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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE APPELLATE PANEL OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

The Honorable James F. Fraley, Jr., Family Court Judge

Appellant Case No. 2018-001516
W.C.C. File No.: 1421397
Unpublished Opinion Number 2020-UP-266; Filed December 9, 2020

Johnnie Bais, Employee,.....Petitioner,

v.

SCANA Corporation, Self-Insured Employer,.....Respondent.

APPENDIX
VOLUME I

Grady L. Beard, Esq. (SC Bar # 10190)
Nicholas L. Haigler, Esq. (SC Bar # 76684)
Meredith Ross, Esq. (SC Bar # 102358)
Robinson Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
gbeard@robinsongray.com
nhaigler@robinsongray.com
meredithross@schouse.gov
Attorneys for Respondent

Jacob M. Smith, Esq. (SC Bar #100757)
Smith & Jones Law, LLC
949 E. Main Street, Suite B
Lexington, South Carolina 29072
(803) 996-3333
jsmith@smithandjoneslaw.com
Attorney for Petitioner

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SC Court of Appeals

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Appellate Case No.: 2018-001516
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RECORD ON APPEAL
VOLUME I

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Meredith Ross, Esq.
Robinson Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
Attorneys for Respondent

Jacob M. Smith, Esq.
S.C. Bar No. 100757
Smith & Jones Law, LLC
945 E. Main St., Suite B
Lexington, SC 29072
(803) 996-3333
Attorney for Appellant

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HEARING DATE: September 19, 2017
WCC FILE NO. 1421397

CLAIMANT: Johnnie T. Bias
EMPLOYER: SCANA Services
CARRIER: SCANA Corporation

ATTORNEY: Grady L. Beard and Nicolas L. Haigler
ATTORNEY: William B. Salley, Jr. and Jacob M. Smith

DOI: 10/14/2014

COURT REPORTER: Gloria Davis
d/b/a Palmetto Court Reporting
321 Mac Circle
Lexington, SC 29073
(803) 358-0515
PalmettoCrtRptng@aol.com

E-Mailed on 10/20/17

DIRECTIVES

Attorney Haigler, please draft the order consistent with the below findings and return to this office within 30 days:

1. Please note in the Order the date these instructions were sent to the parties.
2. 100% denied case.
3. Max comp rate (31) withdraw Claimant's APAs
4. Testimony of Johnnie Bias. 17+ year employee, fell at work.
5. Not all issues before date of accident. Issues after incident – similar
6. NOTE: All medical outlined in APAs, Claimant's and defense.
7. C-1 – Terry Seagle – Claimant – Safety and training coordinator at SCANA

12/20/16

8. D-1 – Deposition - Justin Hutcheson, MD – 3/31/2017
9. D-2 – Deposition - Ivan Lamotta, MD – 6/1/2017
10. D-3 – Deposition Steven. C. Poletti, MD – 2/3/2016

11. D-4 – Deposition Nicholas Lind, PhD – 4/28/2017
12. D-5 – Letter to Dr. Ivan Lamotta from Jacob M. Smith, Esquire - 6/22/16
13. D-6 – Letter to Justin Kelby Hutcheson from Jacob M. Smith, Esquire -
2/25/2016
14. Exhibits:
 - a. Claimant's personnel file
 - b. Deposition – Steven C. Poletti, MD – 2/3/2016
 - c. Deposition – Terry Seagle – 12/20/16
 - d. Deposition – Justin Hutcheson, MD – 3/31/2017
 - e. Deposition – Nicholas Lind, PhD - 4/28/2017
15. Getting LTD – MetLife and Social Security Disability
16. All medical paid by group carrier
17. Johnnie Bias – Back, right leg & left leg – Pre-Injury
 - Defendants' APA #1, p. 10
 - Claimant's APA #7, p. 76
 - Claimant's APA #7, p. 79
 - Claimant's APA #7, p. 80
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Johnnie Bias – Post-Injury back, right leg, left leg & urological

Claimant's Exhibit A, p. 596

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Claimant's APA #10, p. 310-312

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Claimant's APA #10, p. 290-293

Claimant's APA #10, p. 266-268

Claimant's APA 4, p. 28

Claimant's APA #10, p. 259-261

Claimant's APA #10, p. 242-244

Deposition of Dr. Nicholas Lind, p. 55

18. All findings are based on an entire review of all documents produced at the

hearing on September 19, 2017 – 3-4 hour hearing

19. Based on the greater weight of the evidence presented I would deny this claim.

INSTRUCTIONS: Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter in writing at Gloria Davis d/b/a Palmetto Court Reporting, 321 Mac Circle, Lexington, SC 29073 or via e-mail at PalmettoCrtRptng@aol.com. Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to dhutto@wcc.sc.gov.

Matters To Include In The Order:

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.

Commissioner Avery B. Wilkerson, Jr.
S.C. Workers' Compensation Commission
1333 Main Street, Suite 500
P. O. Box 1715
Columbia, SC 29202-1715

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1421397

Johnnie Bias,

Claimant,

v.

SCANA Corporation,

Self-Insured Employer,

Defendant.

DECISION AND ORDER

HEARING: Hearing held in Columbia, South Carolina on September 19, 2017.

APPEARANCES: Claimant represented by Salley Law Firm, P.A., with William B. Salley, Jr., and Jacob M. Smith, Esquire appearing.

Defendant represented by Sowell Gray Robinson Stepp & Laffitte, L.L.C. with Nicolas L. Haigler, Esquire, and Grady L. Beard, Esquire appearing.

PURPOSE OF HEARING: To determine issues as set forth on Form 50 and 51.

DECISION AND ORDER: By Avery B. Wilkerson, Jr., Commissioner

FILED: _____ January 18, 2018

APA SUBMISSIONS

Pursuant to the APA, claimant submitted records, reports, and correspondence from the following into evidence:

	Physician	Practice	Dates of Service	Page Numbers
1.	Joel Leonard	Leonard & Associates	09/22/16	1-11
2.	Ivan LaMotta, MD	Midlands Orthopaedics	09/8/16	12-16
3.	Ross Rames, MD	MUSC	05/27/16	17-21
4.	Justin Hutcheson, MD	Carolinas Center for the Advanced Management of Pain	03/22/16-07/12/16	22-31
5.	Tracy Hill, P.T.	Columbia Rehabilitation Clinic	03/21/16	32-53
6.	Nicholas Lind, MD	Post Trauma Resources	03/16/16-02/15/17	54-58
7.	Steven Poletti, MD	Southeastern Spine Institute	05/31/01-12/22/16	59-151
8.	Monique Singleton, MD	Singleton Health Center	11/04/14-04/28/15	152-161
9.	Brett Gunter, MD	Lexington Brain & Spine Institute	01/18/17	162-165
10		Department of Veteran Affairs	07/25/07-05/15/17	166-516

Pursuant to the Administrative Procedures Act (the APA), the defendants submitted records, reports, and correspondence from the following into evidence:

	Physician	Practice	Dates of Service	Page Numbers
1.	Robert Jones, MD	Lowcountry Healthcare System	04/04/1974-01/24/14	1-66
2.	Steven C. Poletti, MD	Palmetto Infectious & Pulmonary	08/14/02-02/22/17	67-70
3.		East Cooper Regional Medical Center	03/07/14	71-73
4.	Monique Singleton, MD	Singleton Health Center	03/07/14-07/15/14	74-88
5.	Joseph D. Love, MD	Palmetto Infectious & Pulmonary	10/17/14-10/21/17	89-93
6.		VA Hospital	05/21/15	94-100
7.	Ivan LaMotta, MD		06/01/17	Deposition
8.	Nicholas Lind, Psy.D.		04/28/17	Deposition
9.	J. Kelby Hutcheson, MD		03/31/17	Deposition
10.	Steven Poletti, MD		02/03/16	Deposition

	Exhibits	Date of Reports	Page Numbers
A.	Portions of the claimant's personnel file may be submitted		
B.	Claimant's deposition, if necessary		
C.	Letter from Counsel for the Claimant to Dr. Lind	03/07/16	
D.	Letter from Counsel for the Claimant to Dr. Hutcheson	02/25/16	
E.	Letter from Counsel for the Claimant to Dr. LaMotta	06/22/17	

STIPULATIONS

At the call of the claim, the parties stipulated to the following issues:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim;
2. Venue in the County of Richland is proper for this claim;
3. The claimant's average weekly wage and compensation rate is \$1,342.53 and \$752.16, the maximum for 2014.
4. Claimant has withdrawn pg. 31 of his APA's.
5. The claimant alleges he sustained a compensable injury by accident to his back, left hip, left leg, left ankle, left hand, left wrist, left arm, buttocks, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche on October 14, 2014.
6. Except for any self-serving statements or unstipulated medical reports, the Commission file was made part of the record.

STATEMENT OF THE CASE

The undersigned held a Hearing in this matter at the date and location referenced above. All parties of interest were timely and properly notified of the Hearing, and the parties and/or their representatives appeared at the Hearing. The claimant appeared and was represented by William B. Salley, Jr., Esquire and Jacob M. Smith, Esquire. The employer was represented by Grady L. Beard, Esquire and Nicolas L. Haigler, Esquire.

This claim was before the South Carolina Workers' Compensation Commission pursuant to the Form 50 filed by the claimant and the Form 51 filed by the defendants. It is the position of the claimant that he sustained an injury by accident and/or an aggravation of a pre-existing condition resulting in injuries

to his left hip, left leg, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche on October 14, 2014. He requests payment for all past and continued causally-related medical treatment and temporary total disability (TTD) benefits. In addition, he contends he has reached maximum medical improvement (MMI) for his compensable injuries as of February 3, 2016, and is permanently and totally disabled. The claimant further requests lifetime causally-related medical treatment for his compensable injuries per the recommendations of Dr. Hutcheson and Dr. Lind. Finally, if the claimant has not reached MMI, he contends he is entitled to continued TTD benefits until he does. To the contrary, the defendant denies the claimant sustained either a compensable injury by accident or aggravation of a pre-existing condition. However, if the claim is compensable, the defendant asserts the claimant has not reached MMI, as alleged.

Accordingly, the primary issues for determination are: (1) whether the claimant sustained a compensable injury by accident under Section 42-1-160 or aggravation of a pre-existing condition under Section 42-9-35 on the date alleged; (2) if so, whether the claimant is entitled to further benefits under the Act; (3) whether the claimant is entitled to temporary total disability benefits from October 14, 2014, and continuing; (4) whether the claimant has reached MMI; (5) whether the claimant is permanently and totally disabled under Section 42-9-10 and/or Section 42-9-30 of the Act; and (6) the credibility of the claimant.

EVIDENCE OF THE CASE

The undersigned has carefully considered all of the evidence presented by the parties in this claim, including the Hearing testimony of the claimant, the deposition testimony of Mr. Terry Seagle, Dr. Steven Poletti, Dr. Nicholas Lind, Dr. Ivan LaMotta and Dr. Justin Hutcheson, and the APAs and exhibits submitted by the parties, and has noted the following:

A. HEARING TESTIMONY

The claimant is sixty-one years old. See H.T., p. 59. He served in the Navy from 1974-1977. See H.T., p. 60. He began working for the defendant in 1997 or 1998. See H.T., p. 63. He has held multiple

jobs with the defendant and at the time of his injury he was in the chemistry department, making approximately \$28.00 an hour. See H.T., p. 63.

When asked how long he has been dealing with a prior back issue, he answered "for a long time." See H.T., p. 64. He confirmed he had back surgery in the 1980's and again in 2014, performed by Dr. Poletti, with whom he began treating in 2001. See H.T., p. 65. He stated at the time of his surgery in March 2014, he had pain in his back and left leg and his right leg symptomology began in 2010. See H.T., p. 65-66.

He testified that on the day of his accident he was walking down concrete steps when he slipped on some rocks and fell. See H.T., p. 64. The claimant testified he reported his accident to his supervisor, Anthony Miles, the day it happened, but did not go to a doctor because the claimant did not think it was warranted at the time. See H.T., p. 71. He had a previously scheduled appointment at Southeastern Spine the following day, October 15, 2014, and confirmed he did not mention his fall during that appointment. See H.T., p. 71-72. He requested an appointment a couple of days later when he began to feel cold on his left side and experience slight pain on his right. See H.T., p. 74. He returned to Southeastern Spine on October 22, 2014, and told them about his fall. See H.T., p. 75.

When asked about his current symptoms, the claimant testified he has left foot drop and numbness in his left foot and calf. See H.T., p. 76. He also complained of left side pain that goes across his buttocks, right side lower back pain across his hip and down his right leg and foot, and numbness in his right foot. See H.T., p. 76-77. He reported also having urinary incontinence and erectile issues, but conceded he had prior erectile dysfunction. See H.T., p. 77. When asked how he is feeling about himself since his accident, he said he was extremely agitated, did not want to leave his house, and was having recurring nightmares. See H.T., p. 79.

Under cross-examination the claimant confirmed he is receiving long-term disability and years of service for retirement. See H.T., p. 93. The claimant was then questioned regarding the deposition of Dr. LaMotta, he confirmed he read certain parts in preparation for the Hearing. See H.T., p. 96. The claimant

admitted telling Dr. LaMotta he was not having any re-herniations of his back between 1983 and 2014. See H.T., p. 96. However, he confirmed he treated with Dr. Jones in the 1980's and 1990's for back pain until he started treating with Dr. Poletti in 2001, confirming that he has treated for back pain consistently since the 1980's, which is contrary to his statements to Dr. LaMotta. See H.T., p. 99. He further confirmed that since the 1980's he has treated for lower back problems, left leg problems, radicular issues, pain going down his legs, etc.; he has treated with Dr. Jones, Dr. Poletti, and other physicians; and he has received treatment in the form of injections, medications, at least two operations, blocks, and a TENS unit. See H.T., p. 100. The claimant did not recall whether he told Dr. LaMotta he had treatment between 1983 and 2014. See H.T., p. 105.

In addressing his current issues with his right leg, the claimant admitted he testified in his deposition that he did not have any prior issues with his right leg. See H.T., p. 106. He then admitted this testimony conflicts with the medical records indicating he complained of severe right side low back, buttock and right lower extremity pain in 2010, and had a motor vehicle accident in 1992 that resulted in pain radiating down both legs. See H.T., pp. 110-112.

The claimant confirmed a medical report from October 13, 1992 indicates he had pain in his left hip that radiated down his left leg and foot, his back pain still hurts with radiation down his left leg. See H.T., p. 114; Defendants' APA # 1, p. 10. The claimant was also shown a record from Dr. Epstein from 1993 in which he was given a 20% impairment rating of his lumbar spine, which he stated he did not remember receiving. See H.T., p. 115-16; Defendants' APA # 1, p. 26. The claimant read aloud from that record, confirming Dr. Epstein opined "it is possible [claimant's] condition will worsen in the future requiring one or more disc surgeries and perhaps an alteration in his impairment rating to either region." See H.T., p. 116; Defendants' APA # 1, p. 26.

The claimant further confirmed he treated with Denmark Medical Center from 2001 to 2005 for pain radiating down his left leg, neuropathy and chronic back pain, and treating with pain medication. See H.T.,

p. 117; Defendants' APA # 1, pp. 27-37. He confirmed he began treating with Dr. Jones in 2006 who continued to prescribe him the same medications until he went back to Dr. Poletti's office in 2010. See H.T., p. 117. The claimant confirmed he was aware Dr. LaMotta testified during his deposition he did not know anything about this prior treatment. See H.T., p. 118.

In discussing the problems the claimant was having that necessitated surgery with Dr. Poletti in March 2014, such as an increase in the herniation of his disc and a foot drop in March 2014, the claimant was asked if these issues were caused by an accident at work. See H.T., p. 132. The claimant said his back issues were brought on by working too much. See H.T., p. 133. He said he did not file a workers' compensation claim because he was "working through the whole thing" and that he "worked consistently." See H.T., p. 133. However, he also confirmed he was out of work for several months with back pain in 2010. See H.T., p. 133.

The claimant confirmed that since his surgery in March 2014, he has been wearing a brace that Dr. Poletti prescribed for his left foot drop from time to time. See H.T., p.135. The claimant explained that following his surgery in march 2014, his left foot drop had improved to the point where he was not wearing the brace much, but after his fall at SCANA, he started wearing it again. See H.T., p. 138. The claimant was shown a document secured from Dr. Hutcheson in which the doctor indicated the claimant started wearing the brace only after his fall in October 2014. See H.T., p. 136. The claimant was unaware that because of the inaccuracy of this indication Dr. Hutcheson had withdrawn a previously completed questionnaire in which he opined the left foot drop was caused by his fall in October 2014. See H.T., p. 137.

Next, the claimant confirmed he testified he was having impotence issues, but confirmed that according to the medical records, he was having similar issues all the way back to 1992 that would come and go. See H.T., p. 78, 119; Defendants' APA #1, p. 13. He also confirmed he told Dr. Jones in 2006 he was having issues with impotence, but declined a prescription for Viagra. See H.T., p. 120; Defendants' APA #

1, p. 37. He confirmed he took either Levitra or Cialis as prescribed by Dr. Jones periodically from 2008 to 2012 and experienced issues impotence during that period. See H.T., p. 121; Defendants' APA #1 pp. 41-58. Furthermore, the claimant confirmed that since 2003 he has been complaining of issues with insomnia and has consistently treated with Ambien. See H.T., p. 122.

The claimant then testified regarding his alleged accident on October 14, 2014. The claimant testified no one witnessed his fall on October 14, 2014, and testified he did not make any complaints of back pain on that date. See H.T., p. 139. He also confirmed there is an email from Anthony Miles to Terry Seagle, the safety coordinator, confirming there was no mention of back pain. See H.T., p. 139. The claimant was reminded he testified he went to the doctor following his fall because he was experiencing a cold sensation on his left side, but confirmed he has had that sensation previously, but not in a long time. See H.T., p. 123-24. He stated he began experiencing symptoms from his fall approximately three days after the alleged accident, or around October 17, 2014. See H.T., pp. 124, 140.

The claimant was then asked what day-to-day activities caused aggravations to his back, and he said following surgery, nothing aggravated it. See H.T., p. 140. He was then asked if coughing ever aggravated his back pain and he confirmed that sometimes if his back was already bothering him, coughing might make it worse. See H.T., p. 141. He confirmed that while the pain in his back had lessened since his surgery in March 2014, the morning of his fall he was still experiencing some back issues and was taking medication. See H.T., p. 142. The claimant then testified he read the portion of Dr. LaMotta's deposition where LaMotta testified coughing could aggravate the claimant's prior back condition. See H.T., p. 145. In that vein, the claimant confirmed going to a pulmonologist, Dr. Dan Love, on October 17, 2014, with bronchitis, shortness of breath, persistent coughing and chronic obstructive pulmonary disease. See H.T., pp. 147-48. He confirmed he had been treating since September of 2014 for a persistent cough. See H.T., p. 148. The claimant stated the coughing could not have caused the aggravation of his back condition because he would have known when it happened. See H.T., p.149. The claimant, however, was reminded

that he testified his back pain did not appear after his alleged accident for three days, and acknowledged that Dr. LaMotta testified his back condition should have immediately hurt after his alleged accident. See H.T., pp. 152-153.

The claimant was shown letters his attorney sent to Dr. Hutcheson, Dr. Lind and Dr. LaMotta, prior to their IMEs. See H.T., p. 158. He agreed the letters contain a couple of paragraphs describing the accident and then a several page description of each doctor's report from August 6, 2014 through December of 2015. See H.T., p. 158. The claimant then agreed the letters omit any mention of the appointment with Dr. Poletti's office on October 15, 2014. See H.T., p. 160. The claimant stated he was unaware that Dr. LaMotta, Dr. Lind, and Dr. Hutcheson, all agreed that it was strange or odd that the October 15, 2014 report was not included in the letters. See H.T., p. 160.

The claimant was shown a report from an appointment with Dr. Rames in which the claimant reported his urinary incontinence problems began around May of 2015. See H.T., p.162; Claimant's APA # 4, p.18. However, the claimant was informed the reports from Dr. Poletti's office from May of 2015 to May of 2016, state he denied any loss of bowel or bladder function. See H.T., p. 164. The claimant said that the reports were incorrect and that he did tell Dr. Poletti's office about his urinary incontinence issues. See H.T., p. 164. The claimant was informed the reports from Lane Tuggle (Dr. Poletti's physician assistant) record the complaint about his urinary incontinence issues – that he did not report any. See H.T., p. 165. The claimant said those reports were incorrect as well. See H.T., p. 166. The claimant was informed Dr. LaMotta stated in his deposition that it is the job of an orthopedic surgeon to ask someone in the claimant's condition if they are having issues with urinary incontinence or bladder issues. See H.T., p. 167. According to the claimant, none of those doctors ever asked him about his urinary issues and therefore the reports must all be incorrect. See H.T., p. 168.

The claimant confirmed he was aware Dr. Hutcheson, who he saw in March 2016, opined he would need medication, a foot brace, injections, physical therapy, x-rays and MRI's of his back for the rest of his

life, all because of his alleged work accident. See H.T., p.173. However, the claimant confirmed he has actually been receiving that form of treatment for the last thirty years. See H.T., p. 173. The claimant said that while he read Dr. LaMotta's deposition, he was not aware that Dr. LaMotta opined the claimant would have needed the aforementioned continued treatment regardless of whether he fell in October 2014. See H.T., p. 174. Finally, the claimant confirmed Dr. Hutcheon opined the things keeping the claimant from returning to work were the foot drop, leg weakness, and urinary issues, but acknowledged the leg weakness and foot drop pre-existed the fall. See H.T., pp. 176-177. He also testified his leg weakness was improving until the fall. See H.T., pp. 175-77. Furthermore, the claimant testified that since his fall, his medications increased from 2 to 6 and he started using pain patches. See H.T., p. 181. The claimant also confirmed he never told Dr. Lind about his sleep apnea and insomnia dating back to 2006 nor his extensive treatment with Ambien. See H.T., p. 177. The claimant testified that while he had pre-existing problems, he had always gone back to work. See H.T., p. 181. The claimant testified that he started receiving long term disability and Social Security Disability following his fall. See H.T., pp. 182-86.

B. APA SUBMISSIONS:

1. Medical Evidence

The claimant began reporting back pain as early as April 4, 1979 to Dr. Robert Jones. See Defendant's APA #1, p. 6 (see also APA #1, pp. 8-9). He was scheduled for a surgical rachiotomy at L4-5 with disc excision on the left on August 3, 1987. See Defendant's APA #1, p. 19. In October 1987 Dr. Franklin M. Epstein provided the claimant with permanent 40-pound lifting restrictions. See Defendant's APA #1, p. 20. When subsequently advised by the claimant that his employer could not accommodate these restrictions, Dr. Epstein reported "I understand his problem but that I cannot recommend that he go back to unrestricted activities with the type of problem that he had." See Defendant's APA #1, p. 21. On October 13, 1992, the claimant reported pain in his left hip radiating down his left leg and foot and continued lumbar pain radiating down his left leg. See Defendant's APA #1, p. 10. The records from

December 4, 1992 indicate left lumbar radiculopathy due to disc herniation at L4-5 and note "previous disc surgery – 1985, lumbar spine, level uncertain." See Defendant's APA #1, p. 24. That record also notes intermittent severe pain running down his left leg into the foot. See Defendant's APA #1, p. 24. On December 22, 1992, he described that pain as burning and numbness in the left buttock and thigh. See Defendant's APA #1, p. 11. On January 8, 1993, Dr. Epstein opined the claimant sustained "a 20% impairment of the lumbar spine," and noted "it is possible that his conditions will worsen in the future requiring one or more disc excisions surgically and perhaps an upward alteration in his impairment ratings." See Defendant's APA #1, p. 26. His radiating numbness and pain continued according to his medical records from February 19, 1993, July 19, 1994 and September 30, 1994. See Defendant's APA #1, p. 12-14. On September 30, 1994, Dr. Epstein reports "sexual function has decreased – he cannot maintain an erection which has affected his sexual relationship by at least 50%." See Defendant's APA #1, p. 13.

An MRI of the claimant's lumbar spine from May 11, 2001, revealed large focal left parasagittal L4-5 disc herniation, a small left parasagittal L1-2 disc herniation, and a small L5-S1 disc herniation. See Claimant's APA #7, p. 76. It also noted middle to moderate diffuse spinal stenosis greatest at L3-4. See Claimant's APA #7, p. 76. On May 31, 2001, Dr. Poletti noted the claimant had a job-related injury with low back pain, buttocks, and left leg pain and placed him on light duty. See Claimant's APA #7, p. 79. In the in-take questionnaire the claimant noted that coughing/sneezing aggravates his back pain. See Claimant's APA #7, p. 70. Dr. Poletti diagnosed him with a "large recurrent disc herniation at L4-5. See Claimant's APA #7, p. 79. On June 7, 2001, Dr. Leonard Forrest gave the claimant a L5 transforaminal injection. See Claimant's APA #7, p. 80. Dr. Poletti noted in a record from July 29, 2002, that the claimant followed up after a left L-5 selective nerve root block approximately one-year prior, complaining of pain into his left leg, positive straight leg raising, and EHL weakness. See Claimant's APA #7, p. 81. He had a lumbar steroid epidural injection and selective nerve root block on July 30, 2002. See Claimant's APA #7, p. 83. Dr. Poletti answered a questionnaire on August 14, 2002, stating the aggravation of the claimant's pre-existing

degenerative disc disease as a result of his work injury on November 17, 2001, caused him to suffer "substantially greater lost time from work" and "substantially greater permanent disability." See Defendant's APA #2, p. 67. On September 30, 2002, he returned to Dr. Poletti complaining that the injection helped but not completely as he was still having back, buttocks, hip and leg pain. See Claimant's APA #7, p. 85.

According to a record from Denmark Medical Center from September 12, 2002, the claimant reported a cold sensation and back and leg pain. See Defendant's APA #1, p. 29. The records also note "neuropathy left foot." See Defendant's APA #1, p. 29. On February 28, 2003, the claimant's wife called Dr. Jones's office requesting an appointment for back pain which he rated at a 10/10. See Defendant's APA #1, p. 17. He had another injection on March 6, 2003 performed by Dr. Forrest. See Claimant's APA #7, p. 86. On September 22, 2003, the claimant complained of insomnia and was prescribed Ambien to treat for this issue. See Defendant's APA #1, p. 31. His Ambien prescriptions were continued through 2004 along with Lortab for his chronic back pain. See Defendant's APA #1, pp. 32-34. He continued to complain of impotence on February 23, 2004, but refused a prescription for Viagra. See Defendant's APA #1, p. 37.

On June 24, 2004, the claimant returned to Dr. Poletti complaining of increased pain in his left leg and back. See Claimant's APA #7, p. 87. At that visit, Dr. Poletti gave him an impairment rating of 10% relative to radiculopathy and provided him with permanent restrictions to avoid heavy lifting, twisting, pushing and pulling. See Claimant's APA #7, p. 87.

On September 30, 2004, the records indicate his sexual function decreased and he could not maintain an erection. See Defendant's APA #1, p. 13. On February 23, 2006, the claimant refused a prescription for Viagra despite continued complaints of impotence. See Defendant's APA #1, p. 37. He was prescribed Ambien and Lortab again on September 21, 2006, by Barnwell Family Medicine. See Defendant's APA #1, p. 38. Records from Barnwell Family Medicine from October 16, 2008 indicate he was continuing to treat with Lortab for low back pain and Levitra for "impotence of organic origin." See

Defendant's APA #1, p. 42. These prescriptions and diagnoses continued through January of 2014. See Defendant's APA #1, pp. 41-65.

On February 19, 2010, the claimant returned to Southeastern Spine complaining of severe right-sided low back, buttock, and right lower extremity pain. See Claimant's APA #7, p. 89. He described the pain as intense, sharp, stabbing and shooting down his right lower extremity and noted he took Lortab approximately five times a day. See Claimant's APA #7, p. 89. This report noted "his new acute symptoms are now right-sided and are progressively worsening." See Claimant's APA #7, p. 89. Dr. Forrest performed a right L4-5 Lumbar Epidural Steroid Injection on that date as well. See Claimant's APA #7, p. 88.

Dr. Poletti saw him one week later on February 23, 2010, and noted an MRI scan showed lateral recess stenosis at the L4-5 level, some disc degeneration at the L5-S1 level, postoperative changes extensively at the L4-5 level on the left with a calcite recurrent herniation on the left at L4-5. See Claimant's APA #7, p. 93. He also noted the claimant's reports of left sided pain. See Claimant's APA #7, p. 93.

On March 1, 2010, he treated with Low Country Health Care System complaining of lower back pain, stating he received epidural injections from the week before, and that he treats with 2 to 3 Lortab per day. See Defendant's APA #1, p. 44. This record notes his problem area is L4-5 and diagnoses him with impotence of organic origin, intervertebral lumbar disc disorder with myelopathy and insomnia with sleep apnea. See Defendant's APA #1, p. 44. On March 22, 2010, he continued to complain of low back pain and noted he had been out of work since February 15, 2010, due to low back pain. See Defendant's APA #1, p. 47. He also reported excruciating radiating pain into his right leg. He was prescribed Soma, more Lortab, and a TENS unit. See Defendant's APA #1, p. 49. He continued taking those medications through 2012 with the same diagnoses. See Defendant's APA #1, p. 49-58. He returned to work with the defendant on or about April 13, 2010, after more than 4 months of absence. See Defendant's APA #1, p. 52.

On October 12, 2012, he returned to Southeastern Spine Institute complaining of a return of symptoms with pain in his low back radiating down his left leg and numbness in his left toes. See Claimant's APA #7, p. 94. In the in-take questionnaire the claimant again noted that coughing and sneezing aggravates his back pain. See Claimant's APA #7, p. 64. A MRI revealed disc bulging with significant stenosis at L3-4, L4-5 and L5-S1. See Claimant's APA #7, p. 95. Dr. Forrest gave him a lumbar epidural steroid injection at L4-5 on the same date. See Claimant's APA #7, p. 96. On December 27, 2013, the claimant reported the epidural injection worked well but that his pain started to return with no injury or trauma to explain the return of the symptoms. See Claimant's APA #7, p. 99. He was given another lumbar epidural steroid injection at L4-5. See Claimant's APA #7, p. 101. On January 24, 2014, he reported to his primary physician having "excruciating back and left leg pain ... with new symptoms of lower leg weakness." See Defendant's APA #1, p. 64. He was referred to back to Dr. Poletti at that time. See Defendant's APA #1, p. 65.

He returned to Southeastern Spine Institute on February 21, 2014 stating that the nerve root block from December 27, 2013 did not give him any relief. See Claimant's APA #7, p. 102. He was referred for a repeat MRI which revealed pathology at L4-5 and L5-S1. See Claimant's APA #7, p. 104. He was given another injection and told he may require surgical intervention if the injection was not effective. See Claimant's APA #7, pp. 104-05. He followed up with Dr. Poletti on March 3, 2014 who noted he had an increase in his disc hemiation with marked compression against the S-1 root and partial foot drop, and advised him he needed surgery. See Claimant's APA #7, p. 108. Of note, Dr. Poletti advised the claimant the surgery would not help him with the back pain. See Claimant's APA #7, p. 108.

Dr. Poletti performed a laminectomy and discectomy at L4-5 and L5-S1 on March 7, 2014, noting he had chronic and worsening low back pain. See Defendant's APA #3, p. 71, Claimant's APA #7, pp. 111, 116-17. He noted the claimant had more acute onset hip and leg pain on the left side and increasing pain radiating from his buttock down into his leg and foot, diminishing his ability to walk longer distances. See

Defendant's APA #3, p. 71. The claimant returned to Southeastern Spine Institute on April 30, 2014, for a postoperative visit and noted numbness in his left leg and was referred to physical therapy. See Claimant's APA #7, p. 121. He followed up again on June 11, 2014, and August 6, 2014, and noted continued weakness and numbness in his left foot, but with improvement. See Claimant's APA #7, pp. 122-23. He was prescribed Neurontin for his left lower extremity numbness. See Claimant's APA #7, p. 123.

On September 23, 2014, the claimant visited Singleton Health Center, complaining of breathing problems and was diagnosed with bronchitis and pneumonitis and a cough. See Defendant's APA #4, p. 77-78.

On October 15, 2014, the day after the claimant's alleged fall, he treated with Dr. Poletti's PA, Lane Tuggle, for a follow up appointment. See Claimant's APA #7, p. 125. He reported "minimal pain complaints," and said he "feels greatly improved since the surgery." See Claimant's APA #7, p. 125. The claimant presented to his pulmonologist, Dan Love, with "cough, congestion, wheezing and striking shortness of breath." See Defendant's APA #5, p. 89. The exam revealed "severe restriction with mild obstruction and a severe reduction in the diffuse capacity." See Defendant's APA #5, p. 90. He returned on October 21, 2014, with a persistent but slightly improved cough. See Defendant's APA #5, p. 93. He returned to Lane Tuggle on October 22, 2014, and reported a slip down the stairs from a few days prior. See Claimant's APA #7, p. 127. He reported his left leg felt cold and back pain lateralizing down to the right. See Claimant's APA #7, p. 127. He followed up on October 29, 2014, and Dr. Poletti opined he had a recurrent herniation lateralizing to the left at 4-5. See Claimant's APA #7, p. 129. He received an L3-4 lumbar epidural steroid injection on November 12, 2014 with a diagnosis of lumbar radiculitis. See Claimant's APA #7, p. 132. On January 7, 2015, Dr. Poletti noted the claimant was making significant progress after his epidural injection and recommended he only do sedentary activity. See Claimant's APA #7, p. 135. On January 23, 2015, Dr. Poletti reported the claimant's problems were the result of his fall on October 14, 2014. See Claimant's APA #7, p. 138. On March 23, 2015, the claimant reported continued

back and leg pain, but denied loss of bowel function. See Claimant's APA, p. 140. On May 29, 2015, the claimant completed a Back Conditions Disability Benefits Questionnaire for the VA Hospital. The report noted continued back complaints after sustaining "a back injury while moving a nitrogen tank while in the service . . . he continues to have daily back pain, and has required surgery x2 for his disc disease." See Defendant's APA #6, p. 95. Nothing about his work-related injury is mentioned in this questionnaire.

On June 17, 2015, the claimant reported to Dr. Poletti that he was requiring Norco for pain but was not taking it daily, and did not have bowel or bladder issues. See Claimant's APA, p. 142. In August 2015, he denied any worsening of his symptoms and again denied bowel or bladder issues. See Claimant's APA, p. 144. On October 20, 2015, Dr. Poletti report the claimant "continues to have difficulty with ambulation secondary to foot drop on the left and has been wearing an ankle foot orthotic since his surgery [in March 2014]." See Claimant's APA, p. 145. He denied any bowel or bladder issues. See Claimant's APA, p. 145. On December 21, 2015, the claimant reported his symptoms were stable. See Claimant's APA, p. 147.

On March 16, 2016, Dr. Nicholas Lind conducted an independent psychological evaluation at the request of the claimant's attorney. In preparation for the IME a letter was authorized and provided to Dr. Lind on March 7, 2016. In the letter, the claimant's attorney references and summarizes every report Dr. Poletti's office except for one, the report from October 15, 2014. See Defendant's Exhibit C. Dr. Lind noted the claimant did not have mental health treatment prior to the alleged accident, and has since been prescribed anti-depressants and sleep medications. See Claimant's APA #6, p. 55. He causally-related related his "emotional symptoms" to the alleged accident, noted he was not at MMI, and recommended additional treatment. See Claimant's APA #6, p. 56. He further noted his psychological problems did not inhibit his ability to work. See Claimant's APA #6, p. 57.

On March 21, 2016, the claimant underwent a Functional Capacity Evaluation performed by Tracy Hill, P.T., at the request of counsel for the claimant. The FCE revealed the claimant was capable of limited sedentary to limited light work. See Claimant's APA #5, p. 34.

On March 22, 2016, Dr. Hutcheson conducted an Independent Medical Evaluation at the request of the claimant's attorney. In preparation for the IME a letter was authorized and provided to Dr. Hutcheson on February 25, 2016. In the letter, the claimant's attorney references and summarizes every report Dr. Poletti's office except for one, the report from October 15, 2014. See Defendant's Exhibit D. In the IME report, Dr. Hutcheson reported the claimant was "doing well in his recovery per records until he fell at work." See Claimant's APA #4, p. 22. Dr. Hutcheson reported that "since the fall the claimant "now wears AFO brace on his left foot due to foot drop." He further reports the claimant's left leg numbness and re-herniated disc are new since the fall." See Claimant's APA #4, p. 24. Dr. Hutcheson reports that because of the AFO brace, leg weakness and urinary issues it is unlikely he will be employable in any capacity. See Claimant's APA #4, p. 25. Dr. Hutcheson completed a Form 14B on July 12, 2016, wherein he provided the claimant with 26% whole person impairment and 1% left lower extremity impairment, as well as various modalities for recommended future medical treatment. See Claimant's APA #4, p. 27. He also completed a medical questionnaire indicating the impairment to the left lower extremity was due to the foot drop caused by his alleged injury. See Claimant's APA #4, pp. 29-31.

On April 8, 2016, one month prior to his visit with a urologist, the claimant returned to Dr. Poletti and reported "significant improvement," no bowel or bladder issues, and declined a refill on his medications. See Claimant's APA, p. 148.

On May 27, 2016, the claimant was evaluated, at the request of his attorney, by urologist Dr. Ross Rames. Dr. Rames noted the claimant reported urinary urgency and urge incontinence, erectile dysfunction, and ejaculatory dysfunction, which he noted worsened following his back injury and had been ongoing for one year. See Claimant's APA #3, p. 18. There is no mention of similar prior problems in the report. Dr. Rames reported the claimant's problems, including erectile dysfunction, urinary urgency, and fecal urgency "appeared and worsened following his back injury." See Claimant's APA #3, p. 20. He assigned 24% impairment for the bladder and 9% for sexual dysfunction.

On July 8, 2016, the claimant reported to Dr. Poletti a worsening of the numbness and tingling in his bilateral legs with a "new onset of right lower extremity weakness." See Claimant's APA, p. 149. He declined any sort of inciting event or trauma.

On September 8, 2016, Dr. LaMotta conducted an independent medical evaluation at the request of the claimant's attorney. In preparation for the IME a letter was authorized and provided to Dr. LaMotta on June 22, 2016. In the letter, the claimant's attorney references and summarizes every report Dr. Poletti's office except for one, the report from October 15, 2014. See Defendant's Exhibit E. In the IME report, Dr. LaMotta references several of Dr. Poletti's reports from 2014 but does not reference the report from October 15, 2016, the day after the alleged accident. See Claimant's APA #2, p. 12. Dr. LaMotta then reported the claimant had back surgery in 1983 with his next back surgery occurring in 2014, with prior symptoms exclusively on the left side. In his report Dr. LaMotta causally-related the claimant's problems by way of an aggravation of a pre-existing condition. He reported the claimant was at MMI if he did not wish to pursue further surgery with permanent impairment of 24% to the whole person or 27% to the lumbar spine, 24% impairment to the bladder, and 9% impairment related to sexual dysfunction. Dr. LaMotta also referred the claimant for mental health treatment. See Claimant's APA #2, p. 15.

On September 22, 2016, the claimant was evaluated by Joel Leonard, who conducted a vocational assessment. Leonard concluded that the claimant was "totally disabled in a provisional manner with the permanence of such pending his functional status upon his attainment of maximum medical improvement for all conditions, impairments, and disorders causally-related to the alleged workplace injury." Leonard could not provide an opinion on permanent disability due to the fact additional medical treatment was recommended by Dr. Rames. See Claimant's APA #1, pp. 1-11.

On November 3, 2016, Dr. Poletti ordered a repeat MRI with 3-D reformations. On December 22, 2016, Dr. Poletti noted the claimant "had back surgery [in March 2014] and has nerve damage, which requires him to walk with a brace on his leg." He has permanent atrophy and nerve damage with chronic

foot drop. See Claimant's APA #7, p. 151. He opined this condition was unlikely to improve and his disability is permanent. See Claimant's APA #7, p. 151.

Dr. Brett Gunter performed an IME of the claimant on January 18, 2017, at the request of the defendant. See Claimant's APA #9, p. 162. Dr. Gunter opined the claimant's back pain was more severe since the injury and his right leg pain was new since the injury. See Claimant's APA #9, p. 165.

The claimant returned to Dr. Poletti on February 22, 2017 to review an updated MRI, which revealed post-laminectomy changes at L4-5 and L5-S1. See Defendant's APA #2, p. 70. He stated the claimant developed this large disc herniation with a foot drop necessitating microdiscectomy for severe stenosis and a herniation years ago. See Defendant's APA # 2, p. 70.

2. Deposition of Ivan LaMotta, MD

Dr. Ivan LaMotta testified he evaluated the claimant in September 2016. See Deposition of Ivan LaMotta, M.D., p. 5. He confirmed he met with the claimant's counsel prior to his deposition to "go over his IME" and that he was provided an additional medical document from Southeastern Spine institute dated October 15, 2014, during that meeting. See Deposition of Ivan LaMotta, M.D., p. 8. He said he was not sure if he was provided that report prior to the IME in the stack of medical records he was provided, but confirmed there is no mention of it in the summary of prior medical treatment at the beginning of his IME report. See Deposition of Ivan LaMotta, M.D., pp. 9-10; Defendant's Exhibit E. He confirmed if that specific record was intentionally kept from him, he would have questions about it. See Deposition of Ivan LaMotta, M.D., p. 11.

