES
Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

EMPLOYMENT APPLICATION

You must complete all sections of the application that apply to you. It is policy and practice of Refuel, Inc. to provide equal employment opportunity to all qualified applicants without regard to race, color, religion, creed, gender, age, national origin, veteran status, disability or any other criteria deemed unlawful under any applicable laws

PERSONAL DATA

Name (Last, First, MI): Nelson Frederick

Soc. Sec. #: [redacted]

Street Address: [redacted]

Telephone #: [redacted]

Date Available:

The position you are applying for is: Open

Pay Expected? 8.00

Are you legally entitled to work in the U.S.? ↘ Yes ____ No

Are you related to any Refuel employee? ____ Yes ↘ No

Type of Employment: ↘ Full-Time ____ Part-Time

Do you have reliable transportation? ↘ Yes ____ No

Are you under 18 ____ Yes ↘ No

Are you under 21 ____ Yes ↘ No

Can you work overtime? ____ Yes ↘ No

List any other name(s) by which you are or were known and when: N/A ↘ None

State the days and hours you are available to work in the section below. If there is any reason that you cannot report to work on the days indicated on a regular basis during these times, please explain here:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
From:	8-4	8-4	8-4	8-4	8-4			
To:								

Stocking Shelves, general cleaning and lifting/carrying items (sometimes weighing up to 50lbs.) may be required in the course of employment. Can you perform these duties? ____ Yes ↘ No

Are you willing to travel or relocate? ____ Yes ↘ No

EDUCATION

School	Name and Location	Course of Study	# Yrs. Attended	Did you graduate?	Degree or Diploma?
College					
High	Chicora		2	NO	
Other					

U.S. MILITARY SERVICE

Branch of U.S. Military Service:	From:	To:

EMPLOYMENT HISTORY

List all employment starting with most recent job first. Attach an additional sheet if needed. Explain fully any gaps in your employment history. Be sure to account for all periods of time including military service and any period of unemployment.

1

From: 1986 To: 2017 Present or most recent employer: City of North Charleston Telephone: 843-745-1026

Address (Street, City, State, Zip): Starting Pay: Final Pay: 21.86

Name of Final Supervisor and Position: Van Daly Your Job Title: Supervisor

Reason For Leaving: Knee Surgery Co. Could not hold Position Job was terminated

2

From: 1984 To: 1986 Present or most recent employer: South Carolina Ports Authority Telephone:

Address (Street, City, State, Zip): Cumbus St Charleston Starting Pay: Final Pay: 14.00

Name of Final Supervisor and Position: Your Job Title: Lift truck operation

Reason For Leaving: Lay Off

3

From: 1982 To: 1984 Present or most recent employer: Moore Drums Telephone:

Address (Street, City, State, Zip): Starting Pay: Final Pay:

Name of Final Supervisor and Position: Your Job Title:

Reason For Leaving: Lay Off

May we contact all the employers shown? ✓ Yes ____ No, List which one(s) and explain:

Have you ever been involuntarily terminated, asked to resign or resigned in lieu of termination? ✓ No ____ Yes, explain:

ADDITIONAL INFORMATION

Have you ever been convicted of or pled guilty or "no contest" to a felony or a misdemeanor other than a minor traffic offense?

✓ No ____ Yes, list date, city, charge and disposition:

(Conviction of a felony or misdemeanor will not automatically disqualify you from consideration for employment.)

AFFIDAVIT

(Please read before signing)

I authorize the company to make whatever inquiries necessary in connection with my application for employment. I understand that such inquiries may include information as to my character, general reputation, personal characteristics, creditworthiness, credit standing, credit capacity and mode of living. I agree to release and hold harmless any employer, school, credit bureau, personal reference, law enforcement agency or utility company from any liability arising from the release of such information which I hereby authorize. Statements I made in the application are true and complete. I understand that, if in any Company's judgment, I have made any false statement, omission, concealment, misrepresentation, or have failed to answer any question fully and accurately or results of such investigation are not satisfactory, any offer of employment may be withdrawn or my employment with the Company may be terminated immediately. I agree to conform to Company rules and regulations and understand that neither my application for employment nor any other Company policy or document or verbal representation creates a contract of employment or limits these termination rights. I further understand that no Company representative has any authority to enter into any agreement of employment unless such agreement is in writing and signed by the Company President. The Company is a drug-free workplace. I understand that I may be required to take a medical examination and pass a drug test at the Company's expense as a condition of employment.

Signature of Applicant: [signature] Date: 5-15-18

This application will become inactive after 60 days

If you wish to be considered for employment after that time, you must complete a new application for employment.

NORTH PARK GRILL
Employment Application

APPLICANT INFORMATION

Last Name Nelson First Frederick M.I. Date 5-17-18

Street [redacted] Apartment/Unit #

City [redacted] State S.C ZIP [redacted]

Phone [redacted] E-mail Address

Date Available Date Of Birth [redacted] Desired Salary 12.00

Position Applied for Open

Are you a citizen of the United States? YES ☒ NO ☐ If no, are you authorized to work in the U.S.? YES ☒ NO ☐

Have you ever worked for this company? YES ☐ NO ☒ If so, when?

Have you ever been convicted of a felony? YES ☐ NO ☒ If yes, explain

EDUCATION

High School Chieora Address

From To Did you graduate? YES ☐ NO ☒ Degree

College Address

From To Did you graduate? YES ☐ NO ☐ Degree

Other Address

From To Did you graduate? YES ☐ NO ☐ Degree

REFERENCES

Please list three professional references.

Full Name Tyrone Dash Relationship friend

Company Self employed Phone [redacted]

Address

Full Name Troy Green Relationship friend

Company City of Charkston Phone [redacted]

Address

Full Name Chriss Collins Relationship friend

Company Charleston Co. School Bord Phone [redacted]

Address

Little Caesars

APPLICATION FOR PART TIME CREW EMPLOYMENT - FRANCHISE OWNED STORES

Incomplete applications may not be considered

Last Name Nelson First Frederick Middle Date of Application 5-21-18

[redacted]

Social Security # [redacted]

[redacted]

Emergency Contact's Name Donna Nelson [redacted] Work Phone ( ) - Cell Phone ( ) -

Street/P.O. Box Apt. # City State Zip

PERSONAL

1. Are you at least 18 years old? Yes ... (Yes) No
   If no, please list birth date. _____
2. Are you a United States citizen or legally authorized to work in the United States? ... (Yes) No
   (If hired, you must submit verification of your legal right to work in the United States)
3. Have you ever been employed by Little Caesars? ( ) Corporate or, ( ) Franchise ... Yes (No)
   If so, when? _____ City _____ State _____
   What position? _____
   Who was your immediate supervisor/owner _____
   Why did you leave? _____
4. What prompted you to apply for work here? ( ) Company Image (Internet) ( ) Friend
   ( ) Newspaper _____ ( ) Employee Referral _____ ( ) Other _____
5. During the past 7 years, have you ever been convicted of, pled guilty to, served time for, or pled no contest to a crime, excluding misdemeanors and traffic violations? ... Yes (No)
   If yes, describe in full (attach additional pages, if necessary).

*A conviction will not necessarily disqualify you from employment. Applicants are not required to disclose sealed or expunged conviction records or the existence of such records.
CALIFORNIA EMPLOYMENT ONLY: Exclude information regarding any conviction that is more than two years old relating to a marijuana conviction.

6. Are you or have you ever been a sex offender registered with any federal state or local government agency, including any listing on a public web site? If yes, describe in full (attach additional pages, if necessary) ... Yes (No)
7. Is any member of your family (spouse, parent, sibling, in-law, etc) employed in the restaurant industry? ... Yes (No)
   If yes, please explain: _____

EDUCATION

	Name and Location of School	Dates Attended From/To	Circle Highest Year Completed	Major and Minor Fields of Study	Degree(s) Diploma
High School	Chicago	[redacted]	(9) 10 11 12	[redacted]	N/A
Technical School					
College			1 2 3 4		
Other					

AVAILABILITY FOR WORK

8. What hours or shifts are you available to work? *Please note both hours available and hours unavailable to work in the table below.*
   * Do not explain reasons for hours you are not available.

	Sun	Mon	Tue	Wed	Thu	Fri	Sat
Available	8-4	8-4	8-4	8-4	8-4		
*Not Available						Not Avail	Not Avail

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Please read this document carefully.
Signing this document gives the "Company" authorization to conduct a background check, including criminal records inquiries.

AUTHORIZATION AND CONSENT TO OBTAIN CONSUMER REPORT FOR EMPLOYMENT PURPOSES AND STATE DISCLOSURES

I hereby consent to and authorize Bed Bath & Beyond Inc. and/or its subsidiary companies (the "COMPANY") to obtain a consumer report ("Report") from **Sterling Info Systems, Inc. ("Agency"), 1 State Street, New York, New York 10004, (877) 424-2457**, a consumer reporting agency, or another consumer reporting agency, for employment purposes as part of the COMPANY's hiring process. If hired, I also consent to the COMPANY obtaining further Reports from a consumer reporting agency for an employment purpose at any time during my employment.

Minnesota & Oklahoma Applicants Only: I have the right to request a copy of any report obtained by the Company from the Agency by calling (877) 424-2457.

NY Applicants Only: I also acknowledge that I have received the attached copy of Article 23A of New York's Correction Law. I further understand that upon request I will be advised if any investigative consumer reports are requested and provided the name and address of the consumer reporting agency, and I may receive a copy of any Report by contacting such agency.

Washington State Applicants only: I understand that I have the right to request from the consumer reporting agency a written summary of your rights and remedies under the Washington Fair Credit Reporting Act.

I hereby provide my ongoing consent for the COMPANY to procure Reports from a consumer reporting agency.

Frederick Nelson
Associate's Printed Name

Frederick Nelson 5-14-18
Associate's Signature Today's Date

rev 8/16

APPLICATION FOR EMPLOYMENT

INSTRUCTIONS

- Read each question carefully.
- Please print
- Answer each item; do not leave any blank spaces. If the item does not apply, write "n/a".
- Account for all gaps in employment.

Position Applied for	Company	City
Open	Cash Credit Loans	Goose Creek SC

PERSONAL INFORMATION

Last	First	Middle	Social Security Number
Nelson	Frederick		[redacted]

Present Address	How Long
[redacted]	10 yrs
(If present less than 5 years)	How Long

[redacted]	Date Available	Salary Required	Available to work:
			☑ Full-Time ☐ Part-Time ☐ Temporary
		State of Issue: S.C	Expiration Date

Referral Source: ☐ Advertisement ☑ Walk-In ☐ Employment Agency ☐ Relative ☐ Other _____

Have you ever filed an application here before? ☐ Yes Date: _____ ☑ No

Have you ever been employed here before? ☐ Yes Date: _____ ☑ No

Will you relocate if the job requires it? ☑ Yes ☐ No

Have you ever been convicted of or pleaded no contest to a felony? ☐ Yes ☑ No If yes, please explain:

Are you able to meet the attendance requirements of the position? ☐ Yes ☐ No

EDUCATIONAL BACKGROUND

Name and City/State	No. of Years completed	Graduate? Yes or No	Subjects Studied / Degree Received
High School: Chicora High	2		NO
College			
Graduate/Professional			

Mo./Yr.	Mo./Yr.	Job Title	Supervisor's Name	Salary
June 1987	July 2017	Eq. Equipment Operator Maintenance Worker	Van Daly	21.86
		Company: City of North Chas	Telephone Number: 843-745-1026	
Duties: Drives Truck - street sweeper - operates backhoe -			Reason for Leaving: Knee Surgery Co - Could not hold Job was terminated	

Mo./Yr.	Mo./Yr.	Job Title	Supervisor's Name	Salary
1984	1986	lift truck operator		14.00
		Company: South Carolina State Ports Authority	Telephone Number	
Duties: lift truck operator loading and unloading trucks			Reason for Leaving: Lay off	

Mo./Yr.	Mo./Yr.	Job Title	Supervisor's Name	Salary
1982	1984	Truck Driver		
		Company: Moore Drums	Telephone Number	
Duties			Reason for Leaving: Lay off	

Mo./Yr.	Mo./Yr.	Job Title	Supervisor's Name	Annual Salary
		Company	Telephone Number	
Duties			Reason for Leaving	

Which of your jobs did you like best? City of North Charleston and SC Ports — Why? good fringe benefits

Which of your jobs did you like least? — Why?

May we contact your present Employer? ☑ Yes ☐ No

What are your personal career goals?

What are you doing to improve yourself?

What motivates you?

Summarize any additional skills or special training that may qualify you as being able to perform job-related functions in the position for which you are applying.

In connection with my application for employment with you, I understand that you may procure an investigative consumer report on myself including consumer, criminal, driving and other reports. These reports will include information as to my character, work habits and employment from previous employers. I understand that you will be requesting information from various federal, state and other agencies, which maintain records concerning my past activities relating to my driving, credit, criminal, civil and other activities.

In the event that information from the report(s) is utilized in whole or in part in making an adverse decision with regard to my potential employment, before making the adverse decision, you will provide me with a copy of the consumer report and a description in writing of "Your Rights Under the Federal Fair Credit Reporting Act". The Fair Credit Reporting Act gives you specific rights in dealing with consumer reporting agencies.

I authorize, without reservation, any party or agency contacted by this employer to furnish the above-mentioned information. I further waive and release the Company from any liability in connection with the investigative consumer report.

Applicant's signature [signature] Date 5-22-18

Signature of Applicant _____ Date _____

Employment Application

Programs, services and employment are equally available to everyone. Please inform the Human Resources Department if you require reasonable accommodation for the application or interview.

Date of Interview (Month/Day/Year): 5 / 25 / 18

Application Date:

Position Applied:

How were you referred to us: Walk in

Full Name: Frederick Nelson

Address: [redacted]

Phone: [redacted]

Date Available to Start: Social Security Number: Salary Requirements: 15.00

If you are under 18 years of age, can you provide a work permit? ☑ Yes ☐ No If no, please explain:

Have you ever worked for this company? ☐ Yes ☑ No If yes, when?

Are you legally allowed to work in the United States? ☑ Yes ☐ No

Type of employment desired: ☑ Full-Time ☐ Part-Time ☐ Temporary ☐ Seasonal

Have you ever pleaded guilty, no contest or been convicted of a crime? ☐ Yes ☑ No If yes, give dates and details:

Answering yes to these questions does not constitute an automatic rejection for employment. Date of the offense, circumstances and nature of the violation, rehabilitation and position applied for will be considered.

Driver's license number (if applicable to position): State: SC

Education History

Name & Location of High School: Chicora North Charleston DO YOU GRADUATE? 2

Name & Location of College: YEARS ATTENDED

Degrees completed: Other Subjects Studied:

Trade, Business or Correspondence School: CornerStone Christian Correspondence School

Subjects Studied: DO YOU GRADUATE?

Summarize Your Special Skills or Qualifications

E02 Equipment Operator

Dr. Permanent Restrictions
May return to light Duity 2-8-18
No Squatting
No Climbing
No Stooping
No Lifting Over 35 lbs
No Excessive Running and Cutting

Previous Employment (began with most recent position)

Dates of Employment: From 6/5/86 To 7/14/2017 Position(s) Held: Eo2

Company Name: City Of North Charleston Address:

City: North Charleston State: SC Zip: 29405

Phone: 843-745-1026 Supervisor: Van Title:

Responsibilities: Loading and unloading trucks - Drives truck Street Sweeper

Starting Salary and Title: Ending Salary and Title: 21.87

Reason for Leaving: Job was terminated after I had knee Surgery for an On the Job In

May we contact this employer for a reference? ☒ Yes ☐ No

Dates of Employment: From 6/5/84 To 7/14/1986 Position(s) Held: Lift truck Operator

Company Name: South Carolina Ports Address: 176 Concord St Charleston

City: Charleston State: SC Zip: 29405

Phone: Supervisor: Title:

Responsibilities: Loading and unloading Cargo

Starting Salary and Title: Ending Salary and Title: 14.00

Reason for Leaving: Lay Off

May we contact this employer for a reference? ☒ Yes ☐ No

Dates of Employment: From __/__/82 To __/__/84 Position(s) Held: Truck Driver

Company Name: Moore Drums Address:

City: North Charleston State: SC Zip: 29405

Phone: Supervisor: Title:

Responsibilities: loading and unloading truckes

Starting Salary and Title: Ending Salary and Title: 8.00 Truck Driver

Reason for Leaving: Lay Off

May we contact this employer for a reference? ☒ Yes ☐ No

"I certify that the facts contained in this application are true and complete to the best of my knowledge and understand that, if employed, falsified statements on this application shall be grounds for dismissal. I authorize investigation of all statements contained herein and the references and employers listed above to give you any and all information concerning my previous employment and any pertinent information they may have, personal or otherwise, and release the company from all liability for any damage that may result from utilization of such information. I also understand and agree that no representative of the company has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the foregoing, unless it is in writing and signed by an authorized company representative. This waiver does not permit the release or use of disability-related or medical information in a manner prohibited by the Americans with Disabilities Act (ADA) and other relevant federal and state laws."

Signature of Applicant: [signature] Date: 5-25-18

This application for employment is sold only for general use throughout the United States. Adams assumes no responsibility and hereby disclaims any liability for the inclusion in this form of any questions or requests for information that may violation of local, state, and/or federal law may be based. It is the user's responsibility to ensure that this form's use complies with applicable laws, which change from time to time.

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APPLICATION FOR EMPLOYMENT

PERSONAL INFORMATION DATE OF APPLICATION: 5-28-18

Name: Nelson (Last) Frederick (First) (Middle)

Address: [redacted] (Street) (Apt) (City/State) (Zip)

Alternate Address: (Street) (City/State) (Zip)

Contact Information [redacted] (Home Telephone) [redacted] (Mobile Telephone) (Email)

How did you learn about our company? Walk in

POSITION SOUGHT: Open **Available Start Date:**

Desired Pay Range: 14.00 (Hourly or Salary) **Are you currently employed?** NO

EDUCATION

	Name and Location	Graduate? – Degree?	Major / Subjects of Study
High School	Chicora High	NO	
College or University	NA		
Specialized Training, Trade School, etc...	NA		
Other Education	Cornerstone Christian Correspondence School	High School Diploma 6-16-2006	

Please list your areas of highest proficiency, special skills or other items that may contribute to your abilities in performing the above mentioned position.