Dr. LaMotta confirmed that according to the records, the claimant had a back herniation in 1983, approximately 33 years before he saw him. See Deposition of Ivan LaMotta, M.D., p. 12. He confirmed his IME report indicates the claimant's next herniation was in March 2014. See Deposition of Ivan LaMotta, M.D., p. 12. According to Dr. LaMotta, his understanding of the 31-year-period between 1983 and 2014 was that the claimant was doing better up until the point that he re-herniated in March 2014 and needed

surgery. See Deposition of Ivan LaMotta, M.D., p. 12. He also testified that according to the records he received, the claimant's issues were predominantly on his left side before October 2014. See Deposition of Ivan LaMotta, M.D., p. 13. He said this opinion was based on what the claimant told him rather than a review of all of the records from 1983. See Deposition of Ivan LaMotta, M.D., p. 13. Specifically, he said "if [the claimant] tells us that he wasn't having any problems with the right side, then we have to believe him." See Deposition of Ivan LaMotta, p. 13. Dr. LaMotta testified he was not aware of the report from December 4, 1992, indicating the claimant re-herniated his L4-5 disc ten years after his initial surgery. See Deposition of Ivan LaMotta, M.D., p. 15; Defendant's APA #1, p. 24. Likewise, he was not aware the claimant was assigned a 20% impairment of the lumbar spine in January 1993 prior to the deposition. See Deposition of Ivan LaMotta, M.D., p. 16; Defendant's APA #1, p. 26. He confirmed a record from March 22, 2010, indicated the claimant had back pain keeping him out of work, radiating into the right leg. See Deposition of Ivan LaMotta, M.D., p. 19; Defendants' APA # 1 p. 44. Dr. LaMotta confirmed Dr. Poletti assigned the claimant an impairment rating of 10% in 2004. See Deposition of Ivan LaMotta, M.D., p. 20. He confirmed that records from Southeastern Spine Institute from 2010 indicate there was still a disc herniation at L4-5. See Deposition of Ivan LaMotta, M.D., p. 21; Claimant's APA p. 90.

He reviewed a record from March 3, 2014, and confirmed it indicates the claimant had foot drop, another herniation at L4-S1. See Deposition of Ivan LaMotta, M.D., p. 24; Claimant's APA p. 108. Dr. LaMotta confirmed the claimant has had a long history of continuous lumbar spine problems including multiple herniations over time, of which he was not aware prior to the deposition. See Deposition of Ivan LaMotta, M.D., p. 24. He also confirmed the records indicate the claimant was having significant right-sided symptoms during that time. See Deposition of Ivan LaMotta, M.D., p. 25. He stated that given the years of recurrent herniations, two back surgeries, multiple injections and use of medication, the claimant was extremely prone to redeveloping and worsening of symptoms leading up to his accident in 2014. See Deposition of Ivan LaMotta, M.D., p. 26. He explained back herniations can be caused by things such as a

simple twist while sleeping, sneezing, or coughing. See Deposition of Ivan LaMotta, M.D., p. 30. Dr. LaMotta stated that the difference between the claimant's current level of impairment and his level of impairment prior to his accident was his urinary and bladder incontinence issues. See Deposition of Ivan LaMotta, M.D., p. 29.

In reviewing the medical report from October 15, 2014, Dr. LaMotta confirmed the report indicates the claimant was doing well, greatly improved since surgery, in no acute distress, had a normal gait, and was negative for straight leg raise. See Deposition of Ivan LaMotta, M.D., p. 32. He stated that he would have expected someone with the claimant's pre-existing condition to have experienced immediate pain following a fall. See Deposition of Ivan LaMotta, M.D., p. 34. Dr. LaMotta testified the report from October 15, 2014 "surprised" him given the nature of the claimant's pre-existing problems. See Deposition of Ivan LaMotta, p. 34.

Dr. LaMotta testified he would have a difficult time believing the claimant if he was one of his patients due to the inconsistency between the records and what the claimant told him. See Deposition of Ivan LaMotta, M.D., p. 43. Specifically, he testified "[b]ecause of his record, you know, it – he – he has stated that his back was doing great, which is not the case; he had said that he never had any right lower extremity symptoms, which is not true, so it would be a little hard to believe what causes what in him." See Deposition of Ivan LaMotta, M.D., p. 43. He opined that after reviewing the claimant's previous records, he believed the symptoms he was experiencing were more likely than not just continuing deterioration of his lumbar spine and a worsening of his lumbar spine condition based upon the natural history of his pathology and not necessarily the alleged fall or any other cause, which "may be necessarily why he doesn't necessarily complain of pain right after his fall on 10-15, but he alleges that he's doing fine perhaps that particular day." See Deposition of Ivan LaMotta, M.D., pp. 44-45. Dr. LaMotta confirmed it was not unexpected that the claimant be in his present condition regardless of an accident, and he would not be

surprised to learn that the left and right leg symptoms have waxed and waned over the years as well, given the nature of his injury. See Deposition of Ivan LaMotta, M.D., pp. 44-45.

Dr. LaMotta reviewed the report from Dr. Rames and confirmed the report indicates the claimant has had bladder problems since May of 2015. See Deposition of Ivan LaMotta, M.D., pp. 46, 47. He confirmed Dr. Rames' report also indicates the claimant's erectile dysfunction was the result of this alleged injury. See Deposition of Ivan LaMotta, M.D., p. 46. Dr. LaMotta reviewed reports from Dr. Poletti from August, October and December of 2015 in which the claimant denied any loss of bowel and bladder function or paralysis. See Deposition of Ivan LaMotta, M.D., p. 48. He then reviewed a report from April 2016 in which the claimant once again reported no bladder or bowel issues – which would have been approximately one month prior to his appointment with Dr. Rames at which he claimed he had bladder issues for a year. See Deposition of Ivan LaMotta, M.D., p. 49. Dr. LaMotta noted there was "such an inconsistency . . . what he reports to one doctor and doesn't report to another." See Deposition of Ivan LaMotta, M.D., p. 49. Dr. LaMotta testified that Dr. Rames' opinion concerning the claimant's bladder issue was based upon the claimant's subjective report. See Deposition of Ivan LaMotta, M.D., p. 50.

In discussing the claimant's erectile dysfunction, Dr. LaMotta was shown a report from the claimant's family physician from October 2008 which notes the claimant was prescribed Levitra. See Deposition of Ivan LaMotta, M.D., p. 51. Dr. LaMotta confirmed Levitra is prescribed for erectile dysfunction and confirmed the claimant was diagnosed in that report with impotence of organic origin. See Deposition of Ivan LaMotta, M.D., p. 51. He confirmed another report from the claimant's family doctor from January 2012 also diagnosed him with impotence organic origin and Dr. LaMotta confirmed he had that diagnosis for approximately three years. See Deposition of Ivan LaMotta, M.D., p. 52. Dr. LaMotta confirmed that report indicated the claimant had been taking Cialis since February 2010. See Deposition of Ivan LaMotta, M.D., p. 52. He opined these reports were inconsistent with Dr. Rames' statement that the

claimant's sexual dysfunction appeared as a result of his fall in October 2014. Dr. LaMotta continued his testimony as follows:

Q: Doctor, does it concern you when you are asking to give an IME and you are not given all the medical records that may be relevant to what you are evaluating?

A: Well, it - it obviously puts me in an awkward position because my IME is not conclusive enough since you've presented so many other medical records that point in a different direction.

See Deposition of Ivan LaMotta, M.D., p. 53.

Dr. LaMotta was asked if he was aware that prior to the injury the claimant was taking Neurontin and Norco, was wearing a foot brace, had multiple injections, two back surgeries, and was using a TENS unit. See Deposition of Ivan LaMotta, M.D., p. 53. Dr. LaMotta stated he was unaware the claimant was using a TENS unit nor that he'd had multiple injections prior to completing his IME. See Deposition of Ivan LaMotta, M.D., p. 53. He confirmed the modalities such as the medications, a foot brace, periodic injections and a TENS unit are all things that the claimant may have needed going forward following his surgery in March 2014 regardless of whether he had the alleged fall. See Deposition of Ivan LaMotta, M.D., p. 54.

He was shown a statement from Dr. Hutcheson's report which indicated that since the claimant's fall, he "now wears AFO brace, left foot, due to foot drop, left leg numbness is new since . . . fall, has four out of five at L4-L5, recurrent pain since fall." Dr. LaMotta testified that statement was inaccurate. See Deposition of Ivan LaMotta, M.D., p. 55. Dr. LaMotta was advised Dr. Hutcheson opined the claimant would be unemployable due to his AFO brace, left leg weakness, and urinary issues, then testified the claimant actually had a leg brace and leg weakness prior to the accident, when he was working. See Deposition of Ivan LaMotta, M.D., p. 56. Dr. LaMotta confirmed it is questionable that the urinary issues are even a result of this accident based upon the information he was shown during his deposition. See Deposition of Ivan LaMotta, M.D., pp. 56-57.

Dr. LaMotta opined the claimant's MRI's from February 2014 and October 2014 were very similar. See Deposition of Ivan LaMotta, M.D., p. 64. He stated he could not say to a reasonable degree of medical certainty that a fall in October 2014 caused a worsening of the claimant's symptoms "because there is ample medical evidence of the claimant's back pain waxing and waning, alternating leg pain with intermittent symptoms of both lower extremities, in addition to sexual dysfunction as early as 2008." See Deposition of Ivan LaMotta, M.D., p. 66. Dr. LaMotta then testified that Dr. Poletti's testimony that the right leg pain was new since the injury "is not true." See Deposition of Ivan LaMotta, M.D., p. 66.

In considering the claimant's psychological symptoms, Dr. LaMotta testified the claimant "could have used psychiatric help long ago because of the chronicity of his symptoms," and that his psychological issues were likely the result of his spine condition rather than any type of injury. See Deposition of Ivan LaMotta, M.D., p. 67.

Dr. LaMotta confirmed his testimony to a reasonable degree of medical certainty was that he could not say whether the claimant's symptoms were the natural progression of his preexisting condition, caused by coughing, or caused by an alleged fall at work. See Deposition of Ivan LaMotta, M.D., pp. 68-69. He stated he could not give that opinion partially because of the inconsistency in the claimant's statements to his physicians. See Deposition of Ivan LaMotta, M.D., p. 69. When asked if Dr. Poletti was in a better position to address the claimant's prior symptoms as he was his long-time treating physician, Dr. LaMotta responded "he's the one that is most familiar with the patient because he has been seeing him for several years." See Deposition of Ivan LaMotta, M.D., pp. 60-61.

3. Deposition of Dr. Steven C. Poletti, MD

Dr. Poletti confirmed he began treating the claimant in 2001. See Deposition of Steven Poletti, M.D., p. 5. He stated he has been treating the claimant on and off for his lumbar spine for approximately fifteen years. See Deposition of Steven Poletti, M.D., p. 11. He confirmed that on June 24, 2004, he gave the claimant a 10% impairment rating to his lumbar spine due to a recurrent disc herniation at L5-S1. See

Deposition of Steven Poletti, M.D., p. 12. Dr. Poletti confirmed the claimant's leg pain could alternate from side to side and that on at least one occasion he treated him for right leg pain. See Deposition of Steven Poletti, M.D., p. 12. He stated he removed a disc herniation at L4-5 and L5-S1 on the claimant on March 7, 2014. See Deposition of Steven Poletti, M.D., p. 14. He opined that following the surgery he performed, the claimant's impairment rating would have been 15%. See Deposition of Steven Poletti, M.D., p. 16.

He confirmed the claimant came to his office on October 15, 2014, and saw his physician assistant, Lane Tuggle. See Deposition of Steven Poletti, M.D., p. 16. According to the notes from that visit, Dr. Poletti confirmed the claimant "had minimum pain complaints on that day, that he felt improved from the surgery, was continuing to have some aspect of numbness in the left foot but feels a slight improvement." See Deposition of Steven Poletti, M.D., p. 17. Dr. Poletti stated it appeared to him the claimant was doing very well following his surgery in March and that there was no mention of a work injury from the day before, October 14, 2014. See Deposition of Steven Poletti, M.D., p. 17. He reviewed the next report from his office from October 22, 2014 and confirmed the claimant reported work accident to Lane Tuggle during that visit. See Deposition of Steven Poletti, M.D., p. 18. He described his symptoms as increased weakness and a cold feeling in his left leg, low back pain lateralizing to the right, and difficulty walking. See Deposition of Steven Poletti, M.D., p. 18.

Dr. Poletti confirmed he saw the patient on October 29, 2014 and that the claimant had increasing right-side symptoms post-accident. See Deposition of Steven Poletti, M.D., p. 19. He also confirmed that with the claimant's pre-existing condition he could develop new symptoms without a trauma or accident. See Deposition of Steven Poletti, M.D., p. 19. He confirmed his opinion causally relating the claimant's symptoms to his alleged work accident was based upon the claimant's statements. See Deposition of Steven Poletti, M.D., p. 20. He ordered an MRI on October 29, 2014, which revealed a disc herniation migrating downwards. See Deposition of Steven Poletti, M.D., p. 21. He stated that this result could be caused by trauma or it could be caused by "activities of daily living." See Deposition of Steven Poletti,

M.D., p. 21. Dr. Poletti testified that it was not unusual for someone to have a fall and it take a couple of days for an onset of symptoms. See Deposition of Steven Poletti, M.D., p. 22. Dr. Poletti was asked to assume that the fall was unwitnessed and unreported until after the claimant presented to him. See Deposition of Steven Poletti, M.D., p. 23. Dr. Poletti replied that he has always known the claimant to be genuine in his clinical complaints. See Deposition of Steven Poletti, M.D., p. 23.

Dr. Poletti was shown a report from October 17, 2014, when the claimant saw Dr. Dan Love, a pulmonologist. See Deposition of Steven Poletti, M.D., p. 24. The report stated the claimant had history of back pain that is resolved, and makes no mention of a fall or work-related injury. See Deposition of Steven Poletti, M.D., p. 24. Dr. Poletti confirmed his treatment of the claimant since his surgery in 2014 has involved conservative care and that at this point, if the claimant chooses to not undergo a fusion surgery, he is at MMI with the range of 20% impairment. See Deposition of Steven Poletti, M.D., p. 31. He based the increase in the impairment rating on the claimant's two-level disc involvement, bilateral pain, and weakness. See Deposition of Steven Poletti, M.D., p. 32. Dr. Poletti agreed it was unusual that in the report from October 15, 2014, there was no documentation of a fall from the day before. See Deposition of Steven Poletti, M.D., p. 39.

4. Deposition of Justin Hutcheson, MD

Dr. Hutcheson confirmed the only time he has seen the claimant was for his IME on March 22, 2016. See Deposition of Justin Hutcheson, M.D., p. 5. Dr. Hutcheon testified he was provided with a letter from counsel for the claimant which provided a detailed summary of every report from Southeastern Spine Institute except one, the October 15, 2014 report. See Deposition of Dr. Justin Hutcheson, pp. 15-17; Defendant's Exhibit D. Dr. Hutcheson confirmed that while the note was not in the letter summarized by the claimant's attorney, he was provided the actual note in the medical records sent over to review in preparation for conducting the IME. See Deposition of Justin Hutcheson, M.D., pp. 17 and 72. Upon review of that medical record he acknowledged the report does not mention a work-related injury from the day

before, any aggravation or increase of pain, and essentially looks the same as his last visit with Dr. Poletti's office from August 2014. See Deposition of Justin Hutcheson, M.D., pp. 17-18. Dr. Hutcheson stated he found it "strange" that the letter he received from the claimant's counsel included a summary of every medical report except the report from October 15, 2014. See Deposition of Justin Hutcheson, M.D., p. 18. He agreed it does not make sense that in a report the day after the alleged accident the claimant report he was slightly improved and made no mention of a fall. See Deposition of Justin Hutcheson, M.D., p. 21. He also testified the report from October 15, 2014, would be important in a causation analysis. See Deposition of Justin Hutcheson, M.D., p. 21.

Dr. Hutcheson confirmed he did not conduct any formal psychological testing nor is he qualified to give an expert opinion that the claimant has a psychological injury. See Deposition of Justin Hutcheson, M.D., p. 28. He stated the claimant told him that his foot drop started after his alleged fall. See Deposition of Justin Hutcheson, M.D., p. 31. Dr. Hutcheson testified that based upon this understanding he completed a questionnaire and report indicating his foot drop was caused by the alleged accident. However, upon reviewing multiple reports from Dr. Poletti, Dr. Hutcheson admitted his questionnaire and IME report were "inaccurate" and "inconsistent." See Deposition of Justin Hutcheson, M.D., pp. 33-35, 38.

He confirmed in his IME he rating the claimant as having 26% whole person impairment. See Deposition of Justin Hutcheson, M.D., p. 47. He stated 1% of that was to the left lower extremity which he based upon the claimant's foot drop and various neurological defects on the left side. See Deposition of Justin Hutcheson, M.D., p.51. He confirmed his assignment of 26% whole person impairment was based upon an assumption that the claimant would have a spinal fusion surgery, has significant weakness and atrophy with urologic issues, and cauda equina. See Deposition of Justin Hutcheson, M.D., p.55.

Dr. Hutcheson confirmed the claimant has been diagnosed with erectile dysfunction but stated he was unaware he has had that diagnosis since 2006. See Deposition of Justin Hutcheson, M.D., p. 59. He confirmed he would defer to Dr. Rames as to whether the claimant was employable from a urinary

standpoint and with regard to any urological issues he had. See Deposition of Justin Hutcheson, M.D., p. 60. He also opined the claimant would need a spinal cord stimulator, but conceded the claimant's current treatment of injections, medication, and a TENS unit were providing some improvement. See Deposition of Justin Hutcheson, M.D., p.70. He also conceded he had not seen the claimant in over a year at the time of his deposition. See Deposition of Justin Hutcheson, M.D., p. 70. Dr. Hutcheson indicated that the August 6, 2014 pre-injury physical examination was different than what he observed of the claimant when he evaluated him. See Deposition of Justin Hutcheson, M.D., p. 73. At the time of his IME, Dr. Hutcheson noted significant weakness on the left side with dorsiflexion, positive straight leg raise on the right, bilateral leg weakness, barely able to lift his foot above gravity, loss of reflex in his Achilles, numbness in his left thigh to the foot and right foot, and urinary incontinence issues. See Deposition of Justin Hutcheson, M.D., p. 74.

5. Deposition of Nicholas Lind, PhD

Dr. Lind completed an IME on the claimant on March 16, 2016 and a questionnaire on February 15, 2017. See Deposition of Nicholas Lind, Ph.D., p. 5. He testified he did have the claimant's prior medical records when he evaluated him in March 2016. See Deposition of Nicholas Lind, Ph.D., p. 11. Based upon those records, he stated the claimant has had chronic lower back pain since 1983 with at least two procedures on his lower back for radicular problems as well. See Deposition of Nicholas Lind, Ph.D., p. 13. He confirmed he opined that the psychological issues the claimant was experiencing were the result of chronic pain. See Deposition of Nicholas Lind, Ph.D., p. 14. Dr. Lind stated that when he saw the claimant, the claimant did not divulge the extent of his chronic back issues resulting in two surgeries, his history of sleep problems, or his history of sexual dysfunction. See Deposition of Nicholas Lind, Ph.D., p. 18. He confirmed that information would have been important to assist him in his evaluation. See Deposition of Nicholas Lind, Ph.D., p. 18. He confirmed he received a letter from the claimant's counsel summarizing his medical treatment following his alleged fall on October 14, 2014. See Deposition of

Nicholas Lind, Ph.D., p. 20. When asked if the letter summarized the report from Dr. Poletti's office on October 15, 2014, he stated it was not summarized in the letter and he did not believe he had seen the report, but acknowledged that he had been provided that report before his IME. See Deposition of Nicholas Lind, Ph.D., p. 21, 25. He reviewed the report and confirmed the alleged injury was not mentioned. See Deposition of Nicholas Lind, Ph.D., p. 22; Defendant's Exhibit C. He said the report did not seem to be consistent with someone who sustained an injury aggravation of a pre-existing back condition the day prior. See Deposition of Nicholas Lind, Ph.D., p. 22. Dr. Lind also testified it was "odd" the report was not mentioned in the letter. See Deposition of Nicholas Lind, Ph.D., p. 24.

He confirmed his report says the claimant has had a decrease in sleep since his injuries, but stated that was based upon what the claimant told him and he was not informed that he was taking sleep medication since 2008. See Deposition of Nicholas Lind, Ph.D., p. 27. Dr. Lind confirmed medical records indicate the claimant had impotence issues ten years prior to when he saw him. See Deposition of Nicholas Lind, Ph.D., p. 33. Dr. Lind confirmed he opined the claimant lost interest in previously enjoyed activities of daily living and that this was aggravated by his accident. See Deposition of Nicholas Lind, Ph.D., p. 38.

He was shown a record from Dr. Poletti from March 2014 noting the claimant had "diminished ADLs and diminished sleep." See Deposition of Nicholas Lind, Ph.D., p. 38. Dr. Lind then admitted that given the extent of the claimant's prior back problems he would expect him to have sleep issues, low energy, fatigue and other normal complaints associated with chronic pain even without an injury. See Deposition of Nicholas Lind, Ph.D., p. 42. Dr. Lind confirmed he diagnosed the claimant with adjustment disorder with depressed mood secondary to the pain and physical limitations. See Deposition of Nicholas Lind, Ph.D., p. 44.

Dr. Lind testified that, after receiving the new information from counsel for the defense and claimant's counsel, his opinion was that the claimant's current psychological condition was the result of an

aggravation of a preexisting condition. See Deposition of Nicholas Lind, Ph.D., p. 45. However, Dr. Lind testified the records indicate the claimant, with the use of medication prescribed by the VA., had returned to his preinjury psychological baseline, but continued to require the medications. See Deposition of Nicholas Lind, Ph.D., p. 45.

6. Deposition of Terry Seagle

Terry Seagle has worked for SCANA for 33 years and currently works as the safety and training coordinator. See Deposition of Terry Seagle, p. 6. He said he became aware of the claimant's injury when he received an email from Anthony Miles on October 14, 2014, saying the claimant reported he slipped on the steps heading to the water treatment area. See Deposition of Terry Seagle, pp. 11-12. That email was then provided to the claimant's counsel at the time of the deposition. See Deposition of Terry Seagle, pp. 11-12. He testified he spoke to the claimant on the phone the next day and that he seemed to be okay. See Deposition of Terry Seagle, p. 13. He stated he did not ask for any medical treatment from him at that time but he did not know if he asked someone else for treatment. See Deposition of Terry Seagle, p. 14, 22. He testified that the claimant was a good employee and was able to do his job at SCANA prior to August 14, 2014. See Deposition of Terry Seagle, pp. 15-16. He confirmed there were no witnesses that he was aware of to the claimant's alleged fall and that any witnesses would have been listed on the report of the accident and interviewed. See Deposition of Terry Seagle, p. 21.

FINDINGS OF FACT

After careful review of the evidence presented by the parties, including the Hearing testimony of the claimant, the deposition testimony of Justin Hutcheson, M.D., the deposition testimony of Ivan LaMotta, M.D., the deposition testimony of Steven C. Poletti, M.D., the deposition testimony of Nicholas Lind, Ph.D., the deposition of Terry Seagle, and the medical records and exhibits submitted through the APA, as well as my personal observations of the claimant, IT IS FOUND AS A FACT THAT:

1. All parties to the proceeding are subject to and bound by the terms of the South Carolina Workers' Compensation Act with Johnnie Bias as employee and SCANA the self-insured employer.
2. The claimant alleges he suffered a work-related accident arising out of and within the course and scope of his employment on October 14, 2014, resulting in injuries to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche. Defendants have denied this claim.
3. That the claimant earned wages that put him at the maximum compensation rate for 2014.
4. That the claimant testified that he was a 17+ year employee with SCANA and sustained a fall resulting in injuries on October 14, 2014.
5. I find the claimant had a longstanding history of back problems, including two surgeries, multiple injections, physical therapy, and medication managements from 1977 through March 2014. This Finding is based upon the greater weight of the evidence in the record, specifically Defendant's APA #1, p. 10, Claimant's APA #7, pp. 76, 79, 80, 81, 83, 85, 86, 87, 88, 89, 93, 94, 96, 99, 101, 102, 104, 105, 108, 111, 116-17, 121, 122, 123.
6. I find the claimant received prior impairment ratings to his low back, including 20% impairment to his low back in 1993 from Dr. Epstein, 10% impairment to his back from Dr. Poletti in 2004, and 15% impairment to the back from Dr. Poletti as a result of the March 2014 surgery. See Claimant's APA #7, p. 87; Defendant's APA #1, p. 26; and Deposition of Steven Poletti, M.D., p. 16.
7. I find the claimant's prior medical problems included longstanding low back pain, bilateral radiculopathy, impotence, and sleep apnea. Not all of the claimant's issues pre-existed the date of injury, but the issues after the date of injury are similar. This Finding is based upon the greater weight of the evidence in the record.
8. I find the claimant reported to his supervisor that he, in an unwitnessed incident, fell on a flight of stairs on October 14, 2014, but did not request medical treatment at that time. This Finding is based upon the greater weight of the evidence including but not limited to the deposition and Hearing testimony of the claimant and the deposition of Terry Seagle.
9. I find the claimant presented to Southeastern Spine Institute on October 15, 2014, but did not reference his alleged work accident or make any complaints of worsening symptoms. In fact, I find the report from the day after the alleged accident states the claimant "feel greatly improved since the surgery." This Finding is based upon the greater weight of the evidence in the record, including Claimant's APA #7, p. 125.
10. I find the claimant presented to Dr. Dan Love, his pulmonologist, on October 17, 2014, and October 21, 2014, with persistent coughing, but did not reference or mention a work-related accident or increase in his low back symptoms. This Finding is based upon the greater weight of the evidence in the record, including Defendant's APA #5, pp. 89-93.
11. I find that counsel for the claimant provided pre-IME letters to Dr. Lind, Dr. LaMotta and Dr. Hutcheson, wherein he summarized every report from Southeastern Spine Institute after August

2014, except the report of October 15, 2014. I further find that all three physicians identified this omission as "strange" or "odd", but two of the three acknowledged having the report prior to their IME's, and the third admitted to having a large stack of medicals but did not have the stack of medicals at the time of his deposition and could not remember whether he had seen the report before conducting his IME. This Finding is based upon the greater weight of the evidence in the record, specifically Defendant's Exhibit C, D and E and the deposition testimony of Dr. Lind, Dr. LaMotta and Dr. Hutcheson.

12. I find the claimant's complaints of back, right leg, and left leg issues since his alleged injury on October 14, 2014, are similar to those he experienced prior to the alleged date of injury and are the natural progression of his pre-existing symptomology. His urological issues also naturally progressed from his pre-existing symptoms, despite having never complained of urological issues prior to the alleged work incident. This finding is based upon the greater weight of the evidence in the record, specifically Claimant's Exhibit A, p. 596, Claimant's APA #7 pp. 125, 127, 129, 132, 135, 151, Claimant's APA #4 pp. 22, 28, Claimant's APA 33, p. 20, Deposition of Terry Seagle, p. 11-12, Claimant's APA #9, p. 162, Deposition of Dr. LaMotta, p. 68.
13. I find the report of Dr. Rames, as it pertains to when the claimant's urological problems began, to be wholly inconsistent with the medical records from Dr. Poletti's office and unsupportive of compensability as to his alleged urological condition/bladder. This Finding is based upon the greater weight of the evidence in the records, including Claimant's APA #3, #7, and the deposition of testimony of Dr. LaMotta.
14. I find the claimant's psychological issues are the result of his ongoing symptoms over the last several decades rather than the result of the alleged accident on October 14, 2014. This finding is based upon the greater weight of the evidence in the record, specifically Claimant's APA #10 p. 403, 221-26, 310-12, 200-02, 295-97, 290-93, 266-68, 259-61, 242-44, Claimant's APA #4 p. 28, Deposition of Dr. Nicholas Lind, p. 55.
15. I find that since the alleged incident, the claimant has been and continues to receive long-term Disability and Social Security Disability.
16. I find that all of the claimant's medical treatment since the date of the alleged incident has been paid by his group health insurance carrier.
17. I find the claimant failed to meet his burden of proving he sustained a compensable injury or aggravation of his longstanding and significant pre-existing back condition on October 14, 2014. Likewise, I find the alleged injuries to his right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche are not compensable. This Finding is based upon the greater weight of the evidence in the record.
18. I find the claimant is not entitled to benefits under the Act.
19. I find no costs shall be assessed in this matter.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, and as provided by the Code of Laws of South Carolina, §42-17-40, it is the determination of this Commissioner that:

1. Pursuant to Section 42-1-130, the claimant was a covered employee at the time in question.
2. Pursuant to Section 42-1-140, defendant-employer was a covered self-insured employer under the Act.
3. Pursuant to Section 42-1-160, and based upon the evidence in this case set forth within this Order, the claimant did not sustain a compensable injury to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, or psyche on October 14, 2014.
4. Pursuant to Section 42-9-35, and based upon the evidence in this case set forth within this Order, the claimant did not sustain a compensable aggravation of his pre-existing condition resulting in injuries to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, or psyche on October 14, 2014.
5. Under Section 42-15-60 and based upon the evidence in this case, I find the claimant is not entitled to medical treatment for his alleged injured body parts.
6. Under Section 42-9-10, I find the claimant is not entitled to any temporary total disability benefits.

ORDER

IT IS THEREFORE ORDERED that the claimant did not sustain a compensable injury by accident or aggravation of a pre-existing condition resulting in injuries to his left hip, left leg, left foot, left ankle, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, urological system, bladder, or psyche. As such, all benefits under the Act are hereby DENIED.

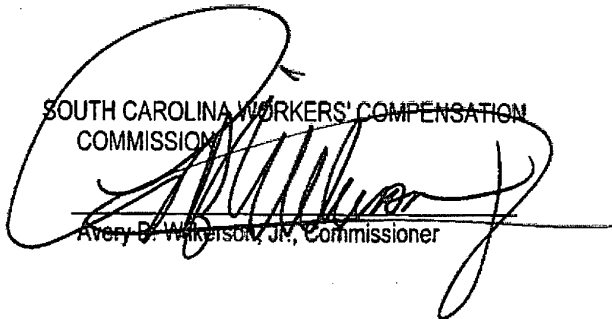
CLAIM DENIED.

IT IS SO ORDERED.

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 Deborah Hutto on January 18, 2018


SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSIONER
Avery D. Wilkinson, Jr., Commissioner

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1421397

JOHNNIE BIAS, EMPLOYEE..... CLAIMANT/APPELLANT

VS.

SCANA CORPORATION, SELF-INSURED EMPLOYER..... DEFENDANT/RESPONDENT.

Appellate Panel Review Hearing
held in Columbia, South Carolina,
on April 16, 2018, per notices
timely and properly served upon
all parties of interest.

Appellate Panel Decision and Order

filed, July 19, 2018

APPEARANCES: CLAIMANT/APPELLANT represented by Jacob M. Smith, Esquire, of Lexington, South Carolina; and

DEFENDANT/RESPONDENT represented by Nicolas L. Haigler, Esquire, of Columbia, South Carolina.

STATEMENT OF THE CASE

This is an appeal by Johnnie Bias ("Appellant" or "Claimant") from the Decision and Order of Commissioner Avery B. Wilkerson, Jr., filed on January 18, 2018.

These claims were before the South Carolina Workers' Compensation Commission pursuant to Forms 50 filed by the claimant on January 24, 2017. It is the position of the claimant that he sustained an injury by accident and/or an aggravation of a pre-existing condition resulting in injuries to his left hip, left leg, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche on October 14, 2014. He requests payment for all past and continued causally-related medical treatment and temporary total disability (TTD) benefits. In addition, he contends he has reached maximum medical improvement (MMI) for his compensable injuries as of February 3, 2016, and is permanently and totally disabled. The claimant further requests lifetime causally-related medical treatment for his compensable injuries per the recommendations of Dr. Hutcheson and Dr. Lind. Finally, if the claimant has not reached MMI, he contends he is entitled to continued TTD benefits until he does. To the contrary, the defendant denies the claimant sustained either a compensable injury by accident or aggravation of a pre-existing condition. However, if the claim is compensable, the defendant asserts the claimant has not reached MMI, as alleged.

The Hearing in this matter was held before Commissioner Avery B. Wilkerson, Jr. ("Hearing Commissioner") in Columbia, South Carolina, on September 19, 2017. By way of Decision and Order filed on January 18, 2018, the Hearing Commissioner determined the claimant did not sustain a compensable injury by accident and/or an aggravation of a pre-existing condition to his left hip, left leg, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche on October 14, 2014. The claimant was therefore denied any benefits under the Act.

Within the statutory period, the claimant filed an Application for Review in the case setting forth his reasons, copies of which were furnished to all interested parties, prior to oral argument presented before the

Full Commission Appellate Panel ("Appellate Panel") on April 16, 2018. All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the undersigned members of the Appellate Panel and has since been under study and consideration. Specifically, the claimant respectfully requests the Appellate Panel to reverse the Decision and Order of the Hearing Commissioner in its entirety based upon the following grounds:

1. Did the Hearing Commissioner err in concluding Claimant did not sustain a compensable injury by accident to his back, left leg, right leg, urological system, bladder, penis and resultant psychological arising out of and in the course of his employment on or about October 14, 2014, pursuant to South Carolina Code Annotated § 42-1-160?
2. Did the Hearing Commissioner err in considering Claimant was on Social Security Disability, and received Long Term Disability Benefits, and had medical insurance in concluding that Claimant did not sustain a compensable work-related injury?

After careful review in the instant case of all grounds raised, the evidence in the record, and oral arguments from both counsel, the Commission finds that, by unanimous vote, the Decision and Order of the Hearing Commissioner must be Affirmed in its entirety.

FINDINGS OF FACT

After careful review of the evidence presented by the parties, including the Hearing testimony of the claimant, the deposition testimony of Justin Hutcheson, M.D., the deposition testimony of Ivan LaMotta, M.D., the deposition testimony of Steven C. Poletti, M.D., the deposition testimony of Nicholas Lind, Ph.D., the deposition of Terry Seagle, and the medical records and exhibits submitted through the APA, as well as my personal observations of the claimant, WE FIND AS A FACT THAT:

1. All parties to the proceeding are subject to and bound by the terms of the South Carolina Workers' Compensation Act with Johnnie Bias as employee and SCANA the self-insured employer.
2. The claimant alleges he suffered a work-related accident arising out of and within the course and scope of his employment on October 14, 2014, resulting in injuries to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche. Defendants have denied this claim.

3. That the claimant earned wages that put him at the maximum compensation rate for 2014.
4. That the claimant testified that he was a 17+ year employee with SCANA and sustained a fall resulting in injuries on October 14, 2014.
5. We find the claimant had a longstanding history of back problems, including two surgeries, multiple injections, physical therapy, and medication managements from 1977 through March 2014. This Finding is based upon the greater weight of the evidence in the record, specifically Defendant's APA #1, p. 10, Claimant's APA #7, pp. 76, 79, 80, 81, 83, 85, 86, 87, 88, 89, 93, 94, 96, 99, 101, 102, 104, 105, 108, 111, 116-17, 121, 122, 123.
6. We find the claimant received prior impairment ratings to his low back, including 20% impairment to his low back in 1993 from Dr. Epstein, 10% impairment to his back from Dr. Poletti in 2004, and 15% impairment to the back from Dr. Poletti as a result of the March 2014 surgery. See Claimant's APA #7, p. 87; Defendant's APA #1, p. 26; and Deposition of Steven Poletti, M.D., p. 16.
7. We find the claimant's prior medical problems included longstanding low back pain, bilateral radiculopathy, impotence, and sleep apnea. Not all of the claimant's issues pre-existed the date of injury, but the issues after the date of injury are similar. This Finding is based upon the greater weight of the evidence in the record.
8. We find the claimant reported to his supervisor that he, in an unwitnessed incident, fell on a flight of stairs on October 14, 2014, but did not request medical treatment at that time. This Finding is based upon the greater weight of the evidence including but not limited to the deposition and Hearing testimony of the claimant and the deposition of Terry Seagle.
9. We find the claimant presented to Southeastern Spine Institute on October 15, 2014, but did not reference his alleged work accident or make any complaints of worsening symptoms. In fact, I find the report from the day after the alleged accident states the claimant "feel greatly improved since the surgery." This Finding is based upon the greater weight of the evidence in the record, including Claimant's APA #7, p. 125.
10. We find the claimant presented to Dr. Dan Love, his pulmonologist, on October 17, 2014, and October 21, 2014, with persistent coughing, but did not reference or mention a work-related accident or increase in his low back symptoms. This Finding is based upon the greater weight of the evidence in the record, including Defendant's APA #5, pp. 89-93.
11. We find that counsel for the claimant provided pre-IME letters to Dr. Lind, Dr. LaMotta and Dr. Hutcheson, wherein he summarized every report from Southeastern Spine Institute after August 2014, except the report of October 15, 2014. We further find that all three physicians identified this omission as "strange" or "odd", but two of the three acknowledged having the report prior to their IME's, and the third admitted to having a large stack of medicals but did not have the stack of medicals at the time of his deposition and could not remember whether he had seen the report before conducting his IME. This Finding is based upon the greater weight of the evidence in the record, specifically Defendant's Exhibit C, D and E and the deposition testimony of Dr. Lind, Dr. LaMotta and Dr. Hutcheson.

12. We find the claimant's complaints of back, right leg, and left leg issues since his alleged injury on October 14, 2014, are similar to those he experienced prior to the alleged date of injury and are the natural progression of his pre-existing symptomology. His urological issues also naturally progressed from his pre-existing symptoms, despite having never complained of urological issues prior to the alleged work incident. This finding is based upon the greater weight of the evidence in the record, specifically Claimant's Exhibit A, p. 596, Claimant's APA #7 pp. 125, 127, 129, 132, 135, 151, Claimant's APA #4 pp. 22, 28, Claimant's APA 33, p. 20, Deposition of Terry Seagle, p. 11-12, Claimant's APA #9, p. 162, Deposition of Dr. LaMotta, p. 68.
13. We find the report of Dr. Rames, as it pertains to when the claimant's urological problems began, to be wholly inconsistent with the medical records from Dr. Poletti's office and unsupportive of compensability as to his alleged urological condition/bladder. This Finding is based upon the greater weight of the evidence in the records, including Claimant's APA #3, #7, and the deposition of testimony of Dr. LaMotta.
14. We find the claimant's psychological issues are the result of his ongoing symptoms over the last several decades rather than the result of the alleged accident on October 14, 2014. This finding is based upon the greater weight of the evidence in the record, specifically Claimant's APA #10 p. 403, 221-26, 310-12, 200-02, 295-97, 290-93, 266-68, 259-61, 242-44, Claimant's APA #4 p. 28, Deposition of Dr. Nicholas Lind, p. 55.
15. We find that since the alleged incident, the claimant has been and continues to receive long-term Disability and Social Security Disability.
16. We find that all of the claimant's medical treatment since the date of the alleged incident has been paid by his group health insurance carrier.
17. We find the claimant failed to meet his burden of proving he sustained a compensable injury or aggravation of his longstanding and significant pre-existing back condition on October 14, 2014. Likewise, we find the alleged injuries to his right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche are not compensable. This Finding is based upon the greater weight of the evidence in the record.
18. We find the claimant is not entitled to benefits under the Act.
19. We find no costs shall be assessed in this matter.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, and as provided by the Code of Laws of South Carolina, § 42-17-40, it is the determination of this Appellate Panel that:

1. Pursuant to Section 42-1-130, the claimant was a covered employee at the time in question.

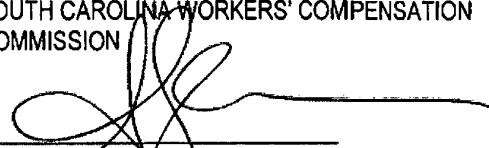
2. Pursuant to Section 42-1-140, defendant-employer was a covered self-insured employer under the Act.
3. Pursuant to Section 42-1-160, and based upon the evidence in this case set forth within this Order, the claimant did not sustain a compensable injury to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, or psyche on October 14, 2014.
4. Pursuant to Section 42-9-35, and based upon the evidence in this case set forth within this Order, the claimant did not sustain a compensable aggravation of his pre-existing condition resulting in injuries to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, or psyche on October 14, 2014.
5. Under Section 42-15-60 and based upon the evidence in this case, we find the claimant is not entitled to medical treatment for his alleged injured body parts.
6. Under Section 42-9-10, we find the claimant is not entitled to any temporary total disability benefits.

ORDER

IT IS, THEREFORE, ORDERED, that the Decision and Order of the Hearing Commissioner filed in the above-captioned matters on January 18, 2018, is hereby UNANIMOUSLY AFFIRMED IN ITS ENTIRETY.

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION



Commissioner Alpha Taylor
For the Appellate Panel

Commissioner T. Scott Beck

Commissioner Gene McCaskill

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 July 19, 2018

SALLEY LAW FIRM, P.A.

129 East Main Street
Lexington, South Carolina 29072

Post Office Box 925
Lexington, SC 29071-0925
www.salleylawfirm.com

Telephone (803) 356-5000
Fax (803) 356-1439
Email: info@salleylawfirm.com

January 24, 2017

Ms. Amy Bracy, Judicial Director
SC Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, SC 29202-1715

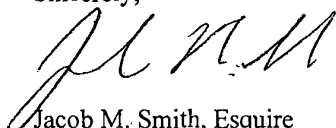
RE: W.C.C. File No: 1421397
Employee: Johnnie T. Bias
Employer: Scana Corporation
Date of Injury: 10/14/2014

Dear Ms. Bracy:

Enclosed please find the original Form 50 (*hearing request*) and a copy, along with a Certificate of Service evidencing service of this document upon Nick Haigler, Esquire, as attorney for the carrier, Companion TPA. My firm's check in the amount of \$25.00 for the associated filing fee is enclosed. Please return the copy of the Form 50 marked as filed in the self-addressed, stamped envelope provided.

Thank you for your consideration. Please contact me with any questions or concerns.

Sincerely,


Jacob M. Smith, Esquire
jsmith@salleylawfirm.com

JMS:drl
Enclosure
SASE

cc: Ms. Kimberly Sims, Companion TPA
Nick Haigler, Esquire
Mr. Johnnie T. Bias

SCWCC
JAN 27 2017
JUDICIAL

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500, Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723



WCC File #: 1421397

Carrier File #: 780020001125

Carrier Code #:

Employer FEIN #:

Claimant's Name: Johnnie T. Bias SSN: _____ Employer's Name: Scana Corporation
Address: _____ Address: 405 Teamwork Road
City: Denmark State: SC Zip: 29042 City: Cope State: SC Zip: 29038
Home Phone: _____ Work Phone: _____ Insurance Carrier: Companion TPA
Preparer's Name: Jacob M. Smith, Esquire Law Firm: Salley Law Firm, P.A. Preparer's Phone #: (803) 356-5000

Complete each information blank. To request a hearing, check box 13 b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

- A claim for worker's compensation benefits is made based on the following grounds:** **Date of Injury or Illness:** 10/14/2014
- ☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction
1. The claimant sustained an injury to See Addendum #1 (Part(s) of Body Injured) on 10/14/2014 (Month/Day/Year) in Orangeburg County, State of South Carolina
 2. Body part(s) affected are: See Addendum #2
Briefly describe how the accident occurred Claimant while in the furtherance of his work duties, was walking down the steps to go to the waste water ponds when he stepped on a loose rock on a step that caused him to twist his foot and fall on his backside resulting in injuries
 3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
 4. The relationship of the employer and employee existed at the time of injury.
 5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
 6. Notice of the accidental injury was given to the Employer on October 14, 2014 (Month/Day/Year) in the following manner: Claimant notified his supervisor, Mr. Anthony Miles, in person and via phone
 7. Due to injury, the claimant is in need of (check one):
☒ (a) medical examination and treatment for See Addendum #3
☐ (b) additional medical examination and treatment for See Addendum #4
 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: To Be Determined
 9. Due to the injury, the claimant has permanent disability of the following nature and extent: (check one)
☒ (1) General Disability: ☒ Total ☐ Partial ☐ (2) Specific Disability: ☒ Total ☐ Partial ☐ (3) Wage Loss
☐ A determination of permanent disability is premature at this time.
 10. Due to the injury, the claimant has a serious bodily disfigurement consisting of N/A
 - 10a. At the time of the injury, the claimant was paid weekly wages of \$FORM 20 REQUESTED, and demands accounting of days worked and wages earned as provide by law.
 - 10b. Give names and addresses of all employers from whom the claimant has worked since the date of the accident.
None
 11. Further grounds or unusual aspects of claim: Any and all benefits Claimant may be entitled to under the Act. Also, Claimant requests lump sum with James v. Anne's language to be made part of any settlement or award
 - 11a. List names and addresses of all physicians or other medical specialists who have seen or treated the claimant as a result of the accident:
See Addendum #5
 - 11b. To the best of your knowledge, did you have any prior permanent disability? To Be Determined
If yes, describe: _____
 12. Appropriate benefits as provided in the ACT for the above grounds and other relief as the Worker' Compensation Commission may direct as just and proper.
- ☐ 13a. I am filing a claim. I am not requesting a hearing at this time.
- ☒ 13b. I am requesting a hearing. A \$25 fee is required.
14. Estimated time needed for hearing: 1 Hour
- ☐ 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 I have served this document pursuant to Reg. 67-211 by delivering a copy to Nick Haigler, Esquire, Sowell, Gray, Step & Laffitte address PO Box 11449, Columbia, SC 29211 on the 24th day of January, 2017

by; ☐ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

J M Smith Claimant's Attorney jsmith@salleylawfirm.com January 24, 2017
Preparer's Signature Title Email Date

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to R.67-204 through R.67-211 and R.67-601 through R.67-615 as well as Reg. 67-1801.

WCC Form #50
Revised 7/13

50

**Employee's Notice of Claim and/or
Request for Hearing**

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ADDENDUM

1. Left hip, left leg, left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis and resultant psychological.
2. Left hip, left leg, left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis and resultant psychological.
3. Left hip, left leg, left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis and resultant psychological.
4. Left hip, left leg, left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot, nervous system, bladder, urological system, penis and resultant psychological.

5. Steven Poletti, MD
Southeastern Spine Institute
1106 Chuck Dawley Blvd., Suite 200
Mt. Pleasant, SC 29464

Brett Gunter, MD
Lexington Brain & Spine Institute
146 N Hospital Drive, Suite 120
West Columbia, SC 29169

The Regional Medical Center
3000 St. Mathews Road
Orangeburg, SC 29115

Sports Plus Physical Therapy
119 Office Park Drive
Orangeburg, SC 29118

J. Daniel Love, MD
Palmetto Pulmonary
1333 Taylor Street, Suite 6F
Columbia, SC 29201

Singleton Health Center
1173 Village Park Drive
Orangeburg, SC 29118

East Cooper Medical Center
2000 Hospital Drive
Mt. Pleasant, SC 29464

Nicholas Lind, PsyD
Post Trauma Resources
1709 Laurel Street
Columbia, SC 29201

Tracy Hill, PT
Columbia Rehabilitation Clinic
2962 Two Notch Road
Columbia, SC 29204

Justin Hutcheson, MD
Carolinas Center for the Advanced Management of Pain
109 Midlands Court, Suite B
West Columbia, SC 29169

Ross Rames, MD
Medical University of South Carolina
171 Ashley Avenue
Charleston, SC 29425

Ivan LaMotta, Midlands Orthopaedics & Neurosurgery
1910 Blanding Street
Columbia, SC 29201

Joel Leonard
Leonard & Associates
1011 Harden Street, Suite 202
Columbia, SC 29205

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 1421397

Johnnie T. Bias,

Claimant,

v.

Scana Corporation,

Employer, and

Companion TPA,

Carrier/Defendants.

AFFIDAVIT OF MAILING

The undersigned hereby certifies that she is employed by the Salley Law Firm, P.A. and that she has mailed, on the date set forth below, a copy of the document described below, in the above entitled action to the following with proper postage affixed thereto:

TO: Ms. Amy Bracy, Judicial Director
SC Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, SC 29202-1715

Nick Haigler, Esquire
Sowell, Gray, Stepp, & Laffitte
Post Office Box 11449
Columbia, SC 29211

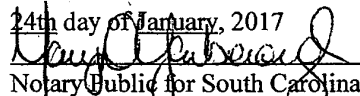
Ms. Kimberly Sims
Companion TPA
Post Office Box 100159
Columbia, SC 29202

Document: Form 50 (*hearing request*)

Date of Mailing: January 24, 2017

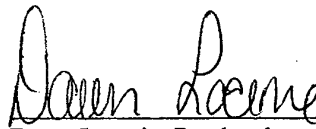
Sworn to before me this

24th day of January, 2017

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 10/30/23


Dawn Lacroix, Paralegal



**SOWELL GRAY
ROBINSON**

Litigation + Business

NICOLAS L. HAIGLER
Direct Dial 803 231.7847
Direct Fax 803 231.7853
Email nhaigler@sowellgray.com

February 23, 2017

VIA HAND DELIVERY

Mr. Amy Bracy
Judicial Director
SC Workers' Compensation Commission
1333 Main Street, Suite 500
Columbia, SC 29202-1715

RE: Johnnie T. Bias v. SCANA Corporation
WCC File No.: 1421397
Date of Accident: 10/14/14
Claim No.: 780020000
Our File No.: 6569/8009

Dear Ms. Bracy:

Enclosed are an original and one (1) copy of a Form 51 which we are submitting on behalf of the employer/carrier in the above-referenced matter. We are filing the original and retaining a clocked-in copy via our courier.

With a courtesy copy of this letter, we are hereby serving a copy of the Form 51 upon counsel for the claimant.

Very truly yours,

Nicolas L. Haigler

NLH:esa

Enclosure

cc: William Salley, Jr., Esquire (via U.S. Mail and email)
Ms. Kimberly Sims (via e-mail only)
Ms. Del L. Singletary (via e-mail only)

1310 Gadsden Street | PO Box 11449 | Columbia, SC 29211
MAIN 803 929.1400 FAX 803 929.0300

MERITAS LAW FIRMS WORLDWIDE

SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC SOWELLGRAY.COM

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



WCC File #: Not assigned
Carrier File #: 780020000
Carrier Code #:
Employer FEIN #:

Johnnie Bias
Claimant's Name: _____ SSN: _____
Address: _____ City: _____ State: _____ Zip: _____
Home Phone: _____ Work Phone: _____
Preparer's Name: Grady L. Beard, Esquire

SCANA Corporation
Employer's Name: _____
220 Operation Way - C121, Cayce, SC 29033
Address: _____ City: _____ State: _____ Zip: _____
Self-Insured
Insurance Carrier
Law Firm: Sowell Gray Robinson Stepp & Laffitte, L.L.C. Preparer's Phone #: (803) 929-1400

- Date of Injury or Illness: 10/14/14 Estimated time for hearing: N/A
Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:
1. It is denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Claim under investigation. See No. 11.
 2. It is denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: See No. 1 and No. 11.
 3. It is denied the relationship of employer and employee existed at the time in question. The reasons for denial are: See No. 1 and No. 11.
 4. It is denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: See No. 1 and No. 11.
 5. It is denied notice of injury was given to the employer. The reasons for denial are: See No. 1 and No. 11.
 6. It is denied the employee needs / is entitled to additional medical care as a result of injury or illness. The reasons for denial are: See No. 1 and No. 11.
 7. It is denied the employee is entitled to temporary total disability for the period(s) of: See No. 1 and No. 11.
 8. It is denied the employee is permanently disabled. The reasons for denial are: See No. 1 and No. 11.
 9. It is denied the employee has a serious disfigurement.
 10. It is contended that an average weekly wage of \$ 1,342.53 and CR of \$752.16 applies, according to attached Form 20 as provided by law.
 11. Further contentions, grounds of defense, or unusual aspects are: See attached.

- ☐ 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.

Preparer's Signature

Attorney for The Employer/Carrier

gbeard@sowellgray.com

February 23, 2017

Date

Refer to R. 67-204 through R. 67-210 and R. 67-601 through R. 67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at (803) 737-5675 or judicial@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R. 67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

WCC Form # 51
Revised 07/13

51

Employer's Answer to Request for Hearing

52

55

Johnnie T. Bias v. SCANA Corporation
WCC File No.: Not assigned
Date of Accident: 10/14/14
Claim No.: 780020000
Our File No.: 6569/8009

(Continuation from Form 51)

11. Further contentions or grounds of defense are: All affirmative and specific defenses (see Reg. 67-603), including but not limited to § 42-15-20; pre-existing disability to allegedly injured members; no compensable injury by accident under § 42-1-160 or aggravation of a pre-existing condition under § 42-9-35; degree of disability, if any, attributable to this injury speculative; claimant's problems personal in nature and not work-related; defendants reserve the right to amend this Answer and plead additional defenses.

SOWELL GRAY ROBINSON STEPP & LAFFITTE, L.L.C.

By: _____


Grady L. Beard
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
(803) 929-1400

Attorneys for Employer/Carrier

Columbia, South Carolina

February 23, 2017

CERTIFICATE OF SERVICE

I, the undersigned, Legal Assistant of Sowell Gray Robinson Stepp & Laffitte, L.L.C., attorneys for Defendants, do hereby certify that I have served the following parties with the foregoing document(s) by mailing a copy of the same via United States Mail, postage prepaid, and/or hand delivering to the following address(es):

Pleading(s): **FORM 51**

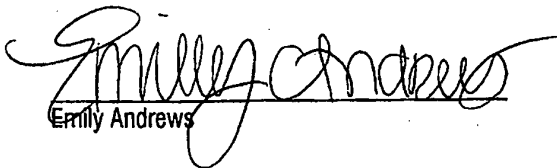
Parties Served:

VIA HAND DELIVERY

Ms. Amy Bracy
Judicial Director
South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Columbia, SC 29202-1715

VIA U.S. MAIL AND E-MAIL

William Salley, Jr., Esquire
Salley Law Firm, P.A.
129 E Main Street
Post Office Box 925
Lexington SC 29071-0925


Emily Andrews

Columbia, South Carolina

February 23, 2017

1. Did the Hearing Commissioner err in Finding of Fact number 5 in finding the longstanding history of back problems was based upon the greater weight of the evidence, when that finding is inconsistent with the greater weight and preponderance of the evidence in the record?
2. Did the Hearing Commissioner err in Finding of Fact number 6 in finding prior impairment ratings, when the finding is inconsistent with the greater weight and preponderance of the evidence in the record?
3. Did the Hearing Commissioner err in Finding of Fact number 7 in finding that Claimant suffered from longstanding low back pain, bilateral radiculopathy, impotence and sleep apnea, when that finding is inconsistent with the greater weight and preponderance of the evidence in the record?
4. Did the Hearing Commissioner err in Finding of Fact number 7 in finding that the Claimant's issues after the date of injury, while not all present before the injury date, were similar, when that finding is against the greater weight and preponderance of the evidence in the record?
5. Did the Hearing Commissioner err in Finding of Fact number 12 in finding that Claimant's back, right leg, and left leg issues are a natural progression of his pre-existing symptomatology, when that finding is inconsistent with the greater weight and preponderance of the evidence in the record?
6. Did the Hearing Commissioner err in Finding of Fact number 12 in finding Claimant's urological issues naturally progressed from his pre-existing symptoms, even though Claimant made no urological complaints before the injury, when that finding is inconsistent with the greater weight and preponderance of the evidence in the record?
7. Did the Hearing Commissioner err in Finding of Fact number 13, in finding the report of Dr. Rames to be wholly inconsistent with the medical records from Dr. Poletti and unsupportive of compensability to Claimant's urological problem, when that finding is against the greater weight and preponderance of the evidence?
8. Did the Hearing Commissioner err in Finding of Fact number 14, in finding Claimant did not sustain a compensable psychological injury as a result of his work-related physical injuries, the error being the finding is against the greater weight and preponderance of the evidence in the record?
9. Did the Hearing Commissioner err in Finding of Fact number 15 in finding that Claimant has been and continues to receive long-term Disability and Social Security Disability, the error being the finding is inconsistent with the greater weight and preponderance of the evidence in the record?
10. Did the Hearing Commissioner err in Finding of Fact number 15 in finding that Claimant has been and continues to receive long-term Disability and Social Security Disability, the error being that such a finding is an error of law?
11. Did the Hearing Commissioner err in Finding of Fact number 16 in finding the Claimant's medical treatment since the date of the alleged accident

has been paid by his group health insurance carrier, the error being the finding against the greater weight and preponderance of the evidence in the record?

12. Did the Hearing Commissioner err in Finding of Fact number 16 in finding the Claimant's medical treatment since the date of the alleged accident has been paid by his group health insurance carrier, the error being such a finding is an error of law?
13. Did the Hearing Commissioner err in Finding of Fact number 17 in finding that Claimant failed to meet his burden of proving a compensable injury or aggravation of his longstanding back condition, and as such, the right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche are not compensable, the error being the finding is against the greater weight and preponderance of the evidence?
14. Did the Hearing Commissioner err in Finding of Fact number 17 in finding that Claimant failed to meet his burden of proving a compensable injury or aggravation of his longstanding back condition, and as such, the right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis, and psyche are not compensable, the error being that such a finding is an error of law?
15. Did the Hearing Commissioner err in Finding of Fact number 18 in finding that Claimant is not entitled to benefits under the Act, when such finding is inconsistent with the greater weight and preponderance of the evidence in the record?
16. Did the Hearing Commissioner err in Finding of Fact number 18 in finding that Claimant is not entitled to benefits under the Act, when such finding is an error of law?
17. Did the Hearing Commissioner err in Conclusion of Law number 3 in finding that Claimant did not sustain a compensable injury to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis or psyche, when such finding is against the greater weight and preponderance of the evidence in the record?
18. Did the Hearing Commissioner err in Conclusion of Law number 3 in finding that Claimant did not sustain a compensable injury to his back, right leg, left leg, left hip, left ankle, buttocks, right hip, right ankle, right foot, nervous system, bladder, urological system, penis or psyche, when such finding is an error of law?
19. Did the Hearing Commissioner err in Conclusion of Law number 4 in finding that Claimant did not sustain a compensable aggravation of his pre-existing condition resulting in injuries to his back, right leg, left leg, left hip, left ankle, right hip, right ankle, right foot, nervous system, bladder, urological system, penis or psyche, when such finding is against the greater weight and preponderance of the evidence in the record?

20. Did the Hearing Commissioner err in Conclusion of Law number 4 in finding that Claimant did not sustain a compensable aggravation of his pre-existing condition resulting in injuries to his back, right leg, left leg, left hip, left ankle, right hip, right ankle, right foot, nervous system, bladder, urological system, penis or psyche, when such finding is an error of law?
21. Did the Hearing Commissioner err in Conclusion of Law number 5 in finding that Claimant is not entitled to medical treatment, when such finding is against the greater weight and preponderance of the evidence in the record?
22. Did the Hearing Commissioner err in Conclusion of Law number 5 in finding that Claimant is not entitled to medical treatment, when such finding is an error of law?
23. Did the Hearing Commissioner err in Conclusion of Law number 6 in finding that Claimant is not entitled to any temporary total disability benefits, when such finding is against the greater weight and preponderance of the evidence in the record?
24. Did the Hearing Commissioner err in Conclusion of Law number 6 in finding that Claimant is not entitled to any temporary total disability benefits, when such finding is an error of law?
25. Did the Hearing Commissioner err in ordering Claimant did not sustain a compensable injury by accident or aggravation of a pre-existing condition, when such an award is not supported by the greater weight and preponderance of the evidence in the record?
26. Did the Hearing Commissioner err in ordering Claimant did not sustain a compensable injury by accident or aggravation of a pre-existing condition, when such order is an error of law and that such award is based on surmise, conjecture and speculation?

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1421397

JOHNNIE T. BIAS	)	
	)	
CLAIMANT,	)	SC WORKERS' COMPENSATION COMMISSION
VS.	)	
	)	HEARING OF
SCANA SERVICES	)	
	)	JOHNNIE T. BIAS
EMPLOYER,	)	
AND	)	VS
	)	
SCANA CORPORATION	)	SCANA SERVICES
	)	
CARRIER.	)	

This is the Transcript of the South Carolina Workers' Compensation Hearing of Johnnie T. Bias versus SCANA Services, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 1:10 A.M., Tuesday, September 19, 2017, at South Carolina Workers' Compensation Commission, 1333 Main Street Columbia, South Carolina.

COPY**REPORTED****BY****GLORIA DAVIS**

PALMETTO COURT REPORTING
 321 Mac Circle Lexington, SC 29073
 (803) 358-0515
www.PalmettoCourtReporting.com

APPEARANCES

FOR THE CLAIMANT:
Jacob M. Smith, Esquire
William B. Salley, Esquire
Salley Law Firm
139 East Main Street
P.O. Box 925
Lexington 29072

FOR THE EMPLOYER/CARRIER:
Nicolas L. Haigler, Esquire
Grady L. Beard, Esquire
Sowell, Gray, Stepp and Laffitte
1310 Gadsden Street
P.O. Box 11449
Columbia, SC 29211

ALSO PRESENT:

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

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I N D E X

WITNESSES

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All Exhibits were marked for identification previous to going on the record.

STIPULATIONS

Commissioner Wilkerson: Today's date is the 19th day of September, 2017. We're here in reference to Workers' Comp file 1421397. The Claimant in today's case is Johnnie T. Bias; represented by William B. Salley, Jr. and Jacob M. Smith. The Employer is SCANA Services; the Carrier is SCANA Corporation, represented by Grady L. Beard and Nicholas L. Haigler. The date of accident is 10/14 of 2014. I think we talked a little bit about it, there may be a little bit of disagreement in the average weekly but nobody disagrees that if the case is compensable that the maximum compensation rate that -- for that year, which is seven hundred and fifty-two dollars and sixteen cents (\$752.16) will apply; is that correct, Mr. Haigler?

Mr. Haigler: That's correct, Your Honor.

Commissioner Wilkerson: And I think you had already --

Mr. Smith: That's correct, Your Honor.

Commissioner Wilkerson: -- Mr. Smith, you had already indicated that is the case. Okay. We're here to determine the issues that are set forth on a Form 50 and 51. We've had this case

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1 scheduled several times in the past, it doesn't
2 matter at this point in time, but it's my
3 understanding we now have all of the information
4 and/or documentation that the respective parties
5 have submitted to us here this afternoon. The
6 only thing, just for the record, page 31 of the
7 Claimant's APA's have been removed; it's a medical
8 record dated July the 12th, 2016, it's -- it is
9 discussed in one of the doctor's depositions,
10 which doctor was that?

11 Mr. Smith: Dr. Hutcheson.

12 Commissioner Wilkerson: Dr. Hutcheson's
13 deposition, so it really -- since it's discussed
14 there, the record itself, we'll rely on -- this is
15 just where everybody knows that page 31 is
16 missing, okay? Hopefully, I'll remember to tell
17 that to my Assistant because you all are going to
18 upload this stuff -- I'll probably keep it because
19 I'm here -- all this stuff -- you don't have to
20 upload these; we've got those. Any exhibits you
21 don't upload, just the APA information has to be
22 uploaded, that way it's in the system. Are there
23 any objections to the APA's, jurisdiction, venue
24 or any other items by the moving party, Mr. Smith?

25 Mr. Smith: None, Your Honor.

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1 Commissioner Wilkerson: Okay. Mr. Haigler?

2 Mr. Haigler: None, Your Honor.

3 Commissioner Wilkerson: Okay. Thank you.
4 Without objection the Commission's file becomes
5 part of the record with the exception of
6 self-serving declarations and unstipulated medical
7 reports. So, at this time what I will do, is I
8 will as that Mr. Smith put his client's position
9 on the record and I'll ask Mr. Haigler to put his
10 client's position on the record as well. So, Mr.
11 Smith?

12 Mr. Smith: Yes, Your Honor.

13 Commissioner Wilkerson: Thank you.

14 Mr. Smith: Thank you. Mr. Bias is a
15 sixty-one (61) year old individual, a military
16 veteran and was an employee of SCANA for a period
17 of seventeen (17) years. He has a -- a good
18 record with SCANA and per Defense's own witness,
19 Mr. Seagle, was a good employee; that's on page 15
20 and 16 of his deposition. We are here today for a
21 date of injury stemming from October 14th of 2014,
22 resulting from a slip and fall at work; the result
23 of that injury is to his low back, his left leg,
24 his right leg, bladder, penis and resulting
25 psychological. There is a pre-existing condition

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1 associated with the back. He has had two (2)
2 prior back surgeries, once in the '80's; the back
3 surgery resulted from ongoing complaints of back
4 pain and left leg symptoms. He had occasional
5 flare-ups between that time and 2001, at which
6 point he started treating with Dr. Poletti and has
7 been treating with Dr. Poletti off-and-on,
8 basically, since 2001. 2010, there is a mention
9 in Dr. Poletti's record of some right leg pain,
10 which Mr. Bias actually received an injection for
11 and -- and there was no additional treatment
12 following that until 2012, as which point he has
13 complaints of increasing back and left leg pain
14 and numbness, positive straight leg raise on the
15 right -- or positive straight leg raise on the
16 left, negative straight leg raise on the right.
17 He has an injection in that time, returns in 2013,
18 and basically receives pretty regular treatment up
19 until the point of a surgery in March of 2014, a
20 discectomy due to the back and ongoing left leg
21 neurological deficit as testified by Dr. Poletti.
22 By all accounts, if you -- if you review the
23 record, it seems that he was improving following
24 that surgery. He was actually able to return back
25 to work with SCANA, where he was working up until

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1 the date of this accident. At this point --
2 following the fall there was a routine follow up
3 with Dr. Poletti's office; I believe he saw a
4 Physician's Assistant on that day, it was the 15th
5 of October. There is no mention of the fall at
6 work in the 2000 -- or the October 15th, 2014
7 report; however, shortly thereafter, Mr. Bias did
8 contact the Employer and asked for medical care.
9 An appointment was scheduled with Dr. Weissglass
10 down in Charleston; ultimately that -- that
11 appointment didn't go forward. And then, he
12 returns to Dr. Poletti's office on October 22nd,
13 2014, noting a fall on the stairs and noting
14 increasing back pain, left leg pain and also right
15 leg symptoms. There is an MRI dated October 29th
16 that Dr. Poletti outlines on page 20 and 21 of his
17 deposition and what he said was essential disk
18 herniation migrating downwards, when comparing
19 with the previous MRI from before the surgery back
20 in March of 2014. Since the fall, it's our
21 position that the records reflect that the
22 Claimant has worsening back pain, worsening left
23 leg pain; which has led to an increase in
24 medications as indicated by Dr. Poletti, a
25 worsening left foot drop, new symptoms on the

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1 right side that he -- that weren't present prior
2 to the -- the fall and outside of the 2010 note
3 weren't -- weren't really ongoing since that
4 point, increasing leg weakness on the left and the
5 right side, right-sided numbness, positive
6 straight leg testing bilaterally, along with
7 urinary incontinence; which is actually documented
8 in Dr. Poletti's note from January of 2015, and
9 also opined to by Dr. Rames in Claimant's APA 3.
10 Also, Dr. Rames indicated the absence of a
11 bulbocavernosal reflex, which appears to have
12 worsened; Claimant's erectile dysfunction and --
13 leads to the urinary incontinence issue as well.
14 And there is some pre-existing erectile
15 dysfunction; however, I think if you review the
16 records it indicates that he is able to sustain an
17 erection but just -- or able to obtain an
18 erection; the issue is sustaining the erection
19 through -- through climax and now, at this point,
20 it is our position that he is not even able to
21 obtain an erection since the fall. And the claim,
22 itself, as indicated has been denied in its
23 entirety. I believe initially, based on the
24 questions proposed to Dr. Poletti on page 21
25 indicated that the accident was not documented and

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1 at least, you know, partially denied on the basis
2 that it was an undocumented fall; however, nearly
3 a year after Dr. Poletti's deposition and two (2)
4 years after the accident, during a deposition of
5 Mr. Terry Seagle for the Employer, there's an --
6 there was an interoffice email that was turned
7 over, I believe on page 11 of Mr. Seagle's
8 deposition, that indicated that there was an
9 accident on October of 2014, October 14th of 2014,
10 actually the email is dated October 14th of 2014;
11 it's between Mr. Seagle and -- and Claimant's
12 supervisor, Mr. Anthony Miles, indicating that
13 there was a fall, that the Claimant had complained
14 of soreness in his back and also in --

15 Commissioner Wilkerson: Is that in the
16 records? At what page?

17 Mr. Smith: -- that is in the record; it's
18 Claimant's Exhibit A, page -- I believe it's page
19 396 or 596, excuse me, Your Honor.

20 Commissioner Wilkerson: No, that's fine.
21 Exhibit A, that helps. That's --

22 Mr. Smith: My -- my handwriting is sometimes
23 not the best.

24 Commissioner Wilkerson: -- 5 what? I'm
25 sorry.

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1 Mr. Smith: 596.

2 Commissioner Wilkerson: Oh, 596. No wonder
3 I couldn't find it.

4 Mr. Smith: It's the last page in Exhibit A.

5 Commissioner Wilkerson: Oh, good, because no
6 wonder I couldn't find it. Okay.

7 Mr. Smith: So, as -- as you can see it
8 indicates that he, in fact, made a complaint at
9 that time that he slipped on the steps, you know,
10 injuring his back -- landing on his backside,
11 hands and ankle were sore following, and this was
12 around ten o'clock in the morning. Again, there
13 is a follow up the next day on 10/15 where the
14 fall is not documented in Dr. Poletti's; however,
15 if you read Dr. Poletti's deposition I believe he
16 does a good job of outlining that, you know, a lot
17 of times with a disk herniation and I'm -- I'm
18 sure you know this, that it can take, you know,
19 upwards of forty-eight (48) to seventy-two (72)
20 hours to, you know, actually fully herniate and
21 that's -- that was his testimony in this case.
22 Shortly after the deposition with Mr. Seagle, and
23 I -- I point out that the actual first hearing, I
24 believe, we had scheduled was scheduled for
25 October of 2016, which was actually one of the

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1 reasons for the delay in the hearing was to take
2 Mr. Seagle's deposition. Shortly after that the
3 Claimant was sent to Dr. Gunter by Defendants.
4 Dr. Gunter also documented new and worsening
5 symptoms since the fall and that's the -- or
6 Claimant's APA 6. At this point Dr. Poletti on
7 his -- in his deposition, page 42 and 43, upholds
8 causation. And Dr. Poletti, I'd like to point
9 out, you know, he -- he has been treating the
10 Claimant for a period of -- of fifteen (15) years;
11 so, we feel he might -- he's in the best position
12 as far as addressing what his new symptoms are
13 versus beforehand. He also was seen by Dr.
14 Hutcheson, who also supported causation. He was
15 seen by Dr. Rames, who also supported causation.
16 Dr. Hutcheson is on APA -- APA 4. Dr. Rames is
17 APA 3. And he also saw Dr. Lind, who supports
18 causation of the psychological component to this
19 claim on APA 6. The VA records were also
20 submitted following the -- the previous hearing as
21 scheduled; there were some issues as far as the VA
22 records were concerned. The client has been
23 treating with the VA for psychological issues as
24 well and those records are -- are outlined in the
25 handout that I passed up; however, it's important

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1 to document that the psychological component, as
2 far as his complaints, indicate that he is
3 experiencing symptoms associated with pain and
4 inability to do normal activities of daily living.
5 It's our contention that the Claimant has reached
6 maximum improvement for his back.

7 Commissioner Wilkerson: What day or date?

8 Mr. Smith: The date of maximum medical
9 improvement, we would contend would be the date of
10 Dr. Poletti's deposition, as of February 3rd,
11 2016.

12 Commissioner Wilkerson: And does he address
13 that in his deposition?

14 Mr. Smith: He addresses maximum medical
15 improvement and future treatment. He -- he
16 indicates that client -- or Mr. Bias is an actual
17 candidate for surgery but says that the surgery is
18 not -- there is no guarantee in the surgery and
19 the surgery is unlikely to really improve his
20 condition and I think at -- at the time Mr. Bias
21 was relatively was relatively stable, albeit it
22 with additional symptoms, and he didn't feel that
23 moving forward with the surgery at that time was
24 appropriate. He's also seen Tracy Hill, who did
25 an FCE putting him in the limited sedentary to

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1 limited light physical demand category and he had
2 a -- an appointment and evaluation done by Joel
3 Leonard for a Vocational and Joel Leonard opined
4 that he was totally disabled as a result of the
5 work accident. As far as future medical care,
6 again --

7 Commissioner Wilkerson: Let me ask you a
8 question at this point in time just to get it on
9 the record and I'll ask you as well. If you are
10 correct and he is permanently and totally
11 disabled, do you agree at that point in time you
12 are required to mediate the case --

13 Mr. Smith: -- our concern --

14 Commissioner Wilkerson: -- if I find him
15 permanently and totally disabled?

16 Mr. Smith: -- that since this is a denied
17 case, I don't believe that we are mandated by
18 statute to -- to mediate the case at the time.

19 Commissioner Wilkerson: Not -- not the case.
20 If -- if I find him permanently and totally
21 disabled, okay? I'm sure they will appeal it.
22 The question is, where in the statute, once
23 someone is permanently and totally disabled, do
24 you have the right not to have the mediation move
25 forward?

1 Mr. Smith: well, the issue is, I believe --

2 Commissioner Wilkerson: I'm not going to say
3 they're not going to appeal it; that's not my --
4 that's not my point.

5 Mr. Smith: -- correct. And I -- and I think
6 the issue is we're -- we're discussing a denied
7 case; it's not --

8 Commissioner Wilkerson: I understand you're
9 --

10 Mr. Smith: -- it's not new.

11 Commissioner Wilkerson: -- not required to
12 do it now; I'm just saying at the time.

13 Mr. Smith: And -- and --

14 Commissioner Wilkerson: I'm just trying to
15 get a position on the record because I want both
16 of you to put that on there.

17 Mr. Smith: -- I -- I contend that it would
18 not be subject to --

19 Commissioner Wilkerson: That -- I'm --

20 Mr. Smith: -- to mandatory mediation at that
21 time.

22 Commissioner Wilkerson: -- that's fine.
23 Okay. I'm okay with that.

24 Mr. Smith: Okay.

25 Commissioner Wilkerson: I mean, I just want

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1 -- since -- since we're building a record for both
2 sides --

3 Mr. Smith: Okay.

4 Commissioner Wilkerson: -- I think we need
5 to put it all on the record.

6 Mr. Smith: And I guess the issue would be,
7 too, if you found the case compensable would at
8 that point would we be forced to mediate before an
9 appeal could go forward or anything like that and
10 that -- that's my -- that's my condition on that;
11 it seems like it would be a -- an issue of
12 compensability and then the mediation going
13 forward at that time seems --

14 Mr. Haigler: I --

15 Mr. Smith: -- like that would be an issue.

16 Mr. Haigler: -- I'm sorry.

17 Commissioner Wilkerson: No, no. I guess my
18 overall point is I don't disagree that if I find
19 him permanently and totally disabled, obviously, I
20 think an appeal is forthcoming, okay? But if the
21 Full Commission finds that -- that I'm correct, I
22 believe at that point in time they're going to
23 require you to mediate it, assuming we aren't
24 continuing on up the ladder, okay?

25 Mr. Haigler: I --

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1 Commissioner Wilkerson: But go ahead. I'm
2 sorry.

3 Mr. Haigler: -- I --

4 Commissioner Wilkerson: I don't disagree
5 with that until we figure out what the deal is.
6 Go ahead.

7 Mr. Haigler: -- I take the position that
8 regulation indicates that mediation is -- would be
9 required if this were admitted and we had not yet
10 adjudicated whether he was permanently and totally
11 disabled. If you find that he is permanently and
12 totally disabled, I don't know that there is
13 anything to mediate; that -- that would have
14 already been concluded.

15 Commissioner Wilkerson: Okay. I just --

16 Mr. Haigler: So --

17 Commissioner Wilkerson: -- this is going --
18 because this is going to be a unique one, okay?

19 Mr. Haigler: -- it could be, yes. So, I --
20 I -- that's just -- that's the way I look at the
21 regulation.

22 Commissioner Wilkerson: Okay. I'm fine.
23 That -- yes, somebody higher up than Avery is
24 going to figure that out and probably not here but
25 that's okay. That's okay. I'm fine with both of

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1 those positions.

2 Mr. Smith: Correct. And --

3 Commissioner Wilkerson: Because I'm not sure
4 there's an answer at this point in time, okay?

5 Mr. Smith: -- correct. And as far as
6 additional treatment, ongoing medical care, we
7 contend that Mr. Bias should be allowed to treat
8 due to the nature of the case being denied and
9 being denied for a process of -- a period of
10 almost three (3) years; we contend that he should
11 be allowed to treat with Dr. Poletti, who has been
12 treating him since the time of the accident and
13 before, as well as Dr. Hutcheson, Dr. Lind and Dr.
14 Rames for the urological issues. The issues for
15 the hearing today, specifically, stem from a
16 compensable -- whether or not Mr. Bias, which we
17 contend he has, sustained a compensable injury to
18 his back, left leg, right leg, resulting
19 psychological, bladder and penis. Obviously the
20 issues with -- associated with the average weekly
21 wage have already been discussed; comp rate is
22 agreed to. Whether or not he would be entitled --

23 Commissioner Wilkerson: So, the wrist and
24 hand and all that is out?

25 Mr. Smith: -- the wrist and -- and the --

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1 Commissioner Wilkerson: It doesn't say
2 they're out on the 50.

3 Mr. Smith: -- the wrist and the ankle seem
4 to have resolved since -- since the time. He is
5 not having any ongoing issues with the wrist.

6 Commissioner Wilkerson: I'm fine with that.
7 Okay.

8 Mr. Smith: There was, obviously, initially
9 with the fall there was documentation of a wrist
10 pain and a sprained ankle but that is something
11 that has since resolved.

12 Commissioner Wilkerson: So, let me --

13 Mr. Smith: But that --

14 Commissioner Wilkerson: -- so, let me make
15 sure we're with -- are -- are -- so, left hand,
16 left wrist?

17 Mr. Smith: -- resolved.

18 Commissioner Wilkerson: Left arm?

19 Mr. Smith: Resolved.

20 Commissioner Wilkerson: Buttocks?

21 Mr. Smith: I -- I would contend that's in
22 dispute but --

23 Commissioner Wilkerson: Okay.

24 Mr. Smith: -- you know, as far as --

25 Commissioner Wilkerson: That's okay. Right

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1 hip?

2 Mr. Smith: -- that's at issue, right hip.

3 Commissioner Wilkerson: Okay. That's fine.

4 Okay. Leg, right ankle -- nervous system, that

5 could be part of the other stuff. Bladder and --

6 okay, I'm fine. I just -- those are --

7 Mr. Smith: Okay.

8 Commissioner Wilkerson: -- the hand, the

9 wrist and the arm; okay, that's fine.

10 Mr. Smith: The other issue is, obviously,

11 whether or not he would be entitled to back TTD.

12 The last day he worked was October 14th, 2014; he

13 has since been terminated following that -- that

14 period of time.

15 Commissioner Wilkerson: When is the last day

16 he received any compensation from SCANA?

17 Mr. Smith: It would be the last date that he

18 worked at SCANA, which would have been October

19 14th --

20 Commissioner Wilkerson: Okay. The same day

21 --

22 Mr. Smith: -- 2014.

23 Commissioner Wilkerson: -- that same day.

24 Mr. Smith: Also, I think it's -- the one

25 thing I should note is that Dr. Lamotta, who was

1 our IME expert, ultimately did not support
2 causation, stating that he couldn't say one way or
3 the other as far as what the cause was and he kind
4 of details that at the end of his -- basically,
5 his last page of his deposition. Dr. Lamotta
6 initially found that there was a causally related
7 accident and then he, in his deposition, says that
8 he couldn't say whether it was the accident or --
9 or something else that -- you know, and goes
10 through that and you can read that in the last
11 page of his deposition. The other issue would be
12 whether or not he's at maximum medical improvement
13 and whether or not he is permanently and totally
14 disabled under either 42-9-10 or 42-9-30; 42-9-10
15 being a destruction of earning capacity an 42-9-30
16 being greater than fifty percent (50%) loss of use
17 of the back resulting in total disability. And
18 then, the question of ongoing medical treatment
19 and care and the authorization of -- authorization
20 of doctors.

21 Commissioner Wilkerson: How about has he
22 applied for Social Security, on Social Security or
23 --

24 Mr. Smith: Correct, Your Honor. He -- he
25 has applied for Social Security and he is, in

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1 fact, receiving social security benefits at this
2 time.

3 Commissioner Wilkerson: -- okay. So, I
4 guess --

5 Mr. Salley: Long term or whatever.

6 Mr. Smith: Yes.

7 Commissioner Wilkerson: -- so, I guess you
8 would be asking for Utica Mohawk language, if
9 indeed, okay?

10 Mr. Smith: And that's correct, Your Honor.

11 Commissioner Wilkerson: Yes.

12 Mr. Smith: And Utica Mohawk and James v
13 Anne. And we'd be asking for a -- for a lump sum,
14 of course, as well --

15 Commissioner Wilkerson: Yes. I was going to
16 ask you -- yes.

17 Mr. Smith: -- as we feel that his -- he'd be
18 capable of managing that.

19 Commissioner Wilkerson: Okay. It's a great
20 mediation opportunity; that's why I said that. Go
21 ahead.

22 Mr. Haigler: Commissioner, I appreciate your
23 time. I'll try to be as brief as I can.

24 Commissioner Wilkerson: No. You've got to
25 put it on the record, so.

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1 Mr. Haigler: First and foremost, this is
2 absolutely, one hundred percent (100%) a denied
3 case. We are disputing every single instance of
4 compensability and I find it interesting that of
5 all of -- of the litany of information you were
6 given by Jake, and -- and he did a fine job of
7 giving it to you, he didn't really -- he kind of
8 glossed over one important -- important point,
9 well two (2) important points. The first one is
10 -- and I -- if you don't mind, I -- I gave you
11 these two (2) letters as exhibits; there's another
12 letter --

13 Commissioner Wilkerson: Is that his -- let
14 me make sure, that's D-5 as in --

15 Mr. Haigler: -- that's correct and D-6.

16 Commissioner Wilkerson: -- okay.

17 Mr. Haigler: There is another exhibit
18 attached, and it's a letter just like these two
19 (2), that's attached to Dr. Lind's deposition as
20 an exhibit to that deposition; it looks just like
21 it. In all three (3) of these letters they are
22 written from the Salley Law Firm to their
23 particular IME doctors and in each of these
24 letters -- normally I would -- I wouldn't -- I
25 could care less about these letters but in each of

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1 these letters there is a one (1), two (2), three
2 (3), four (4), five (5), six (6), seven (7), eight
3 (8), almost seven and a half (7 ½) page summary of
4 the facts of this case outlining ever single
5 medical record from Dr. Poletti or Dr. Poletti's
6 office, after the 6th of August, 2014, okay? Keep
7 in mind that the alleged incident occurred on
8 10/14/14; so, every -- basically every report
9 after 10/14/14, the date of injury, is included in
10 these three (3) summaries of the records to their
11 IME doctors, with the exception of one (1) report
12 is left out of every single one of these and
13 that's the report from Dr. Poletti's office the
14 day after the alleged injury. I think that in any
15 Workers' Comp case the very first time you go see
16 a doctor is a pretty important report. This
17 happened with the Neurosurgeon who has been
18 treating him or Orthopedic Surgeon who has been
19 treating him, as Jake mentioned, for fifteen (15)
20 years, the day after he allegedly was injured at
21 work. And in that particular report it's
22 extremely important -- and maybe I know why it
23 wasn't -- it wasn't mentioned, but in that
24 particular report Mr. Bias goes to Dr. Poletti's
25 office and sees Lane Tuggle, his PA, who he saw

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1 many times.