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Pr - Permanent Restrictions - May return to light Duity 2-8-18
No squatting - No Climbing - No Stooping - No lifting over 35lbs
And No Excessive Running and Cutting.

PREVIOUS EXPERIENCE

Please list beginning from most recent

Dates Employed	Company Name	Location	Role/Title
1986 - 2017	City of North Charleston		E03 equipment Operator

Job notes, tasks performed and reason for leaving:

Drive Dumptruck, Operates backhoe, operates Street Sweeper and Other equipment - reason for leaving - had Knee Surgery was terminated after Knee Surgery

Dates Employed	Company Name	Location	Role/Title
1984 - 1986	South Carolina Ports	Downtown Charleston	lift truck operator

Job notes, tasks performed and reason for leaving: lay off

loading and unloading trucks

Dates Employed	Company Name	Location	Role/Title
1982 - 1984	Moore Drums	North Charleston	lift truck operator

Job notes, tasks performed and reason for leaving: lay off

loading and unloading Drums

Dates Employed	Company Name	Location	Role/Title

Job notes, tasks performed and reason for leaving:

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YE OLE FASHIONED ICE CREAM & SANDWICH CAFE

209 A ST. JAMES AVE., GOOSE CREEK

APPLICATION FOR EMPLOYMENT

(PRE-EMPLOYMENT QUESTIONNAIRE) (AN EQUAL OPPORTUNITY EMPLOYER)

PERSONAL INFORMATION

DATE 6-1-18

NAME Nelson (LAST) Frederick (FIRST) (MIDDLE) SOCIAL SECURITY NUMBER

PRESENT ADDRESS [redacted] (STREET) (CITY) (STATE) (ZIP)

PERMANENT ADDRESS

PHONE NO [redacted] ARE YOU 18 YEARS OF AGE OR OLDER? Yes ☑ No ☐ DATE OF BIRTH

ARE YOU EITHER A U.S. CITIZEN OR AN ALIEN AUTHORIZED TO WORK IN THE UNITED STATES? Yes ☑ No ☐

SPECIAL QUESTIONS

DO NOT ANSWER ANY OF THE QUESTIONS IN THIS FRAMED AREA UNLESS THE EMPLOYER HAS CHECKED THE BOX PRECEDING A QUESTION, THEREBY INDICATING THAT THE INFORMATION IS REQUIRED FOR A BONA FIDE OCCUPATIONAL QUALIFICATION, OR DICTATED BY NATIONAL SECURITY LAWS, OR IS NEEDED FOR OTHER PERMISSIBLE REASONS.

☐ Height 5 feet 11 inches ☐ Are you a U.S. citizen? Yes ☑ No ☐

☐ Weight 226 lbs. ☐ Date of Birth: [redacted]

☐ What Foreign Languages do you speak fluently? N/A Read ____ Write ____

☐ Have you been convicted of a felony or misdemeanor within the last 5 years? Yes ☐ No ☑ Describe ____

☐ I understand and agree that I may be required to take one or more: ☐ physical examination; ☐ lie detector test(s), as a condition of hiring or continued employment. I agree to consent to take such test(s) at such time as designated by the Company and to release the Company, its directors, officers, agents or employees from any claim arising in connection with the use of such test(s) Yes ___ No ___

☐ I have been advised that lie detector tests, as a condition of hiring or continued employment, are prohibited by law. Yes ___ No ___

*The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are at least 40 but less than 70 years of age

**You will not be denied employment solely because of a conviction record, unless the offense is related to the job for which you have applied

PERSONAL INFORMATION

POSITION Open DATE YOU CAN START SALARY DESIRED

DAYS YOU CAN WORK? MON ☑ TUES ☑ WED ☑ THURS ☑ FRI ☑ SAT ☐ SUN ☐

ARE YOU EMPLOYED NOW? No IF SO MAY WE INQUIRE OF YOUR PRESENT EMPLOYER? Yes

EVER APPLIED TO THIS COMPANY BEFORE? NO WHERE? WHEN?

EDUCATION	NAME AND LOCATION OF SCHOOL	*NO OF YEARS ATTENDED	*DID YOU GRADUATE?	SUBJECTS STUDIED
HIGH SCHOOL	Chicora High	2	No	
COLLEGE				
TRADE, BUSINESS OR CORRESPONDENCE SCHOOL	Cornerstone Christian Correspondence School	1	Yes	

*The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are at least 40 years of age.

(CONTINUED ON OTHER SIDE)

GENERAL

SUBJECTS OF SPECIAL STUDY OR RESEARCH WORK

U.S. MILITARY OR NAVAL SERVICE | RANK | PRESENT MEMBERSHIP IN NATIONAL GUARD OR RESERVES

FORMER EMPLOYERS (LIST BELOW LAST THREE EMPLOYERS, STARTING WITH LAST ONE FIRST)

DATE MONTH AND YEAR	NAME AND ADDRESS OF EMPLOYER	PHONE #	SALARY	POSITION	REASON FOR LEAVING
FROM 1986	City of North Chas	843-745-1020	21.86	EO2 maintenance worker	knee surgery was let g
TO 2017					terminated
FROM 1984	South Caroling State Port Authority		14.00	lift truck operator	Lay Off
TO 1986					
FROM 1982	Moore Drums		7.00	Loading and unloading drums	Lay Off
TO 1984					

REFERENCES: GIVE THE NAMES OF THREE PERSONS NOT RELATED TO YOU, WHOM YOU HAVE KNOWN AT LEAST ONE YEAR.

	NAME	ADDRESS	BUSINESS	PHONE NUMBER	YEARS ACQUAINTED
1	Troy Green			[redacted]	28 years
2	Chriss Collins				27 years
3	Tyrone Dash				25 years

PHYSICAL RECORD:

DO YOU HAVE ANY PHYSICAL LIMITATIONS THAT PRECLUDE YOU FROM PERFORMING ANY WORK FOR WHICH YOU ARE BEING CONSIDERED? Yes ☒ No ☐

IF YES, WHAT CAN BE DONE TO ACCOMMODATE Y OUR LIMITATION?

PLEASE DESCRIBE: Dr - Permanent Restrictions - May return to Light Duty 2-8-18 NO Squatting - No climbing - No Stooping - No Lifting over 35 lbs And No Exeessive Running and Cutting

IN CASE OF EMERGENCY NOTIFY Danny Nieves [redacted]

"I CERTIFY THAT THE FACTS CONTAINED IN THIS APPLICATION ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND UNDERSTAND THAT, IF EMPLOYED, FALSIFIED STATEMENTS ON THIS APPLICATION SHALL BE GROUNDS FOR DISMISSAL. I AUTHORIZE INVESTIGATION OF ALL STATEMENTS CONTAINED HEREIN AND THE REFERENCES LISTED ABOVE TO GIVE YOU ANY AND ALL INFORMATION CONCERNING MY PRECIOUS EMPLOYMENT AND ANY PERTINENT INFORMATION THEY MAY HAVE PERSONAL OR OTHERWISE, AND RELEASE ALL PARTIES FROM ALL LIABILITY FOR ANY DAMAGE THAT MAY RESULT FROM FURNISHING SAME TO YOU.

I UNDERSTAND AND AGREE THAT, IF HIRED, MY EMPLOYMENT IS FOR NO DEFINITE PERIOD AND MAY, REGARDLESS OF THE DATE OF PAYMENT OF MY WAGES AND SALARY, BE TERMINATED AT ANY TIME WITHOUT PRIOR NOTICE."

DATE 6-1-18 SIGNATURE Farshid Ahlaei

DO NOT WRITE BELOW THIS LINE

INTERVIEWED BY _____ DATE _____

HIRED: ☐ Yes ☐ No POSITION _____ DEPT. _____

SALARY/WAGE _____ DATE REPORTING TO WORK _____

APPROVED: 1. _____ 2. _____ 3. _____

EMPLOYMENT MANAGER DEPT HEAD GENERAL MANAGER

This form has been designed to strictly comply with State and Federal fair employment practice laws prohibiting employment discrimination. This Application for Employment Form is sold for general use throughout the United States. TDPS assumes no responsibility for the inclusion in said form of any questions which, when asked by the Employer of the Job Applicant may violate State, and/or Federal Law.

Frederick Nelson

[redacted]

T. J's 6-4-18

Position applied for Cook

[redacted]

T. J's BBQ

Dr Permanent Restrictions may return to Light Duty on 2-9-18.
No Squatting - No Climbing - No Stooping
No Lifting over 35/65 Excessive Running and Cutting

CLEARVIEW AUTO GLASS
EMPLOYMENT APPLICATION
(To be completed prior to initial job interview)

We require Pre-Employment Drug Screening

Today's Date: 6/5/18 Position Applied For: Open

Name: Frederick Nelson Social Security Number: [redacted]

Address: [redacted]

Home Phone [redacted] Emergency Contact: Dana Nelson Phone [redacted]

DATE OF BIRTH: [redacted]

EDUCATION and TRAINING
High School Attended: Chicora Graduate? N/O Date:
GED? NO Date Received: 6/16/2006 Cornerston Christian Correspondence school

Name & Location of colleges technical schools, military training	Dates attended	Degree	Major

Special qualifications and skills: E02 Drive dump truckes operates backhoe. Operates Street Sweeper and other equipment

Military Service:

Dates: (From-To) / / - / / Branch:

Specialty:

Experience
Dates: From June 1986 To July 2017 Employer City of North Charleston

Position Held: E02 Equipment operator Location: North Charleston

Supervisor: Van Daniel Phone: 843-745-1026 May We Contact: Yes

Job Duties: Operates Street Sweeper - backhoe - Drive trucks

Pay Rate: 21.86 Reason for Leaving: Was terminated after knee surgery

Dr - Permanent Restrictions - May return to light Duity 2-8-18
No squatting - No Climbing - No Stooping - No lifting over 35/65
And NO Excessive Running and Cutting.