2 Mr. Beard: Tell him what page you're on.

3 Mr. Haigler: I'm on -- yes, I'm on page --
4 excuse me -- 125 of Claimant's APA's. In that
5 report he says, today -- or she says, today Mr.
6 Bias has minimal pain complaints; he feels greatly
7 improved. He continues to have some aspect of
8 numbness in the left foot but feels a slight
9 improvement. He is quite pleased with his
10 progress. That's the report. Now, keep in mind
11 he is alleging he was injured the day before. How
12 in the world do you go to your doctor, who has
13 operated on you once and has been treating you for
14 fifteen (15) years, and not mention the fact that
15 you fell on your behind the day before? Now, I
16 assume -- and we asked these questions to almost
17 every single doctor and their responses are
18 important. In fact, all of the doctors I asked
19 were doctors that were selected that these letters
20 were originated from and that were given to, the
21 letters I submitted as exhibits. I went and asked
22 Dr. Lamotta, do you know why that report wasn't
23 given to you and the answer I got was, well,
24 actually, the report was given to me. Mr.
25 Salley's office came and met with me a couple of

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1 days before my deposition, which occurred in June
2 of this year right before the last hearing we
3 canceled, to go over that report because he knew
4 it was coming. I asked Dr. Hutcheson the same
5 question and his response was, "It's odd" --
6 excuse me -- "It's strange that report wasn't
7 included in the summary." Dr. Lind, who was their
8 psychological IME, said the same thing. It is odd
9 that the report they -- that they -- they create
10 seven and a half (7 ½) pages of summary and don't
11 include the report the day after the accident from
12 the doctor you're relying on to -- to create your
13 causation opinion. Now, when I showed this to
14 Poletti, he originally said -- and this is
15 important -- he originally said, well, yeah, his
16 symptoms could have been caused -- could have been
17 delayed forty-eight (48) to seventy-two (72)
18 hours; so, maybe when he came to see my office the
19 next day maybe he wasn't having problems. Well,
20 then when I asked him a little further about it,
21 he goes and says, well, there are other things
22 that could have been causing this problem. He
23 says, there could have -- it could have been -- it
24 doesn't necessarily have to have been trauma; it
25 could have been AD -- it could have been your

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1 activities of daily living, it could have been
2 just the natural progression of what you're
3 dealing with; that's page 19 of his -- of his --
4 of his depo -- Dr. Poletti's deposition. He said
5 -- he said that he would have expected symptoms to
6 develop fairly quickly given the nature of his
7 lumbar spine on October the 14th, 2014; that's
8 page 22 of his deposition. When I deposed Dr.
9 Lamotta, he said the exact same thing that, yeah,
10 a normal person, if you fall you may not have
11 symptoms for a day or two (2) but this gentleman
12 has had forty (40) years of back problems, forty
13 (40) years. He's had two (2) prior surgeries.
14 He's been on chronic pain medication for the
15 latter -- the better part of thirty (30) years
16 with radicular symptoms that entire time. Dr.
17 Lamotta said, if -- if it aggravated it, it would
18 have -- in someone of that -- with that kind of
19 spine, it would have happened immediately; that
20 was Dr. Lamotta's deposition. So, it's -- it's
21 just -- it's oddly -- it's very convenient that
22 that report was missing out of there. And so,
23 when you read Dr. Poletti's position, of course,
24 he's not going to back off of his opinion that
25 there was an aggravation and we're not necessarily

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1 saying there wasn't an aggravation; I'm just
2 saying there wasn't an aggravation on 10/14/14.
3 Let me go a step -- a step further on this
4 analysis. I assume that the Claimant is going to
5 testify that he didn't have problems for a couple
6 of days, the 16th, maybe, of October or 17th of
7 October, 18th of October, 19th of October,
8 somewhere in there. Well, he saw some other
9 doctors during that period of time and, in fact,
10 he saw his Pulmonologist during that period of
11 time and -- and that's important for one reason,
12 and if you'll go to -- let me flip to that page
13 real quick and I'll direct you to it. He saw his
14 Pulmonologist -- I'm on page 89 of Defendant's
15 APA's -- he saw his Pulmonologist on 10/17/14.
16 Now, I hate to skip around but when I deposed Dr.
17 Lamotta, I said, well, doctor, what other things
18 could have caused him to have an exacerbation of
19 his pre-existing condition. I mean, obviously,
20 trauma but what else could have. Well, he said,
21 anything could have. He said, something small
22 could have, sneezing could have, coughing could
23 have; I didn't put that in his mouth, those were
24 his words. I did not lead him in that direction
25 but that's what he said. I said, well, doctor,

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1 that's interesting because three (3) days he -- he
2 didn't -- he said his problems didn't develop for
3 three (3) plus days after this accident and three
4 (3) days after this accident he's at his
5 Pulmonologist's office with a persistent cough,
6 chronic bronchitis and a serious history of -- of
7 COPD. In other words, he's basically coughing his
8 brains out and went to see his Pulmonologist about
9 it three (3) days after this alleged accident.
10 Dr. Lamotta said, well, that could have caused it,
11 which would have nothing to do with this accident.
12 So, there are a lot of questions -- by the way, in
13 -- in this Pulmonology report it doesn't mention a
14 fall, at all. He goes back to his Pulmonologist
15 on the 21st of October, doesn't mention a fall but
16 he's having trouble striking airway reactivity, a
17 persistent cough; he's on medications for it. He
18 had been seeing his Pulmonologist for months for
19 this condition. Oh, and then -- which is why we
20 wanted the VA records that we argued about a few
21 months ago -- I looked through the VA records and
22 there's mention of his cough aggravating his back.
23 Now, that occurred after the accident but,
24 nonetheless, he has made mention that his -- that
25 his cough was aggravating his back and that's --

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1 that's exhibit one to Dr. Poletti or Dr. Lamotta's
2 deposition. He said, he has a cough with back
3 pain for the last two (2) weeks, mid-back hurts
4 with cough. So, it's going to be hard to argue
5 that that couldn't have been a cause; it's been a
6 cause since the accident, why couldn't it have
7 been a cause of the accident? So, there are a lot
8 of issues going on with this case. There's a
9 couple of other things that I think are important
10 for you to know and this is particularly -- this
11 is what makes cases like this so difficult. We're
12 three (3) years down the road, okay? And we're
13 not three (3) years down the road because this
14 case was denied; we're three (3) years down the
15 road because every time we went to have a hearing
16 a new IME was produced by the other side. And, of
17 course, when that happens I've got to go
18 cross-examine that particular expert to make sure
19 they have all of the medical records. Well, as --
20 as the case would have it, every time I went to
21 depose their expert I found out that they didn't
22 have the records. Let me be real specific, when I
23 deposed Dr. Lamotta on June the 1st of this year,
24 not only did I find out that he was not aware of
25 the 10/15/14 report but I was -- it was determined

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1 that as soon as we got in there that he had no
2 idea about his pre-existing back conditions other
3 than the fact that he'd had surgery in the -- in
4 the 1980's and that he'd had surgery in 2014. He
5 testified that the Claimant told him, and his
6 review of the reports revealed, that he was having
7 no problems with his back and no re-herniations
8 between 1983 and 2014. And if you review my APA's
9 you'll find out quickly that that was not the
10 case. He's had no fewer than three (3)
11 re-herniations during that period of time, was
12 given a twenty percent (20%) impairment rating in
13 -- to his lumbar spine for the exact same
14 condition you're here to talk about today in 1992,
15 a ten percent (10%) rating by Dr. Poletti in 19 --
16 in 2002 or '03, in a workers' Comp case. Dr.
17 Poletti --

18 Commissioner Wilkerson: So, obviously, the
19 '92, would have been a different employer --

20 Mr. Haigler: -- correct.

21 Commissioner Wilkerson: -- because I heard
22 seventeen (17) years but -- so, are you saying the
23 '02/'03 was at --

24 Mr. Haigler: Yes.

25 Commissioner Wilkerson: -- at SCANA?

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1 Mr. Haigler: Yes. By the way, he told Tracy
2 Hill, who evaluated him both from a functional
3 capacity standpoint and for ratings, that he had
4 never had a prior workers' Compensation claim.
5 So, that can't --

6 Commissioner Wilkerson: So, was that --

7 Mr. Haigler: -- that can't be true.

8 Commissioner Wilkerson: -- was that claim
9 adjudicated and payment made?

10 Mr. Haigler: Well, because of the nature --
11 how long ago it was, I can't get any records from
12 it but -- other than the medical records -- but it
13 appears from his testimony that he did get a
14 settlement of some amount.

15 Commissioner Wilkerson: So, I guess my
16 question is, for permanent and total are you
17 asking for --

18 Mr. Haigler: Yes. I'm asking that the
19 Commission file, whatever can be located, be
20 attached and credit be given.

21 Commissioner Wilkerson: -- hold on. Okay.
22 I'm guessing we don't have it but I don't know --

23 Mr. Beard: There should be a --

24 Commissioner Wilkerson: -- that would be
25 Avery's guess.

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1 Mr. Haigler: There should be at least a
2 printout.

3 Mr. Beard: -- there should be a computer
4 printout.

5 Commissioner Wilkerson: There could be.

6 Mr. Haigler: There should be at least a
7 printout.

8 Commissioner Wilkerson: Okay.

9 Mr. Haigler: So, when I asked Dr. Lamotta,
10 the first thing he said was, he didn't tell me
11 about his pre-existing problems. He didn't tell
12 me that he was continually having problems for the
13 better part of forty (40) years. Now, this is
14 their IME doctor, who they sent him to to beef up
15 their case even more and not only did he -- and
16 Jake mentioned this at the end of his statement --
17 not only did he back off of his causation opinion
18 -- let me read you exactly what he said. It's --
19 and I'm on pages 42 and 43 --

20 Commissioner Wilkerson: Of the deposition?

21 Mr. Haigler: -- of the deposition. He said,
22 if this particular patient came back to my office,
23 I would have a really hard time believing me --
24 what he tells me. And he -- and I -- and he said,
25 because on his records, you know, he stated that

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1 his back was doing great, which is not the case,
2 he said that he never had any right lower
3 extremity radicular problems prior to this -- this
4 alleged accident, "which is not true." So, it
5 would be a little hard for me to believe what
6 causes what in him; that's their own IME doctor.
7 And then he goes on to say -- and this is page 44
8 -- I asked him, tell me what your causation
9 opinion is then, doctor. I believe that the
10 symptoms he is experiencing are more likely than
11 not just the continuing degeneration of his lumbar
12 spine and the worsening of his lumbar spine based
13 on the natural history of his pathology and not
14 necessarily the accident and not necessarily the
15 coughing; the spell that had in -- on 10/17. You
16 know, through the record he's doing worse -- and
17 he -- when he says record, he means all the way
18 back to forty (40) years -- he's doing worse,
19 better, worse, better, worse and somebody who has
20 disk problems will have a tendency to slowly
21 deteriorate over time. So, where he is at now,
22 it's not unexpected that he would have been there
23 regardless of whether he had some accident in the
24 middle; that's his -- that is his deposition. I
25 point out the fact that Dr. Lamotta -- and he goes

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1 throughout this -- throughout this deposition
2 calls into question the credibility of Mr. Bias
3 and his statements to multiple doctors because he
4 would tell one doctor one thing and another doctor
5 another thing and it was very -- it -- Dr. Lamotta
6 got very frustrated, extremely frustrated, and
7 you'll read that throughout the deposition and the
8 reason that's important and, specifically, when I
9 say that, is the credibility of Mr. Bias and his
10 reporting is going back to Dr. Poletti's
11 deposition. At the very end of his deposition,
12 after we had gone on for a little while, I asked
13 him another question about causation. I said, and
14 to be clear --

15 Commissioner Wilkerson: what page?

16 Mr. Haigler: -- I'm sorry. Page 36 and the
17 top of page -- the bottom of 36, top of 37 -- I
18 said and, again, to be clear, your opinion as to
19 causation -- hold on a second, yes -- as to
20 causation -- I wanted to make sure it was me that
21 asked that question -- as to causation in this
22 case is based upon the fact that Mr. Bias told you
23 -- told you that he fell on the 14th of October.
24 He said, I would say that's the case with all
25 opinions on causation. They have the voracity of

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1 the truthfulness of the person that's claiming
2 then they would -- they have the voracity of the
3 truthfulness of the person that's claiming they
4 were injured. I'm not investigating whether they
5 fell or whether there were in a car wreck or
6 whether they were hit in the back; like I said,
7 I'm a patient advocate, I have to listen to
8 whoever comes in to see me and I believe them.
9 what he's saying is, I have to -- I have to rely
10 upon what the person who is reporting this, Mr.
11 Bias, is telling me; that's what his causation
12 opinion is based on. Dr. Lamotta was very clear
13 that those things were not consistent and there
14 was no credibility as to what Mr. Bias was telling
15 Dr. Lamotta and his other doctors. So, this is
16 not a case of, oh, he fell, he had a prior back
17 problem, it must be aggravated. We're not
18 necessarily disputing that his back is worse now
19 than it was three (3) or four (4) years ago. In
20 fact, Dr. Lamotta said that's exactly what he'd
21 expect to happen; the natural deterioration of
22 that back. All we're trying to show you is, is
23 that, one (1), he went to his doctor the day after
24 and didn't report a thing. There are other causes
25 that could have very easily have been causing

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1 this, which are documented by Dr. Lamotta and
2 other doctors and his Pulmonologist and they
3 happened in between the time when he said he had
4 the accident and when he finally told someone he
5 had an accident that actually affected his back
6 and, more importantly, if you read Dr. Lamotta's
7 deposition, which I will tell you is the only
8 deposition that you will read where the physician
9 being deposed had all of the medical records; it's
10 the only one. So, when you read Poletti's, we
11 didn't have everything. When you read Hutcheson,
12 we didn't have everything. This is the only
13 doctor who commented on causation who had all of
14 the medical records and he said there are too many
15 inconsistencies and too many other things that
16 could have happened for me to causally relate
17 this. So, I ask you -- and I know you will read
18 this, but this is a -- this is the -- the critical
19 piece of evidence, other than the report that was
20 conveniently left out of every single letter that
21 was sent to their IME experts. With regard to a
22 few other issues -- we don't think he's at MMI if
23 you find this case compensable. Dr. Lind
24 testified he's not at MMI. Dr. Rames, who is the
25 Urologist, has -- hasn't even commented on MMI and

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1 given their allegations as -- as to how
2 significant those issues are I think that ought to
3 be -- I think he -- someone needs to comment on
4 whether he is at MMI from a urological standpoint.
5 We would also comment -- ask that you -- as we've
6 already mentioned, award credit or attach the
7 files from his prior workers' Compensation claims,
8 particularly with SCANA, as the law indicates that
9 unless he's paralyzed or has some other -- a brain
10 injury, we shouldn't be paying more than five
11 hundred (500) weeks on this particular claimant
12 from my client.

13 Commissioner Wilkerson: Let me ask you a
14 question. If -- if I find it compensable and he's
15 not at MMI, then TTD would start the day of the
16 accident -- the day after the accident and running
17 continuously for about three (3) years; I'm using
18 round numbers. So, the issue of credit would not
19 be available if I don't find him to be at MMI.

20 Mr. Haigler: That's correct.

21 Commissioner Wilkerson: So, all the money he
22 would be getting as temporary total, he'd be
23 getting a major offset on his Social Security
24 because he can't put James versus Anne in any
25 language until he's reached MMI, okay?

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1 Mr. Haigler: That's correct.

2 Commissioner Wilkerson: I wasn't sure what
3 your position on that -- okay.

4 Mr. Haigler: Let me address one (1) more
5 thing, and this goes to a couple of the issues
6 that are raised. As to the psych condition -- and
7 fortunately, again, when you have all the records
8 I could ask Dr. Lamotta about all of this. When I
9 asked Dr. Lamotta about his psychological --
10 whether he had any kind of psychological issues
11 that are related to this fall he said, I'll be
12 honest with you, when you have chronic pain for
13 forty (40) years he should have been receiving
14 psychological -- psychological treatment this
15 entire time; he said, that's not related to this
16 case. He then went into Dr. Rames' report where
17 Dr. Rames -- if you read his report, which is hard
18 to read -- but if you read his report and -- and
19 just to be clear a to what page that is -- and I'm
20 almost finished, Commissioner, I appreciate the
21 time.

22 Commissioner Wilkerson: We don't have his
23 depo, right? Just --

24 Mr. Haigler: We do not.

25 Commissioner Wilkerson: That's okay.

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1 Mr. Haigler: It's pages 17 through 20 of
2 Claimant's APA's. If you look at the very first
3 page, page 17, he goes to summarized medical
4 records, of course he summarizes October the 14th,
5 October the 22nd but there is no October the 15th
6 summarized. Then he notes, if you'll turn to page
7 2, that he -- he notes --

8 Commissioner Wilkerson: Is that page 18,
9 when you say page 2?

10 Mr. Haigler: -- I'm sorry, page 18.

11 Commissioner Wilkerson: Okay.

12 Mr. Haigler: In his past medical history he
13 notes hypertension, COPD and asbestos exposure but
14 he doesn't note anything about sleep apnea or
15 erectile dysfunction, which he's had as a
16 diagnosed condition and has been treating
17 continuously for, since 2008, for one of them, and
18 2006, for the other, with his primary doctor,
19 reports of which I have submitted. Now, then he
20 goes on to tell you how bad his erectile
21 dysfunction is and then on the last page, which is
22 page 20, he notes that these issues, which include
23 erectile dysfunction and some sleep issues,
24 appeared and were worsened following his back
25 injury, meaning they were caused by the back

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1 injury, which tells me one thing, he has no idea
2 that this gentleman has a ten (10) plus year
3 history of -- of erectile dysfunction issues, in
4 fact, it's actually longer than that, if you go
5 back to '92, he told his doctor that he
6 essentially could not have sex and I will get to
7 that as we get into the record, but at least since
8 2006; he had no idea about any of that. To me --
9 and doctor -- I mean, Dr. Lamotta was pretty clear
10 on this too, this is just another case of you're
11 not giving the doctor, who you are asking to
12 evaluate you on a particular issue, all the
13 medical records. And so, this report is you -- is
14 essentially worth nothing because he -- and when
15 it comes to causation because he didn't have
16 everything and it's very clear that he didn't have
17 everything and so, it's -- this is just another
18 case. And so, it's made out to be that we've
19 denied this case for three (3) years or four (4)
20 years, however long it's been, and that's the
21 reason we're here right now and haven't been here
22 before. No, the reason is there were -- there
23 were five (5) or six (6) IME's done or actually
24 eight (8) IME's done or seven (7) IME's done, and
25 in each one of those it's pretty clear that all

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1 the records weren't given to the doctor doing the
2 IME and so we had to go talk to those folks. So,
3 I would ask that you consider that, Commissioner,
4 and we would ask that you completely deny this
5 case in any way, shape or form as compensable.
6 Thank you for your time and I appreciate the extra
7 time.

8 Commissioner Wilkerson: Anything in rebuttal

9 --

10 Mr. Smith: Yes.

11 Commissioner Wilkerson: -- I guess?

12 Mr. Smith: Yes, Commissioner.

13 Commissioner Wilkerson: Sure.

14 Mr. Smith: I'll try to be as brief as
15 possible. I think it's hard to -- to say that Dr.
16 Poletti didn't know what Mr. Bias' condition was
17 prior to the fall and after the fall. So, to me,
18 he's probably in the best position of any of the
19 doctors as he's been treating the guy for fifteen
20 (15) years and he says that he has an aggravation
21 of a pre-existing condition and he outlines that
22 towards the end of his deposition and says that he
23 -- he believes that this is an aggravation of a
24 pre-existing condition. It's also important to
25 note that at the time of Dr. Poletti's deposition,

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1 Mr. Haigler is right that we didn't have all of
2 the records and one of the records we were missing
3 was documentation of the accident, which the
4 Employer had for two (2) years and we didn't get
5 until we took a deposition. That's -- that to me
6 is also an issue as far as if we're going to talk
7 about Mr. Bias' credibility, I -- I think we've
8 also got to look at the issues associated with
9 SCANA, itself, in -- in this situation. Also, I
10 think if you look at page 72 of Dr. Hutcheson's
11 deposition, he indicates that he did, in fact --

12 Mr. Salley: It's at page 692 in the record.

13 Mr. Smith: -- he also indicates on page 72
14 that -- he was asking a lot of questions about the
15 10/15 note that wasn't in a letter that was sent
16 over but you were provided that note, correct?
17 Correct. And you indicated earlier that you feel
18 this injury aggravated the left foot drop? Yes.

19 Mr. Salley: It's page 17 --

20 Mr. Smith: So --

21 Mr. Salley: -- of his deposition, 692 in the
22 record.

23 Mr. Smith: -- and he's also on page 17, he
24 says the same thing, that he had the note. So,
25 the issue of whether or not he was provided the

1 note, the 10/15 note, which is what Mr. Haigler is
2 trying to indicate, there is no dispute that that
3 was not included in -- in the letter but the
4 records, themselves, were sent to these doctors.
5 As far as Dr. Lamotta is concerned, he didn't have
6 any of the records that were sent over to him; so,
7 we were unable to address those issues. As far as
8 the issues associated with Dr. Hutcheson, though,
9 he does indicate that those were sent over. I
10 believe Dr. Lind also indicated, as well, that he
11 had those records and he is relying on the spine
12 surgeon who saw him as far as causation of the
13 back and he related the psych to the back
14 condition that Mr. Bias currently has. Also,
15 regarding the Pulmonologist report that was
16 indicated by Mr. Haigler, I think it's important
17 to note that that's a -- that's a Pulmonology
18 report and they're not evaluating Mr. Bias' back,
19 in fact, in that report it says, back pain
20 resolved, which I don't think anyone would have
21 said either on August 8th or October 22nd or
22 October 17th. No one would have said that his
23 back pain was resolved; he was still having
24 problems with his back. Now, the question is, did
25 he have a worsening condition of his back and is

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1 that related to work. Now, again, deposition, Dr.
2 Hutcheson opines that it is and he had the
3 records; he indicates that he did. Dr. Poletti
4 indicates that he did. And then, also, I think
5 it's important to note that ultimately Dr.
6 Lamotta, towards the end of his deposition, I
7 believe it's page -- let me make sure I get this
8 right -- page 68, says that he can't say one way
9 or the other. And so, he can't say whether it's
10 -- to a reasonable degree of medical certainty,
11 whether it's the natural progression of the
12 pre-existing condition or whether it was a fall at
13 work, whether it was the coughing or -- or
14 whatnot; he's not saying that it's not, he just
15 says to a reasonable degree of medical certainty,
16 I can't say. So, I think it's a bit disingenuous
17 to say that he says that it's related to the
18 pre-existing condition when obviously in the end
19 he says, I can't say what it's related to; so,
20 that is his position; that is his opinion. But
21 also I think it's important to note that Dr.
22 Poletti, as far as the -- the condition is
23 concerned, had been treating this guy for the
24 better part of fifteen (15) years; so, I think he
25 is the best place to say what -- what's going on.

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1 Also, there's indication from Dr. Rames, I
2 believe, that there is indication of the
3 pre-existing erectile dysfunction in his report
4 and he says that he was able to sustain a thirty
5 percent (30%) erection. And also, on the physical
6 examination the bulbocavernosal -- and I'm
7 probably butchering that word but --

8 Court Reporter: Then you need to spell it
9 for the Court Reporter.

10 Mr. Smith: B -- for the Court Reporter --

11 Court Reporter: Thank you. If you're
12 butchering it, I can't find it.

13 Mr. Smith: -- and it is,
14 B-U-L-B-O-C-A-V-E-R-N-O-S-A-L.

15 Court Reporter: Thank you.

16 Mr. Smith: That is part of his physical
17 examination that he performed on Mr. Bias and
18 found that reflex absent. As far as -- and,
19 again, it is clear that from the records the
20 doctors are -- predominately opine this is, by the
21 preponderance of the evidence, that this is a
22 work-related aggravation of a pre-existing
23 condition. I also think it's important to note
24 that we can only assume that Dr. Gunter had all
25 the records and in his, I believe, second sentence

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1 of his IME note, notes that this is a work-related
2 injury and then talks about the worsening of
3 symptoms since the fall and that's also
4 Defendant's expert, as well. So, not disputing --

5 Commissioner Wilkerson: When did Dr. Gunter
6 see him?

7 Mr. Smith: -- Dr. Gunter saw him in January
8 of 2017.

9 Mr. Haigler: May I make three (3) quick
10 comments, Commissioner?

11 Commissioner Wilkerson: Yes. Let me see if
12 he's through, though; he's still marking. Let --
13 go ahead.

14 Mr. Smith: Yes. And -- and I think it's
15 important to note that the ED, that we mentioned
16 that as far there -- there was a pre-existing ED
17 that's worsened and it's documented by Dr. Rames
18 and the urological symptoms were noted as far as
19 in January of 2015, following the work accident.

20 Commissioner Wilkerson: Let me ask a
21 question. When was the initial -- let me get
22 another piece of paper -- when was the initial
23 Form 50 filed?

24 Mr. Smith: The initial Form 50 --

25 Commissioner Wilkerson: And is there more

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1 than one (1) Form 50?

2 Mr. Haigler: Yes.

3 Commissioner Wilkerson: Because that's what
4 I thought. That's why -- I'm just trying to get a
5 -- because I've got stuff all over the place. It
6 just helps me where I can go back and look all
7 this stuff up.

8 Mr. Smith: -- the initial Form 50 was filed
9 in March --

10 Mr. Haigler: The 18th, 2015.

11 Mr. Smith: -- '15, correct.

12 Commissioner Wilkerson: March?

13 Mr. Smith: March 18th, 2015.

14 Commissioner Wilkerson: Okay, 2015. And
15 then the -- the next Form 50?

16 Mr. Smith: The next Form 50 is, I believe,
17 the hearing request --

18 Mr. Haigler: August of '16.

19 Commissioner Wilkerson: Okay. That's all
20 right. That's fine.

21 Mr. Smith: -- and then there's one, I
22 believe, January of '17, and then --

23 Commissioner Wilkerson: That's the one that
24 confused me but that's okay.

25 Mr. Smith: -- and then April of '17, as

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1 well.

2 Commissioner Wilkerson: Okay. Yes, that's
3 fine. I knew they were numerous; that's -- that's
4 -- the January one confused me. Okay. There's no
5 dispute on that as far as those are the --

6 Mr. Haigler: (Shook head in a side-to-side
7 motion).

8 Commissioner Wilkerson: -- okay.

9 Mr. Smith: And as far as the urological
10 symptoms --

11 Court Reporter: Mr. Haigler, use your words,
12 please.

13 Mr. Haigler: Yes.

14 Court Reporter: Thank you.

15 Mr. Haigler: No. No.

16 Mr. Smith: -- yes, there's no --

17 Mr. Haigler: No.

18 Commissioner Wilkerson: No. Yes, okay.

19 Mr. Haigler: Yes and no.

20 Commissioner Wilkerson: I'm sorry.

21 Mr. Smith: -- the urological symptoms that
22 we're talking about, we're talking about urinary
23 incontinence --

24 Commissioner Wilkerson: Yes. Okay.

25 Mr. Smith: -- and also --

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1 Mr. Salley: That's new.

2 Mr. Smith: -- that's new since the injury.

3 Commissioner Wilkerson: And when did that
4 start?

5 Mr. Smith: The first notation of it is in
6 January of 2015 --

7 Commissioner Wilkerson: Okay. That's fine.

8 Mr. Smith: -- it's indicated in Dr.
9 Poletti's note.

10 Commissioner Wilkerson: Okay. That's fine.
11 Okay. Anything else for right now?

12 Mr. Smith: That's it, Your Honor.

13 Commissioner Wilkerson: I think you said you
14 had three (3)? Okay.

15 Mr. Haigler: Three (3) things, Commissioner.
16 First, Jake just made a very interesting comment
17 that Dr. Poletti, who has treated for so long, is
18 in the best position to make the blah, blah, blah
19 -- make -- make the comment about causation.
20 Well, if that's the case, why do I have an -- why
21 did he go get an IME from Dr. Lamotta for the
22 exact same opinion? Why would that be necessary
23 if -- if that were so slam dunk, he's in the best
24 position to make that opinion and gave a -- an
25 easy causation opinion, why would go get an IME

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1 from Dr. Lamotta? And the reason is -- the reason
2 that's their position now is Dr. Lamotta's IME is
3 not useless because it doesn't support their
4 position any longer because on page 49 of his
5 deposition, when we were talking about the
6 credibility of Mr. Bias, Dr. Lamotta literally
7 laughed and the Court Reporter recorded it because
8 I asked him, why are you laughing and he goes
9 because there is such an inconsistency in what Mr.
10 Bias reports to one doctor and doesn't report to
11 the other. And he was, as I mentioned earlier,
12 extremely frustrated by that inconsistency. And
13 the final thing I will -- I will ask, and this is
14 more of a rhetorical question, but if you will,
15 Commissioner, if that 10/15/14 report is so
16 insignificant, can you ask Jake why it's not
17 included, conveniently, in any of the letters that
18 he sent to his IME doctors; can you ask him that
19 question? Because I think it's important. Why is
20 it not included in any of the letters outlining
21 and summarizing all of the medical treatment after
22 the date of accident from Dr. Poletti's office but
23 that one report is not in there; I think that's
24 important. Thank you, Commissioner.

25 Commissioner Wilkerson: Do you want to

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1 answer that?

2 Mr. Smith: I -- I don't think I need to
3 answer it, Commissioner. But as far as I'm
4 concerned the -- the doctors had the notes; they
5 were provided the medical records. Dr. Hutcheson
6 indicates that that's what he looks at is the
7 medical records, that my letter is just more of a
8 -- an outline of -- of, you know, what we've got.

9 Mr. Haigler: What he wants them to know.

10 Mr. Smith: And as far as -- but he -- but he
11 has the records and -- and they're looking at --
12 to me, the doctors are looking more at the
13 records, as testified to by Dr. Hutcheson, that
14 that's what they're looking at. And as far as --
15 and that's just -- and that's just where we are.

16 Mr. Haigler: Dr. Lind said he didn't have
17 the report; he got a letter. Dr. Hutcheson said
18 -- and Lamotta both said it was odd that it wasn't
19 in there. So --

20 Commissioner Wilkerson: Well, I -- I
21 understand but --

22 Mr. Haigler: -- someone thought about it.

23 Commissioner Wilkerson: -- it doesn't --

24 Mr. Haigler: It is what it is.

25 Commissioner Wilkerson: -- and the question

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1 is --

2 Mr. Salley: The record or the note? what
3 are you saying the letter or the note?

4 Commissioner Wilkerson: -- 10/14/15 --

5 Mr. Beard: The -- the missing report.

6 Commissioner Wilkerson: -- why wasn't the
7 medical report --

8 Mr. Salley: It wasn't missing.

9 Commissioner Wilkerson: -- as I understood
10 it, why wasn't the medical report of 10/15/14
11 included --

12 Mr. Beard: You didn't send it.

13 Commissioner Wilkerson: -- to the other
14 doctors. I said --

15 Mr. Salley: The report was sent from the
16 letter.

17 Mr. Beard: You didn't send the report.

18 Commissioner Wilkerson: -- did he want to
19 answer that.

20 Mr. Haigler: I guess my question, if you'll

21 --

22 Mr. Beard: He didn't send the report.

23 Mr. Haigler: -- in these letters --

24 Commissioner Wilkerson: I haven't looked.

25 Yes.

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1 Mr. Haigler: -- yes. If you could just --
2 and I'll tell you what, just so there's no
3 mistaking what I'm talking about.

4 Commissioner Wilkerson: Okay. Make sure I
5 didn't miss it.

6 Mr. Salley: It's right here. You had that
7 --

8 Mr. Haigler: The first page you see August
9 6th, 2014 --

10 Commissioner Wilkerson: whoa, whoa, whoa,
11 time out. Are we talking about the June 22nd, '06
12 -- D-5 or --

13 Mr. Haigler: -- I'm talking about -- yes, to
14 Dr. Lamotta.

15 Commissioner Wilkerson: -- okay. D-5 and
16 what page are you --

17 Mr. Haigler: August -- he summarizes, August
18 14th, 2000, August 6th, 2000 --

19 Commissioner Wilkerson: Wait a minute. Hold
20 on.

21 Mr. Haigler: -- I'm sorry. I'm sorry.

22 Commissioner Wilkerson: Yes. Where --

23 Mr. Haigler: First page.

24 Commissioner Wilkerson: -- okay. First
25 page, help me because we've got --

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1 Mr. Haigler: August 6th, 2000 --

2 Commissioner Wilkerson: -- everything is in
3 black-and-white; it's not outlined, okay?

4 Mr. Haigler: -- August 6th, 2014.

5 Commissioner Wilkerson: Okay. I'm fine.

6 Mr. Haigler: The next report is what?

7 Commissioner Wilkerson: October 22nd.

8 Mr. Haigler: And nothing about 10/15/14, the
9 day after the injury and that's the same in every
10 single letter that was sent to their experts. And
11 I'll bet you -- and I think you'll read this
12 through the -- through their deposition -- they
13 didn't look at that big stack of medical records
14 that's sitting in front of you. They looked at
15 this big letter from Brett and Jake, which is why
16 they sent it. So, I'm just -- I'm just curious
17 why that report wasn't mentioned.

18 Commissioner Wilkerson: And that's why I
19 asked him did he wanted to answer it and he said
20 he didn't and I'm fine with that.

21 Mr. Haigler: When every doctor said it was
22 important.

23 Commissioner Wilkerson: I understand.

24 Mr. Haigler: They all said it was important.

25 Mr. Smith: And I think that, you know, if

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1 we're looking at the totality of the evidence,
2 they -- the record was discussed by the doctors
3 and -- and the doctors indicated that they still
4 opined as far as causation is concerned. Dr.
5 Poletti -- we can only assume Dr. Gunter had this
6 -- this record as that was Defendant's IME.

7 Commissioner Wilkerson: I can't assume
8 anything because you know what that makes out of
9 both of you.

10 Mr. Smith: Correct.

11 Commissioner Wilkerson: Okay. And that's
12 not me, okay?

13 Mr. Smith: Correct.

14 Commissioner Wilkerson: I can't answer that.
15 I don't know. I can't assume anything what they
16 got.

17 Mr. Haigler: In fact, it was never asked
18 about --

19 Commissioner Wilkerson: I don't know.

20 Mr. Haigler: -- we never confirmed any of
21 them had it, with the exception of Dr. Hutcheson;
22 it was in the stack of records he was given. It
23 was never asked in a deposition to be confirmed.

24 Commissioner Wilkerson: I don't know. Is
25 there anything else before we take the testimony

1 of Mr. Bias? I guess before we start, I -- my
2 belief is this is going to take a while for his
3 testimony. I don't know if he needed -- if
4 anybody needed to use the restroom before we
5 started and I'm fine with that.

6 Mr. Smith: I would.

7 Mr. Haigler: Can I get a drink of water?

8 Commissioner Wilkerson: Because we've been

9 --

10 Mr. Smith: Yes, I would.

11 Commissioner Wilkerson: -- yes, because
12 we've been going about an hour. Okay. I just
13 thought, once we start we're going to go another
14 hour or two (2) and I'm fine with that it's just
15 this is a good time to take a stop before we
16 start; that way --

17 Mr. Smith: Right.

18 Commissioner Wilkerson: -- if anything needs
19 to be discussed, okay. Thank you all.

20 Court Reporter: Off the record.

21 Commissioner Wilkerson: Off the record, yes.

22 (Off The Record)

23 Commissioner Wilkerson: We're back on the
24 record; ready to go? Sir, I'm going to get you to
25 raise your right hand; I'm going to get the Court

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1 Reporter to swear you in, right here, and we're
2 going to take some testimony from you.

3 Whereupon;

4 Johnnie T. Bias, being duly sworn and cautioned to
5 speak the truth, the whole truth and nothing but the truth,
6 testified as follows:

7 Court Reporter: Please state your full name
8 for the record.

9 Witness: Johnnie T. Bias.

10 Court Reporter: T?

11 Witness: T.

12 Court Reporter: Thank you, sir.

13 Commissioner Wilkerson: Now, is it okay if
14 he leads him through the preliminary stuff?

15 Mr. Haigler: Yes.

16 Commissioner Wilkerson: Yes, I mean, you --

17 Mr. Haigler: Can I just say when it's time
18 to not lead; is that -- will you --

19 Commissioner Wilkerson: -- that would
20 probably be better because I know there's a lot of
21 preliminary stuff --

22 Mr. Haigler: -- I'm fine with that.

23 Commissioner Wilkerson: -- you've got to get
24 on the record and if --

25 Mr. Haigler: Age, weight, date of birth; I'm

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1 fine with all of that.

2 Commissioner Wilkerson: -- and all of that
3 and how long you've been there and blah, blah,
4 blah, yes.

5 Mr. Haigler: I'm perfectly fine with that.

6 Commissioner Wilkerson: Okay. So, he just
7 -- he may just -- I don't know how you typically
8 do it and you may just go, brrrrrrrrrrrrrrp and you
9 get an answer or you may do each one. So, please,
10 proceed. I'm sorry.

11 Mr. Smith: Thank you, Commissioner.

12 Commissioner Wilkerson: Thank you.

13 **DIRECT EXAMINATION**

14 **By Mr. Smith:**

15 Q. Mr. -- Mr. Bias, how old are you?

16 A. I'm sixty-one (61).

17 Q. Okay. And how far did you go in school?

18 A. The vocational college and I'm going to have to
19 say fourteen (14) years.

20 Q. Okay. So, you get -- you got you got your high
21 school diploma?

22 A. Yes.

23 Q. Okay. And what did you go to vocational school
24 for?

25 A. Climate control technology, HVAC.

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- 1 Q. Okay. And when did you do that?
2 A. '78, '79 or somewhere in there.
3 Q. Okay. Have you ever served in the military?
4 A. I have.
5 Q. In which branch?
6 A. The Navy.
7 Q. And how many years did you serve in the military?
8 A. For three (3) years.
9 Q. And were you honorably discharged?
10 A. Yes.
11 Q. As far -- in what years were you in the Navy?
12 A. From '74 to '77.
13 Q. Okay. After '77, well, what has your employment
14 history been?
15 A. Initially it was kind of off-and-on and then I got
16 a job where I was going in-and-out of companies where I
17 would go in and they would open and close. And then, I
18 went to work for NIBCO and I was --
19 Q. Did you say NEBCO?
20 A. -- NIBCO.
21 Q. Okay. And what did you do there?
22 A. I was a Rubber and Plastics Troubleshooter.
23 Q. Okay. And is that a -- would you call that a
24 physically demanding job?
25 A. Yes.

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- 1 Q. Okay. And where else have you worked?
- 2 A. After NIBCO I went to Rockland Industries.
- 3 Q. Okay. And when did you work at Rockland
- 4 Industries?
- 5 A. In the '80's, '87 to '89, I think.
- 6 Q. Okay. And where else have you worked?
- 7 A. And I worked at South Carolina Department of
- 8 Corrections for six (6) years.
- 9 Q. Okay. What did you do with the South Carolina
- 10 Department of Corrections?
- 11 A. I was the Vocational Instructor for HVAC.
- 12 Q. Okay. Were you -- and when -- when did you finish
- 13 up at the South Carolina Department of Corrections?
- 14 A. '96, I believe.
- 15 Q. Okay. And where did you work after that?
- 16 A. South Carolina -- SCE&G.
- 17 Q. Okay. At any point in your -- in your employment
- 18 have you ever been self-employed?
- 19 A. Just for about two (2) years.
- 20 Q. Okay. And when was that?
- 21 A. That was between the South Carolina Department of
- 22 Corrections and the SCE&G.
- 23 Q. Okay. And what kind of things were you doing when
- 24 you were self-employed?
- 25 A. I ran a bar.

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1 Q. Okay. As far as your employment with SCE&G, when
2 did that begin, about when did that begin?

3 A. Approximately '90/'91.

4 Q. Okay. Now, you just said that you finished up in
5 the mid-'90's and is it -- as far as your employment
6 with SCANA, did it actually -- how long have you been
7 working there?

8 A. From that time there, about seventeen (17) years.

9 Q. Okay. So, seventeen (17) years in that period,
10 and when was your last day of work?

11 A. The 14th --

12 Q. Of October?

13 A. -- of October.

14 Q. Okay. So, if we take seventeen (17) years off of
15 that, that's about '97 --

16 Commissioner Wilkerson: Just tell him
17 when he worked there. We'll be here all day.

18 Q. -- did you work there in --

19 Commissioner Wilkerson: I mean,
20 seriously, that's -- that's the leading part.

21 Mr. Smith: -- correct.

22 Commissioner Wilkerson: Just say you
23 went to work there --

24 Q. You went to work there in '98?

25 Commissioner Wilkerson: -- in 1990 --

1 yes. It just works better.

2 A. '97/'98.

3 Q. Okay. Perfect.

4 Commissioner Wilkerson: Not '90/'91?

5 Okay. That's --

6 Mr. Smith: Correct.

7 Witness: Yes, sir.

8 Q. And were you a salaried or an hourly employee?

9 A. Hourly.

10 Q. Okay. And you've had multiple jobs at SCANA?

11 A. Yes, I have.

12 Q. Okay. And -- and at the time of your injury you
13 were in the Chemistry Department?

14 A. Yes.

15 Q. Okay. And how much were you making at the time of
16 your injury?

17 A. Approximately twenty-eight dollars (\$28.00) an
18 hour.

19 Q. Okay. Were you earning overtime?

20 A. Yes.

21 Q. Okay. Would you consider yourself a good employee
22 for SCANA?

23 A. Yes.

24 Q. Okay. And we're here today because of an accident
25 that occurred on October 14th, 2014, if you could, just

1 describe that accident for the Commissioner.

2 A. It was in the -- in the morning and I looked at
3 the screen, there was something going on outside
4 between the ponds. You can see on the screen when you
5 start having some problems in turning the PH and I just
6 walked out of the back door, like I always do, to go to
7 the pond to see what the problem may be. And after I
8 got across the street, I was going down the concrete
9 steps and my left foot stepped on rocks -- some rocks
10 and slipped out from under me and I fell. I tried to
11 catch myself, you know, my butt -- my buttocks and both
12 hands hit, twisted my left wrist and it stunned me and
13 I tried to get right back up but then I couldn't
14 because I was stunned. And I sat there for a minute, I
15 gathered myself and then after I got back up I went
16 back inside to call my supervisor to tell him what had
17 happened.

18 Q. Okay. And prior to this injury, you had a -- a
19 back condition, correct?

20 A. Yes, sir.

21 Q. Okay. And how long have you been dealing with a
22 -- a back issue?

23 A. For a long time.

24 Q. Okay. Is that something that's been off-and-on
25 over the years?

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1 A. Yes, sir. It's been off-and-on for, like I say, a
2 long time.

3 Q. Okay. And you had a surgery back in the '80's; is
4 that correct?

5 A. That's correct.

6 Q. Okay. And you also had a surgery with Dr. Poletti
7 in 2014?

8 A. That's correct.

9 Q. And you started treating with Dr. Poletti in 2001?

10 A. I believe it's 2001.

11 Q. Okay. And as far as the surgery is concerned with
12 Dr. Poletti in 2014, why did you have that surgery?

13 A. I got to the point where the pain was just
14 unbearable. I -- I mean, all throughout my -- my -- my
15 years, you know, I worked with some pain but I worked,
16 I worked continuously through it; it wasn't that big of
17 a problem from time-to-time. But at that time the pain
18 had just got to the point where I just couldn't take it
19 anymore.

20 Q. Okay. And the records indicate pain in your back
21 and left leg at the time of the surgery?

22 A. Yes. It was on the left side.

23 Q. Okay. As far as right leg symptoms, there is
24 documentation of right leg symptoms in 2010; do you
25 dispute that?

1 A. No, I don't.

2 Mr. Haigler: I'm going to object,
3 that's --

4 A. No, I don't.

5 Mr. Haigler: -- I'm going to object to
6 leading the witness.

7 Mr. Smith: Oh -- oh.

8 Commissioner Wilkerson: Just ask him
9 when he had the right leg issues.

10 Mr. Smith: Okay. Okay. That's fine.

11 Commissioner Wilkerson: Yes. No,
12 that's fine.

13 Mr. Smith: I just didn't know --

14 Commissioner Wilkerson: No, no, that's
15 fine. He said he'd let you -- let us know.

16 Mr. Smith: -- okay.

17 Q. So, as far as the right leg symptoms, when did you
18 have the right leg symptoms?

19 A. And that was around 2010; I was having some left
20 side pain, I believe, at the same time and the right
21 leg -- I -- I believe I told him that, that the -- my
22 left side was hurting and then that my right side was
23 -- I'm starting to feel the right side, too.

24 Q. Okay.

25 A. And I didn't -- they were -- I -- after -- after

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1 that time I think I was treated for the right side for
2 a little bit and then I didn't have any more problems
3 with that.

4 Q. Okay. What kind of treatment did you get at that
5 time?

6 A. I -- -I -- that's been a long time. I'm not sure.
7 I'm not -- I'm not sure whether they gave me a shot for
8 the right side.

9 Q. Okay.

10 A. I think they just told me if it got any -- any --
11 any worse --

12 Q. Correct.

13 A. -- to come back.

14 Mr. Smith: And, Your Honor, if I may,
15 I'm just going to --

16 Commissioner Wilkerson: Sure.

17 Mr. Smith: -- show him a note. This is
18 Claimant's APA, page 88.

19 Mr. Haigler: Thank you. That's all I
20 wanted.

21 Q. Here's a note from the doctor, and if you can --
22 what's the date of that note?

23 A. This note is 2/19/2010.

24 Q. And what -- what was the procedure done at that
25 time?

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1 A. I was taken to the block spine and placed upon a
2 -- a table. I believe I got a block.

3 Q. Okay. So, you got an injection on that day, you
4 think?

5 A. Yes.

6 Q. And as far as the operation is concerned, does
7 this note indicate which side -- oh, excuse me --

8 Commissioner Wilkerson: Is that the
9 same report or is that a different one?

10 Mr. Smith: -- the same report.

11 Commissioner Wilkerson: Okay.

12 Q. The operation note, under operation, does it
13 indicate that it is a right sided block, under
14 operation?

15 A. Where? I'm looking now. I see the notes.

16 Mr. Haigler: You -- you can show him.

17 Mr. Smith: Yes.

18 Q. And under operation here (indicating), does it say
19 right L4,5 lumbar epidural steroid injection?

20 A. See, I'm sorry, Jake, I'm not --

21 Q. Right here (indicating).

22 A. -- right L4,5 lumbar, yes.

23 Q. Okay. After this injection -- when did you return
24 to Dr. Poletti?

25 A. It had been a while --

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1 Q. Okay.

2 A. -- since I returned to him after that. I didn't
3 have any more problems with it.

4 Q. Okay. You didn't have any more problems with the
5 right side?

6 A. No, sir.

7 Q. Okay. As far as when you went back to Dr.
8 Poletti, what kind of problems were you having?

9 A. I was having left-sided problems.

10 Q. Okay. And you indicated earlier that ultimately
11 you had a surgery in -- in March of 2014, correct?

12 A. Yes.

13 Q. And you indicated earlier that you started seeing
14 Dr. Poletti in 2001?

15 A. Approximately that.

16 Q. Okay. Following the surgery, and -- and before
17 your fall in October of 2014, what kind of problems
18 were you having with your back, after your surgery?

19 A. After the surgery? My back had gotten
20 considerably better. I -- I was going back doing most
21 of the things I had been doing before. I was back at
22 work and I was doing almost everything at -- at work I
23 was doing before with the exception of the heavy
24 lifting; I had my friend do it that would always help
25 me do that. And my foot drop was getting really good;

1 it had come back, I was -- I was getting some -- some
2 strength back in to my foot drop and I was doing well.

3 Commissioner Wilkerson: Jacob, let me
4 ask you a question just because I -- I mean,
5 you all have had this for -- what was the
6 date of the surgery in 2014; that just helps
7 me go back --

8 Mr. Smith: Correct.

9 Commissioner Wilkerson: -- I mean, I
10 know it's in there.

11 Mr. Salley: It was March.

12 Mr. Smith: It was March -- I believe it
13 was March 4th of 2 --

14 Mr. Haigler: 24th, I thought.

15 Mr. Smith: -- yes.

16 Commissioner Wilkerson: That's okay.
17 I'm just -- I'm just trying to get a --

18 Mr. Smith: It's in March of 2014.

19 Commissioner Wilkerson: -- I'm just
20 trying to do a chronological. I'm fine with
21 that.

22 Mr. Smith: It looks like the date
23 scheduled for surgery, March 7th.

24 Commissioner Wilkerson: March 7th?

25 Mr. Haigler: Oh, I stand corrected.

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1 Commissioner Wilkerson: Okay. That's
2 fine. It just gives me a -- I don't need it
3 -- it just gives me a chronological
4 following. Okay.

5 Mr. Smith: And that's on --

6 Mr. Salley: Help him find the page.

7 Mr. Smith: -- yes. It's on page 116 of
8 Claimant's APA 6 or 7; excuse me.

9 Q. And following the accident you indicated earlier
10 that you went and told a supervisor; which supervisor
11 did you tell?

12 A. His name was Anthony Miles.

13 Q. Okay. And what happened -- did you go to the
14 doctor that day?

15 A. I did not. Anthony asked me did I think I needed
16 to see the doctor at that time and I told him I didn't
17 think it was warranted right then.

18 Q. Okay. When did you first go to the doctor, to any
19 doctor?

20 A. The next day I went to South Carolina Spine
21 Institute; I believe that was on the 15th.

22 Q. Okay.

23 Mr. Salley: Southeastern Spine.

24 Q. Southeastern Spine?

25 A. Southeastern Spine.

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1 Q. Okay. And what did you tell them about your work
2 accident?

3 A. On the 15th I didn't tell them anything about my
4 -- my work accident. It was pretty much about
5 twenty-four (24) hours and my hands and buttocks and
6 stuff was just a -- just a little sore. But I didn't
7 tell them because -- and my supervisor had already told
8 me if you go to --

9 Mr. Haigler: Object to hearsay.

10 Commissioner Wilkerson: You can't tell
11 me what the supervisor said.

12 Mr. Smith: Yes.

13 Mr. Salley: It's not even on here, a
14 conversation with the supervisor.

15 Witness: -- yes, sir.

16 Mr. Smith: Okay.

17 Witness: Yes, sir.

18 Q. So, you didn't tell them about the -- the work
19 accident at Southeastern Spine?

20 A. No, I did not.

21 Q. Okay.

22 Commissioner Wilkerson: So, why did you
23 go to Southeastern Spine the next day?

24 Witness: I had a -- it was a follow up.

25 Commissioner Wilkerson: Okay. A follow

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1 up that had already been scheduled?

2 Witness: Yes, sir.

3 Commissioner Wilkerson: Okay. Okay.

4 That's important. Okay. I'm fine with that.

5 Okay. Go ahead; I'm sorry.

6 Mr. Smith: Oh, no problem,

7 Commissioner.

8 Q. As -- as part of your conversation with the
9 supervisor, what did you do after the follow up with --
10 or what happened after the follow up with Southeastern
11 Spine?

12 A. The next couple of days I called my supervisor and
13 told him that I was -- that my left leg was cold. I
14 said, it was -- that was unusual to have my leg just
15 cold; my whole side all the way up almost to my waist
16 was cold. And I said, maybe we need to go and take a
17 look -- let the doctor take a look at this because I'm
18 also starting to have a few little pains right here on
19 the right hand side; it may not be nothing but let's go
20 ahead and just, you know, make sure I'm okay. And I
21 was doing that because I had had a surgery; I just
22 didn't -- I didn't know.

23 Q. Did they schedule you for an appointment at that
24 time?

25 A. They scheduled me for an appointment and then the

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1 appointment got canceled.

2 Q. who was the appointment with?

3 A. Dr. Weissglass, I think that was the company
4 doctor from Charleston, South Carolina.

5 Q. And I believe you said that appointment was
6 canceled?

7 A. It was canceled.

8 Q. Okay. What happened after that appointment was
9 canceled?

10 A. They told me to go and see my own doctor.

11 Q. Okay.

12 Mr. Haigler: I need to --

13 Commissioner Wilkerson: You can't tell
14 me who they --

15 Mr. Haigler: -- I need to object to --

16 Commissioner Wilkerson: -- I don't know
17 who they are.

18 Mr. Smith: No, they told --

19 Q. -- what -- what happened after that?

20 A. I went to see my own doctor.

21 Q. Okay. Okay. And when was that?

22 A. The 22nd.

23 Q. Okay.

24 Commissioner Wilkerson: Of October?

25 witness: Of October, 2014.

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1 Commissioner wilkerson: Okay.

2 Q. And what did you tell Southeastern Spine on the
3 22nd of October?

4 A. On the 22nd was when I told them that I had fell
5 on the job coming down the steps, on some concrete
6 steps, and that I had hurt myself.

7 Q. Okay.

8 A. And I was back in there that day because of --
9 because I had -- my whole left side was cold up to my
10 waist and I was having some -- starting to have some
11 pains on my right side.

12 Q. And -- and what kind of treatment was recommended
13 for you at Southeastern Spine?

14 Mr. Haigler: I need to object; I think
15 the records speak for themselves on that.

16 Mr. Smith: well, I --

17 Commissioner wilkerson: Yes, the
18 medical will speak for itself.

19 Mr. Smith: -- I just wanted --

20 Commissioner wilkerson: From -- and
21 you're talking October the 22nd?

22 Mr. Smith: -- correct.

23 Q. Did they schedule you an MRI?

24 A. They did.

25 Q. Okay. And did you have that MRI done?

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1 A. Yes.

2 Mr. Smith: And, Commissioner, for the
3 record, the MRI is page 130 --

4 Commissioner Wilkerson: Okay. All
5 right.

6 Mr. Smith: -- of the Claimant's APA's.

7 Commissioner Wilkerson: Okay. 130,
8 I've got you.

9 Q. Mr. Bias, what symptoms are you having now?

10 A. At this time right now?

11 Q. Well, yes, at this time, what's going on with you?

12 A. My left foot foot drop, I don't have very much
13 control of that and my -- my whole foot is basically
14 numb. I have a lot of numbness on the calf of my leg
15 that comes up.

16 Q. And you're talking about the calf on your left
17 side?

18 A. The calf on my left side; all of this is on the
19 left side. And the numbness has come up on the left
20 side to my buttocks. The left side pain, that goes
21 across my buttocks. The right side lower back goes
22 across my hip, comes down my leg and my -- my right
23 foot, the two (2) toes on my -- the big toe and the toe
24 next to that one, and also underneath my foot is
25 getting numb.

1 Q. And you said that was your right foot?

2 A. That was on the right foot. I'm having some
3 urinary incontinence; I'm leaking from time-to-time. I
4 --

5 Q. And when did the urinary incontinence start?

6 A. -- I want to say it was a little bit after the
7 fall; a couple of months, two (2) or three (3) months
8 after the fall or something like that.

9 Q. I'm sorry; I didn't mean to interrupt you.

10 A. Okay. And now I'm not able to have sex with my
11 wife.

12 Q. And why is that?

13 A. I can't get an erection.

14 Q. Okay. And prior to this fall, had you ever had
15 issues sustaining an erection or having an erection?

16 A. Yes, sir. I did have some -- some trouble. I was
17 getting some medicine from time-to-time in there; I
18 would get some -- I would talk to the doctor and he
19 said, man, it's basically mental --

20 Commissioner Wilkerson: You can't tell
21 me --

22 A. -- what I think it is.

23 Commissioner Wilkerson: -- you can't
24 tell me what the doctor said.

25 Mr. Smith: You can't -- you can't tell

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1 him what the doctor said.

2 Witness: Yeah. I'm sorry, sir. I'm
3 sorry, sir.

4 A. And -- could you repeat the question again? I'm
5 sorry.

6 Q. I was asking what -- what problems were you having
7 prior to this accident with erectile dysfunction.

8 A. Oh, okay. I have some erectile dysfunction that
9 -- but it -- it was only from time-to-time; it was not
10 something, like, I was taking the erectile function
11 medicine constantly, I would get it from time-to-time
12 and then I would be okay and then maybe some time later
13 I would go back and get some and there was some periods
14 -- some time where I just didn't need it.

15 Q. As far as the urinary incontinence, is that
16 something that you'd had before the accident?

17 A. No.

18 Q. Okay. And how are you feeling about yourself
19 currently?

20 A. I'm extremely agitated. I -- after all this got
21 started, I thought that I was a pretty good employee; I
22 didn't -- I just didn't believe that my company would
23 just kind of let me out like that after all the things
24 that I've done for them, almost everything that I've --
25 I've done for them. And no insurance there for a

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1 minute, no paycheck there for a minute and I was
2 extremely agitated, extremely agitated. I, for a
3 while, was withdrawn, I didn't want to go out; I just
4 kind of stayed in the house for a -- I stayed in the
5 house for a long time.

6 Q. Okay.

7 A. A long time. I started having a recurring dream
8 that somebody was coming into the house and I'm still
9 having that dream, that somebody is just coming into
10 the house and just -- I just feel like there's nothing
11 I can do about it; they're coming and --

12 Q. And why do you --

13 A. -- I'm standing there.

14 Q. -- why do you feel like there's nothing you can do
15 about it?

16 A. When you're a -- when you're a man you -- you have
17 to feel like that you can take care of your family, you
18 can protect your family and when I started dreaming
19 like that, I -- I -- I couldn't hardly take myself to
20 the bathroom sometimes.

21 Q. Okay. And with the pain that you indicated in
22 your back, in your left leg, your right leg; is that
23 something that has been constant?

24 A. Yes.

25 Q. And has that -- I guess, is that a -- has that

1 gotten worse since the fall?

2 A. Yes. It has gotten a lot worse since the fall.

3 Q. And have you been -- you -- you indicated that you
4 were having some urinary incontinence, have you been
5 evaluated for that?

6 A. Yes, I have been evaluated for urinary
7 incontinence.

8 Q. Who did that evaluation?

9 A. I think it was Dr. Gunter?

10 Q. Okay. And -- and I have --

11 Mr. Smith: -- in the records, Your
12 Honor --

13 Q. -- was it Dr. Rames?

14 A. Dr. Rames.

15 Q. Okay.

16 A. I'm sorry. It was a lot of doctors. I'm sorry.

17 Q. And as far as Dr. Rames, he's down in the
18 Charleston area?

19 A. That's correct.

20 Q. Okay. And what kind of examination did he do for
21 you?

22 A. He did a physical evaluation. He -- after he
23 checked me over then he had his hand on my -- on my
24 penis and he had another hand in my rectum and --

25 Q. So, it was a --

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1 A. -- I don't know --

2 Q. -- it was a hands-on evaluation?

3 A. -- yes, sir.

4 Q. Okay. Mr. Bias, since -- since the -- since the
5 accident, what kind of things are you unable to do
6 since the accident --

7 A. Since --

8 Q. -- or what kind of things have changed in your
9 life since the accident?

10 A. -- since I fell on the steps -- before -- before I
11 fell on the steps and after the surgery I was doing
12 pretty good; I was doing pretty much what I had been
13 doing before, you know, with the exception of some
14 things and after I fell on the steps and now it's,
15 like, I don't do very much of anything now, just walk.
16 Before I could -- you know, I had a push mower; I could
17 do that. I was doing yard work and working on my
18 automobile and doing handyman work around the house;
19 doing pretty much, you know, what I was doing before
20 until now, I'm -- I mean, the only thing that I'm doing
21 is just kind of walking. I'll take out the trash and
22 that's pretty much it.

23 Q. Okay. And you indicated that you were cutting the
24 grass with a push mower beforehand?

25 A. Yes.

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- 1 Q. Okay. And you say you're not able to cut the
2 grass with a push mower anymore?
- 3 A. We had to get a riding lawnmower now.
- 4 Q. Okay. Are you cutting the grass with a riding
5 lawnmower?
- 6 A. Yes.
- 7 Q. Okay. When you're cutting the grass with the
8 riding lawnmower, is -- is it something -- do you cut
9 your whole yard?
- 10 A. No, I don't. I'll cut a little bit, then I'll get
11 off and go in the house, I'll rest, and then I'll come
12 back and cut it. Some days I've had to cut some one
13 day and some the next day.
- 14 Q. Okay. What about other types of yard work, you
15 know, trimming hedges; are you able to do any hedge
16 trimming?
- 17 A. No. I don't do that anymore.
- 18 Q. Well, what about weed eating?
- 19 A. No. I have to hire somebody for that.
- 20 Q. Okay. Prior to the injury and after your surgery,
21 what kind of medications were you on?
- 22 A. Say that again, sir?
- 23 Q. Before your -- your fall at work in October of
24 2014, what kind of medications were you taking?
- 25 A. I was taking medicine for my blood pressure,

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1 medicine for my cholesterol, I was taking pain meds and
2 -- cholesterol and --, and what else am I on? I'm
3 trying to figure out what they are.

4 Q. Were you taking sleep medication prior to the --
5 to the fall?

6 A. They stopped me from taking the sleep meds. I was
7 taking Ambien but they stopped me from taking -- like
8 -- I just remembered that -- they stopped me from
9 taking Ambien, the sleep meds.

10 Q. Okay. And you said you were taking pain
11 medication prior to your fall; how much pain medication
12 were you taking?

13 A. I was taking a couple of pain meds in the
14 afternoon when I was getting off from work. I was --
15 in the afternoon I would be the only one sitting down.
16 I just didn't want to have -- I tried to be as close to
17 pain free as I could; so, I would take a couple in the
18 afternoon --

19 Q. Okay.

20 A. -- and now I'm taking --

21 Q. When you say you were taking them in the
22 afternoon, were you taking any in the morning before
23 work?

24 A. -- no.

25 Q. Okay. And -- and go ahead; what are you taking

1 now?

2 A. I'm taking -- back then I was taking, maybe, two
3 (2) a day and now it's six (6) a day, sometimes six (6)
4 a day plus the patches I have to put on.

5 Q. And is this a -- you say a -- a patch, what --
6 what is the patch?

7 A. It's called a Flector patch and it helps with the
8 pain.

9 Q. Okay. Did you have any -- and to go back, when
10 you were at SCANA did you have performance reviews?

11 A. Yes, I had a lot of performance reviews.

12 Q. Okay. In those performance reviews were you
13 always said to have meet -- met expectations?

14 A. Always.

15 Q. Okay. Did you have any pay raises at SCANA in the
16 year prior to your accident?

17 A. I think there was one pay raise because it was --
18 we usually get them in the -- in the beginning of the
19 year. So, I think we did get a -- a pay raise, maybe
20 three percent (3%).

21 Q. Okay. And, I guess, since you started working at
22 SCANA, did you receive pretty regularly pay raises --
23 pretty regular pay raises?

24 A. Yes, sir.

25 Q. Okay.

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1 A. I was never denied a pay raise from year-to-year.

2 Mr. Haigler: I -- I didn't catch that,
3 Commissioner.

4 Commissioner Wilkerson: I didn't
5 either.

6 Mr. Smith: What did he say?

7 Court Reporter: I was never denied a
8 pay raise from year-to-year.

9 Commissioner Wilkerson: But was
10 everybody getting pay raises? That's the way
11 I took it.

12 Witness: Yes, sir.

13 Commissioner Wilkerson: That's what I
14 thought.

15 Witness: Every --

16 Commissioner Wilkerson: Everybody was
17 getting them.

18 Witness: -- everyone was getting them.

19 Commissioner Wilkerson: That's what I
20 thought.

21 Witness: Yes, sir. I wasn't denied
22 one.

23 Commissioner Wilkerson: And I
24 understood that you met expectations; any
25 exceed expectations?

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1 Witness: Yes, sir. I exceeded
2 expectations.

3 Commissioner Wilkerson: Oh, I thought I
4 heard him say he met expectations; there's a
5 difference.

6 Mr. Salley: I think that we can assume
7 --

8 Commissioner Wilkerson: I don't know.
9 What does it --

10 Mr. Salley: -- of course, that he would
11 have --

12 Commissioner Wilkerson: -- tell me what
13 it says.

14 Mr. Salley: -- well, there are two (2)
15 things either meet expectations or don't meet
16 expectations.

17 Mr. Smith: Yes. There -- there's only
18 two (2) options; it's either meet or exceeds
19 but I think if you --

20 Mr. Salley: Or -- no, not exceed, don't
21 meet.

22 Mr. Smith: -- oh, yes, meet or don't
23 meet. So, it's -- it's met expectations.

24 Commissioner Wilkerson: Oh, it's just
25 two (2)?

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1 Mr. Smith: Yes.

2 Commissioner Wilkerson: Okay. That --

3 Mr. Smith: Yes.

4 Commissioner Wilkerson: -- that was my

5 -- that was my point --

6 Mr. Smith: Yes.

7 Commissioner Wilkerson: -- without

8 looking at it.

9 Mr. Smith: They don't -- they don't
10 have an exceeds expectations. So --

11 Mr. Haigler: It's either meet or don't.

12 Mr. Smith: -- yes. And then they have
13 comments on each one and they -- they -- the
14 records speak for themselves, Commissioner.

15 Commissioner Wilkerson: No, they --
16 they do. And that's what I was trying to
17 figure out -- two (2) options is what I was
18 trying to figure out.

19 Q. Oh, what -- what kind of sleep medication are you
20 on now?

21 A. The -- it's called Mirtazapine; it is a sleep and
22 anxiety medicine and I also have -- I'm also using --
23 what is that -- Melon -- Melon -- Melatonin in
24 conjunction with the anxiety and depression medicine.

25 Q. And who is prescribing that for you?

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1 A. His name is Dr. Flake.

2 Q. Okay. And who is Dr. Flake with?

3 A. The VA.

4 Q. Okay. And when did you start seeing Dr. Flake?

5 A. I started seeing Dr. Flake -- I don't remember.

6 It was -- it was sometime after the fall. It was

7 sometime after the fall when I started seeing Dr.

8 Flake.

9 Q. Okay.

10 A. I don't remember what month it was.

11 Commissioner Wilkerson: You're talking
12 about the fall of October --

13 witness: The fall of October --

14 Commissioner Wilkerson: -- of '14, not
15 the season called the fall?

16 witness: -- yes, sir.

17 Mr. Smith: Yes. The -- the fall of
18 October, '14.

19 Commissioner Wilkerson: All right.

20 We've got so many years I don't have a clue
21 what we're talking about. Okay. Since the
22 fall comes Friday this year.

23 Q. Mr. Bias, after your surgery in -- in March, what
24 was your position on work; did you want to go back?

25 A. Oh, yes, sir. I -- I kind of hounded them about

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1 going back to work; that's what I wanted to do. I
2 wanted to work maybe until I was sixty-five (65) or
3 seventy (70). After I got to work at South Carolina
4 Electric and Gas, you know, I continuously tried to
5 move up and I -- from coal handling to Operations and
6 from Operations to -- that's when I moved into the
7 Chemistry Department. I thought that that was where I
8 always wanted to be and that that would permit me to
9 work longer.

10 Q. And -- and what is your current employment status
11 now?

12 A. I'm unemployed.

13 Q. Okay. And why are you unemployed; were you
14 terminated from the job?

15 A. Because SCANA terminated me.

16 Q. Okay. And have you gone back to work?

17 A. I have not.

18 Q. Okay. Are you currently receiving Social
19 Security?

20 A. I am.

21 Q. Okay.

22 Mr. Salley: Social Security Disability.

23 Q. Social Security Disability?

24 A. Yes, Social Security Disability.

25 Q. And after your surgery in the '80's that you

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1 testified to about earlier, did you go back to work
2 after that surgery as well?

3 A. I did.

4 Q. Okay. In a given year how much money do you think
5 you made working at SCANA?

6 A. Probably about seventy-five thousand (\$75,000.00)
7 a year.

8 Q. Okay. And how much would you make in a given week
9 out at SCANA?

10 A. In a week? I think it was about seven hundred
11 dollars (\$700.00) a week.

12 Q. Okay. If you were making seventy-five thousand
13 (\$75,000.00) a year and we divide by fifty-two (52),
14 it's somewhere in the neighborhood of fifteen hundred
15 dollars (\$1,500.00); does that sound right?

16 A. Yes. A lot of that was overtime --

17 Q. Correct.

18 A. -- and that's what I was talking about. A lot of
19 that was overtime.

20 Q. So, you were making about fifteen hundred dollars
21 (\$1,500.00) a week?

22 A. Approximately.

23 Q. Okay.

24 Mr. Haigler: I need to object,
25 Commissioner, he's leading.

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1 Commissioner Wilkerson: You can't do
2 the math for him.

3 Mr. Smith: Okay. Sorry.

4 Commissioner Wilkerson: If he answers
5 one, don't ask him another one. I can't do
6 the math that fast in my head.

7 Mr. Smith: Just bear with me a moment,
8 Commissioner.

9 Commissioner Wilkerson: No, no. I'm
10 fine.

11 Mr. Smith: I think those are all the
12 questions I have --

13 Commissioner Wilkerson: Okay.

14 Mr. Smith: -- at this time.

15 Commissioner Wilkerson: Thank you. At
16 this time, okay. Please, Mr. Haigler.

17 Mr. Haigler: Thank you, Commissioner.
18 Do you mind if I stand here, Commissioner?

19 Commissioner Wilkerson: I'm fine.

20 **CROSS-EXAMINATION**

21 **By Mr. Haigler:**

22 Q. Mr. Bias, I just want to quickly address
23 something. You were just asked kind of about your
24 employment status. I -- I know you haven't worked
25 since October. You're currently receiving long term

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1 disability as well as social security; is that correct?

2 A. Yes, sir.

3 Q. All right. And I've looked through and your --
4 your attorney did a fine job of submitting, I don't
5 know, two (200) or three hundred (300) pages of your
6 personnel file. I didn't see a -- a letter of
7 termination in there; have you received a letter of
8 termination?

9 A. They told me I would not be allowed to come back
10 to work.

11 Q. That -- that's not what I asked you. Have you
12 received a letter of termination from your employer?

13 A. She called me and told me I was terminated.

14 Q. Okay. I don't -- I didn't ask you that question.
15 My question is very simple --

16 Mr. Smith: I'm going to --

17 Mr. Salley: He can answer it.

18 Mr. Smith: I'm going --

19 Commissioner Wilkerson: I'm going to --
20 I'm going to let him answer it.

21 Q. -- did you get a letter of termination from your
22 employer, yes or no?

23 Commissioner Wilkerson: It's got to be
24 yes but I don't know.

25 A. I don't believe so.

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1 Q. Okay.

2 Commissioner Wilkerson: Okay. That's
3 fine.

4 Q. So, the only -- the only thing you know about your
5 termination is someone said you were terminated; is
6 that what you're saying?

7 A. Yes, HR.

8 Q. All right. But, in fact, you're still receiving
9 LTD and years of service for your retirement; is that
10 correct?

11 A. LTD, yes.

12 Q. And years of service, whenever it is that you
13 officially retire; when -- whenever you draw your
14 pension you're still getting years of service for that,
15 correct?

16 A. I -- I don't know.

17 Q. You don't know?

18 A. I -- I am? I don't know.

19 Q. Good news to you, Mr. Bias.

20 A. Yes, I am. Okay.

21 Q. You didn't know that?

22 A. No, sir; I did not.

23 Q. Okay. Do you think you'd be receiving years of
24 service if you had been terminated?

25 Mr. Smith: Yes, I'm going to object

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1 because he doesn't know what it is; so, how
2 can he testify about it?

3 Commissioner Wilkerson: Well, let me
4 ask you. Is he getting two (2) separate
5 checks is what you're saying --

6 Mr. Haigler: That's correct.

7 Commissioner Wilkerson: -- or is it all
8 combined? So, he gets -- let me make sure
9 I've got this right. He gets a check, I'm
10 guessing, from the insurance company,
11 whatever -- whoever that is, and then he gets
12 a check from SCANA; is that what I'm hearing?
13 Is that --

14 Mr. Haigler: He gets a check from
15 Social Security --

16 Commissioner Wilkerson: -- okay. Yes.

17 Mr. Haigler: -- from the government.

18 Commissioner Wilkerson: I -- yes.

19 Mr. Haigler: And he gets a check from
20 long term disability.

21 Commissioner Wilkerson: And he --

22 Mr. Haigler: My question is, to him, is
23 he still getting accrued years of service,
24 which will apply towards his pension whenever
25 he files for that.

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1 Mr. Salley: That's not an extra check.

2 Mr. Smith: -- and -- and I believe he

3 --

4 Commissioner Wilkerson: -- but that's
5 not an extra check.

6 Mr. Haigler: It's not an extra check.

7 Commissioner Wilkerson: Okay. That's
8 where I -- okay, that's where I --

9 Mr. Haigler: He's not getting paid is
10 what I'm saying.

11 Commissioner Wilkerson: -- okay.

12 Mr. Smith: -- and I believe he
13 testified that he didn't know, so.

14 Commissioner Wilkerson: He didn't know.

15 Mr. Haigler: Okay. Fair enough.

16 Commissioner Wilkerson: Oh, yes, that's
17 fair. I agree to that.

18 Q. Now, Mr. Bias, are you aware that we deposed one
19 of the physicians that your attorney sent you to, paid
20 to have you seen by, Dr. Lamotta; are you aware of
21 that?

22 A. Yes, sir.

23 Q. Okay. Have you read that deposition?

24 A. I read it.

25 Q. You read the -- the actual transcript?

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1 A. I read some of it.

2 Q. Okay. All right. Then I assume since you read it
3 that you're aware that he testified that you told him,
4 and the reports that he was given, indicated that you
5 weren't having any problems with your back or
6 re-herniations of your back between 1983 and 2014, when
7 you had surgery; I assume you read that in there,
8 correct?

9 A. I did.

10 Q. All right. And that's what he -- that's what he
11 testified you told him, correct?

12 A. I probably did.

13 Q. You probably did tell him that?

14 Mr. Smith: And --

15 A. I probably did.

16 Mr. Smith: -- and, Commissioner, I'm
17 going to object because this is best left for
18 the record. I mean, I think, as we said, the
19 medical records speak --

20 Mr. Haigler: I --

21 Mr. Smith: -- speak for themselves.

22 Mr. Haigler: -- that has nothing -- I
23 asked --

24 Commissioner Wilkerson: That's not a
25 medical record; that's a deposition.

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1 Mr. Haigler: -- I asked -- and first of
2 all, I asked him if he told the doctor that

3 --

4 Commissioner Wilkerson: Yes.

5 Mr. Haigler: -- and he said he did.

6 Commissioner Wilkerson: Yes.

7 Mr. Haigler: I don't know why there is
8 anything to object to.

9 Commissioner Wilkerson: Yes.

10 Mr. Haigler: That's his testimony.

11 Commissioner Wilkerson: Yes.

12 Mr. Haigler: That's his testimony, not

13 --

14 Commissioner Wilkerson: It's not a
15 medical record.

16 Mr. Haigler: -- a medical record.

17 Q. In fact, even though you told doctor --

18 A. I'm saying I -- I'm saying if -- if it was in
19 there. I don't -- I -- if you ask me I really don't
20 remember saying one thing or the other. I really don't
21 remember if he asked me that but if -- if he said he
22 did --

23 Q. -- if he says he asked you and you said you
24 didn't, then you're not disputing that?

25 A. -- no.

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1 Q. Okay. But --

2 Commissioner Wilkerson: No, he's not
3 disputing it.

4 Q. -- but the fact of the matter is, Mr. Bias, going
5 all the way back to when you were in Navy in 1977,
6 you've been having problems with your lower back; is
7 that right?

8 A. 1977?

9 Q. Let's just put it this way, it's been a long time
10 you've been having problems with your back?

11 A. Yes, sir; it has.

12 Q. More than thirty-five (35) years? In fact, I've
13 got medical records that I've submitted --

14 Mr. Haigler: -- Commissioner, I'm in my
15 first tab, APA number 1 --

16 Q. -- going back to, well, 1977, with your
17 complaining of back pain. Is that something you would
18 -- I mean, I assume you don't -- you probably don't
19 remember that back in 1977; I'm not going to ask you if
20 you do.

21 A. I don't.

22 Q. But you don't dispute the fact that you've been
23 having back problems for a long time; is that fair?

24 A. Yes, sir.

25 Q. Okay. And just to be clear, you had back surgery

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1 in 1987, from the records I have; is that right?

2 A. I -- I --

3 Q. Does that sound about right?

4 A. -- in the -- in the middle '80's.

5 Q. Okay. And in between then you were treating with
6 your personal doctor, Dr. Jones; do you remember Dr.
7 Jones?

8 A. Yes, sir; I do.

9 Witness: Do you mind if I stand up?

10 Q. Okay. He treated you for quite a while --

11 Witness: Do you care if I stand up?

12 Q. -- for your back pain, didn't he?

13 A. Yes. Yes, sir.

14 Q. Okay. And that was in the '80's, in the '90's;
15 does that all sound familiar?

16 A. Yes, sir.

17 Q. Okay. And then in 2000, you started treating with
18 Dr. Poletti, who started seeing you then. And then you
19 treated with Dr. Poletti -- well, you're still treating
20 with Dr. Poletti; is that right?

21 A. Yes, sir.

22 Q. Okay. So, you're not disputing that basically the
23 entire time in the '80's, '90's and in the decade of
24 the 2000 -- the first decade of this century you've
25 been treating consistently for lower back problems,

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1 left leg problems, radicular issues; pain going down
2 your legs, those types of things? You've been treating
3 with Dr. Jones, Dr. Poletti, the doctors that did
4 surgery, other physicians, you've been getting
5 injections, you've been getting medications, you've had
6 at least two (2) operations, you've had blocks, you've
7 had a TENS unit prescribed to -- all of that has been
8 done during that three (3) decade period; is that
9 right?

10 A. Yes.

11 Mr. Smith: Commissioner, I'm going to
12 object to that question --

13 Mr. Haigler: He can --

14 Mr. Smith: -- just on the basis of he
15 says, left leg and then he says legs
16 throughout. So, I -- I just want to be --

17 Mr. Haigler: -- we'll get there.

18 Mr. Smith: -- I think we need to
19 clarify.

20 Mr. Haigler: All right. Now --

21 Mr. Smith: That's a -- that's a --
22 that's a --

23 Mr. Haigler: -- is that an objection --

24 Mr. Smith: -- convoluted --

25 Mr. Haigler: -- or just --

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1 Mr. Smith: -- that's just an objection
2 to the form of the question; that's a
3 convoluted question I think.

4 Mr. Haigler: -- well, we're in trial, I
5 mean, you've got to state an objection on the
6 --

7 Commissioner Wilkerson: Tell me what
8 you're --

9 Mr. Haigler: -- a legal objection.

10 Commissioner Wilkerson: -- objecting
11 to.

12 Mr. Smith: The -- the form of the
13 question. I think that there's about ten
14 (10) questions that he asked in one (1)
15 question.

16 Mr. Haigler: It was one (1) question;
17 it was have you had the following medical
18 treatment --

19 Commissioner Wilkerson: For three (3)
20 --

21 Mr. Haigler: -- during the last thirty
22 (30) years.

23 Commissioner Wilkerson: -- for three
24 (3) decades.

25 Mr. Haigler: Correct.

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1 Commissioner Wilkerson: As I understood
2 it.

3 Mr. Haigler: That was it.

4 Commissioner Wilkerson: Yes.

5 Mr. Haigler: And he answered the
6 question, by the way.

7 Commissioner Wilkerson: Yes. He said,
8 if it's in the records it's there, yes.
9 Okay.

10 Q. Is that all true?

11 Commissioner Wilkerson: No harm, no
12 fowl there; I don't see. Yes.

13 Q. Is that all true, Mr. Bias?

14 A. If -- if it's in the records, I don't -- I don't
15 dispute that.

16 Q. Okay. Why would you tell Dr. Lamotta you hadn't
17 had any treatment during that period of time then?

18 A. And Dr. Lamotta asked me -- what did he ask me?
19 Tell me exactly what he asked me.

20 Commissioner Wilkerson: You don't get
21 to ask questions; you only get to give
22 answers.

23 Q. My question to you is --

24 Witness: Yes, sir.

25 Q. -- Mr. Bias, the doctor who your lawyer sent you

1 to --

2 Witness: I'm sorry, sir.

3 Q. -- said you told him you weren't having problems
4 with your back in the '80's -- after -- between 1983
5 and 2014, which is thirty-one (31) years and you just
6 told this court that you were treating in a number of
7 different ways that entire time for your back; is that
8 -- do you understand that?

9 A. No, sir. Say that again. I'm trying to get --

10 Q. Sure.

11 A. -- I'm trying to get the -- the timeframe
12 straight.

13 Q. I'll help you out.

14 A. Okay.

15 Q. You -- you just -- you testified a few minutes ago
16 that you don't dispute that you told Dr. Lamotta that
17 between 1983 and 2014, just thirty-one (31) years, that
18 you weren't having problems with your back.

19 A. That's not what I said.

20 Q. That's what you said he -- I asked you that
21 earlier and you said, if that's what it's --

22 Mr. Salley: He can't -- he can't
23 qualify what he said.

24 Q. -- if that's what he testified to, that's what I
25 told him.

1 A. Yeah. But I think -- but I think -- then, I'm
2 sorry, that's -- that -- I thought you were asking me
3 did I have problems for the thirty-one (31) years --
4 for the thirty (30) years plus --

5 Q. Okay.

6 A. -- and do I dispute that; no I don't dispute that.

7 Q. I -- I -- okay. I understand that point. But
8 when I asked you -- right when we started I asked you
9 if you were -- if you read Dr. Lamotta's deposition and
10 you said, yeah, I read it.

11 Mr. Salley: Some of it.

12 Commissioner Wilkerson: Parts of it.

13 Mr. Smith: I think he said parts of it,
14 yes.

15 Mr. Haigler: He said parts of it.

16 Commissioner Wilkerson: Yes.

17 Mr. Haigler: Okay.

18 Q. And I asked you do you remember in -- reading in
19 there where Dr. Lamotta said that you didn't tell him
20 about the -- either through your medical records that
21 were given to him or when you -- when he saw you -- I
22 mean, he didn't know anything about your problems
23 between 1983 and when you had surgery in 2014.

24 A. Yes, I read that.

25 Q. Okay. So, you -- and you -- and I asked you, is

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1 that true; did you not tell him about that. And you
2 said, well, if that's what he said, then I didn't tell
3 him.

4 A. Yeah. Because I don't remember whether he --

5 Q. Okay.

6 A. -- asked me that or not.

7 Q. But the -- but the truth is, you actually did have
8 problems during that time?

9 A. I did.

10 Q. Okay. That's the truth, correct?

11 A. Yes, it is.

12 Q. So, if he didn't know that, whether it was you
13 didn't tell him or he just didn't know, you're not
14 disputing that, fair enough?

15 A. That's fair.

16 Q. All right. Now, I want to go through some of your
17 records because I want to be clear. First of all, let
18 me ask you this. It was brought to our attention today
19 that one of the complaints that you said you have now
20 is your right leg; is that correct?

21 A. My right --

22 Q. You have right leg symptoms?

23 A. -- yes.

24 Q. All right. And when I asked you -- do you
25 remember when I took your -- and you may not remember,

1 this is -- well, over two (2) years ago I took your
2 deposition at your attorney's office over in Lexington
3 and I asked you a question about whether you ever had
4 any prior problems with your right leg before your
5 accident. Specifically, I said, "Have you ever had any
6 problems with your right leg before your accident?"

7 And you said, no. Do you remember that?

8 A. Yeah, I do.

9 Q. Okay.

10 A. I do.

11 Q. And I assume that the reason your lawyer decided
12 to show you a report when you -- you read it earlier, a
13 report from an injection that you received in 2010, for
14 right leg radiculopathy is because --

15 Mr. Smith: And -- and, Commissioner, I
16 -- I didn't mean to cut you off but if we're
17 going to talk about the deposition testimony
18 are we going to submit it?

19 Mr. Haigler: -- we don't have to
20 because he admitted it.

21 Commissioner Wilkerson: Yes. I don't
22 need it if he admitted it.

23 Mr. Smith: Oh, okay.

24 Commissioner Wilkerson: He said, no.
25 Yes, but --

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1 Mr. Smith: That's why I picked it --

2 Commissioner Wilkerson: -- that was two
3 (2) years ago.

4 Mr. Salley: We probably need to admit
5 it just because there's other things in there
6 that --

7 Mr. Smith: -- okay.

8 Mr. Haigler: Well, then --

9 Mr. Smith: No, that's --

10 Mr. Haigler: -- we can do it when they
11 --

12 Mr. Smith: -- yes, that's fine.

13 Commissioner Wilkerson: Right.

14 Mr. Beard: With all due respect --

15 Mr. Smith: I -- I'm sorry. Go ahead.

16 Mr. Beard: -- you can't admit a
17 discovery deposition unless it is to impeach
18 someone or both parties agree.

19 Mr. Haigler: If he wants --

20 Commissioner Wilkerson: I understand.

21 Mr. Haigler: -- if he wants to impeach
22 his client on redirect, I'm more than happy
23 to let him do that but I don't have a reason
24 to submit the deposition --

25 Commissioner Wilkerson: No. Because he

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1 said, yes.