Experience

Dates: From 1984 To 1986 Employer: South Carolina State Ports Authority

Position Held: Lift truck operator Location: City of Charleston

Supervisor: _____ Phone: 843-203-6305 May We Contact: yes

Job Duties: loading and unloading trucks and Cars

Pay Rate: 14.00 Reason for Leaving: Lay off

Dates: From 1982 To 1984 Employer: Moore Drums

Position Held: Truck Driver Location: North Charleston

Supervisor: _____ Phone: _____ May We Contact: yes

Job Duties: loading and unloading trucks picking up and transporting drums

Pay Rate: _____ Reason for Leaving: layed off

OTHER:

1. Have you ever been convicted of a felony? YES ___ NO ✓
2. Do you have any physical or mental limitations which would prohibit performance of essential functions of the job? YES ✓ NO ___

Please explain in detail any "YES" responses Dr Permanent Restrictions - No Squatting No Climbing - No Stooping No Lifting over 35 lbs No Excessive Running and Cutting

I UNDERSTAND THAT EMPLOYMENT WITH CLEARVIEW AUTO GLASS WILL BE CONSIDERED UPON SUCCESSFUL COMPLETION AND VERIFICATION OF INFORMATION PROVIDED ABOVE. ANY FALSIFICATION OF RECORDS OR OMISSION OF PERTINENT DETAILS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.

SIGNATURE: Freddie Allston DATE: 6 15 18

HOTEL EQUITIES

Application for Employment Your Name Frederick Nelson

Position Desired: Open ( ) Full time ( ) Part time Date 6-11-18

WE ARE AN EQUAL OPPORTUNITY EMPLOYER and a DRUG FREE WORKPLACE

We consider applicants for employment without regard to race, color, religion, sex, national origin, age, genetic information, or disability. Equal Access to programs, services and employment is available to all persons. Those applicants requiring reasonable accommodation to the application and/or interview process should notify Human Resources

I understand that if I am hired, my employment will be for no definite period, regardless of the period of payment of my wages. I further understand that I have the right to terminate my employment at any time with or without notice, and Hotel Equities has the same right.

I understand that Hotel Equities reserves the right to require me to submit to a drug test at any time and also reserves the right to require me to submit to an alcohol test and/or medical examination to the extent permitted by law. I authorize Hotel Equities to investigate my driving record, credit history, my criminal record, and other relevant background information. I understand that I have the right to make a written request within a reasonable period of time to receive additional detailed information about the nature and scope of this investigation. I further understand that Hotel Equities may contact my previous employers and I authorize those employers to disclose to Hotel Equities all records and other information pertinent to my employment with them. I also authorize Hotel Equities to provide truthful information concerning my employment with it to my future prospective employers and I agree to hold it harmless for providing such information. I certify that all of the information that I provide on this application and in any interview will be true and accurate. I understand that if I am employed and any such information is later found to be false, incomplete or misleading in any respect, I may be discharged from employment. In the event of my employment, I will furnish proof of my eligibility to work in the United States.

DO NOT SIGN UNTIL YOU HAVE READ AND UNDERSTOOD THIS STATEMENT

Date _____ Signature of Applicant _____

PERSONAL DATA

Name Nelson, Frederick Social Security No _____

Present Address [redacted] long have ived there? 8 Years Months

Previous Address _____ State Zip long did you live there? _____ Years Months

Telephone (hom [redacted] ell) _____ Are you 18 years of age or older? Yes

Have you ever worked for us before? [ ] Yes [ ] No If Yes, please give dates and position(s) held: _____

Do you have any friends or relatives working here? [ ] Yes [ ] No If Yes, Name: _____ Relationship: _____

Do you have a reliable way to get to and from work if hired? Yes

Have you ever been convicted of a crime? [ ] Yes [ ] No Are you able to work nights and/or weekends if needed? [ ] Yes [ ] No

If you have been convicted of a crime, give date and details: _____

NOTE: Answering "Yes" to this question does not constitute an automatic bar to employment. Only those crimes which are substantially related to the position you are seeking will be considered.

Are you legally authorized to work in the United States? [ ] Yes [ ] No

Please list the names of your present or previous employers in chronological order with present or last employer listed first. Be sure to account for all periods of time including military service and any period of unemployment. If self-employed, give firm name and supply business references. Use the back of the page if needed to provide complete information.

Employer (name, address, phone)	Employed from (mo/yr) to (mo/yr)	Pay start & Pay final	Your position/title	Reason for leaving
1 City of North Charleston	1986-2017	$21.87		Terminated after I had Knee Surgery for an on the Job Inj
2 State Ports	1984 to 1986	14.00	Lift truck Operator	Lay Off
3 Moore Drums	1984 to 1984	8.00	Truck Driver	Lay Off

Have you ever been terminated or asked to resign from any job? (Y) Yes [ ] No If Yes, please explain circumstances in detail: _____

Please explain fully any gaps in your employment history: _____

May we contact your current employer? (Y) Yes [ ] No If No, please explain:

Please indicate actual experience which you feel is relevant to the position for which you are applying. Write it on the back of this page

EDUCATION

School Name and Address	Years Completed: (Circle)	Diploma/Degree, Certificate Awarded	Describe Course of Study or Major	Describe Specialized Training, Experience, Skills, and Extra-Curricular Activities
Chicora Elementary	4 5 6 (7) 8	NO		
Chicora High School	(9) 10 11 12	NO		
Other	1 2 3 4			

THIS APPLICATION WILL BE CONSIDERED ACTIVE FOR A MAXIMUM OF THIRTY (30) DAYS. IF YOU WISH TO BE CONSIDERED FOR EMPLOYMENT AFTER THAT TIME, YOU MUST REAPPLY. I CERTIFY THAT ALL OF THE INFORMATION THAT I HAVE PROVIDED ON THIS APPLICATION IS TRUE AND ACCURATE.

6-1-18
Date

Freedom Allison
Signature of Applicant

Authorization to Obtain a Consumer Report & Consent for Drug Screen
Release of Information for Employment

Pursuant to the federal Fair Credit Reporting Act, I hereby authorize Hotel Equities and its designated agents and representatives to conduct a comprehensive review of my background through a consumer report and/or an investigative consumer report to be generated for employment, promotion, reassignment or retention as an employee. I understand the scope of the consumer report/investigative consumer report may include, but is not limited to, the following areas: verification of Social Security number; current and previous residences; employment history, including all personnel files; education; references; credit history and reports; criminal history, including records from any criminal justice agency in any or all federal, state or county jurisdictions; birth records; motor vehicle records, including traffic citations and registration; and any other public records.

I, Frederick Nelson, authorize the complete release of these records or data pertaining to me which an individual, company, firm, corporation or public agency may have. I understand that I must provide my date of birth to adequately complete said screening and acknowledge that my date of birth will not affect any hiring decisions. I hereby authorize and request any present or former employer, school, police department, financial institution or other persons having personal knowledge of me to furnish Hotel Equities or its designated agents with any and all information in their possession regarding me in connection with an application of employment. I am authorizing that a photocopy of this authorization be accepted with the same authority as the original.

I consent to submit to urinalysis and/or other tests as shall be determined by Hotel Equities, agree to use a clinic chosen by Hotel Equities, authorize the release of the results to Hotel Equities, and understand that it is the current use of illegal drugs that would prohibit me from being employed at Hotel Equities. I further agree to hold Hotel Equities harmless for any liability arising out of the collection, testing, or use of information from testing in consideration of my application for employment. A reproduced copy of this consent and release shall have the same force and effect as the original.

I hereby release Hotel Equities and its agents, officials, representatives or assigned agencies, including officers, employees or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at anytime result to me, my heirs, family or associates because of compliance with this authorization and request to release. You may contact me as indicated below. I understand that a copy of this authorization may be given at any time, provided I do so in writing.

I understand that, pursuant to the federal Fair Credit Reporting Act, if any adverse action is to be taken based upon the consumer report, a copy of the report and a summary of the consumer's right will be provided to me upon my written request.

Full Name (as it appears on your driver's license): Frederick Nelson	All Former Names Used	Driver's License #	State Issued: S.C
[redacted]			Position Applied For: Dep
Have you ever been convicted of a criminal charge (including DUI)? Yes / (No)		Have you ever had your license suspended or revoked? Yes / No	
If yes, please explain		If yes, please explain	
[redacted]			Dates from/to: 2010 - 2018
Previous Addresses (past 7 years)			
Property / Location		Home email	

I hereby declare and affirm that the following information is true and accurate to the best of my knowledge. In addition, I understand that submission of false or inaccurate information on this and/or any other employment forms may result in non-selection (or termination if already hired.)

Frederick Nelson (Signature) _____

(Date)

I have DR-Permanent Restrictions - May return to light Duty 2-8-18
No Squatting - No Climbing - No Stooping - No lifting over 3,
And No Excessive Running and Cutting

EMPLOYMENT APPLICATION

An Authorized Franchisee & Employer of DUNKIN' DONUTS

PERSONAL INFORMATION

Name (Last)	First	(Middle)		Date of Application
Nelson	Frederick		[redacted]	
[redacted]			( )	

Open / /

AVAILABILITY: If you are available to work anytime with no restrictions, please check here ☐
Otherwise, please state all days and hours you will be able to work in the chart below:

Day	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
From	8 AM						
To	4 PM						

Are you interested in ☑ Full-Time or ☐ Part-Time?

Are you at least 18 years of age or older? ☑ Yes ☐ No
(A work permit or proof of age may be required before being hired)

Do you have a high school diploma or equivalent? ☐ Yes ☑ No

Do you have a college degree? If so, in what? N/A

Have you worked at Dunkin Donuts before? ☐ Yes ☑ No
If so, where? _____

Do you have any relatives currently working for us? ☐ Yes ☑ No
If so, where? _____

How were you referred to us?
___ Indeed
___ Craigslist
___ Employee Referral If so, whom? _____
✓ Other. If so, please specify: walk in

LEGAL

In answering the following questions, you may omit any information or answer "no record" with regard to any conviction for which there is a sealed record on file. You should also omit first convictions for speeding, minor traffic violations, affray or disturbance of the peace.

1. Are you legally authorized to work in the United States? ☑ Yes ☐ No
2. Have you ever been convicted or plead guilty to (including a plea of nolo contendere) a felony? ☐ Yes ☑ No
   If yes, give details and date(s).
3. Have you been convicted or plead guilty to (including a please of nolo contendere) a misdemeanor at any time within the last five years? ☐ Yes ☑ NO If yes, give details and date(s)

Federal, State, and Local laws prohibit discrimination based on race, color, sex, religion, affectional or sexual orientation, national origin, ancestry, age, physical or mental disability that does not affect ability to perform essential job function(s) with or without reasonable accommodation, or any other protected status not listed in this statement. Your application will be considered in full accord with applicable Federal, State, and Local requirements.

Identity and employment eligibility of all new hires will be verified as required by the Immigration Reform and Control Acts of 1986.

EMPLOYMENT HISTORY (List most recent employment first. You may include any verified work performed on a voluntary basis.)

NAME AND ADDRESS OF COMPANY	DATES OF EMPLOYMENT	JOB DESCRIPTION	SALARY	NAME OF SUPERVISOR	REASON FOR LEAVING
City of North Charleston	1986-2017	E02	22.86	Ivan	Knee Surgery Was terminated
South Carline Port Authority	1984-1986	Lift truck operator	14.00		Lay off
Moore Drums	1982-1984	Truck Driver	7.00		Lay off

PLEASE READ CAREFULLY

In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in immediate dismissal. I understand, also, that I am required to abide by all rules and regulations of the Franchisee of Dunkin' Donuts.

I understand and agree that if employed, employment will be "AT WILL". That is, either I or the employer may end the employment relationship at any time, for any reason, or for no reason. I understand that receipt of this application does not imply employment and that this application and/or any other documents are not contracts of employment.

I understand that I am applying for work with (one or more) Dunkin' Donuts Franchisees, and not Dunkin' Brands, Inc. or any of its affiliates. If hired the Franchisee will be my only employer. Franchisees are independent business people who set their own wage and benefit programs that can vary among Franchisees

Frederick Nelson
APPLICANT'S SIGNATURE

6/7/18
DATE SIGNED

THIS COMPANY IS AN EQUAL OPPORTUNITY EMPLOYER

Dr - Permanent Restrictions May return to light Duty 2-8-18
No Squatting - No Climbing - No Stooping
No lifting over 35 lbs and No Excessive Running -
and Cutting

An Authorized Franchisee & Employer of DUNKIN' DONUTS

PROFESSONAL REFERENCES

Applicant Name: Frederick Nelson

Location Name & PC #: _____

REFERENCES

Please provide at least three professional references (do not list relatives)

Name	Address	Work Phone No.	Title	Years Known
Troy Green		[redacted]	Electric Contractor	28 years
Chriss Collins			Charleston CO School Bord	2 7 yrs
Tyrone Dash			Business owner	25 yrs

DISCLOSURE

Please read the information on this form carefully and completely.

I have applied for employment with a Dunkin Donuts franchisee and have provided information about my previous employment. I authorize a reference check to be conducted with my present and/or previous employer(s), as well as the professional references listed above. I understand that reference information may include, but not be limited to, verbal and written inquiries or information about my employment performance, professional demeanor, rehire potential, dates of employment, salary and employment history.

My signature below authorizes my former or current employer(s) and professional references to release information regarding my employment record with their organizations and to provide any additional information that may be necessary for my application for employment with the Dunkin Donuts franchisee, whether the information is positive or negative. I knowingly and voluntarily release all former and current employer(s), professional references, and the Dunkin Donuts franchisee from any and all liability arising from their giving or receiving information about my employment history, qualifications, and my suitability for employment with the Dunkin Donuts franchisee

This form may be photocopied or reproduced, and these copies will be as effective as a release or consent as the original which I sign.

Frederick Nelson
APPLICANT'S SIGNATURE

6-7-18
DATE SIGNED

ROYAL LANES
Employment Application

POSITION APPLYING FOR
Please Circle Department of Interest:

Snack Bar	Front Desk	Pinchaser	Management
Bar	Porter	Custodial	Party Hostess

EMPLOYEE INFORMATION

Name: Frederick Nelson _____ Nelson 6-11-18
First Middle Initial Last

Phone #: [redacted] **How did you hear about us?:** Walk in

Address: [redacted]

City, State & Zip

EMPLOYMENT HISTORY

EMPLOYER: City of North Charleston
Start Date: June 1986 End Date: 7-2017
Address: City Hall Lane
Position: E02-Equipment Operator **Average Hours/Week:** 40
Duties/Tasks: Operate Street Sweeper-Backhoe-Drive Trucks load and unload trucks
Pay: $ 21.86 **Per:** hr **Reason for Leaving:** Terminated after knee surgery
Supervisor: Van **Phone #:** (843) 745-1026
Additional details: 843-554-5700

EMPLOYER: South Carolina Parts
Start Date: 86-1984 End Date: 1986
Address: 176 Concord St Charleston SC
Position: Lift truck operator **Average Hours/Week:** 40
Duties/Tasks: loading and unloading Cargo
Pay: $ 14 **Per:** hr **Reason for Leaving:** Lay off
Supervisor: _____ **Phone #:** (843) 577-8653
Additional details: _____

EMPLOYER: Moore Drums
Start Date: 1982 End Date: 1984
Address: _____
Position: Truck Driver **Average Hours/Week:** 40
Duties/Tasks: loading and unloading trucks
Pay: $ 8 **Per:** hr **Reason for Leaving:** Lay Off
Supervisor: _____ **Phone #:** (___) ___-____
Additional details: _____

AVAILABILITY

Please provide your hours of availability.

- Monday: 8:00 am/pm - 4:00 am/pm
- Tuesday: 8:00 am/pm - 4:00 am/pm
- Wednesday: 8:00 am/pm - 4:00 am/pm
- Thursday: 8:00 am/pm - 4:00 am/pm
- Friday: 8:00 am/pm - 4:00 am/pm
- Saturday: 8:00 am/pm - 4:00 am/pm
- Sunday: ~~8:00 am/pm~~ - ___:___ am/pm

Additional Comments:

Desired pay: 15.00 /hour

Date you can start: _____

Continue to page 2.

OPEN-ENDED QUESTIONS

Can you go 8 hours without taking a cigarette break? yes / no I do not Smoke.

Can you stand for long periods of time? yes / (no) **Can you go 8 hours without your cell phone?** (yes) / no

$45 - $31.68 = 14.68

PLEASE BE AS DETAILED AS POSSIBLE FOR THE FOLLOWING QUESTIONS

Why do you want to work at Royal Lanes Family Entertainment Center? Why are you a good fit?
Becaus I am a family Man - a good fit becaus I like to be around good family entertainment

What was the last gift you gave someone? What made you make that choice?
A gift Card - why that Choice becaus the Person can Purchase Something that they like.

What is the funniest thing that has happened to you recently?

What is your favorite book? Why is it your favorite?
The Holy Bible it's my favorite becaus in His book God So love the World that he gave His Only begotten Son John 3:16

If you could travel to any place in the world, where would it be? What would you do there?
Africa because it's a beautiful place, I would love every-Place possible

What are your 3 most favorite hobbies? What do you like about them?
Fishing - Crabing - and Shrimping it's a good relaxation on the mind

If you could be any animal in the world, what animal would you be? Explain your choice in detail.
A Dove - why my Choice becaus The Dove represent peace of the deepest Kind

You're a new addition to the crayon box. Create a name for your new color and why it represents you.
fit in would be the name for my new Color and why it represents me becaus I Can fit in with all Colors

Continue to page 3.