2 Mr. Haigler: -- because the question I
3 asked him, he admitted.

4 Commissioner Wilkerson: He said --
5 okay. I -- I understand.

6 Mr. Haigler: Okay.

7 Commissioner Wilkerson: We may not need
8 it now; we may need it later.

9 Mr. Haigler: Okay.

10 Q. Mr. Bias, you told me in your deposition that you
11 never had prior right leg problems; is that -- is that
12 true, yes or no?

13 A. I did not remember.

14 Q. No. That's not what you said in your deposition.
15 Your deposition answer was, no. Do you remember giving
16 me that testimony?

17 A. It was no because I did not remember.

18 Q. Fair enough. Now -- well, was it no because you
19 didn't remember or was it no?

20 Mr. Haigler: Now, we may submit it.

21 Q. Was it no or not?

22 A. It was no.

23 Q. Okay. So -- and then, just a few minutes ago your
24 lawyer showed you a document from Dr. Poletti -- let me
25 make sure I'm clear as to what page that was -- from an

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1 injection that you received --

2 Mr. Haigler: -- page 88, Commissioner

3 --

4 Commissioner Wilkerson: Yes.

5 Q. -- December -- on February 19th, 2010, for right
6 leg -- well, it's the -- it says disk disruption and
7 you had a -- a right L4,5 lumbar epidural injection;
8 you read that report, do you remember that?

9 A. I did.

10 Q. Okay. Now, you didn't actually see the report
11 that came before that, did you?

12 A. which -- which one was that?

13 Q. The report that came before that injection, that
14 prompted you getting that injection, the visit? Let me
15 show it to you, if I can.

16 Commissioner Wilkerson: What page?

17 Mr. Haigler: This is page 89,

18 Commissioner. Do you mind if I approach?

19 Commissioner Wilkerson: No, go ahead.

20 Show him 89. That's the Claimant's?

21 Mr. Haigler: This is the Claimant's

22 APA.

23 Commissioner Wilkerson: Okay. I just
24 wanted to make sure we've got --

25 Mr. Haigler: And I've tried to

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1 highlight it for you --

2 Commissioner Wilkerson: -- I haven't
3 done the numbers yet. So, you --

4 Q. -- but this is a report from the Southeastern
5 Spine Institute, dated February 19th, 2010; is that
6 correct?

7 A. Yes, it is.

8 Q. And in there it says -- and I've highlighted it
9 for you, second line -- that Mr. Bias returns after an
10 absence. He comes in complaining of severe right side
11 low back, buttock and right lower extremity pain. He
12 said the symptoms developed last Saturday after the
13 snow: Intense, sharp, stabbing, shooting pain down
14 your right lower extremity. I assume you don't dispute
15 that; is that correct?

16 A. No.

17 Q. Okay. So, when you answered in your deposition
18 that you've never had prior right lower extremity
19 problems, that was not accurate was it?

20 A. No. I forgot.

21 Q. Okay. But it wasn't true, was it?

22 A. No, it wasn't.

23 Q. And that's not the only time you've ever had right
24 leg problems, is it? It's not the only time your right
25 leg has ever hurt; do you remember that now?

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1 A. No, I don't.

2 Q. Okay.

3 Mr. Haigler: Commissioner, I'm on page
4 -- Defendant's page 14 of Defendant's APA's;
5 this is a 1993 report. Is something funny,
6 Brett?

7 Mr. Salley: I'm just -- '93, I thought
8 it was funny.

9 Commissioner Wilkerson: You all
10 submitted all the records, I mean.

11 Mr. Salley: Yes.

12 Mr. Haigler: Just checking.

13 Commissioner Wilkerson: What page
14 again?

15 Mr. Haigler: Page 14 of Defendant's
16 APA's.

17 Commissioner Wilkerson: Okay. I wrote
18 44 down. Wait a minute.

19 Q. Can you read the very top line of that report?

20 A. Pain was --

21 Q. Radiating.

22 A. -- radiating down --

23 Q. Legs.

24 A. -- legs at the MVP.

25 Q. It says, pain radiating down legs at times, MVA,

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- 1 10/92, correct?
- 2 A. Yes, that's what it says.
- 3 Q. Okay. You had a -- in fact, you had a car
- 4 accident in 1992, didn't you; do you remember that?
- 5 A. It was in '92?
- 6 Q. Twenty-five (25) years ago; you don't remember?
- 7 A. (Shook head in a side-to-side motion).
- 8 Q. That's okay. You don't remember?
- 9 A. I was in an accident with a truck but it was an
- 10 accident; I don't remember -- I don't remember whether
- 11 it was '92 or --
- 12 Q. Okay.
- 13 A. -- it was in a truck.
- 14 Q. Fair enough. Now, you think it's -- are you aware
- 15 that Dr. Lamotta originally gave an opinion that your
- 16 problems were related to your -- the fall you say you
- 17 had at SCANA; are you aware he originally gave that
- 18 opinion?
- 19 A. I --
- 20 Q. Are you aware that Dr. Lamotta originally said
- 21 that the problems you're having now were aggravated or
- 22 caused by the -- by your fall; do you understand that?
- 23 A. I think he did say that.
- 24 Q. Okay. Do you think it's -- I assume you think
- 25 it's important for him to have all of your medical

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1 records and understand your complete history before
2 giving that opinion, don't you?

3 A. I --

4 Q. Don't you think that's important?

5 A. -- yes, I think so.

6 Q. Okay. Do you have the right to make decisions
7 without -- blind decisions without having all of the
8 information; I assume you don't, do you?

9 A. No.

10 Q. Okay.

11 Mr. Haigler: I'm going to approach
12 again, Commissioner, if you don't mind.

13 Commissioner Wilkerson: Okay. That's
14 deposition --

15 Mr. Smith: Nick what are you giving
16 him?

17 Mr. Haigler: It's Defendant's -- it's
18 Defendant's -- I'm going --

19 Mr. Smith: Okay.

20 Mr. Haigler: -- I'm going to call it
21 out.

22 Mr. Smith: Okay.

23 Mr. Haigler: I'm going to call them all
24 out, I promise. This is Defendant's APA,
25 page 10, Commissioner. And I'm -- I hate to

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1 do this but I've got to go through these for
2 the record.

3 Q. And you -- again, you told -- according to the
4 deposition of Dr. Lamotta, which you -- you don't
5 dispute -- you told him you didn't have any problems
6 during this period of time; is that right?

7 Mr. Smith: I'm going to object because
8 that's not what he said.

9 Witness: Okay.

10 Mr. Smith: I believe he said he didn't
11 recall.

12 Witness: I -- yeah, I -- that's what I
13 was telling him, I didn't recall.

14 Commissioner Wilkerson: Yes. He said
15 he doesn't recall --

16 Mr. Haigler: Okay.

17 Commissioner Wilkerson: -- what he told
18 -- yes, the deposition is different.

19 Mr. Haigler: Fair enough.

20 Commissioner Wilkerson: Yes.

21 Q. I want you to hold this and this is page 10 from
22 10/13/1992. That report says you had a pain in your
23 left hip that radiates down your left leg and foot,
24 back pain still hurts with radiation down your left
25 leg; is that correct?

1 A. That's correct.

2 Q. All right.

3 Mr. Haigler: Before I skip over it --
4 well, I'll come back to that.

5 Q. This is a report --

6 Mr. Haigler: -- and I'm on page 26,
7 Commissioner, of Defendant's APA's --

8 Q. -- you saw a Dr. Frank Epstein. Have you ever
9 seen Dr. Epstein at any point in your life? I think
10 he's the person who did surgery on you back in the
11 '90's or '80's; do you remember that?

12 A. Dr. Epstein?

13 Q. Let's see if this jogs -- refreshes your memory.
14 He is at --

15 Mr. Salley: what page is that on?

16 Mr. Smith: what page are you on?

17 Mr. Haigler: -- page 26.

18 Commissioner Wilkerson: 26.

19 Mr. Smith: Okay.

20 Q. Dr. Epstein noted that you had a twenty percent
21 (20%) impairment of your lumbar spine; do you ever
22 remember receiving that impairment rating?

23 A. Just give me a minute.

24 Q. Sure, take your time.

25 A. I don't remember Dr. Epstein.

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1 Q. I assume you don't remember getting that report
2 and receiving that impairment rating, do you?

3 Commissioner Wilkerson: It looks like
4 that was sent to his prior attorney or an
5 attorney --

6 Mr. Smith: Yes.

7 Commissioner Wilkerson: -- is my guess.

8 Mr. Haigler: Okay.

9 Q. You don't ever remember seeing anything about an
10 impairment rating, do you?

11 A. I don't.

12 Q. Okay. What does it say right there (indicating)?
13 Right there (indicating), can you read that for me,
14 please?

15 A. Where do you want me to start from?

16 Q. Yes. It is possible.

17 A. It is possible his condition will worsen in the
18 future requiring one or more disk --

19 Q. Surgeries.

20 A. -- surgically and perhaps an alteration in his
21 impairment rating to either region.

22 Q. Okay. Thank you. And then you continued -- it
23 looks like you were going to Denmark Medical Center
24 quite -- it looks like you went in 2001, 2002 with pain
25 radiating down your left leg, continued in 2002 with

1 neuropathy and chronic back pain, 2003, 2004 --

2 Mr. Haigler: -- I'm on -- in the late
3 20's, early 30's, of the Defendant's APA's.

4 Q. 2000 -- March of 2005, you were there with chronic
5 back pain continuing to get Lortab; does all of this
6 sound familiar?

7 A. Yes, it does.

8 Q. Okay. 2006, you were still seeing, it looks like
9 a -- at that point you started seeing a Dr. Jones; does
10 that sound about right, Dr. Robert Jones?

11 A. Yes. I saw Robert Jones.

12 Q. Okay. And he was continuing to prescribe you that
13 -- those same medications; is that right?

14 A. Yes.

15 Q. All right. And that continued, basically, until
16 you went back to Dr. Poletti's office in 2010, when we
17 started talking about that right leg problem you were
18 having; is that right? In other words, you were
19 treating with those doctors throughout the '90's and
20 throughout the 2000's -- you were treating with Dr.
21 Jones and at the Denmark Family Medical Center; is that
22 right?

23 A. Throughout the '90's --

24 Q. The '90's and 2000's.

25 A. -- yeah, I -- I treated with them.

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1 Q. And they were giving you pain medications every --
2 well, whenever you needed them to make sure you were
3 comfortable; is that correct?

4 A. Yes.

5 Q. Okay.

6 A. And this is throughout -- you said this is
7 throughout the '90's?

8 Q. And 2000's.

9 A. And the 2000's?

10 Q. That's all correct, right?

11 A. (Nodded head in an up-and-down motion).

12 Q. And you're -- and you're aware, based upon Dr.
13 Lamotta's deposition testimony, that he didn't know
14 anything about that; is that right? You're aware of
15 that?

16 A. I looked at it; yes, sir.

17 Q. Okay. And you testified earlier about your sexual
18 -- the issues you're having having sex; is that right?

19 A. Yes, sir.

20 Q. Okay. But you've been having issues with that for
21 quite some time, haven't you? In other words, long
22 before this accident ever occurred you were having
23 issues; is that correct?

24 A. What do you call a long time?

25 Q. Twenty-five (25) years. Did you tell doctor --

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1 did you tell your doctor at Denmark Family Medical
2 Center --

3 Mr. Haigler: -- from page 13,
4 Defendant's APA --

5 Q. -- in 1992, that your sexual dysfunction has
6 decreased, he cannot maintain an erection, which has
7 affected his sexual relationship by at least fifty
8 percent (50%); did you ever tell the doctor that? I
9 know that was a long time ago but that was --

10 A. That -- that was '92, around the same the time of
11 the accident, somewhere in there?

12 Q. -- correct.

13 A. Then I -- that probably happened.

14 Q. Okay. So, you -- when I asked the question
15 earlier, you've been having problems for twenty-five
16 (25) years, it goes back that far, doesn't it?

17 A. I -- I -- maybe. I don't know years.

18 Q. You don't know?

19 A. I don't remember.

20 Q. Okay. But you don't dispute what's in this
21 report, do you?

22 A. I do not.

23 Q. Okay. And then if I jump forward a little bit to
24 2006, when you started treating with Dr. Jones,
25 according to his records, on page 37 of Defendant's

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1 APA, in February of 2006, you told him that you were
2 having some impotence at times and that you wished to
3 discuss it but you -- you declined a prescription for
4 viagra; is that right? Do you remember that? 2006,
5 that would have been eleven (11) years ago.

6 A. I declined --

7 Q. A prescription for viagra, do you remember that?
8 If that's in his medical record --

9 A. Oh.

10 Q. -- do you dispute that?

11 A. Oh, no, if it's in there.

12 Q. Okay.

13 A. I just don't remember declining anything.

14 Q. And then, on page 41 of Defendant's APA's, which
15 is in October of 2008 all the way through 2012, and at
16 least 2012, you were getting a prescription for either
17 Levitra or Cialis, which is an erectile dysfunction
18 drug, weren't you?

19 A. You're saying -- let me -- let me be clear on
20 this, too. You're saying that I got this for the whole
21 time or did I get this periodically and then sometimes
22 I didn't have it, sometimes I did?

23 Q. Your -- your medication list from your doctor --
24 from Dr. Jones during the entire time from 2008 to
25 2012, indicates you were receiving either Cialis or

1 Levitra as a medication he was prescribing to you.

2 A. That the entire time?

3 Q. That's what it says. Do you dispute that?

4 Mr. Haigler: And that's pages 41
5 through 58 in Defendant's APA's.

6 A. I -- no, sir. I don't remember -- I -- I remember
7 getting -- I remember asking him for some help but I do
8 not remember getting in consistently.

9 Q. Okay.

10 A. I remember from time-to-time he would give me
11 something but not consistently.

12 Q. Time-to-time during that period?

13 A. Time-to-time, yes.

14 Q. Okay. So, you were having issues with -- with sex
15 performance during that period of time; is that fair?

16 A. In the same -- and -- and what -- what -- what is
17 this?

18 Q. I don't -- I mean, he was giving you the
19 medications; I assume he wasn't giving them to you for
20 no reason.

21 A. Okay. But I'm saying what -- what years was this?

22 Q. 2008 to 2012.

23 A. Yes.

24 Q. Just before you were injured?

25 A. Yes.

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1 Q. All right. And during that same time, you were
2 being -- you were being prescribed -- in fact, let me
3 make sure I'm clear on this; I don't want to misstate
4 it -- going all the way back to 2003, which would have
5 been seventeen (17) -- or fourteen (14) years ago,
6 you've been complaining of issues with insomnia,
7 trouble sleeping, and you've been prescribed Ambien --

8 A. Yes.

9 Q. -- according to your records; is that right?

10 A. Yes.

11 Q. Okay.

12 A. I was having problems sleeping because I was on a
13 swing shift job and that's why I was having Ambien
14 prescribed to me. In other words, I was working days
15 and then working nights, and working nights and then
16 working days.

17 Q. Okay.

18 A. So, that's why my Ambien was being prescribed to
19 me.

20 Q. Okay. So, even though it's listed in almost every
21 one of these reports under the words, chronic back
22 pain, it's because of the fact that you were working a
23 different shift?

24 A. Say that again.

25 Q. Even though that this -- these prescriptions are

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1 listed under the words, chronic back pain or near the
2 words chronic back pain, in every one of these single
3 reports, you're saying it was because of your -- it was
4 because of the fact that you were working a shift -- a
5 different shift at work or a night shift at work?

6 A. I'm not -- I'm not --

7 Commissioner Wilkerson: Just for the
8 Ambien.

9 Witness: -- just for the Ambien?

10 Q. Just for the Ambien. You're saying it was because
11 of your -- your shift; is that what you're saying?

12 A. Yes.

13 Q. All right.

14 Commissioner Wilkerson: Just for the
15 Ambien.

16 Q. Now, you testified that -- I think earlier -- I
17 think the first thing you said about why -- you were
18 describing what made you go to the doctor after your
19 fall and you were talking about this cold sensation in
20 your foot, right?

21 A. In my left side.

22 Q. Okay.

23 A. My entire left side.

24 Q. Okay. And you've -- but you've had that sensation
25 before, haven't you? It's not a sensation that you've

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- 1 never had; you've had it before, haven't you?
- 2 A. Yes, I have.
- 3 Q. Okay. You just noticed it and felt like you
- 4 probably needed to go to the doctor; is that right?
- 5 A. Well, I hadn't had it for such a long time.
- 6 Q. Okay. And when did you say that first -- when did
- 7 you say that that first developed after your fall on
- 8 October 14th? In other words, my question -- let me --
- 9 let me make sure my question is clear; this is
- 10 important. When did you first notice symptoms after
- 11 your fall on October 14th?
- 12 A. Approximately three (3) days later --
- 13 Q. Okay.
- 14 A. -- is when I started feeling the cold sensations.
- 15 Q. The 17th?
- 16 A. Well, whatever --
- 17 Q. Would that be three (3) days?
- 18 A. -- three (3) days was. Whatever three (3) days
- 19 was.
- 20 Q. Okay. It could have been four (4) or it could
- 21 have been five (5)?
- 22 A. No. It was approximately three (3) days.
- 23 Q. You think three (3)?
- 24 A. (Nodded head in an up-and-down motion).
- 25 Q. Okay. All right, fair enough.

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1 Mr. Haigler: Bear with me,
2 Commissioner, I'm trying to --

3 Commissioner Wilkerson: Let me ask
4 something while you're looking. Have any of
5 these medical bills been paid that's before
6 me?

7 Mr. Smith: Huh-uh.

8 Commissioner Wilkerson: None?

9 Mr. Smith: (Shook head in a
10 side-to-side motion).

11 Commissioner Wilkerson: Okay. That's
12 how I took it. Okay. I just wanted to --

13 Court Reporter: I can't hear that.

14 Commissioner Wilkerson: -- no, I'm
15 sorry.

16 Mr. Smith: No, I was just --

17 Commissioner Wilkerson: Have any
18 medical bills been paid?

19 Mr. Smith: -- not -- not to my
20 knowledge.

21 Commissioner Wilkerson: Okay. That's
22 fine.

23 Mr. Smith: No. Not -- not by -- not by
24 the Workers' Compensation carrier.

25 Commissioner Wilkerson: Yes. Yes. I

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1 wouldn't think -- yes. But that's an issue.
2 That's why I said, have any of these medical
3 bills been paid; do you know, Nick?

4 Mr. Haigler: I don't.

5 Commissioner Wilkerson: Have any of
6 these medical bills been paid?

7 Mr. Haigler: I don't.

8 Mr. Beard: Are you talking about by
9 workers' Comp or by anybody?

10 Mr. Haigler: They haven't been paid by
11 --

12 Commissioner Wilkerson: By anybody
13 because if --

14 Mr. Haigler: -- I don't know the answer
15 to that question.

16 Commissioner Wilkerson: -- because if
17 they have we've got a humongous problem but
18 -- not about compensability but --

19 Mr. Smith: You mean by health
20 insurance?

21 Mr. Haigler: I don't know.

22 Mr. Beard: It's my understanding he
23 covered it all with his group insurance.

24 Mr. Haigler: Yes, I don't --

25 Commissioner Wilkerson: That's okay --

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1 Mr. Beard: Yes.

2 Mr. Haigler: -- but I don't -- I don't
3 have --

4 Commissioner Wilkerson: -- but if
5 you're on the hook --

6 Mr. Haigler: -- I don't have
7 confirmation for that.

8 Commissioner Wilkerson: -- you going to
9 spend the next five (5) years of your career
10 trying to figure out what medical bills -- if
11 you win the case you're going to spend until
12 he retires trying to figure out who is on the
13 hook. But that -- I'm serious because, I
14 mean, you've got to figure out -- it's going
15 to be a mess, okay?

16 Mr. Salley: Yes.

17 Commissioner Wilkerson: That was my
18 question.

19 Mr. Salley: Yes.

20 Q. Mr. Bias, let me ask you about kind of your -- the
21 -- kind of your -- the history of your back problems.
22 Often times -- and tell me if I'm wrong -- but it seems
23 like reading -- reading your records that often times
24 your back would just flare up from time-to-time, every
25 few months you'd go get some treatment, maybe get an

1 injection, prescription medications and your back would
2 be all right for a little while and then it would flare
3 up again and that kind of happened for the better part
4 of thirty (30) years; is that -- is that basically what
5 happened? On-and-off you'd just -- you'd get back pain
6 and then it would get a little better, and then it
7 would get a little worse, and then it would get a
8 little better; is that -- is that basically what
9 happened?

10 A. For the better part of thirty (30) years? Well,
11 not exactly. Sometimes I would -- like I said, I was
12 in the snow that time and, you know, I don't -- you
13 know the cold weather and I was out there messing
14 around and then a couple of other times, you know, I
15 think I was -- I'm trying to remember now but -- but,
16 yes, sometimes it would flare up, just flare up.

17 Q. For no -- and you couldn't really identify a
18 reason why; is that right?

19 A. Well, most of the time it would be for something.

20 Q. Okay. Well, the reason I ask is on --

21 Mr. Haigler: -- and I'm on page 99 of
22 Claimant's APA, Commissioner --

23 Q. -- you went back to Dr. Poletti's office and you
24 saw his -- another PA on December 27th, 2013, which was
25 right before he said you needed to have surgery back in

1 '14, okay?

2 A. Okay.

3 Q. And you went back, and according to the report you
4 said -- he -- the report says you had an injection a
5 few months prior and that the pain started to return
6 but you said there is no injury or trauma, according to
7 the report, to explain the return of your symptoms.
8 Now, these are the symptoms that ultimately
9 necessitated you needing surgery in March of 2014,
10 these symptoms. But you told the doctor when you went
11 back that you didn't really -- you couldn't identify
12 any sort of injury or anything that would have caused
13 your symptoms to return to that level; do you remember
14 telling him that?

15 A. Can you -- can you -- can you repeat that again?

16 Q. Sure.

17 A. I'm just trying --

18 Q. I'd be glad to.

19 A. -- I'm trying to -- I'm trying to get this
20 timeline between my injections -- because I think I had
21 two (2) or three (3) injections before the surgery.

22 Q. You did. Don't worry about the injections; my
23 question is more in this -- and geared this way.
24 Before your second surgery in March of '14, when you
25 went back to the doctor you told him you were having

1 new pain and you told him that you couldn't -- I
2 assume, based on the report, they asked you, well, what
3 happened to cause this. And you said, I can't tell
4 them -- according to the report -- that there was no
5 injury or anything that happened it just kind of came
6 up; do you remember --

7 A. Well, I -- I --

8 Q. -- that conversation?

9 A. -- I think I told them that I had been working --
10 that -- that -- I think I told them that I had been
11 working feverously, twenty (20) -- twenty-seven (27)
12 days out of thirty (30) and twenty-eight (28) days out
13 of thirty-one (31), two (2) back -- back-to-back and I
14 thought -- and I told them I thought I had just been on
15 my feet too much.

16 Q. Okay. You are aware that's not in this report in
17 any way, shape or form?

18 A. I'm -- I'm not.

19 Q. Okay. But you didn't have an injury or a trauma;
20 is that fair?

21 A. No. I don't remember having a trauma or an
22 injury.

23 Q. Okay. And then you ultimately when you went back
24 and -- and this is February of 2014, so this would have
25 been, I don't know, seven and a half (7 ½) months

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1 before -- well, about eight (8) months before you were
2 hurt on the job, okay?

3 A. Okay.

4 Q. Right before your surgery you went back and you
5 were complaining of back and left leg pain. "It's much
6 more severe than your -- when you returned in 2000 --
7 when you went back in 2012, which was two (2) years
8 prior and that you've got complete numbness of your
9 left foot, you have pins and needles in your left calf,
10 it's fifty/fifty (50/50) back pain and leg pain." Do
11 you remember telling them all of that? Is that -- is
12 that how you felt in February of 2014?

13 A. Did I say the whole foot? I told them that --
14 that my -- my -- the -- on my left -- on my left foot
15 that my big toe and my left -- and -- and the next two
16 (2) toes to it and underneath my foot, across the top
17 of my foot, and then I did say what I said about the
18 calf and what you said about the back; would you --
19 would you repeat that for me, please, about the back?
20 When you said --

21 Q. That you were having -- that your pain was equally
22 back and leg problems, that you were having --

23 A. -- oh, okay. Equally back and leg problems?

24 Q. -- correct. Does that sound about right?

25 A. Yeah, that sounds about right.

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1 Q. Okay. And then, you had a couple more injections
2 before you had surgery to see if they could calm that
3 down, I guess; does that sound -- does that ring a
4 bell?

5 A. It does.

6 Q. All right. And then, ultimately, Dr. Poletti, on
7 the 3rd of March, 2014, said that you've had an
8 increase in the herniation of your disk and you've got
9 foot drop on exam; foot -- your foot drop was a problem
10 again --

11 A. Yes.

12 Q. -- and that you needed to have surgery; do you
13 remember that?

14 A. Yes.

15 Q. Okay. And your testimony -- and this is
16 important, your testimony is that at no time between
17 2012 and 2014, when you had surgery, did you have any
18 accidents, either at work or anywhere else, that caused
19 you to have problems that -- that ultimately
20 necessitated you having surgery; is that right? You
21 never had any accidents? You didn't have a fall down
22 the stairs or lift something and have some really bad
23 pain and you had to go to the doctor; none of that
24 happened, did it?

25 A. Well, that's what I told them. I didn't say I had

1 a trauma but I told them they worked me so much and all
2 the jobs that I was doing was so repetitive, you know,
3 having to pick up things, having to stretch; having to
4 do all that and then that -- that that's what made my
5 back -- that I believed that that's what made my back
6 started to hurt again.

7 Q. But you didn't file a workers' Comp claim, did
8 you?

9 A. No, because I was working through the whole thing.
10 You know, all those years we're talking about now, I
11 worked through those years. I know I had some problems
12 and, like I said, I don't deny any of that but all --
13 through all those years that you are talking about now,
14 I worked consistently and I worked well.

15 Q. well, that -- you know, that's interesting because
16 I'm reading some of your reports and it looks like in
17 2010, you were out for several months with back pain;
18 you don't remember that?

19 A. 2010? Yes, sir; I remember.

20 Q. For several months; is that right?

21 A. Yes.

22 Q. I thought you just testified that you were working
23 continuously without any problems during that entire --
24 all that time before; well, which is it?

25 A. I -- I didn't -- I did not mean it like that. I

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1 meant for most of the time or the -- or the -- for the
2 time that I was with SCE&G, almost all of that time I
3 worked really well --

4 Q. Okay.

5 A. -- almost all of that time.

6 Q. Okay. But -- but you -- but when I asked you a
7 minute ago you said, all that time and now it's mostly
8 all that time --

9 A. Well --

10 Q. -- is that right? Is that right?

11 A. -- well, maybe I used a bad choice of words.

12 Q. All right. Now, when Dr. Poletti recommended
13 surgery for you in March of 2014, do you remember him
14 telling you that it's not going to help your back pain?
15 I'm reading in his report, that I have told him that
16 surgery will not help his back.

17 Mr. Salley: What page is this?

18 A. 2014? This -- this --

19 Mr. Haigler: Page 108 of Defendant's
20 APA's.

21 A. -- this was at the surgery?

22 Q. Correct.

23 A. No, sir. I do not -- I do not believe him telling
24 me it was going to help me. I thought he said that
25 whenever -- if he put the -- the pins and hardware in

1 my back, that he wasn't sure that that was going to
2 help me.

3 Q. Okay. So, you don't remember that conversation
4 with him?

5 A. I do not that it didn't -- it wasn't going to help
6 me.

7 Q. All right. Now, since your surgery -- this is an
8 important question -- since your surgery in March,
9 you've been wearing a brace that Dr. Poletti gave you
10 to help with your foot drop, haven't you?

11 A. Yes, from time-to-time.

12 Q. Okay. He prescribed it to you and you've been
13 wearing it?

14 A. Yes, from time-to-time.

15 Q. All right. And the reason I ask you that question
16 is, you saw a Dr. Hutcheson, did you?

17 A. Yes, I did.

18 Q. Do you remember seeing him? Your attorney sent
19 you to him as well; do you remember that?

20 A. I remember seeing Dr. Hutcheson.

21 Q. Okay.

22 Mr. Haigler: Commissioner, I'm on page
23 24 of Defendant -- of Claimant's APA's. I
24 probably need to approach.

25 Q. Are you aware that when you saw Dr. Hutcheson on

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1 March 22nd, 2016, that he said that since your fall --
2 since your fall at work that you now wear an AFO brace
3 -- AF -- AFO brace, left foot, due to foot drop, left
4 leg numbness new since fall; did you tell him that?

5 A. New since fall?

6 Q. Did you tell him that you were only wearing the
7 AFO brace for left foot drop since the fall?

8 A. I don't remember telling him that. I was wearing
9 it before that.

10 Q. Okay. Are you aware he actually -- in his --
11 well, in his depo -- are you -- have you read his
12 deposition?

13 A. I didn't read the whole thing.

14 Q. Did you read some of it?

15 A. Some of it.

16 Q. Okay. Did you read the part where he withdrew a
17 questionnaire that -- that he previously completed on
18 that exact issue because it wasn't accurate?

19 Mr. Smith: Commissioner, I think it has
20 been withdrawn from the record; I don't
21 understand the --

22 Mr. Beard: It's in his deposition.

23 Mr. Haigler: It's in the deposition,
24 though.

25 Commissioner Wilkerson: Yes. If it's

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1 in the deposition he can ask it.

2 Mr. Haigler: Okay.

3 Commissioner Wilkerson: It's not a
4 medical report.

5 Q. Did you read the part -- well, let me ask you
6 this. Are you aware that Dr. Hutcheson originally
7 completed a questionnaire that your attorney gave him
8 indicating that the left foot drop was caused by your
9 fall --

10 A. I'm not --

11 Q. -- do you know that?

12 A. -- I'm not aware of that.

13 Q. Okay.

14 Commissioner Wilkerson: That's fine.
15 He's not aware of it.

16 Q. Well, that question -- are you aware that that
17 questionnaire was withdrawn by Dr. Hutcheson in his
18 deposition because that fact was inaccurate; are you
19 aware of that?

20 A. No.

21 Q. Okay. In fact, your left foot drop was not caused
22 by your alleged fall with SCANA, it was caused by
23 something else and -- and dealt with in the surgery
24 that you had in March of 2014; is that right?

25 A. No, sir.

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1 Q. It wasn't?

2 A. No, sir.

3 Q. When was it started?

4 A. I had --

5 Q. When did your left foot drop start?

6 A. -- I have left foot drop but I had left foot drop
7 before -- even before the surgery I had some left foot
8 drop but after the surgery my left foot drop, it -- I
9 -- was -- was -- was getting much better, much, much
10 better, to the point where I didn't wear this thing on
11 my leg very much. I didn't start wearing this again
12 until after the fall on the concrete steps.

13 Q. Okay. Well, we'll get there in a second. But
14 you're saying -- but you don't dispute the fact that
15 you were wearing that brace before the -- before your
16 alleged fall at SCANA; is that right? At SCE&G, you
17 don't -- you don't dispute that; you were wearing it
18 before, right?

19 A. I was -- I -- I was wearing it before?

20 Q. Before the fall you were wearing that brace?

21 A. Yes.

22 Q. Okay.

23 Commissioner Wilkerson: And I think he
24 testified earlier that it got worse after the
25 fall.

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1 Mr. Haigler: Okay.

2 Commissioner Wilkerson: The fall that
3 we're here for.

4 Q. Mr. Bias, no one witnessed your accident, did
5 they?

6 A. I don't think they did.

7 Q. Okay. When I asked you in your deposition you
8 said, no, that -- to your knowledge that no one has
9 come forward saying they witnessed your accident; is
10 that still what you believe?

11 A. Yes.

12 Q. Okay. And when you went and talked to your
13 supervisor and told him that you'd had that fall, you
14 didn't tell him you were having back pain, did you?

15 A. No.

16 Q. Okay. And when you wrote that email to Mr. Miles
17 -- or when Mr. Miles wrote that email to Mr. Seagle,
18 that's page 596 of Claimant's evidence, there's nothing
19 in there about you complaining of back pain either, is
20 there?

21 A. This is on the 14th; the same day I had the
22 surgery?

23 Q. That's right.

24 A. Of course not.

25 Q. Okay. That's because you didn't make any

1 complaints of back pain on the 14th, did you?

2 A. No.

3 Q. I just want to make sure we're clear on that.

4 A. No, I didn't.

5 Q. And according to your testimony today your pain
6 started three (3) days later, which would have been the
7 17th?

8 A. Yeah, approximately three (3) days later.

9 Q. Okay. Now, you went -- well, let me ask you this.
10 what kinds of things -- I mean, the things you do in
11 your life, do they -- you know, for the last thirty
12 (30) years are there certain things that -- that
13 aggravate your back more than others? Certain things
14 you do during the day that aggravate your back, do you
15 have certain things that you know you can't do because
16 it aggravates your back?

17 A. No. Most of the time after those surgeries I was
18 pretty much doing whatever I wanted to do.

19 Q. Okay. Has coughing ever aggravated your back?

20 A. Coughing aggravated my back after that fall and I
21 was -- that was the middle part of my back. The middle
22 part of my back, I had never had problems with that
23 before; I do not believe that I've had problems in the
24 middle -- in the middle section of my back to the point
25 that I had to have an injection in the middle part of

1 my back. After the fall, when I had that, I believe
2 that was the only surgery that I've -- the only
3 injection I've had to have in the middle of my back and
4 when that was going on, during that time, coughing did
5 hurt that part of my back.

6 Q. Has coughing ever aggravated your back before this
7 accident; yes or no?

8 A. Yes and no is a question --

9 Q. well --

10 A. -- because maybe it has but if the back is already
11 hurting and then I cough, it hurts, sometimes when I
12 had -- when I was having those back pains before but
13 just ordinarily, when my back wasn't hurting, I wasn't
14 in back pain or like that, my coughing did not hurt my
15 back but when it -- if my back was hurting and I was in
16 pain and I coughed, it probably did.

17 Q. -- okay. Well, you were still in pain even before
18 you fell. In other words, the morning you went to work
19 on the 14th of October, according to your deposition
20 and all the reports I've seen, you were doing better
21 but you were still having back pain?

22 A. About a three (3). I went down from about a eight
23 (8)/nine (9) to a three (3).

24 Q. But you were still having problems --

25 A. Some.

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- 1 Q. -- you were still taking medications --
- 2 A. Some.
- 3 Q. -- correct?
- 4 A. Yes.
- 5 Q. In fact, the day before you had just filled a
- 6 prescription for pain medication; is that right?
- 7 A. I probably did; I'm not sure --
- 8 Q. Okay.
- 9 A. -- how many days it was.
- 10 Q. And so, when you testified just now that when your
- 11 back hurts coughing can aggravate your back; that's
- 12 what you said, isn't it? That's what you just said,
- 13 that when you -- when your back is -- when you're
- 14 having -- in other words, when your back is hurting,
- 15 when you cough it hurts?
- 16 A. I said, it -- it -- yeah, it could hurt.
- 17 Q. Is that right?
- 18 A. Yes.
- 19 Q. Okay.
- 20 A. I said, it could hurt.
- 21 Q. And, in fact --
- 22 A. And that means -- that -- that doesn't mean that
- 23 when my back is hurting and I cough that it hurts; I
- 24 said, it could do that.
- 25 Q. -- okay. You've --

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1 A. It's not that -- it's not every time that I --
2 when I was having pain that I coughed and it hurt my
3 back; that -- that didn't happen. That didn't happen
4 every time --

5 Q. -- I understand.

6 A. -- but sometimes it did.

7 Q. When you went to Dr. Poletti's office,
8 occasionally he would have you fill out -- you probably
9 do this when you go to any doctor's office -- a little
10 intake form telling them all about the problem you're
11 having; is that right? Do you remember doing that
12 sometimes?

13 A. Yes.

14 Q. And, you know, when you go to the doctor you've
15 got to fill out a form telling them everything about
16 your medical history and what's going on and why you
17 need to be seen and all those things; is that right?

18 A. Uh-huh. Yes.

19 Q. Okay.

20 Mr. Haigler: I'm on pages 64 and 70 of
21 Claimant's APA, Commissioner.

22 Q. I've got an intake form from 2001, from Dr.
23 Poletti's office and another intake form, I believe
24 it's from 2012, from Dr. Poletti's office -- that's
25 what it looks like but let me make sure I'm correct on

1 that -- from Dr. Poletti's office and in that
2 questionnaire he asks you to put a checkmark next to
3 the activities which "Change the nature of your back
4 pain." You checked the following: Sitting, standing,
5 rising from sitting, brushing teeth or leaning forward
6 and coughing and sneezing; on both of those
7 questionnaires you checked that. So, it must have
8 meant something to you because you checked it that --
9 that coughing aggravated your back or the back pain you
10 were having?

11 A. well, he was asking me if --

12 Q. I --

13 A. -- if -- if I -- if I -- if I'm reading you right,
14 that questionnaire was going as, he was asking me did
15 those things ever do that.

16 Q. -- sure.

17 A. Yeah.

18 Q. Are you aware --

19 A. And -- and from time --

20 Q. -- Dr. Lamotta testified --

21 A. -- from time to --

22 Q. -- go ahead. I'm sorry.

23 A. -- and from time-to-time they did do that. So, I
24 put -- I checked, yes. Those things did from
25 time-to-time do that.

1 Q. Okay. Well, I'm glad you did. And are you aware
2 Dr. Lamotta testified that that could be something that
3 could cause you to -- to exacerbate or aggravate your
4 -- your prior back condition --

5 A. Yes.

6 Q. -- are you aware of that?

7 A. Yes, sir; I am.

8 Q. You read that in the deposition?

9 A. I read that part.

10 Q. Okay. And just to be clear, when you went to
11 Southeastern Spine on 10/15/2014, the day after your
12 accident, you didn't tell them anything about back
13 problems; is that right?

14 A. On the 15th?

15 Q. That's correct.

16 A. That's correct.

17 Q. Well, excuse me, you told -- you didn't tell them
18 anything about a work injury aggravating your back; is
19 that correct?

20 A. That's correct.

21 Q. In fact, according to this report, you told them
22 that you have, "Minimal complaints." Do you remember
23 saying that?

24 A. Yes, sir.

25 Q. You feel greatly improved since the surgery?

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1 A. Yes, sir.

2 Q. You still told them you still had some numbness in
3 your left foot; so, I assume you were still having some
4 symptoms but you said, I was greatly improved and you
5 were quite pleased with your progress; do you remember
6 that being your attitude toward your back condition --

7 A. Yes, sir.

8 Q. -- on October the 15th?

9 A. Yes, sir.

10 Q. Okay. And then, your testimony is that two (2)
11 days later you started noticing that your back was
12 doing something different than what it was doing
13 before?

14 A. It was --

15 Mr. Smith: Just for clarification, Your
16 Honor --

17 A. -- it was the leg first.

18 Mr. Haigler: Okay.

19 Commissioner Wilkerson: Approximately
20 two (2) days later.

21 Mr. Smith: Yes, approximately two (2)
22 days later.

23 Mr. Haigler: Okay. Fair enough.

24 A. It was the leg first was getting cold --

25 Q. Okay.

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1 A. -- and then the back kind of followed that.

2 Q. Okay.

3 A. And just remember now, this was, like, less than
4 may -- maybe twenty-four (24) hours later.

5 Q. That would have been the 15th?

6 A. That's what I'm saying was maybe twenty-four (24)
7 hours later after the fall. So, I -- everything had
8 not started to hurt me yet.

9 Q. Okay. All right. Well, on the -- are you aware
10 -- I assume you remember going to your Pulmonologist --
11 you have a Pulmonologist, his name is -- make sure I'm
12 clear on this -- Dr. Love, Dan Love; do you remember
13 Dr. Love?

14 A. Yes, sir.

15 Q. I don't know if you're still treating with him or
16 not.

17 A. I remember him.

18 Q. Okay. You actually went to his office on the
19 17th, the day you're saying your problems started; is
20 that right?

21 A. Yes, sir.

22 Q. Okay. And you read in Lamotta's report where he
23 said that coughing could cause you to aggravate or
24 exacerbate your prior back problems?

25 A. Yes, sir.

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1 Q. You've already testified you understand that,
2 right?

3 A. Yes, sir.

4 Q. Okay. And you -- you have -- or do you remember
5 going in his office with bronchitis, shortness of
6 breath, persistent coughing and chronic obstructive
7 pulmonary disease; do you remember going in there with
8 that diagnoses and those complaints?

9 A. Yes, sir.

10 Q. That's the very day you're saying your problems
11 started; that you noticed your problems starting; do
12 you agree with that or approximately the very day your
13 problems started? Do you understand that?

14 A. Yes, sir; I understand that.

15 Q. Okay. And that you had had a persistent cough,
16 according to the records your -- your attorney
17 submitted, and it looks like you had been treating all
18 the way back to September for that issue of that same
19 year because you were having this coughing issue and
20 you couldn't get rid of it; do you remember that?

21 A. Yes, sir.

22 Q. Okay. And I assume your testimony is that there
23 is no way that coughing could have aggravated my back;
24 it had to be the work accident that happened three (3)
25 days before, right?