FOR OFFICE USE ONLY

Date submitted: _____ **MGMT Initials:** _____
Reviewed by: _____
Call for Interview: yes / no
Called on ___/___/_____ @ ___:___ am / pm
Called on ___/___/_____ @ ___:___ am / pm
Interview: yes / no
On ___/___/_____ @ ___:___ am / pm
Notes: _____

HIRE DATE: ___/___/_____
Two forms of ID: yes / no
Completion of I-9: yes / no
Completion of W-4: yes / no
Completion of EmpFolder: yes / no
Added to Aloha: yes / no
Employee Login #: _____
Added to PayChex: yes / no
Social: ___-___-____

ROYAL LANES **Essay Component**

REQUIRED ESSAY

APPLICATIONS WITHOUT AN ESSAY WILL NOT BE REVIEWED. PLEASE FILL THE PAGE.

TOPIC #1: Why would you be a good fit at Royal Lanes?
and/or TOPIC #2: Write about what you are most passionate about.

I have Dr. Permanent Restrictions May return to light duty on 2-9-18 - No Squatting - No Climbing - No Stooping No Lifting Over 35 lbs - No Excessive Running and Cutting

Thank you for completing the Royal Lanes Employment Application!

glasspro®
Guaranteed Auto Glass Replacement and Repair

APPLICATION FOR EMPLOYMENT

Glasspro is an equal opportunity employer and does not discriminate against otherwise qualified applicants on the basis of race, color, creed, religion, ancestry, age, sex, marital status, national origin, disability or handicap; or veteran status.

PERSONAL:

Name Nelson Frederick Date 6-12-18
Last First Middle

Address [redacted]

Position Sought Open ☑ Full Time ☐ Part Time

Date Available _____ Salary Desired $_____

Phone Numb[redacted] cial Security Number [redacted]

Are you over 18 years old? ☑ Yes ☐ No

Are you legally eligible for employment in the United States? ☑ Yes ☐ No
(If offered employment, you will be required to provide documentation to verify eligibility.)

EDUCATION: Please indicate education or training which you believe qualifies you for the position you are seeking.

High School: No. of Yrs Completed (circle one) 1 (2) 3 4
Diploma: ☐ Yes ☑ No **G.E.D.:** ☐ Yes ☐ No

School(s) Covenant Christian Correspondence School City/State Georgia

College and/or Vocational School:
Number of Years Completed (circle one) 1 2 3 4

School(s) _____ City/State _____

Major _____ Degrees Earned _____

Other Training or Degrees:

School(s) _____ City/State _____

Course _____ Degree or Certificate Earned _____

This application for employment is good for 30 days only. Consideration for employment after 30 days requires a new application.

SKILLS :

Office: Data Entry/ __ Excel or Typewriter _____ wpm.

Word Processing __ WordPerfect __ MSWord

Other _____

Other Software Skills _____

Have you ever been employed in any facility of GlassPro? Yes ↘ No

If so, please state facility name and location and dates of employment

_____

RECORD OF CONVICTION:

During the last ten years, have you ever been convicted of a crime other than minor traffic offense?

☐ Yes ☒ No

If yes, explain: _____

(A conviction will not necessarily automatically disqualify you for employment. Rather, such factors as age and date of conviction, seriousness and nature of the crime, and rehabilitation will be considered).

EMPLOYMENT: List last employer first, including U.S. Military Service.

May we contact your present employer? ☒ Yes ☐ No

If any employment was under a different name, indicate name _____

1. Employer City of North Charleston Address _____

Telephone 843-745-1026 Position Fa2

Dates of Employment: From Jan 1986 (Mo/Yr) To 2-2017 (Mo/Yr)

Salary 21.68 Supervisor Vain Department Publick works

Duties Operate street Sweeper Drive truck PT __ No. of Hrs. 40
load and unload trucks

Reason for Leaving Terminated after knee Surgery

2. Employer S.C Ports Address 176 Concord St Charleston S.C

Telephone 843-745-1026 Position _____

Dates of Employment: From 1984 (Mo/Yr) To 1986 (Mo/Yr)

Salary $4.00 Supervisor _____ Department _____

Duties Loading and unloading Trucks FT ✓ PT __ No. of Hrs. 40

Reason for Leaving Lay Off

3. Employer Moore Drums Address North Charleston SC

Telephone _____ Position Truck Driver

Dates of Employment: From 1982 (Mo/Yr) To 1984 (Mo/Yr)

Salary 8 per hr. Supervisor _____ Department _____

Duties Loading and unloading Trucks FT ✓ PT __ No. of Hrs. 40

Reason for Leaving Lay Off

4. Employer _____ Address _____

Telephone _____ Position _____

Dates of Employment: From ____ (Mo/Yr) To ____ (Mo/Yr)

Salary _____ Supervisor _____ Department _____

Duties _____ FT __ PT __ No. of Hrs. ___

Reason for Leaving _____

If you wish to describe additional work experience, attach the above information for each position on a separate piece of paper.

Explain any gaps in work history: _____

Have you ever been discharged or asked to resign from a job? ☐ Yes ☑ No

If yes, explain: _____

REFERENCES:

Professional	Personal
Name Tyrone Dash	Name Troy Green
Address	Address
Phone [redacted]	Phone [redacted]
Name	Name Chriss Collins
Address	Address
Phone (____)	Phone [redacted]

APPLICANT'S CERTIFICATION AND AGREEMENT

I hereby certify that the facts set forth in the above employment application are true and complete to the best of my knowledge and authorize Glasspro to verify their accuracy and to obtain reference information on my work performance. I hereby release Glasspro from any/all liability of whatever kind and nature which, at any time, could result from obtaining and having an employment decision based on such information.

I understand that, if employed, falsified statements of any kind or omissions of facts called for on this application shall be considered sufficient basis for dismissal.

I understand that should an employment offer be extended to me and accepted that I will fully adhere to the policies, rules and regulations of employment of the Employer. However, I further understand that neither the policies, rules, regulations of employment or anything said during the interview process shall be deemed to constitute the terms of an implied employment contract. I understand that any employment offered is for an indefinite duration and at will and that either I or the Employer may terminate my employment at any time with or without notice or cause.

Signature of Applicant [signature] Date: 6/12/18

APPLICATION FOR EMPLOYMENT

Review and complete the following sections to learn about Hobby Lobby Stores, Inc. ("Hobby Lobby") and to tell us about you. Please print clearly in ink. Signatures are required throughout. A résumé will not be considered as a substitute for a completed application. Please be sure to fill out your employment application COMPLETELY.

Hobby Lobby has adopted an arbitration agreement under which applicants and the Company agree to submit employment-related disputes to arbitration. Applicants must sign the mutual arbitration agreement in Section II of this application in order to be considered for employment with Hobby Lobby.

To request reasonable accommodation of a disability during the hiring process, please contact the Human Resources Department at (877) 303-4647.

Section I: EXPECTATIONS OF EMPLOYMENT

Thank you for your interest in Hobby Lobby. Our commitment to excellence begins with hiring the most qualified candidates. We want to provide you with information about our Company to help you make an informed decision to apply for employment with Hobby Lobby. Please read the following to help you learn more about employment with Hobby Lobby:

AT WILL EMPLOYMENT RELATIONSHIP

The employment relationship between the Company and each of its employees is at-will. All Company employees are employed on an at-will basis, and nothing to the contrary stated anywhere in this application or by any Company representative changes an employee's at-will status.

CUSTOMER SATISFACTION

All Hobby Lobby employees commit to providing our customers with knowledgeable and friendly assistance whenever needed regardless of where each job is performed.

WORKING CONDITIONS AND EXPECTATIONS

Our standards are high and there are many challenges working in a fast-paced, ever-changing environment. Working conditions such as temperature, noise and dust levels may vary at Hobby Lobby depending upon job assignment. Work hours and shifts may change based upon the needs of the Company and employees may be required to work overtime, holidays, weekends and evenings. Employees are expected to be at work on time every day, comply with Company policies, be free from the influence of drugs and/or alcohol, obey safety rules, and wear required safety equipment.

By my signature, I acknowledge that I have read and understand the expectations of employment identified above.

Applicant's Signature

6-13-18
Date

NOTE: We have the right to verify all information on your application and any attached or enclosed documents. Be complete and accurate in your responses. Omitting information or providing false or incorrect information may lead to disqualification or termination. All steps of the selection process will be compliant with existing federal and state statutes.

It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability.

Section V: ACKNOWLEDGEMENT

I understand that the Company has adopted a mutual arbitration policy under which applicants and the Company agree to submit employment-related disputes to binding arbitration. Signing the arbitration provision of this application is a condition of employment with the Company.

I certify that the facts contained in this application (and accompanying documents, if any) are true and complete to the best of my knowledge. I understand that any false statement, omission, or misrepresentation on this application may result in refusal to hire, or dismissal if I have been employed, no matter when discovered by the Company.

I understand that any employment may be conditioned on the results of a background check.

I understand and agree that nothing contained in this application, or conveyed during any interview, shall create an employment contract. I further understand and agree that if I am hired, my employment will be "at will", and may be terminated at any time, with or without cause and without prior notice, at the option of either myself or the Company. No promises regarding employment have been made to me, and I understand that no such promise or guarantee is binding upon the Company unless made in writing by a Corporate Officer.

If I am offered employment, I agree to submit to a medical examination and/or drug/alcohol test before starting work, if requested by a Company representative. If employed, I also agree to submit to a medical examination or drug/alcohol test at any time deemed appropriate by the Company, and as permitted by law. I consent to such examinations and tests, and I request that the examining doctor disclose to the Company the results of the examination. I understand that my employment or continued employment, to the extent permitted by law, is contingent upon a satisfactory medical examination and/or drug/alcohol tests as required; and if I am hired, a condition of my employment will be that I abide by the Company's drug and alcohol policy.