1 Mr. Smith: Commissioner, is that --
2 A. Sir --
3 Mr. Smith: -- are we getting into a --
4 A. -- sir --
5 Mr. Smith: -- medical opinion here at
6 this point?
7 Commissioner Wilkerson: Well -- well,
8 now, he -- he can tell me what he thinks --
9 Mr. Salley: Yes, what he thinks.
10 Mr. Smith: Yes, what he thinks and --
11 Commissioner Wilkerson: -- but I've got
12 to have medical with it.
13 Mr. Smith: -- yes, I mean.
14 A. -- but, sir --
15 Q. But you don't know, do you?
16 Mr. Salley: Let him answer the
17 question.
18 Commissioner Wilkerson: Well, let me
19 answer the question.
20 A. -- of course I know. If I would cough and my back
21 would have hurt severely, I just told you some -- from
22 time-to-time that it did that and I recognize that but
23 now I'm coughing and -- and it's -- and it's making my
24 back hurt but I don't recognize it today? I would have
25 recognized that if I would have coughed and that would

1 have happened to me; I would have recognized that --

2 Q. And how --

3 A. -- and that did not happen.

4 Q. -- okay. How do you know -- how do you know
5 that's the way it goes though? How do you know that
6 when you cough all of a sudden your back starts
7 hurting? I guess my point is, if you've been coughing,
8 according to your records that your attorney submitted
9 and we've submitted, that you were having consistent,
10 persistent, coughing and trouble breathing for a period
11 of over a month prior to when you say you fell at -- at
12 SCE&G, how do you know that that consistent coughing
13 didn't aggravate your back and cause you to have the
14 symptoms that you're now complaining of; how do you
15 know that?

16 A. Because I would have known -- if I coughed and it
17 hurt my back, I would have known that.

18 Q. Well, wouldn't you have known if you fell down a
19 -- a flight of stairs that that would have caused your
20 back to hurt, too?

21 A. Excuse me, say that again?

22 Q. If you fell down on stairs, like you -- like
23 you're saying you did at SCANA, wouldn't you have
24 thought that would have hurt your back too?

25 Mr. Smith: Commissioner, I think that's

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1 why we're here today is because he fell down
2 stairs and hurt his back.

3 Commissioner Wilkerson: Hold on.

4 Mr. Haigler: I'm just asking him a
5 question.

6 Commissioner Wilkerson: He's just
7 asking him a question. I don't know if he
8 does or doesn't.

9 A. Yes.

10 Mr. Haigler: Is that an objection or is
11 that just he didn't like my question?

12 A. And you're asking me would I -- would I know --

13 Q. Yes.

14 A. -- if I -- if I fell down and --

15 Q. I guess my question is -- let me -- let me try to
16 rephrase this; maybe I'm not being clear here. You're
17 saying that it makes sense that even though you fell it
18 didn't -- that your problems didn't start for a couple
19 of days; you're -- is that what you're saying?

20 A. -- yes.

21 Q. Okay. But if you cough you would say, oh, my --
22 my problems would start immediately; I would have known
23 that?

24 A. Yes. If I coughed I would have known whether it
25 hurt my back or not.

1 Q. Okay. Well, if fell down a -- if you fell down on
2 stairs, wouldn't you know if you hurt your back?

3 A. No.

4 Q. well, why not? what's the difference?

5 A. No. Because I hurt my -- I hurt my buttocks first
6 and I didn't know that for a couple of days later until
7 that -- a couple of days later --

8 Q. Until you went -- go ahead.

9 A. -- that -- that's right, until a couple of days
10 later. You're saying now that, now that I fell down
11 the steps that it should have shown up right then and
12 that if I coughed it should have shown up right then;
13 those two (2) -- those -- no, sir. No, sir.

14 Q. And you're -- and that's Mr. Bias' opinion?
15 That's your opinion?

16 A. Yes, sir. Is it somebody else's? I'm the one who
17 did the coughing, sir.

18 Q. Okay. Are you aware that Dr. Lamotta had a
19 different opinion? The doctor that your attorney hired
20 to see you, that -- that your -- that Dr. Lamotta had a
21 different opinion, that -- that given the condition of
22 your back on October the 14th you should have
23 immediately noticed that your problems had -- that
24 you'd injured your back --

25 A. That he said I should --

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- 1 Q. -- are you aware he said that?
- 2 A. -- I should have known it.
- 3 Q. Okay.
- 4 A. Okay.
- 5 Q. And that he is surprised you didn't know?
- 6 A. Okay.
- 7 Q. Okay. So, Mr. Bias has one opinion but the -- the
- 8 IME Orthopedic Physician, who does back surgeries for a
- 9 living, had a different opinion; you -- you agree with
- 10 that?
- 11 A. No. That was his opinion --
- 12 Q. Okay.
- 13 A. -- but it was what happened to me.
- 14 Q. I understand. Mr. Bias, are aware your -- your
- 15 lawyer paid for that opinion from Dr. Lamotta?
- 16 A. I don't know.
- 17 Q. You don't have a clue about that?
- 18 A. I don't know.
- 19 Q. All right. And then, the next time you went to --
- 20 are you aware doctor -- and I -- and, again, you may
- 21 not remember this but you said you read some of his
- 22 deposition; I don't know if you read this or not. Did
- 23 you read the part of Dr. Lamotta's testimony where he
- 24 commented on inconsistencies between what you were
- 25 telling some doctors and what you were telling the

1 other -- other doctors; did you read that part of it?

2 A. I did.

3 Q. Okay. Now, when you went back to Dr. Poletti on
4 10/22/14, that's when you said, you made this
5 appointment and you've got to go down there and see
6 them and that's when you told Dr. Poletti's office that
7 you had had an injury at work, correct?

8 A. Yes.

9 Q. And I'm reading this report and it says that since
10 your fall, your leg has felt cold, it doesn't say three
11 (3) days later your leg started feeling cold; it says,
12 since your fall, your leg has been cold. Did you tell
13 them that had been since your fall or did you tell them
14 a couple of days later I started having problems?

15 A. I -- again, I'm -- I'm -- I'm not understanding
16 what -- what you're asking me.

17 Q. Okay. Your testimony has been that your problems
18 started a couple of days after -- three (3) days,
19 approximately, after the fall on 10/14 but when you
20 went to see Dr. Poletti's office on 10/22 you didn't --
21 according to this report you didn't tell them that it
22 started hurting -- that your -- that you started having
23 problems, that cold sensation in your -- in your leg
24 and your -- and your foot a couple of days later, you
25 said it started since the accident, since you fell; is

1 that true or not?

2 A. well, wouldn't -- wouldn't that be in the same
3 timeframe when I said -- when I -- if I went back to
4 them and said -- on the 22nd and I said that -- that,
5 you know, my -- my leg and I'm having a sensation -- a
6 cold sensation in my leg from -- from the fall,
7 wouldn't that be the same time; is that not the same
8 timeframe?

9 Q. I don't know. I -- your -- you seem pretty clear
10 and pretty sure that your problems didn't start
11 immediately; in fact, there's a report that says they
12 didn't because you're -- you're saying that you went
13 back to your doctor the next day and didn't report it
14 because I wasn't having any problems. And then, you go
15 back nine (9) days later and you tell them that since
16 my fall on the 14th I've been having problems with my
17 leg. You didn't tell them, according to that report,
18 that those problems started three (3) days later; do
19 you understand that?

20 A. Huh-uh. No. Say that again. Say what you said
21 to me just now --

22 Q. Sure.

23 A. -- say that again to me.

24 Q. Your testimony today has been that your problems
25 three (3) days later --

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1 A. Approximately --

2 Q. -- okay? Approximately three (3) days later.

3 when you went to your doctor on that appointment you
4 made --

5 A. -- on the 22nd?

6 Q. -- on the 22nd of October --

7 A. Okay.

8 Q. -- you told them that your problems, the cold
9 sensation in your leg, has been present since your
10 fall; not three (3) days after your fall but since your
11 fall --

12 A. Yes, sir.

13 Q. -- do you understand that?

14 A. Yes, sir. But you -- but -- but what you are
15 telling me now and when I said since the fall, that I
16 was telling them that -- that this timeframe should
17 have been since the fall, right then when I'm having
18 it, or since the fall could have been three (3) days
19 after and that's when that happened, three (3) days
20 after. When you say since the fall, you're right, I
21 did say since the fall but that just doesn't mean at
22 the fall, it means since the fall.

23 Q. Okay. Are you aware that you told the exact same
24 thing to Dr. Lamotta and Dr. Hutcheson, and I'm not
25 paraphrasing it, both of those reports literally say

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1 since the fall you've had this -- the following
2 symptoms?

3 A. And I would have to say the same thing I told you
4 just now for those two (2).

5 Q. Okay.

6 Mr. Haigler: Bear with me just a
7 second, Commissioner.

8 Q. Do you remember --

9 Mr. Haigler: -- I'm on page 74 of
10 Defendant's APA.

11 Q. Do you remember going to Sports Plus, a physical
12 therapy place in Orangeburg?

13 A. Yes.

14 Q. You remember going there?

15 A. Yes.

16 Q. I don't know who sent you there. It looks like
17 Dr. Poletti sent you there; does that sound right?

18 A. Yes.

19 Q. Do you remember telling them that -- that on
20 10/14/14, you fell on a rock and you felt immediate
21 pain in your lumbar spine and down your right leg?

22 A. No.

23 Q. You don't remember telling them that?

24 A. No.

25 Q. If that's in every single one of their reports,

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1 are you disputing that?

2 A. Yes, sir. I don't remember telling them that.

3 Q. Okay. Mr. Bias, these are -- these are two (2)
4 letters -- and there's a third one too and probably a
5 fourth one as well but I don't have it -- two (2)
6 letters that your attorney sent to two (2) of the
7 doctors he had evaluate you, one was Dr. Hutcheson,
8 February, 2016, the other was Dr. Lamotta on June of
9 2016; have you ever seen these before today?

10 A. Yes, I did.

11 Q. You have seen these?

12 A. I think I saw those.

13 Q. Okay. Now, according to this report and as you
14 can -- this letter, as you can see, it is from your --
15 your law firm; is that right?

16 A. It is.

17 Q. All right. And there's a -- a description in the
18 first couple of paragraphs as to what happened to you;
19 is that right?

20 A. Yes.

21 Q. And then, there is a very through description of
22 each report, starting with the August 6, 2014 report
23 going all the way through -- all the way through the
24 report in December of 2015; is that right?

25 A. Yeah, it looks like that.

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1 Q. Okay. Can you show me -- well, let me ask you
2 this. Do you see -- we've got August 6, 2014, and
3 we've got October 22nd, 2014.

4 A. Uh-huh.

5 Q. Would you agree that October 15th, 2014 report is
6 not mentioned in this? And you're welcome to take a
7 look at that document as long as you want to.

8 A. Well, I did -- I don't see it.

9 Q. You don't see it?

10 A. I don't see it.

11 Q. Okay. Would you agree it's not in this one
12 either?

13 A. I don't see it.

14 Q. Okay. Do you know why if your attorney is sending
15 letters to the doctors that he's having evaluate you
16 describing your -- the nature of your medical care,
17 both before and after your alleged injury, the only
18 report they don't include or that he doesn't include is
19 the October 15th, 2014 report, which just happens to be
20 the day after your alleged injury; do you have any idea
21 why he wouldn't have included that?

22 A. I don't know.

23 Q. Does it make sense that that probably should have
24 been included?

25 A. I -- I don't know. That's -- that's up to them.

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1 I don't -- I don't know.

2 Q. Okay. But you're -- but you agree it's not
3 described anywhere in there; is that fair?

4 A. I didn't see it.

5 Q. Are you aware that -- and I don't know if you were
6 present or not -- are you aware that your lawyer met
7 with Dr. Lamotta just a couple of days before we
8 deposed him June --

9 A. I don't know.

10 Q. -- to go over that report? You weren't aware of
11 that?

12 A. I don't know.

13 Q. Are you aware that Dr. Hutcheson and Dr. Lind and
14 Dr. Lamotta all testified that it was -- and I'm
15 paraphrasing -- but that it was strange or odd -- which
16 I'm not paraphrasing, I'm quoting -- that it was
17 strange or odd that that report wasn't included in
18 those letters; are you aware of that?

19 A. No.

20 Q. Okay. And I asked you earlier about your coughing
21 and you said -- and I asked you if that's ever been and
22 issue for you and you said, yeah, it's been an issue
23 after my accident. I assume you read the VA Hospital
24 record where you complained of coughing causing you
25 back pain that you complained of in 2016, do you

1 remember going to the VA and saying I'm -- I've been
2 coughing and my back has been hurting?

3 A. Yes.

4 Mr. Smith: And, Commissioner, I just --

5 Q. Do you remember that?

6 Mr. Smith: -- just a brief objection as
7 far as the evidence; I think he testified
8 earlier that the back -- it was associated
9 with back pain; he didn't -- I don't he
10 really clarified before or after the
11 accident, I think he said, when I had -- when
12 he had back pain.

13 Mr. Haigler: Okay.

14 A. That's true.

15 Q. But you're good; you understand my question?

16 A. Yes.

17 Q. Okay. You were sent to a Dr. Rames; were you not?

18 A. Yes.

19 Q. Do you remember Dr. Rames down in Charleston?

20 A. Yes.

21 Q. You've only seen him one (1) time; is that
22 correct?

23 A. Yes.

24 Mr. Haigler: Let me grab that report
25 real quick.

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1 Q. Did you tell Dr. Rames that you've -- that you had
2 a prior history of sexual -- issues with sex, having
3 sex, erectile dysfunction; things of that nature?

4 A. I -- I don't remember what -- whether I -- if he
5 asked me that. I don't remember whether I actually
6 told him that or not.

7 Q. Okay. I'm going to show you --

8 Mr. Haigler: -- I'm on page 18 of
9 Claimant's APA, Commissioner.

10 Q. Under past medical history, is anything related to
11 -- and we see hypertension, COPD and asbestos exposure;
12 there's nothing on there about -- about any kind of
13 prior sexual function related issues, is it?

14 A. I don't see it.

15 Q. Okay. So, you don't -- if that indicates you
16 didn't -- or you don't -- you don't remember telling
17 him anything about it, do you?

18 A. I don't -- I don't remember -- I don't.

19 Q. Okay. Did you tell him anything about the fact
20 that you'd had sleep problems for a long period of
21 time?

22 A. I don't remember if we talked about that or not.

23 Q. Okay. According to this, you said that your
24 urinary incontinence problems started about a year
25 prior to this appointment, which would have been --

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1 meaning they would have started sometime around May of
2 2015; is that right?

3 A. I --

4 Q. Do you know when they started?

5 A. -- my urinary incontinence? I -- I was telling
6 you -- maybe like I told you before, about two (2) or
7 three (3) months after the fall is when I -- when I --
8 when I started noticing things.

9 Q. Okay. Well, according to his report, they started
10 about a -- according to his report, this is the -- the
11 expert your attorney sent you to, again, according to
12 his report, they started about a year prior. So, I'm
13 just going to assume that means a year prior to May of
14 2016, when this report happened, okay?

15 A. I don't know.

16 Mr. Haigler: So, May of 2015, sometime
17 in there?

18 Commissioner Wilkerson: I don't know,
19 approximately -- yes, approximately.

20 Mr. Haigler: Okay.

21 Q. I have reviewed all of Dr. Poletti's reports from
22 May of 2015, all the way up until this report came from
23 Dr. Rames, and in every single one of those reports,
24 without exception, he notes that you, "Deny loss of
25 bowel or bladder function" in every single one of them.

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1 Did you tell Dr. Poletti all the way from May of '15,
2 all the way to May of '16, that you were not having any
3 bladder issues?

4 A. No, sir; I did not say that and they didn't ask
5 me.

6 Q. So, if his report says you denied it, you're
7 saying that's not right?

8 A. That's not -- they never asked me.

9 Q. Okay.

10 A. That's just something they filled out and every
11 time I get that report and I -- I noticed that it's on
12 there but they never asked me that. I was the one --
13 and I told him I noticed it at night when I was asleep,
14 that I could feel urine going across my thigh; I told
15 Lane Tuggle that. And -- but in terms of asking me
16 whether -- they just asked me, like you're talking to
17 me now, whether if I do have that, they -- they didn't
18 ask me that.

19 Q. Okay.

20 Mr. Haigler: And I'm on pages -- page
21 -- I'm going to start at page 139,
22 Commissioner.

23 A. I don't remember it.

24 Mr. Haigler: I'm sorry, 140.

25 Q. In March of 2015, you told Lane Tuggle that --

1 you're saying you didn't tell him, even though the
2 report says that you deny loss of bladder function,
3 you're saying that didn't happen; you didn't say that
4 to them?

5 A. I don't remember saying that to them.

6 Q. Because they didn't ask you?

7 A. Because they -- yeah, because I don't remember
8 them asking me.

9 Q. And I assume the same -- you're going to say the
10 same thing when I ask you about the June 17th, 2015
11 report, page 142, where it says, denies loss of bladder
12 function; that you denied -- that you denied having any
13 issues with your bladder?

14 A. Yes, the same thing.

15 Q. You didn't --

16 A. They --

17 Q. -- you didn't tell them that?

18 A. -- they -- they never asked me; I never said
19 anything to them.

20 Q. Okay. The same thing in -- in August of 2015,
21 correct?

22 A. The same -- same thing.

23 Q. All right.

24 A. Until I told -- until I mentioned it to her that I
25 started feeling urine going across my leg at night when

1 I was asleep.

2 Q. The same thing in April of 2016, when it says, no
3 changes in bladder function?

4 A. 2000 -- say that again now.

5 Q. April of 2016, denies any worsening pain or any
6 changes in bladder function; denies any disturbance in
7 your bladder function? If it says that in this report
8 you're saying that -- that -- you didn't say that to
9 them because they didn't ask you, right? Do you need
10 to see this report?

11 A. No. I just need you to ask the question again.

12 Q. Sure. I'm in April of 2016, which would have been
13 one (1) month before you went to Dr. Rames and told him
14 you'd been having problems for at -- well, I assume at
15 least a year but it says a year, okay?

16 A. Okay.

17 Q. One (1) month prior to that report, you go to Dr.
18 Poletti's office and tell them that you have no
19 disturbance in your bladder function. Did they ask --
20 do you remember telling them that?

21 A. No, I don't.

22 Q. And is that because they didn't ask you?

23 A. I don't remember. That's just something I -- I
24 didn't discuss with them.

25 Q. Okay.

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1 A. I don't remember discussing that with them.

2 Q. So, you're saying that in all of these reports
3 where they say that you weren't having bladder issues,
4 despite the fact you told Dr. Rames, your expert, that
5 you were, you're saying that all -- those -- none of
6 those reports are accurate as to that information; is
7 that right?

8 A. I -- I am saying that I did not talk to them about
9 that.

10 Q. Okay.

11 A. And they -- and -- and if you -- if you see that
12 they -- when they fill them out they put that in there
13 and I -- I didn't even think about that until later on
14 when I mentioned that to her that she didn't put it in
15 there; I didn't know that for a long time.

16 Q. Okay. I hate to do this but you remember -- I
17 don't know if you read this in Dr. Lamotta's deposition
18 but he testified in his deposition that part of the job
19 of an Orthopedic Surgeon, every time they see someone
20 in your condition, is to ask them whether they're
21 having issues with urinary incontinence or -- or bowel
22 incontinence and bladder issues; did you read that in
23 there?

24 A. I did.

25 Q. Okay. And according to Dr. Poletti's reports from

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1 his office, they asked you every time, according to
2 those reports, and every time you told them no during
3 the dates I just outlined; is that right? That year
4 prior to when you saw Dr. Rames, every one of those
5 reports says you denied those -- that they asked and
6 you denied but you're saying they didn't actually ask
7 you?

8 Mr. Smith: Your Honor, I think it just
9 says they deny, it doesn't say we asked; it
10 just says he denies.

11 Mr. Haigler: He denies.

12 Mr. Smith: Yes. I mean --

13 Mr. Haigler: I mean, I think that's --

14 Mr. Smith: -- but, I mean, I just --

15 Mr. Haigler: -- I'll -- I mean, I --

16 Mr. Smith: -- it's fine as far as --

17 Mr. Haigler: -- every single --

18 Commissioner Wilkerson: Yes.

19 Q. Do you understand my question?

20 A. I --

21 Commissioner Wilkerson: whatever it
22 says, it says, but I don't know.

23 A. -- I -- yeah, I -- I understand your question but
24 -- but, again, when you say he denies, I didn't -- I --
25 they didn't ask me and I didn't say anything to him

1 about it.

2 Q. Okay. I guess --

3 A. The only time I said something to them, I -- I
4 asked Lane Tuggle and I told Lane Tuggle once that I
5 was having that across my leg.

6 Q. -- okay. This is the same -- but you're saying
7 these reports are wrong, aren't you?

8 A. well --

9 Q. I mean, that's what you're saying.

10 A. -- I'm just saying I didn't say anything to them
11 about it.

12 Q. Okay. well, if they say you did and you say you
13 didn't, then I assume you're saying these reports are
14 not right; is that fair?

15 A. Does it say that they asked me about it or is
16 there just --

17 Q. It says you denied it.

18 A. -- yeah.

19 Q. So, I mean, I don't -- unless they asked you, I
20 don't know how you denied it; is that fair?

21 A. well, then, I -- I don't know either but I never
22 -- I never talked to them about that but -- but -- but
23 once.

24 Q. Okay. Are you aware that this is the same medical
25 provider that your attorney and you are relying on to

1 support the -- the fact that your alleged fall in 2014,
2 caused your accident -- caused the problems you're
3 having? Are you aware that the same doctor, who you're
4 saying didn't ask you questions that they're saying
5 they asked you, is the same doctor that you're now
6 relying on for your causation opinion; do you
7 understand that?

8 A. Are we clear that they said that they asked me or
9 it just says that -- denies? I didn't -- they didn't
10 ask and I didn't say.

11 Q. Okay. Do you know if Dr. Rames had all of these
12 records from Dr. Poletti?

13 A. I don't know.

14 Q. How in the world could he have reached the
15 opinion, then, that you've been complaining or that
16 you've had these symptoms for a year if -- if the
17 records --

18 Mr. Salley: He can't answer that; it's
19 beyond his scope.

20 Q. -- from the doctor that you've been treating for

21 --

22 Commissioner Wilkerson: Rephrase that,
23 he doesn't have a clue --

24 Mr. Salley: Yes, I mean, I --

25 Commissioner Wilkerson: -- I wouldn't

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1 have a clue why a doctor came to an opinion.

2 Mr. Haigler: -- fair enough.

3 Commissioner Wilkerson: So, you need to
4 rephrase that one. Sometimes I don't
5 understand why doctors come up with something
6 but I don't know what -- the medical report
7 is going to speak for itself; I think that's
8 been pretty clear --

9 Mr. Haigler: That's fine.

10 Commissioner Wilkerson: -- from the
11 start, on all of the reports, not just a
12 report, okay?

13 Mr. Beard: It's important when you --
14 when you're submitting questionnaires,
15 though, from those very doctors to support
16 your case, it's important what their reports
17 say.

18 Commissioner Wilkerson: I understand.

19 Mr. Haigler: Okay.

20 Q. Now --

21 Commissioner Wilkerson: And the
22 question is, is a questionnaire a medical
23 report? I don't know.

24 Mr. Beard: It's not but --

25 Q. -- the --

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1 Mr. Beard: -- that's not you all's
2 opinion sometimes.

3 Q. -- the report from Dr. Rames, I think you've
4 already --

5 Commissioner Wilkerson: Yes.

6 Q. -- you've already agreed, says that you were
7 having problems for a year prior, okay?

8 A. Okay.

9 Q. And I -- and I think you've already -- I've
10 already -- we've already established that Poletti's
11 reports from his office indicate that you weren't or
12 that you were denying having problems; is that fair?

13 A. Okay.

14 Q. Okay. Do you know whether Dr. Rames actually had
15 those reports to look at?

16 A. I do not know.

17 Q. Okay.

18 Mr. Haigler: And I -- I've just got a
19 couple more, Commissioner; I -- I apologize
20 it's taking so long.

21 Q. You saw Dr. Hutcheson in March of 2016, and he
22 testified -- well, reported and testified that you were
23 going to need things like medications, a foot brace,
24 injections, physical therapy, x-rays and MRI's of your
25 back going forward for the rest of your life to keep

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1 you where you are. Are you aware he's -- he has given
2 that -- that testimony and that report?

3 A. I read that.

4 Q. Okay. All of those things I just described,
5 you've been getting all of those things, and I think
6 you've already testified to this, for the last thirty
7 (30) years; am I wrong?

8 A. Say that again.

9 Q. You've been getting physical therapy -- you've had
10 physical therapy before this fall at SCE&G, haven't
11 you?

12 A. Yes.

13 Q. Okay. You've had a -- you've had many injections,
14 at least eight (8) that I counted before this fall with
15 SCE&G, didn't you?

16 A. Yes.

17 Q. You've been on medications, according to your
18 records, for nearly thirty (30) years that we can find;
19 do you agree with that?

20 A. Yes.

21 Q. Okay. You've had a foot brace before this
22 accident, correct?

23 A. Yes.

24 Q. All right. You've had many MRI's and many x-rays
25 and many CT scans before this accident, haven't you?

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1 A. Yes.

2 Q. And those are all of the things that Dr. Hutcheson
3 thinks you're going to need going forward; do you
4 agree?

5 A. Well, if he says, yes.

6 Q. Okay. Are you aware that Dr. Lamotta had the --
7 had the opinion that all those things that Dr.
8 Hutcheson said you were going to need going forward for
9 the rest of your life, that you were going to need
10 those exact same things whether you had a -- a fall in
11 2014, or not; are you aware of that? You read his
12 deposition --

13 A. I read it --

14 Q. -- did you see that in there?

15 A. -- I don't remember seeing it though.

16 Q. Okay. You testified that none of those things
17 that -- that your current -- that Dr. Hutcheson says
18 you need are a change from anything you've actually
19 needed in the past?

20 Mr. Smith: Your Honor, is that a
21 question? I mean --

22 Q. Did you read that in his deposition?

23 A. I -- I --

24 Commissioner Wilkerson: He said he
25 didn't --

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1 A. -- I don't remember reading that.

2 Q. Okay.

3 Commissioner Wilkerson: -- he said he
4 didn't read it -- didn't remember.

5 Q. You've had weakness in your left leg for -- for
6 well before this accident ever occurred, haven't you?

7 A. Yes, from time-to-time.

8 Q. Okay. Even up to -- even on the 15th of October
9 and in August of 2014, even in those months after your
10 surgery that went well you were still having some leg
11 weakness; were you not?

12 A. Some.

13 Q. Okay.

14 A. But it was getting much, much better.

15 Q. Yes. We've seen that; yes, the -- the October,
16 2015 report indicated that. You also had foot drop
17 years before and were wearing a brace, at least at some
18 point in time, between your March of 2014 surgery and
19 when you got hurt in October of '14, weren't you?

20 A. I don't understand what you saying. Say it again.

21 Q. I'm sorry. You were also dealing with foot drop
22 before your accident, fair?

23 A. Yes.

24 Q. All right. Now, Dr. Hutcheson gave us an opinion,
25 or he gave your attorney an opinion, that the thing

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1 that renders you unable to go back to work is the fact
2 that you have foot drop and leg weakness and urinary
3 issues but you've had foot drop and weakness in your
4 leg even before this accident, correct?

5 A. Yes.

6 Q. And you've already said that?

7 A. Yes, sir.

8 Q. So, the only thing then, according to Dr.

9 Hutcheson, that renders you unable to go back to work
10 is the alleged issue you're having with urinary
11 incontinence?

12 Mr. Smith: And -- and, Your Honor, I've
13 got to object because he says all three (3)
14 things and it's clear that they've gotten
15 worse in the record. I'm just --

16 Mr. Haigler: Okay. Well -- okay.

17 Mr. Smith: -- I mean --

18 Commissioner Wilkerson: No, I
19 understand. It's in -- whatever is in the
20 record is in the record.

21 Mr. Haigler: Fair enough.

22 Mr. Smith: -- yes.

23 Commissioner Wilkerson: Because I've
24 either got to take the record as being a
25 whole -- it's got to be totally correct or

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1 totally incorrect. I've got to take a
2 medical report as being totally correct or
3 totally incorrect. I can't pick the part I
4 like in the medical record to support either
5 side; it's either all right or it's all
6 wrong. I don't have a choice.

7 Mr. Haigler: Okay.

8 Q. I'm almost finished, Mr. -- Mr. Bias, but I want
9 to ask you a little bit about your psychological
10 problems that Dr. Lind saw you for.

11 A. Okay.

12 Q. When we deposed Dr. Lind, he told us that you
13 never told him about the fact that you've had sleep
14 apnea and insomnia since at least 2006, and that you've
15 been treating for those conditions with Ambien all the
16 way back to at least 2006, you never told him about any
17 of that; do you understand that? Did you read that in
18 his deposition?

19 A. No, I didn't.

20 Q. Okay. You didn't tell him about any of those
21 problems when he evaluated you, did you?

22 A. I'm not sure he asked me about that.

23 Q. Okay. If he says he asked you and you didn't tell
24 him --

25 A. I --

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- 1 Q. -- do you dispute that?
- 2 A. -- I -- I -- I don't know. I don't remember.
- 3 Q. Okay. You don't remember?
- 4 A. I don't remember if he asked me those things or
- 5 not.
- 6 Q. Okay. If Dr. Lind, the person who -- who
- 7 evaluated you to find out whether you have a
- 8 psychological problem related to this accident, said
- 9 that he asked you about your medical history and you
- 10 didn't tell him about it; do you dispute that?
- 11 A. Say that again now. You said that Dr. Lind said
- 12 that I didn't tell him?
- 13 Q. If he testified in his deposition that he asked
- 14 you about whether you ever had prior mental health
- 15 treatment or whether you had prior any kind of sleep
- 16 issues, any of those things, and you told him you did
- 17 not.
- 18 A. well, I didn't have any prior mental health
- 19 issues.
- 20 Q. Okay. what about sleep issues; you did, didn't
- 21 you?
- 22 A. Yes, I did.
- 23 Q. Okay. Thank you, sir.

24 Mr. Haigler: Those are all the

25 questions I have for you.

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1 Mr. Smith: I've just got a few follow
2 up --

3 Commissioner Wilkerson: Okay.

4 Mr. Smith: -- questions, Commissioner.

5 Commissioner Wilkerson: Sure.

6 Mr. Smith: I -- I should not be too
7 long.

8 REDIRECT EXAMINATION

9 By Mr. Smith:

10 Q. You testified earlier that following the accident
11 you did have soreness in your buttocks?

12 A. Yes.

13 Q. Okay. And a lot of -- I guess, a -- a big deal
14 has been made about the 2010 report and then you also
15 spoke about the 2012, going back to Dr. Poletti. In
16 2012, when you went back, you were complaining about
17 back and left leg symptoms, correct?

18 A. Yes.

19 Q. Okay. And as far as the -- the questions
20 regarding -- excuse me -- as far as the questions
21 regarding the letters associated with these cases, are
22 you aware that Dr. Hutcheson testified that he had the
23 records associated with the October 15th note?

24 A. I -- I -- I don't think I got that report.

25 Mr. Haigler: Commissioner, I need to

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1 object; he's -- he's leading his witness.

2 Commissioner Wilkerson: Yes. You can't
3 lead him.

4 Mr. Smith: Okay.

5 Commissioner Wilkerson: I mean, I think
6 from day one he -- he doesn't know what the
7 doctor has got and that's okay.

8 Mr. Smith: Yes. And I think that's
9 cleared up in his deposition.

10 Commissioner Wilkerson: Okay. That's
11 fine.

12 Mr. Smith: May I approach?

13 Commissioner Wilkerson: Yes.

14 Mr. Smith: Okay.

15 Mr. Haigler: Jake, what --

16 Mr. Smith: And this is Claimant's APA,
17 page 135, and it's a January note from Dr.
18 Poletti, January of 2015.

19 Q. I've underlined the passage there; could you --
20 could you read that passage?

21 A. He states he's having some questions with urinary
22 frequency potential even some dribbling, which could be
23 consistent with several -- is that scar root
24 compressions.

25 Q. And I believe it says sacral root compression.

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1 A. Yeah, I chewed that.

2 Q. Do you remember having that conversation with Dr.
3 Poletti in January of 2015?

4 A. I think I did.

5 Q. Okay.

6 A. Yes.

7 Q. And as far as the medications that you're on now,
8 I believe you testified earlier that those medications
9 have, in fact, increased?

10 A. Everything has increased that I've -- I -- from --
11 I went from two (2) to four (4) and now I'm taking six
12 (6) plus the patch.

13 Witness: I understand I've been having
14 problems; I -- I -- I know that -- I know
15 I've been having problems but most of this
16 time in my life I've -- I've gone back to
17 work after every problem. I worked hard to
18 get where I was at. I work hard. I didn't
19 want to stop working. I didn't want to quit
20 working; I wanted to work till I was
21 sixty-five (65). This -- this right here
22 that happened to me does not serve me well;
23 working would have served me well. I -- from
24 where I'm -- what I've received now compared
25 to what I would have got when I was working

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1 don't even compare.

2 Mr. Smith: Your Honor, I have no
3 further questions.

4 Commissioner Wilkerson: Let me ask a
5 question. He's getting long term disability;
6 who filled out the long term disability
7 reports?

8 Mr. Smith: As far as I'm concerned, I
9 know he's receiving Social Security
10 Disability. As far as long term, I don't
11 have that.

12 Commissioner Wilkerson: Okay. That's
13 what I was trying to figure out. I thought
14 -- I thought there was a long term disability
15 payment to him.

16 Mr. Smith: And I think that it might --

17 Commissioner Wilkerson: Am I wrong?

18 Mr. Smith: -- I think it's -- I think
19 it's Social Security Disability.

20 Commissioner Wilkerson: Is it Social
21 Security Disability?

22 Witness: And --

23 Commissioner Wilkerson: I don't --

24 Witness: -- and long term.

25 Mr. Haigler: He's on both.

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1 Commissioner Wilkerson: -- and long
2 term?

3 Mr. Smith: And he -- and long term.

4 Mr. Haigler: He's on both.

5 Mr. Smith: Okay.

6 Commissioner Wilkerson: So, somebody
7 filled out a form for long term disability,
8 which means that's -- I don't -- are they in
9 here?

10 Mr. Haigler: No.

11 Mr. Smith: And, Your Honor, we
12 submitted everything that was turned over.

13 Mr. Haigler: No.

14 Commissioner Wilkerson: So, let me ask
15 a question. The long term disability you're
16 getting, sir, is that something you paid for?

17 Witness: Yes, sir.

18 Commissioner Wilkerson: Okay. And you
19 filed on your own?

20 Witness: Yes, sir.

21 Commissioner Wilkerson: Okay. And
22 you're getting whatever it is because you
23 told them you cannot work; is that correct?

24 Witness: Yes, sir.

25 Commissioner Wilkerson: Okay. How long

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1 have you been getting the long term
2 disability?

3 witness: Let me see, I -- it took me a
4 while, I -- and I don't really know exactly
5 when it started, maybe about eight (8) months
6 after this happened; I don't really --

7 Commissioner Wilkerson: That's okay.

8 witness: -- I'm not -- I'm not sure.

9 Commissioner Wilkerson: I'm just trying
10 to figure out -- it's a benefit you actually
11 paid for out of your pocket; so, you're
12 getting it?

13 witness: Yes, sir.

14 Commissioner Wilkerson: I -- I --
15 that's the point I'm trying to get to.

16 witness: Yes, sir.

17 Commissioner Wilkerson: Okay.

18 Mr. Beard: It's a benefit he partially
19 paid for out of his pocket.

20 Commissioner Wilkerson: Yes.

21 Mr. Beard: He -- he doesn't pay the
22 full benefit.

23 Commissioner Wilkerson: Okay. But is
24 that -- do those -- do you file that with the
25 insurance company or do you file that through

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SCANA?

Witness: I file it through -- what is that --

Mr. Beard: It's probably MetLife.

Witness: -- Met -- MetLife.

Commissioner wilkerson: That's the -- well, that's actually the one I was going to use earlier but I was afraid I was going to use the wrong one. Okay. But we don't have any of that in the evidence?

Mr. Smith: (Shook head in a side-to-side motion).

Commissioner wilkerson: There's no need to get it? Okay.

Court Reporter: Mr. Smith, did you answer?

Mr. Smith: That -- that was a no.

Commissioner wilkerson: Oh, I'm sorry.

Mr. Smith: Not to my knowledge.

Court Reporter: I cannot hear these things that you all are doing.

Mr. Smith: I'm sorry. I'm sorry.

Mr. Beard: would you like some of that?

Commissioner wilkerson: well, I --

Mr. Beard: would that help you?

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1 Commissioner Wilkerson: -- well, it's
2 -- here's where I'm confused.

3 Mr. Haigler: Are we on the record?

4 Commissioner Wilkerson: Yes.

5 Mr. Haigler: Okay.

6 Commissioner Wilkerson: We can't get
7 Workers' Comp and we can't get long -- it's
8 either -- it's either or, okay? And with
9 those reports, if he's filed them and he's
10 getting them, there's something in those
11 reports; I don't know what it is. It may be
12 good, it might be bad; I don't know. I don't
13 know what's in the reports. But if you're
14 getting long term disability, I'm fine with
15 that. You're getting Social Security
16 Disability; I'm fine with that, okay? The
17 long term concerns me a little bit in that I
18 don't know how you get both.

19 Mr. Smith: It could --

20 Mr. Beard: Okay.

21 Mr. Smith: -- it could be the issue of
22 an offset; there could be an offset
23 associated with it --

24 Mr. Haigler: It will --

25 Commissioner Wilkerson: There's --

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1 Mr. Haigler: -- there will be an
2 offset.

3 Commissioner Wilkerson: -- there's
4 another issue.

5 Mr. Smith: -- yes.

6 Witness: There is --

7 Mr. Beard: And I -- I would assume --

8 Mr. Smith: And I would assume -- I
9 would assume there would be an offset.

10 Witness: -- there is an offset.

11 Mr. Beard: -- I would assume there is a
12 contractual offset that he'll have to
13 reimburse the money to the long term
14 disability carrier --

15 Commissioner Wilkerson: Right.

16 Mr. Beard: -- and maybe the short term
17 disability carrier.

18 Commissioner Wilkerson: Yes, I don't
19 know. That's what I'm saying is --

20 Mr. Salley: And that's correct.

21 Commissioner Wilkerson: -- is no matter
22 what he receives, I -- if he wins it he -- a
23 lot of that money is going back to somebody
24 else, okay?

25 Mr. Smith: Correct.

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1 Commissioner Wilkerson: Okay? I mean,
2 that -- that's the answer. You can't get
3 both is my point.

4 Mr. Smith: Correct.

5 Commissioner Wilkerson: So, if anything
6 I -- my findings, if I find it compensable,
7 he has to reimburse the long term carrier for
8 all that money he's gotten --

9 Mr. Smith: And that's correct, Your
10 Honor.

11 Commissioner Wilkerson: -- for the last
12 three (3) years --

13 Mr. Smith: And that --

14 Commissioner Wilkerson: -- or two and a
15 half (2 ½) years.

16 Mr. Smith: -- and that is correct, Your
17 Honor.

18 Commissioner Wilkerson: Okay. I just
19 wanted to make sure. When I hear that --
20 okay. Okay. I -- I just wanted to get that
21 straight in my head. Okay. Any other
22 questions?

23 Mr. Haigler: None, Your Honor.

24 Commissioner Wilkerson: You just had a
25 couple or three (3), okay?

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Mr. Smith: None from the Claimant.

Commissioner Wilkerson: I know there's
no other witnesses; there can't be.

Mr. Smith: That is correct.

Commissioner Wilkerson: All right.
This concludes our hearing. Let me meet with
the attorneys for a few minutes.

(THERE BEING NO FURTHER QUESTIONS, THE HEARING CONCLUDED AT
4:24 P.M.)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND) CERTIFICATE

Be it known that I took the foregoing South Carolina Workers' Compensation Commission Hearing of Johnnie T. Bias, vs. SCANA Services;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness was first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript of 189 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

Witness my hand and seal this 4th Day of November, 2017.

Gloria G. Davis
 Gloria G. Davis
 Notary Public for South Carolina
 My Commission Expires 12/21/21

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BIAS, JOHNNY (id #2179285, [REDACTED])

Encounter Summary

Patient

Name	BIAS, JOHNNY (60yo, M) ID# 2179285	Appt. Date/Time	09/08/2016 08:30AM
DOB	[REDACTED]	Service Dept.	MOPA_Irmo
Provider	IVAN E. LAMOTTA, MD		
Insurance	Med Legal: SALLEY LAW FIRM Insurance # : 1421397 Case Injury Date : 10/14/2014 Prescription:		

Chief Complaint

Lower Back/L-spine problem

New patient low back pain *****IME*****

HPI

Lower Back7388

Reported by patient.

Location: midline
 Quality: aching; burning; stabbing; throbbing; sharp; frequent; not changing
 Severity: moderate; pain level 6/10; worst pain 6/10
 Duration: continuous since onset
 Timing: acute
 Context: fall
 Alleviating Factors: sitting; standing; lying down
 Aggravating Factors: sitting; standing; walking; twisting; bending/squatting; exercise
 Associated Symptoms: weakness; numbness; instability; radiation down leg; STIFFNESS
 Previous Surgery: none
 Prior Imaging: x ray, MRI
 Previous Injections: none
 Previous PT: none
 Work Related: yes
 Working: no

INDEPENDENT MEDICAL EVALUATION

Mr. Johnny Bias is a 60-year-old male who comes to clinic for an independent medical evaluation. Lumbar radiographs performed on 07/08/2016 is compatible with severe lumbar spondylosis as well as degenerative disc disease, L4-5, L5-S1. There is slight loss of lumbar lordosis. There is no instability with flexion-extension. MRI examination performed on 10/29/2015 at Southeastern Spine Institute reviewed by me today reveals multiple spondylotic disc protrusions and disc osteophyte complex/disc bulge of the level L1-2. There is very mild central canal stenosis. No significant stenosis, L2-3. There is circumferential disc osteophyte complex resulting in moderate to severe central canal stenosis at L3-4. No significant foraminal stenosis noted, L3-4. L4-5 reveals large disc osteophyte complex and severe central canal stenosis. There is disc herniation present also, asymmetric towards the left side creating severe central canal stenosis and severe bilateral lateral recess stenosis. No significant foraminal stenosis at L4-5. L5-S1 reveals a large disc osteophyte complex. Severe bilateral lateral recess stenosis noted. L5-S1 reveals moderate to severe left-sided foraminal stenosis. There is diffusely moderate to severe facet arthropathy throughout the entire spine.