I understand that completing this application does not indicate that there is a position open and does not obligate the Company to hire me. If hired, I agree to abide by all Company work rules, policies and procedures. I understand that the Company retains the right to revise its policies or procedures, in whole or in part, at any time.

Applicant's Signature

6-13-18
Date

We do not discriminate with regard to race, color, religion, gender, pregnancy, national origin, age, disability, or any other basis protected by state or federal law.

may return to light duty/RRP
I have PR-Permanent restrictions
No Squatting-No Climbing-No Stooping
No Lifting over 35 lbs
No Excessive Running/Cutting

201

[redacted]

HOBBY LOBBY

Employment Application

405

[redacted]

December 2015

Section IV: EMPLOYMENT AND EDUCATION HISTORY

Employer Name: South Carolina Ports Phone: 843-577-8653
Hire Date: 1984 Termination Date: 1986 Starting Job Title: Labor to Lift Operator Ending Job Title: Lift truck Operator
Address: 176 Concord St Charleston SC
City: Charleston State: SC Zip: 29405 Supervisor:
Reason for Leaving: Lay Off
Job Duties: Loading and unloading Cargo Starting Pay: 11.00 Ending Pay: 12.00
May we contact this employer? Yes ☐ No ☐ If not, please explain:

Employer Name: Moore Drum Phone:
Hire Date: 1982 Termination Date: 1984 Starting Job Title: ~~Labor~~ Ending Job Title: Truck Driver
Address:
City: North Charleston State: SC Zip: 29405 Supervisor:
Reason for Leaving: Lay Off
Job Duties: Loading and unloading trucks Starting Pay: 6.00 Ending Pay: 8.00
May we contact this employer? Yes ☐ No ☐ If not, please explain:

Employer Name: Phone:
Hire Date: Termination Date: Starting Job Title: Ending Job Title:
Address:
City: State: Zip: Supervisor:
Reason for Leaving:
Job Duties: Starting Pay: Ending Pay:
May we contact this employer? Yes ☐ No ☐ If not, please explain:

EDUCATION

	Name and Location of School:	Course of Study:	# of Years Completed:	Did You Graduate?	Degree or Diploma:
High School:	Chicora High		2	Yes ☐ No ☒	Cornerstone Christ. Correspondence sch.
Business, Trade, Tech:				Yes ☐ No ☐	
College:				Yes ☐ No ☐	
Graduate:				Yes ☐ No ☒	

Professional Registrations/Licenses Held:
Special Qualifications/Skills:
Job-related activities (memberships, etc.) that may prove beneficial to your work:
Are you currently in school or planning to pursue other studies? Yes ☐ No ☒ If yes: Day ☐ Night ☐ School hours and days:

REFERENCES

Provide the names of three people, not related to you, whom you have known for at least one year.

NAME: Troy Green ADDRESS: PHONE: [redacted] YEARS ACQUAINTED: 26
NAME: Chris Collins ADDRESS: PHONE: [redacted] YEARS ACQUAINTED: 24
NAME: Tyron Dash ADDRESS: PHONE: [redacted] YEARS ACQUAINTED: 20

Section III: APPLICANT INFORMATION

Last Name: Nelson First Name: Frederick Middle Initial:

Other Names Used: Fred Street Address: [redacted]

City: [redacted] State: [redacted] Zip: [redacted] Home Phone [redacted] Other Phone:

Referred By: Our Ad ☐ Agency ☐ Friend/Relative ☐ An Employee ☐ Name: Other: walk in

Position(s) Desired: Open

Full-Time ☑ Part-Time ☐ Temporary/Seasonal ☐

Pay Desired: 15

Total number of hours you are available to work per week: 40

Circle the days and list the hours you are available to work:

Days:	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
From:							
To:							

Should your availability change during the course of your employment, it may impact your employment status based on business needs. While we may be able to accommodate your availability upon hire we do not guarantee that we will be able to support availability in the future. Should our business needs change we may require an adjustment in your availability in order to maintain your employment status and/or continued employment.

Are you legally eligible for employment in the U.S.? Yes ☑ No ☐

(If hired, you will be required to provide valid proof of your identity and current employment authorization by your third day of employment.)

Are you at least 18 years of age? Yes ☑ No ☐ Are you at least 16 years of age? Yes ☐ No ☐ (If hired, you may be required to provide a work permit or employment certificate as a condition of employment.)

Are you willing to work overtime when required? Yes ☐ No ☑ Are you willing to work weekends? Yes ☐ No ☑

Do you have any relatives currently working for Hobby Lobby or any of our affiliate companies? Yes ☐ No ☑

If yes, provide name(s) and relationship:

Have you ever applied for employment with Hobby Lobby or any of our affiliate companies? Yes ☐ No ☑

If yes, when and to which company?

Have you worked for Hobby Lobby or any of our affiliate companies? Yes ☐ No ☑

If yes, when and for which company?

Have you been subjected to Drug/Alcohol Testing by Hobby Lobby or any of our affiliate companies? Yes ☑ No ☐

If yes, when and for which company? City of North Charleston

If yes, when and for which company? Are you currently on layoff or leave from another company? Yes ☐ No ☑

If yes, from which company?

Section IV: EMPLOYMENT AND EDUCATION HISTORY

EMPLOYMENT Employer Name (Most recent): City of North Charleston Phone: 843-745-1026

Hire Date: 1986 Termination Date: 7-14-17 Starting Job Title: Truck Driver Ending Job Title: E02-Equipment Operator

Address:

City: North Charleston State: SC Zip: 29405 Supervisor: Van

Reason for Leaving: Terminated after Knee Surgery on the Job Inj

Job Duties: Sweeping Streets Loading and unloading trucks Starting Pay: 800 Ending Pay: 2186

May we contact this employer? Yes ☑ No ☐ If not, please explain:

Section II: MUTUAL ARBITRATION AGREEMENT

If you wish to be considered for employment, you must read and sign this Mutual Arbitration Agreement. You are required to sign and return this Mutual Arbitration Agreement as part of, and in consideration for, applying for a position with the Company.

Arbitration is mutually beneficial to both the Company and you. Arbitration provides a speedier and less complicated process than litigation, a less costly process with the arbitrator's administrative costs and fees borne solely by the Company, and an experienced decision maker. Every effort has been made to ensure that you have access to a copy of the applicable arbitration rules and procedures as adopted by the American Arbitration Association. You may request the applicable arbitration rules and procedures as adopted by the American Arbitration Association from the Company's Human Resources Department by calling (877) 303-4547, or you may review the complete set of up-to-date rules, forms, procedures, and guides available from the American Arbitration Association on the website at www.adr.org. Please review these rules and procedures carefully.

1. Agreement to Arbitrate. Except as provided below, in this Mutual Arbitration Agreement (the "Agreement"), you and the Company agree binding arbitration is the sole and exclusive means to resolve all disputes that may arise out of, or be related to, your application for employment with the Company and/or, if hired, your employment with the Company. You and the Company each specifically waive and relinquish the respective right to sue each other in a court of law, and this waiver shall be equally binding on any person who represents or seeks to represent you or the Company in a lawsuit against the other in a court of law.

2. Covered Laws and Disputes. Subject to limitations set forth in Sections 3 and 8 below, this Agreement to arbitrate applies to any dispute, demand, claim, complaint, controversy, cause of action, or suit (as applicable, a "Dispute") arising under or involving any federal, state, or local law, statute, regulation, code, ordinance, rule, common law, or public policy (as applicable, a "Law"), that is any way or to any extent governs, regulates, or relates to your (i) application for employment; (ii) employment with the Company; (iii) compensation; or (iv) termination of employment with the Company.

3. Excluded Disputes. This Agreement shall not apply to Disputes (i) involving benefits under unemployment compensation Laws, (ii) involving benefits under workers' compensation Laws, (iii) arising under the National Labor Relations Act and brought before the National Labor Relations Board; (iv) involving enforcement of this Agreement, the compelling of arbitration, or enforcing or vacating an arbitrator's award under this Agreement; or (v) otherwise expressly required by Law to be decided in a specific forum or tribunal in which arbitration is prohibited.

4. No Waiver of Substantive Rights. By agreeing to arbitrate all Disputes, you and the Company understand neither is giving up any substantive right under the Law (including the right to file charges or petitions with federal, state, or local government agencies such as the Equal Employment Opportunity Commission, a Fair Employment Practices Agency, or National Labor Relations Board). Rather, you and the Company mutually agree to submit all Disputes contemplated in this Agreement to binding arbitration instead of a court. Further, you acknowledge this Agreement is not intended to, and does not, interfere with your rights to collectively bargain, to engage in protected concerted activity, or to exercise other rights protected under the National Labor Relations Act. You and the Company, however, knowingly and voluntarily (i) waive the right to file or participate or obtain relief in a court action of any nature seeking money damages or injunctive relief against you or the Company, except as otherwise provided for in this Agreement; and (ii) waive the right to seek or recover money damages of any type pursuant to any administrative action and instead may seek such relief only through arbitration under this Agreement.

5. Initiation of Arbitration and Time Limitations. The claiming party must initiate the arbitration by serving the claim on the other party's Registered Agent or by filing an arbitration demand through the American Arbitration Association ("AAA"). Unless otherwise mandated by Law, the party initiating the Dispute shall bring all Disputes within one (1) year of the day on which the aggrieved party knew, or through reasonable diligence should have known, of the facts giving rise to the Dispute.

6. Arbitrator Selection, Rules, and Location. Within thirty (30) days of receipt of a notice of arbitration, the parties shall select a mutually agreeable arbitrator experienced with employment law and licensed to practice law in the state in which you applied for employment, and/or if hired, are or were employed. To the maximum extent permitted by Law and except as otherwise set forth in this Agreement, the arbitrator selected by the parties shall administer the arbitration according to the Employment Arbitration Rules (or successor rules) of the AAA and Federal Rule of Civil Procedure 68 ("Offer of Judgment"). If the AAA's rules are inconsistent with this Agreement, the terms of this Agreement shall control. If the parties are unable to agree on an arbitrator, the party requesting arbitration shall submit the matter to the AAA, and an arbitrator shall be selected pursuant to the AAA's rules. The parties shall have the right to file dispositive motions and post-hearing briefs. The location for the binding arbitration shall be the county in which you last applied for employment, are employed, or were employed with the Company.

7. Arbitrator Authority. Except as otherwise provided in Section 8, you and the Company agree the arbitrator – not a court or agency – shall have exclusive authority to resolve any disputes or issues relating to the formation, interpretation, applicability, implementation, and enforceability of this Agreement. The arbitrator's authority and jurisdiction shall be limited to determining the matter in dispute consistent with controlling Law and this Agreement. Except as otherwise provided in this Agreement, the arbitrator shall apply, and shall not deviate from, as applicable, the substantive Law of the state in which the claim(s) arose and/or federal Law. The arbitrator shall not have the authority to hear disputes not recognized by existing Law and shall dismiss such disputes upon motion by either party in accordance with the summary judgment standards of the applicable jurisdiction. Similarly, the arbitrator shall not have the authority to order any remedy a court is not authorized to order. The arbitrator shall render a written award setting forth the arbitrator's findings of fact and conclusions of law.

8. Excluded Parties. This Agreement prohibits a party or the arbitrator from consolidating the Disputes of others into one proceeding, to the maximum extent permitted by Law. An arbitrator shall hear only individual Disputes and is prohibited from arbitrating a class, collective, representative, group, or joint action or awarding relief to a group of individuals in one proceeding, to the maximum extent permitted by Law. Any question or dispute concerning the scope or validity of this Section shall be decided by a court of competent jurisdiction and not the arbitrator. Should a court determine the prohibition on class, collective, representative, group, or joint actions in this Section is invalid for any reason, the parties hereby waive any right to arbitration of a class, collective, representative, group, or joint action and instead agree and stipulate that such Disputes will be heard only by a judge and not an arbitrator or jury. Additionally, the parties agree if a party brings a Dispute that includes both Disputes subject to arbitration under this Agreement and Disputes that by Law are not subject to arbitration, all Disputes that by Law are not subject to arbitration shall be stayed until the Disputes subject to arbitration under this Agreement are fully arbitrated. The parties further agree that in such a situation, the arbitrator's decision on the Disputes subject to arbitration, including any determinations as to disputed factual or legal issues, shall be entitled to full force and effect in any separate lawsuit on Disputes that by Law are not subject to arbitration.

9. Early Resolution. Prior to submitting a Dispute to arbitration, the aggrieved party shall first attempt to resolve the Dispute by notifying the other party in writing of the Dispute. If the other party does not respond to and resolve the Dispute within ten (10) days of receipt of the written notification, the aggrieved party then may proceed to arbitration.

10. Arbitration Costs and Attorney Fees. The Company shall pay all costs unique to arbitration (as compared to the costs of adjudicating the same Disputes before a court), including the regular and customary arbitration fees and expenses. However, if you are the party initiating the Dispute, you shall be responsible for contributing an amount equal to the filing fee to initiate the Dispute in the court of general jurisdiction in the state in which you applied, or if hired, are or were last employed by the Company. Except as provided in Federal Rule of Civil Procedure 68, each party shall pay its own attorneys' fees and any costs not unique to the arbitration (i.e. costs each party would incur if the Disputes were litigated in a court such as costs to subpoena witnesses and/or documents, take depositions and purchase deposition transcripts, copy documents, etc.). Any dispute as to whether a cost is unique to arbitration shall be resolved by the arbitrator. The arbitrator may award reasonable fees and costs or any portion thereof to the prevailing party to the same extent a court would be entitled to do so, in accordance with applicable Law.

11. Breach. Should any party institute an action in a court of law or equity against the other party with respect to a Dispute required to be arbitrated under this Agreement, the responding party shall be entitled to recover from the initiating party all costs, expenses, and attorney's fees incurred to enforce this Agreement and compel arbitration, and all other damages resulting from or incurred as a result of such court action.

12. Finality and Enforcement. You and the Company agree the decision of the arbitrator shall be final and binding. Judgment on any award rendered by an arbitrator may be entered and enforced in any court with competent jurisdiction.

13. Federal Arbitration Act. You acknowledge and agree the Company (i) is engaged in transactions involving interstate commerce; (ii) this Agreement evidences a transaction involving commerce; and (iii) this Agreement is subject to the Federal Arbitration Act.

14. No Employment Contract. This Agreement is not, and shall not be construed to create, a contract of employment, express or implied. This Agreement shall not alter your at-will employment.

15. Consideration. This Agreement is made in consideration for the acceptance by the Company of your application for employment, and if the Company hires you, in consideration for employing you and continuing to employ you, for the benefits and compensation provided by the Company to you, and for the mutual agreement to arbitrate as provided in this Agreement.

16. Condition of Employment. Every individual who applies for employment with, and/or works for, the Company must have signed and returned to the hiring representative or Company supervisor this Agreement to be eligible for prospective or continued employment with the Company.

17. Miscellaneous. This Agreement constitutes the entire mutual agreement to arbitrate between you and the Company and supersedes any and all prior or contemporaneous oral or written agreements or understandings regarding the arbitration of Disputes. Oral representations or agreements, made before or after your application or employment, regarding dispute resolution, the length of your employment, and the reasons for termination of your employment, shall not alter this Agreement. This Agreement shall remain in effect even after the termination of your employment with the Company. If any provision of this Agreement is deemed invalid or unenforceable, such provision shall be modified automatically to the minimum extent necessary to render the Agreement valid and enforceable. If a provision conflicts with a mandatory provision of applicable Law, the conflicting provision shall be severed automatically and the remainder of the Agreement construed to incorporate the mandatory provision. In the event of such automatic severance and modification with respect to a particular provision, the remainder of this Agreement shall not be affected. Similarly, should a court or arbitrator determine arbitration pursuant to this Agreement is unavailable for any reason, the parties waive any right to a jury and instead agree and stipulate the Disputes at issue will be heard only by a judge. This Agreement shall be construed as a whole, according to its fair meaning, and not for or against any party.

18. Withdrawal. This Agreement affects your legal rights; therefore, you may wish to seek legal advice before signing the Agreement. You may withdraw your consent to this Agreement within three (3) days from the date on which you sign below by notifying the Company in writing (including the address of the place of which you applied for employment) that you are withdrawing your application for employment. The withdrawal must be sent to: 7707 S.W. 44th St., OKC, OK 73179. By notifying the Company in this manner, you will not be bound to this Agreement and will no longer be eligible for employment with the Company. If you fail to withdraw in accordance with the terms above, you will be required to arbitrate, as explained in this Agreement, any and all employment-related claims you have against the Company, whether or not you become employed by the Company.

19. Knowledge and Consent. **BY THEIR SIGNATURES BELOW, SUBJECT TO THE PROVISIONS ABOVE, BOTH PARTIES ACKNOWLEDGE THEY HAVE READ THIS AGREEMENT, ARE GIVING UP ANY RIGHT THEY MIGHT HAVE AT ANY POINT TO SUE THE OTHER IN COURT, ARE WAIVING ANY RIGHT TO A JURY TRIAL, AND ARE KNOWINGLY AND VOLUNTARILY CONSENTING TO ALL TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT.**

Employee Name _____ Date _____

Employee Signature _____

By Company

Peter M. Dobelbower, Vice President

"Company" shall mean the company to which you submitted your application for employment, or if hired, for which you work or worked, specifically Hobby Lobby Stores, Inc., Mardel, Inc., or any affiliate, successor, or assign.

2 Including but not limited to Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866 and 1991, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act, and/or similar state and local laws, all as amended.

3 Covered Disputes include, but are not be limited to, those involving hiring or not hiring, wrongful termination, wages, compensation, work hours, invasion of privacy, false imprisonment, assault, battery, malicious prosecution, defamation, negligence, intentional torts, personal injury, pain and suffering, emotional distress, loss of consortium, breach of fiduciary duty, sexual harassment, harassment, and/or discrimination based on any class protected by law, retaliation, interference and/or opposition of discrimination or harassment, and/or any other employment-related Disputes based in tort, contract, or any other nature or theory whatsoever.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

Appellate Case No. 2020-000723

Frederick Nelson, Employee,.....Respondent,

v.

City of North Charleston, Employer and Carrier.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Date: 8/24/2020

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