The patient is being referred by his attorney, Brett Salley. Reviewing the records it does appear that Mr. Bias is a 60-year-old male who works for Scana corporation as a plant analyst. He sustained a work-related injury where his foot twisted and resulted in a fall with multiple injuries. Areas of injury include the left hip, left leg, left foot, left ankle, left hand, left wrist, left arm, left buttocks, back, right hip, right leg, right ankle, right foot, the nervous system, and also resulted in psychological problems. The patient does have a history of lower back pain, left-sided buttocks pain, posterolateral leg pain and L5 nerve distribution. He also has a history of repeat laminectomy discectomy, L5-S1, on 03/07/2014 by Dr. Poletti. Records from 08/06/2014 reveal the patient was in a postoperative period. He was doing well with great improvement of overall strength and mobility. On 10/22/2014 a physician assistant, Laura Togel, documented that he was coming down a flight of stairs when he slipped and fell backwards on his tailbone. Since then he has had a cold sensation in his leg and increasing weakness. He also had a positive straight leg raise at that time. She had recommended an updated MRI examination to rule out re-herniation. On 10/29/2014 Dr. Paulette noted the patient had an increase in pain in his right side after a fall. He ordered an epidural steroid injection. Notes from Dr. Poletti on 01/21/2015 indicate:

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BIAS, JOHNNY (id #2179285)

worsening pain. His notes state that he does believe this is a work-related injury. There was a diagnosis of post-laminectomy syndrome. Documentation from Dr. Poletti on 01/23/2015 state that the increase in pain was a direct result of his fall. Notes from physician Justin Swain on 02/23/2015 indicates the patient continues to have pain and overall dysfunction. He recommended Medrol Dosepak. Notes from physician assistant Lane Toggle on 03/23/2015 state that symptoms have been unchanged. There are right-sided complaints and weakness in his left leg. Records from Dr. Singleton on 04/28/2015 indicate that the patient was evaluated for a psychiatry/psychology screening along with chronic obstructive bronchitis, high blood pressure, degenerative lumbar disc disease, allergic rhinitis, insomnia, hyperlipidemia, sebaceous cyst. On 02/17/2015 the patient continues to complain of pain. He is wearing an Ankle-Foot Orthosis (AFO). He continues to have diminished strength in his left EHL. Positive straight leg raise. He recommended a cervical MRI examination. Records from 08/17/2015 show transforaminal lumbar injections were ordered. On 10/20/2015, Kimsey Cooper, PA-C noted that the patient continues to have significant pain bilaterally. Records from 12/01/2015 by Dr. Amanda Hartridge indicate chronic pain syndrome, post laminectomy syndrome. Records from Dr. Paulette on 02/03/2016 indicate he reached MMI with 25% impairment rating. It stated the patient cannot return to any type of employment secondary to pain and disability. Documents from Tracy Hill at Columbia Rehabilitation on 03/21/2016 show a whole person impairment rating of 24% with 27% lumbar spine impairment rating. She also completed a functional capacity evaluation on 03/21/2016 that qualified him for light work. Pain management evaluation by Dr. Hutcheson on 03/22/2016 reveals sacroiliitis lumbosacral spondylosis, post laminectomy pain syndrome, and lumbar radiculopathy. From a pain management standpoint he is at MMI. He will need ongoing medications, controlled substances, DME, injections, physical therapy, and imaging spinal cord stimulator. Records from Dr. Russ Rames, Urologist, on 05/27/2015 indicate there was an independent medical evaluation. Records reveal fecal urgency, urinary urgency, urge incontinence, nocturnal enuresis, erectile dysfunction, and ejaculatory dysfunction, worsened after his back injury. They are causally linked. Impairment rating of the bladder is 24% and sexual dysfunction is 9%.

Mr. Johnny Bias is a 60-year-old male who comes to clinic for an independent medical evaluation. VAS is 6/10. The patient states that it started after a fall. The pain increases with standing, bending forward and backward, twisting, sitting, walking, coughing, and sneezing. It increases with prolonged walking of more than 15 minutes and prolonged standing of more than 30 minutes. The patient states he has tried physical therapy, home exercises, and surgery. His symptoms include weight gain, stiffness, leg numbness, difficulty walking, poor sleep, muscle weakness, genital numbness, and some bowel and bladder accidents. The patient states on 10/24/2014 he was working at a water treatment plant. He was walking down concrete steps when he slipped and fell on his tailbone. Since then he has had persistent low back pain, bilateral, worse on the right. There is also numbness and tingling that radiates down his legs bilaterally. He indicates feeling constant coldness in his left leg. The patient reports he has urinary accidents during the night as well as urinary urgency. Prior to the accident, he had his first back herniation in 1983. Surgery was performed for this. His next back herniation was in 03/2014. This was also treated with surgery. The problems were exclusively on the left side. The patient reports the back and leg pain had significantly improved following the discectomy in 03/2014. He had the accident in 10/2014 during which the back pain returned, with worsening of left leg symptoms and new right leg symptoms, in addition to the bowel and bladder issues. The patient was not sure when he last had an MRI examination. He states he has had extensive physical therapy since the work-related accident. It has been minimally effective. The patient has had 3 injections following the accident. 1 was in the middle of his back and the next 2 were in his lower back on each side. They were also minimally effective. He takes hydrocodone, 4-6 pills daily. His current pain management doctor is Dr. Hutcheson. Surgery has been indicated if the pain gets worse. The patient says pain management is effective most of the time. However, there are days when he is in severe pain that wakes him up. He would like to continue trying injections prior to agreeing to surgery. Previously, he worked as a water chemistry analyst.

VitalsHt: 5 ft 11 in 09/08/2016
09:21 amWt: 200 lbs 09/08/2016
09:21 amBMI: 27.9 09/08/2016
09:21 amBP: 149/95 sitting
09/08/2016 09:42 amPulse: 82 bpm 09/08/2016
09:42 am**Medications****Reviewed Medications**HYDROcodone 10 mg-acetaminophen 325 mg tablet
TAKE 1 TABLET BY MOUTH EVERY 4 TO 6 HOURS AS NEEDED FOR PAIN

08/25/16 filled

Allergies**Reviewed Allergies**

NKDA

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BIAS, JOHNNY (id #2179285, c**Problems**

Reviewed Problems

Past Medical History

Reviewed Past Medical History

Arthritis: Y

Anxiety: Y

High Blood Pressure: Y

Insomnia: Y

Family History

Reviewed Family History

Mother - Hypertensive disorder

Surgical History

Reviewed Surgical History

Social History

Reviewed Social History

Smoking Status: Former smoker

Smoker: (1 PPW)

Cigar/Pipe Use: Y

Chewing tobacco: none

Alcohol intake: Occasional

Marital status: Married

Diet: Regular

Work History: Disabled

Are you currently employed?: N

Hand Dominance: Right

Patient's Pharmacies**DANIELS' PHARMACY (ERX): 5036 CAROLINA HIGHWAY, DENMARK SC 29042, Ph (803) 793-3804, Fax (803) 793-0616****ROS**

Patient reports exercise intolerance. He reports shortness of breath when walking. He reports cough, wheezing, and shortness of breath. He reports muscle weakness, back pain, and swelling in the extremities. He reports depression and sleep disturbances.

ROS as noted in the HPI

Results / Interpretations**XR, LUMBAR SPINE**

Lumbar radiographs performed on 07/082016 is compatible with severe lumbar spondylosis as well as degenerative disc disease, L4-5, L5-S1. There is slight loss of lumbar lordosis. There is no instability with flexion-extension.

MRI, LUMBAR SPINE, W/O CONTRAST

MRI examination performed on 10/29/2015 at Southeastern Spine Institute reviewed by me today reveals multiple spondylotic disc protrusions and disc osteophyte complex/disc bulge of the level L1-2. There is very mild central canal stenosis. No significant stenosis, L2-3. There is circumferential disc osteophyte complex resulting in moderate to severe central canal stenosis at L3-4. No significant foraminal stenosis noted, L3-4. L4-5 reveals large disc osteophyte complex and severe central canal stenosis. There is disc herniation present also, asymmetric towards the left side creating severe central canal stenosis and severe bilateral lateral recess stenosis. No significant foraminal stenosis at L4-5. L5-S1 reveals a large disc osteophyte complex. Severe bilateral lateral recess stenosis noted. L5-S1 reveals moderate to severe left-sided foraminal stenosis. There is diffusely moderate to severe facet arthropathy throughout the entire spine.

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BIAS, JOHNNY (id #2179285,

Assessment / Plan

Work-related injury.

Lumbar radicular syndrome, bilateral.

Spinal stenosis, L3-S1.

Discussion/Notes

The patient has sustained a work-related injury which resulted in significant back pain and bilateral leg pain, numbness, tingling, and weakness. This does represent an aggravation of a pre-existing injury as he does have stenosis in his spine and a re-herniation/disc osteophyte complex on the left side that has resulted from the fall.

The patient will need lifetime medical care for his low back including ongoing comprehensive pain management. It is also my opinion that if he is satisfied with where he is symptomatically in terms of the pain level and disability, then there is no need for any further surgery for his back. However, if he were to experience more intense pain or additional disability, then he would be a candidate for further spine surgery, inclusive of the L3-S1 levels. If the patient does not wish to pursue surgery at this time, he is at maximum medical improvement with an impairment rating of 24% of the whole person and 27% of the lumbar spine. There is also impairment of the bladder, which includes 24%, and sexual dysfunction at 9%.

It is also my opinion that he would benefit from further psychiatric and psychological evaluation and care as a result of the psychological impairment that he has sustained.

The patient is in no capacity to return to his previous occupation and he qualifies as being disabled. I would be happy to provide surgical care for him if his condition worsens or significantly changes.

The above analysis is based on the available information at this time, including the medical records and the imaging studies & results provided. It is assumed that the information provided to me is correct. If more information becomes available at a later date, an additional report may be requested. Such information may or may not change the opinions rendered in this document.

All opinions rendered in this document are based upon a reasonable degree of medical certainty and are impartial. Comments on the appropriateness of care are professional opinions based upon the specifics of this case and should not be generalized.

Thank you for allowing me to review this medical record. If you have any other further questions please do not hesitate to contact me.

Return to Office

None recorded.

Physical Exam

Patient is a 60-year-old male.

Constitutional: General Appearance: healthy-appearing, NAD, and normal body habitus.

Psychiatric: Orientation: oriented to time, place, and person. Mood and Affect: normal mood and affect and active and alert.

Gait and Station: Appearance: limp and ambulating with cane.

Cardiovascular System: Arterial Pulses Right: femoral normal, posterior tibialis normal, dorsalis pedis normal, and popliteal normal. Arterial Pulses Left: femoral normal, posterior tibialis normal, dorsalis pedis normal, and popliteal normal. Edema Right: none. Edema Left: none. Varicosities Right: no varicosities and capillary refill test normal. Varicosities Left: no varicosities and capillary refill test normal.

Lymph Nodes: Inspection/Palpation Right: no inguinal LAD. Inspection/Palpation Left: no inguinal LAD.

Skin: Lumbosacral Spine: normal skin.

Lumbar Spine: Inspection: no induration, ecchymosis, or swelling and normal alignment. Bony Palpation of the Lumbar Spine: no tenderness of the spinous process, the transverse process, the sacral promontory, the sacrum, or the coccyx. Bony Palpation of the Right Hip: no tenderness of the iliac crest, the ASIS, the pubic tubercle, the iliac tubercle, the sciatic notch, or the ischial tuberosity and tenderness of the PSIS, the SI joint, and the greater trochanter. Bony Palpation of the Left Hip: no tenderness of the iliac crest, the ASIS, the pubic tubercle, the iliac tubercle, the sciatic notch, or the ischial



Progress Notes

Johnnie Bias (MR# 005672057)

Progress Notes by Ross A. Rames, MD signed at 5/27/2016 2:24 PM

Author: Ross A. Rames, MD	Service: (none)	Author Type: Physician
Date of Service: 5/27/2016	Filed: 5/27/2016 2:24 PM	Status: Signed

Editor: Ross A. Rames, MD (Physician)

Johnnie Bias V SCANA Corp.

Salley Law Firm, PA. Jacob Smith, Atty.

Worker's Comp Review

Requested IME: **URINARY INCONTINENCE: WILL NEED TO SEE A UROLOGIST.**

From Mr. Smith's letter and records:

JB was a plant analyst. October 14, 2014 twisted ankle and fell on step. Claim multiple injuries.

October 22, 2014 saw L Tuggle, PA-C, worse leg pain, cold feeling. Leg weakness. Plain film changes. Pt noted to also have C spine symptoms.

October 29, 2014 Dr. Poletti felt he had recurrent herniation left L4,5. MRI showed mod severe spondylosis, nerv root compression. L1,2, L2,3, L3,4, L 4,5 and L5S1.

Jan 21, 2015 Poletti: "related to work injury".

1-23-15 Poletti: result of work injury.

Several additional PA visits.

2-3-16 Poletti: 20% impairment rating.

2-16-16 Dr. Lind: adjustment disorder, depression, secondary to pain and limitations.

3-22-16 Dr. Hucheson:(pain management) will need ongoing pain meds. Need L4-S1 fusion. OT for left foot drop.

Prior: left L5 leg pain. 3-7-14 Dr. Poletti did redo laminectomy discectomy L5S1. Reportedly did well, improved.

He is a 59 y.o. AAM residing in Denmark, SC.

Decreased interest in sex, other activity. Decreased energy. Saw Nicholas Lind, PsyD

11-12-14 Dr. Netherton L34 epidural steroid injection.

10-20-15 Dr. Forrest bilat L5 steroid injection

JB also on various pain medications.

Referral for Independent Medical Examination.

By Attorney: Salley Law Firm, Jacob Smith

Records reviewed:

Letter Salley Law firm, Jacob Smith, Esq

Carolinas Center for advanced Mgmt of Pain, Columbia, SC. Justin Hucheson, MD

Post Trauma Resources, Nicholas Lind, PsyD

Carolina Rehabilitation Clinic, Inc, Tracy Hill, PT

East Cooper Medical Center, Dr. Poletti Op Note, imaging records,

Southeastern Spine Institute, Ryan, Aprill, PA-C, Justin Swain, PA, Lane Tuggle, PA-C, Dr. Poletti,

imaging records, Dr. Netherton, Amanda Harridge, PA-C, Kimsey Cooper, PA-C, Dr. Forrest,

DISC Radiologists.

Orangeburg Regional Med Center, imaging

Bias, Johnnie (005672057) DOB: ^{Page 17} _____ Printed by ... Encounter Date: 05/27/2016

Date of accident or event: October 14, 2014

59 y.o. with history of low back injury as outlined above from record review. This has resulted in significant pain and impairment as determined by his treating physicians and outlined in the records. He presents now for evaluation of urologic complaints:

Lower Urinary Tract Symptoms: he reports urinary incontinence for approximately one yr, and it is worsening. He will find his pants are wet at times with no warning. He also has urgency and urge incontinence with little warning. He has nocturia, and will awaken at night with urine running out of his bladder.

He is not wearing pads now, changes clothes.

Denies gross hematuria, UTI, stones, or dysuria.

He also has fecal urgency and near accidents with BMs.

US PVR today: 78 cc

Erectile dysfunction: able to obtain a 30% erection, loses it prior to completion. Has not tried ed medications yet for this as his incontinence has been too bothersome.

His orgasms are weak.

Ejaculatory volume is low.

Past medical history:

HTN

COPD

ASBESTOS EXPOSURE

Past Surgical history:

3-7-14 Dr. Poletti did redo laminectomy discectomy L5S1. Reportedly did well, improved.

Medications:

Allergies:

SHIM: 11, MODERATED ED

AUASS 18, MOSTLY DISSATISFIED.

Review of Systems

Constitutional: Negative. Negative for fever, chills, diaphoresis, activity change, appetite change, fatigue and unexpected weight change.

HENT: + DENTURE. Negative for hearing loss, nosebleeds, congestion, sore throat, rhinorrhea, trouble swallowing, neck pain, neck stiffness, dental problem and voice change.

Eyes: Negative for visual disturbance.

Respiratory: + shortness of breath, copd, asbestos exposure. Negative for apnea, cough, wheezing and stridor.

Cardiovascular: Negative. Negative for chest pain, palpitations and leg swelling

Gastrointestinal: Negative. Negative for nausea, vomiting, abdominal pain, diarrhea, constipation,

Bias, Johnnie (005672057) DOB: ^{Page 18}rinted by ... Encounter Date: 05/27/2016

blood in stool, abdominal distention, anal bleeding and rectal pain.

Genitourinary: + SEE HPI.

Musculoskeletal: +back pain, . Negative for myalgias, joint swelling, arthralgias and gait problem.
Skin: Negative. Negative for color change, pallor, rash and wound.

Neurological: Negative. Negative for dizziness, tremors, seizures, syncope, facial asymmetry, speech difficulty, weakness, light-headedness, numbness and headaches.
Hematological: Negative for adenopathy. Does not bruise/bleed easily.

Psychiatric/Behavioral: + DEPRESSION/ ANXIETY. Negative for suicidal ideas, hallucinations, behavioral problems, confusion, sleep disturbance, dysphoric mood, decreased concentration and agitation. The patient is not hyperactive.

The following portions of the patient's history were reviewed and updated as appropriate: allergies, current medications, past family history, past medical history, past social history, past surgical history and problem list.

Objective:

Physical Exam

Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress. HAS DIFFICULTY STANDING AND WALKING

HENT: UPPER BRIDGE

Head: Normocephalic and atraumatic.

Right Ear: External ear normal.

Left Ear: External ear normal.

Mouth/Throat: Oropharynx is clear and moist. No oropharyngeal exudate.

Eyes: Conjunctivae and EOM are normal. Pupils are equal, round, and reactive to light. No scleral icterus.

Neck: Normal range of motion. Neck supple. No JVD present. No tracheal deviation present. No thyromegaly present.

Cardiovascular: Normal rate, regular rhythm and intact distal pulses.

Pulmonary/Chest: Effort normal. No stridor. No respiratory distress. He has no wheezes. He has no rales. He exhibits no tenderness.

Abdominal: LARGE REDUCIBLE UMBILICAL HERNIA. Soft. He exhibits no distension and no mass. There is no tenderness. There is no rebound and no guarding. Hernia confirmed negative in the right inguinal area and confirmed negative in the left inguinal area.

SCAR OVER L SPINE

Genitourinary: RIGHT INGUINAL HERNIA, REDUCIBLE.

ABSENT BULBOCAVERNOSAL REFLEX.

Rectum normal, prostate normal, testes normal and penis normal.

Rectal exam shows no internal hemorrhoid, no mass, no tenderness and anal tone normal.

Prostate is not enlarged and not tender. Cremasteric reflex is present. No penile tenderness.

Musculoskeletal: Normal range of motion. He exhibits no edema and no tenderness.

Lymphadenopathy:

He has no cervical adenopathy.

Right: No inguinal adenopathy present.

Left: No inguinal adenopathy present.

Neurological: He is alert and oriented to person, place, and time.

~~No cranial nerve deficit. He exhibits normal muscle tone. Coordination normal. HAS GAIT~~

DIFFICULTIES.

LEFT ANKLE BRACE (FOOT DROP)

Skin: Skin is warm and dry. No rash noted. He is not diaphoretic. No erythema. No pallor.

Psychiatric: He has a normal mood and affect. His behavior is normal. Judgment and thought content normal.

LABS:

ULTRASOUND PVR: 78 CC

UA NEGATIVE

IMPRESSION:

FECAL URGENCY

URINARY URGENCY, URGE INCONTINENCE

NOCTURNAL ENURESIS

ERECTILE DYSFUNCTION

EJACULATORY DYSFUNCTION

THESE ISSUES APPEARED AND WORSENER FOLLOWING HIS BACK INJURY AND ARE MORE LIKELY THAN NOT (TO A REASONABLE DEGREE OF MEDICAL CERTAINTY) CAUSALLY LINKED. HE HAS EVIDENCE OF SACRAL NERVE DYSFUNCTION WITH ABSENT BULBOCAVERNOSAL REFLEX. HE WILL LIKELY REQUIRE FURTHER TREATMENT AND EVALUATION OF THESE ISSUES, POSSIBLY INCLUDING:

BLADDER: VIDEOURODYNAMIC STUDIES, CYSTOSCOPY, TREATMENT WITH OVERACTIVE BLADDER MEDICATIONS OR SURGERY/OTHER MEDICATIONS BASED ON SYMPTOMS AND FINDINGS.

ED: TRIAL OF PDE-5 INHIBITOR MEDS (VIAGRA, ETC.), WITH OTHER MEDICATIONS, SUCH AS INJECTION OF MEDICATIONS INTO THE PENIS, IF PILLS NOT SUCCESSFUL. EJACULATORY DYSFUNCTION: MAY NOT BE REVERSIBLE.

IMPAIRMENT RATING:

BLADDER: 24% IMPAIRMENT OF THE WHOLE PERSON

SEXUAL FUNCTION: 9% IMPAIRMENT OF THE WHOLE PERSON

RESPECTFULLY SUBMITTED,

ROSS RAMES, MD

d. Criteria for Rating Neurologic Impairment of the Bladder

Class 1 1%-9% Impairment of the Whole Person	Class 2 10%-24% Impairment of the Whole Person	Class 3 25%-39% Impairment of the Whole Person	Class 4 40%-60% Impairment of the Whole Person
Individual has some degree of voluntary control but is impaired by urgency or intermittent incontinence	Individual has good bladder reflex activity, limited capacity, and intermittent emptying without voluntary control	Individual has poor bladder reflex activity, intermittent dribbling, and no voluntary control	Individual has no reflex or voluntary control of bladder

e. Criteria for Rating Neurologic Anorectal Impairment

Class 1 1%-19% Impairment of the Whole Person	Class 2 20%-39% Impairment of the Whole Person	Class 3 40%-50% Impairment of the Whole Person
Individual has reflex regulation but only limited voluntary control	Individual has reflex regulation but no voluntary control	Individual has no reflex regulation or voluntary control

f. Criteria for Rating Neurologic Sexual Impairment

Class 1 1%-9% Impairment of the Whole Person	Class 2 10%-19% Impairment of the Whole Person	Class 3 20% Impairment of the Whole Person
Sexual functioning is possible, but with difficulty of erection or ejaculation in men or lack of awareness, excitement, or lubrication in either sex	Reflex sexual functioning is possible, but there is no awareness	No sexual functioning

g. Criteria for Rating Neurologic Impairment of Respiration

Class 1 5%-19% Impairment of the Whole Person	Class 2 20%-49% Impairment of the Whole Person	Class 3 50%-69% Impairment of the Whole Person	Class 4 90%+ Impairment of the Whole Person
Individual can breathe spontaneously but has difficulty performing activities of daily living that require exertion	Individual is capable of spontaneous respiration but is restricted to sitting, standing, or limited ambulation	Individual is capable of spontaneous respiration but to such a limited degree that he or she is confined to bed	Individual has no capacity for spontaneous respiration

REFERENCE:

Electronically signed by Ross A. Rames, MD at 5/27/2016 2:24 PM

Revision History

**Created by**

Encounter creation information not available

Carolinas Center for Advanced Mgmt of Pain-Columbia office
 109 Midlands Court Suite B West Columbia, SC 29169
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April 15, 2016
 Page 1
 Office Visit

MR JOHNNIE BIAS

Male DOB: _____

61101

Ins: SALLEY LAW FIRM

03/22/2016 - Office Visit: Independent Medical Evaluation

Provider: Justin K Hutcheson MD

Location of Care: Carolinas Center for Advanced Mgmt of Pain-Columbia office

Independent Medical Evaluation

Chief Complaint: This is a 59 Years Old patient referred for independent medical evaluation of back pain. Patient has h/o back and left leg pain. Patient underwent back surgery 3/7/14 with Dr. Poletti for back and left leg pain. He was doing well in his recovery per records until he fell at work 10/14/14. Since that fall- he notes back and left-right leg pain. MRI post fall shows L4/5 5/s1 hnp. Dr. Poletti offered patient repeat surgery but patient was not interested in further back surgery at that time. He also noted left wrist pain after fall with some weakness in the hand. He notes some residual popping with range of motion in left wrist.

Prior to the fall he was taking 2-3 norco 10/day, since the fall he takes 4-5 norco 10/day. Notes depression starting after fall- felt abandoned by his work, noticed frustration, irritability, lack of sleep, weird dreams, anger issues. Since fall he is seeing Dr. Bergmann for these issues. With the fall- he landed on his hands- notes left wrist pain and weakness in left hand.

He also notes urinary incontinence occurring several times over the last 2-3 months.

Diagnostically:

post fall mri shows L4/5 5/s1 hnp

Therapeutically:

esi's after fall - helped significantly

Age: 59 Years Old

Sex: Male

History of Present Illness

Location of Pain: back both legs

Description of Pain: Sharp, Stabbing, Numbness

Current Pain Rating (Good Day): 6

Current Pain Rating (Bad Day): 6

Is The Pain Always The Same: No

Duration of Pain: Constant

Aggravating Factors: Activity, Sitting, Bending, Standing, Walking

Additional History

Previous Treatments: Nerve Blocks/Injections, Epidural Steroids, Narcotic Pain Medication, Physical Therapy, TENS, Psychiatrist/Psychologist

Previous Diagnostic Studies: MRI

Data Reviewed: Old Charts, MRI

Past Treatment

Has patient been treated in another pain management center? Yes

Where: Mt. Pleasant

Has patient ever had previous psychiatric or psychological treatment? Yes

Carolinas Center for Advanced Mgmt of Pain-Columbia office
109 Midlands Court Suite B West Columbia, SC 29169
(803) 791-7175 Fax: (803) 791-7176

April 15, 2016
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Office Visit

MR JOHNNIE BIAS

Male DOB: _____

61101

Ins: SALLEY LAW FIRM

Description: depression**Has patient ever required treatment for substance abuse or alcohol abuse?** No**Sleep Disturbances****Does the patient ever have difficulty falling asleep?** Yes**Does the patient have difficulty maintaining sleep?** Yes**Is the patient ever awakened by pain?** Yes**Does the patient have difficulty staying awake during the day?** No**Past, Family, and Social History****Past History:** pmh:htn, depression, anxiety hpl sleep apnea
sxhx: back**Family History:** htn**Social History:** + beer, no tob ivdu married 3 kids college degree LTD, doi 10/14/14, last worked 10/14/14, attny Salley Law firm**Allergies:****Review of Systems****General:** fatigue**Eyes:** denies blurring, diplopia, irritation, discharge, vision loss, eye pain, photophobia**Ear/Nose/Throat:** denies ear pain or discharge, tinnitus, decreased hearing, nasal obstruction or discharge, nosebleeds, sore throat, hoarseness, dysphagia**Cardiovascular:** Denies chest pain, palpitations, syncope, dyspnea on exertion, orthopnea, PND, peripheral edema**Respiratory:** sob**Gastrointestinal:** Denies nausea, vomiting, diarrhea, constipation, change in bowel habits, abdominal pain, melena, hematochezia, jaundice**Genitourinary:** bladder control**Musculoskeletal:** back both legs**Skin:** denies rash, itching, dryness, suspicious lesions**Neurologic:** denies transient paralysis, weakness, paresthesias, seizures, syncope, tremors, vertigo**Psychiatric:** depression**Endocrine:** denies cold intolerance, heat intolerance, polydipsia, polyphagia, polyuria, weight change**Hematologic/Lymphatic:** denies abnormal bruising, bleeding, enlarged lymph nodes**Allergic/Immunologic:** denies urticaria, hay fever, persistent infections, HIV exposure**Physical Exam****General****General appearance:** well developed, well nourished, no acute distress**Communication ability:** communicates by voice, normal quality**Gait and station:** antalgic**Psychiatric****Mental Status:** AAO x3

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April 15, 2016
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 Office Visit

MR JOHNNIE BIAS

Male DOB:

61101

Ins: SALLEY LAW FIRM

Judgement/Insight: Intact
Mood/Affect: Depressed

Thoracolumbar

ROM: Decreased in all directions

Comments: 10 degree flexion, 5 degree extension- L4-s1 back pain

Patrick's Test: Positive

SI Joint: Right, Left

Straight Leg Raise: Positive

Radiculopathy: Right

Palpation: Non-Tender

Manual Muscle Testing

RLE: 4+/5

LLE: 4+/5

Exceptions:

Left DF: 3+/5

Muscle Stretch Reflex

RLE: 2+

LLE: 2+

Exceptions:

Right Achilles: 0

Left Achilles: 0

Sensory: Negative allodynia/hyperpathia

Comments: left thigh to foot, right foot

Assessment

New Problems:

Sacroiliitis (ICD-720.2) (ICD10-M46.1)

Lumbo-Sacral Spondylosis (ICD-721.3) (ICD10-M47.817)

Post-Laminectomy Pain Syndrome - Lumbar (ICD-722.83) (ICD10-M96.1)

Lumbar Radiculopathy (ICD-724.4) (ICD10-M54.16)

Comments: Patient with history of back pain prior to fall. Had surgery 3/14 prior to fall 10/14. Was doing much better in terms of pain and function prior to fall. Since fall- now wears afo brace left foot due to foot drop, left leg numbness is new since fall, has L4/5 and L5/s1 recurrent hnp since fall. Dr. Poletti offered him surgery but patient really does not want further back surgery. Post-fall esi's help control pain. Pain meds are also helping. He also notes left wrist pain with range of motion and some weakness in the left hand since the fall. The wrist pain has improved in 2015 but is still present.

Since fall he notes significant depressive symptoms due to pain, loss of job, and loss of function.

The fall caused direct injury to his left hand, left wrist and and left arm, psychological, bladder and legs.

The fall aggravated a pre-existing lumbar spine injury.

From a pain management standpoint, he is at mmi. He will need ongoing medications, urine testing while on controlled substances, dme (for leg weakness, incontinence, back pain), injections, PT, imaging, and spinal cord stimulator. He will need ongoing psych care per Dr. Bergmann and a psychiatrist. He will need ongoing spine surgeon care per Dr. Poletti including L4-s1 fusion when he is ready for it. Given left leg

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Office Visit

MR JOHNNIE BIAS

Male DOB: {

61101

Ins: SALLEY LAW FIRM

weakness he would likely benefit from home occupational therapy to help him navigate his house with foot drop and leg weakness. With urinary incontinence he will likely need to see a urologist.

Impairment- 27% lumbar spine

Work status- per fce 3/21/16 but it is unlikely given afo brace, leg weakness and urinary issues that he will be employable in any capacity.

All of this care is needed for the remainder of his lifetime.

These statements are made to a reasonable degree of medical certainty and are designed to lessen the period of disability from his work-related injuries.

Plan**Current Medication List:**

NORCO TABS (HYDROCODONE-ACETAMINOPHEN TABS)

]

Electronically signed by Justin K Hutcheson MD on 03/23/2016 at 11:37 AM

MEDICAL QUESTIONNAIRE

RE: Johnny Bias

DOI: October 14, 2014

**Unless specified otherwise, the recommendations made here are considered to be lifelong recommendations for inclusion in the plan of care for Mr. Johnny Bias for his injuries sustained in the work-related accident of October 14, 2014:*

1. Receive ongoing comprehensive pain management care under my direction as a pain management specialist, with frequency and duration as defined by me?
Yes ☒ No ☐
2. Receive ongoing back/spine treatment under the direction of an orthopaedic spine specialist, with frequency and duration as defined by him?
Yes ☒ No ☐
3. Receive ongoing psychological care for his psychological injuries with Dr. Nicholas Lind, psychologist, with frequency and duration as defined by him?
Yes ☒ No ☐
4. Receive ongoing urological care for his urological injuries with Dr. Ross Rames, a urologist, with frequency and duration as defined by him?
Yes ☒ No ☐
5. Would it be appropriate to include a trial dorsal column stimulator in the life care plan analysis?
Yes ☒ No ☐
6. If the trial is successful and there is permanent implant performed, would the usual protocols regarding generator replacement, interrogation and re-programming apply and be included in Mr. Clark's future plan of care?
Yes ☒ No ☐
7. Continue current medication regimen with changes made from time to time based on symptoms and response?
Yes ☒ No ☐
8. Please indicate any other recommendations with frequency and duration: _____

The recommendations above are made most probably to a reasonable degree of medical certainty, are most likely to occur, are appropriate and medically foreseeable, and are causally related and tending to lessen the period of disability for Mr. Johnny Bias' injuries arising out of his October 14, 2014 work-related accident.

Justin Hutcheson, M.D.

Date

7/12/16



Physician's Statement

Claimant's Name: Johnny Bias

Employer's Name: SCANA Corporation

Physician's Name: Dr. Justin Hutcheson

Insurance Carrier: Companion TPA

Practice/Clinic: Carolinas Center for the Advanced Management of Pain

SCWCC File No: 1421397

Preparer's Name: Dr. Justin Hutcheson

Phone: 791-7175

The undersigned physician has been authorized by the Employer/Carrier to treat this Claimant for his or her injury by accident pursuant to §§42-15-60, 42-1-172 or 42-11-10.

Date of Injury or Illness: 10/14/2014

Date of first office visit: 03/22/16 Date of last visit: 03/22/16

Diagnosis or nature of injury or illness: fall

Body part(s) injured: back Body part(s) affected: back, left lower extremity

Date of Maximum Medical Improvement: 3/22/16 Right lower extremity, urological system, nervous system, psyche

Based on the **AMA Guidelines**, the claimant has sustained a 26 % medical impairment to Wt/L Lumbar spine injured body part(s) and a 1 % medical impairment to left lower extremity other affected body part(s).

☐ The claimant is **able to return to work** without restriction.

☒ The claimant is **able to return to work with the following restrictions:**

per PCE 3/21/16

☒ The claimant is **unable to return to work** at his or her current employment.

☐ Claimant **possesses retained hardware** casually related to this injury.

As of the date I last saw this patient, it is **my professional medical opinion** the claimant:

☐ **will not** need future medical care related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not).

☒ **will** need future medical care and treatment related to his or her work related injury or illness based on a reasonable degree of medical certainty (more likely than not) and that medical care and treatment including medication is as follows:

Med's, injections, PT, imaging, urine testing, AME, spinal cord stimulator - 12 visits for pain management, Urological care per Dr. Rames, Psych care per Dr. Lind, Ortho spine care per Dr. Polotti. All care needed for life time.

Treating Physician

7/12/16
Date

MEDICAL QUESTIONNAIRE

RE: Johnny Bias

DOI: October 14, 2014

1. Do you believe most probably to a reasonable degree of medical certainty that Mr. Johnny Bias' back, left lower extremity, right lower extremity, urological system, nervous system and resultant psychological injuries most probably result from his performance of his job activities and/or work-related aggravation of a pre-existing condition?

Yes ☒ No ☐

2. Do you believe most probably to a reasonable degree of medical certainty that the medical care, medical treatment (conservative or otherwise) and/or medications heretofore provided to Mr. Johnny Bias were reasonable, necessary and geared toward tending to lessen the period of disability stemming from his work-related injuries?

Yes ☒ No ☐

3. Do you believe to a reasonable degree of medical certainty that Mr. Johnny Bias continues to require medical care, medical treatment (conservative or otherwise) and/or medications prior to maximum medical improvement, which are reasonable, necessary, and geared toward tending to lessen the period of disability for his work-related injuries?

Yes ☐ No ☒

If so, please explain your treatment plan: _____

4. Do you believe most probably to a reasonable degree of medical certainty that Mr. Johnny Bias has reached maximum medical improvement as to his work-related injuries?

Yes ☒ No ☐

5. If Mr. Johnny Bias is not at maximum medical improvement, most probably to a reasonable degree of medical certainty, what is his work status, including but not limited to, unable to work, lifting, balance related restrictions, positional lifting, repetitive lifting, weight limits, pushing, pulling, overhead lifting, overhead reaching, standing, walking, coping with uneven surfaces, sitting, climbing, crawling, stooping, squatting, kneeling, bending, repetitive bending, repetitive activities, twisting restrictions, the need to change positions, frequency of changing positions, dexterity, fine motor skills, or in any other way?

NA

6. If Mr. Johnny Bias has reached maximum medical improvement, per the AMA Guides to the Evaluation of Permanent Impairment, most probably to a reasonable degree of medical certainty, what degree of permanent impairment(s) does he have, if any, as it relates to his work-related injuries?

26% WTI L spine 19% left leg due to foot drop

7. If Mr. Johnny Bias has reached maximum medical improvement, most probably to a reasonable degree of medical certainty, what permanent work restrictions should he observe, including but not limited to, unable to work, lifting, balance related restrictions, positional lifting, repetitive lifting, weight limits, pushing, pulling, overhead lifting, overhead reaching, standing, walking, coping with uneven surfaces, sitting, climbing, crawling, stooping, squatting, kneeling, bending, repetitive bending, repetitive activities, twisting restrictions, the need to change positions, frequency of changing positions, dexterity, fine motor skills, or in any other way?

per FCE 3/21/16

8. If Mr. Johnny Bias has reached maximum medical improvement, most probably to a reasonable degree of medical certainty, what future medical care, medical treatment (conservative or otherwise) and/or medications, if any, are reasonable, necessary and geared toward tending to lessen her period of disability for his work-related injuries through maintaining his level of functioning?

per my IME 3/22/16

9. If Mr. Johnny Bias has reached maximum medical improvement and needs future medical care, medical treatment (conservative or otherwise) and/or medications, which are reasonable, necessary, and geared toward tending to lessen the period of disability for his work-related injuries, most probably to a reasonable degree of medical certainty how many times per year would he need to visit your office and/or other medical offices to properly monitor his medical status?

12 visits/year for pain management, Urology care per Dr. Ramos
Psych care per Dr. Lind Ortho spine care per Dr. Deleffi

10. If Mr. Johnny Bias has reached maximum medical improvement and needs future medical care, medical treatment (conservative or otherwise) and/or medications, which are reasonable, necessary, and geared toward tending to lessen the period of disability for his work-related injuries, to a reasonable degree of medical certainty do you anticipate that such future medical care, medical treatment (conservative or otherwise) and/or medications to most probably be needed during the remainder of his lifetime?

Yes ☒ No ☐

11. If Mr. Johnny Bias has reached maximum medical improvement, most probably to a reasonable degree of medical certainty, what future prosthetics are reasonable, necessary and geared toward tending to lessen his period of disability for his work-related injuries?

AME, spinal cord stimulator

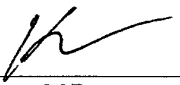
12. If Mr. Johnny Bias has reached maximum medical improvement and needs prosthetic devices, most probably to a reasonable degree of medical certainty would those prosthetic devices be necessary during the remainder of his lifetime?

Yes ☒ No ☐

13. Are all your opinions and findings in this questionnaire and elsewhere concerning Mr. Johnny Bias, stated most probably to a reasonable degree of medical certainty?

Yes ☒ No ☐

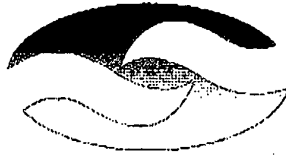
I, Dr. Justin Hutcheson, hereby certify that my responses to the above-listed questions represent my opinions, most probably to a reasonable degree of medical certainty, as to each of these points.


Justin Hutcheson, M.D.

7/12/16
Date

Post Trauma Resources

"Solutions for Life's Toughest Problems"



16 March 2016

Salley Law Firm, P.A.
129 East Main Street
Lexington, SC 29072
VIA FACSIMILE: 803-356-1439

Attn: Jacob M. Smith

Re: Johnnie Bias

Date of Injury: 14 October 2014

Thank you for referring Mr. Bias for the evaluation of potential emotional symptoms. My responsibilities were to clinically interview Mr. Bias, review records, conduct testing and offer an opinion concerning the following referral questions:

Does Mr. Bias have emotional impairment and, if so, is it within a degree of certainty related to his 14 October 2014 work-related injury?

If so, has he met maximum medical improvement for these injuries?

What treatment and/or duty restrictions, if any, would be appropriate?

This evaluation included a 90-minute psychological interview, review of medical records, and psychological testing. I met with Mr. Bias on 16 March 2016, informed him of the nature of the examination, and notified him that a report would be shared with the referral source. The conditions laid out in the informed consent were read to him and he articulated understanding.

Examinee Demographics

Mr. Bias is a 59-year-old African-American male who currently lives in Denmark, South Carolina.

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(803) 765-0700 (800) 459-6780 Fax (803) 765-1607



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Records Reviewed

Records from the following sources were reviewed prior to the 16 March 2016 evaluation:

1. Southeastern Spine Institute
2. East Cooper Medical Center
3. Sports Plus
4. Singleton Health Center
5. 3 February 2016 Deposition of Steven Poletti, MD

History of Illness

Mr. Bias reported that, on 14 October 2014, he was working as a plant analyst when he slipped on a rock and twisted his left ankle. He noted several injuries, with his lower back pain currently causing him the most preoccupation; he described his pain to be at the average intensity of "six" on a zero to 10-point scale, with "zero" being "no pain at all" and "10" being "overwhelmed with pain."

Mr. Bias said that he has experienced a decrease in sleep since his injuries. He estimates that he currently sleeps approximately three hours a night compared to an estimated average of four or five hours per night prior to his pain onset. He reported a loss of interest in previously enjoyed activities such as biking, fishing, lifting weights, and engaging in yard work. He endorsed decreased concentration, energy, and sex drive and increased irritability and appetite; he notes that he gained approximately 10 pounds since his injury.

Mr. Bias denied suicidal thoughts and identified his wife, children, and new grandchild to be his greatest protective factors. Current risk factors for suicide include his physical limitations and symptoms of anxiety, depression and pain. Based on Rudd et al's 2001 criteria for determining suicide risk, Mr. Bias is currently at No Risk for self-harm. The corresponding level of appropriate medical treatment is outpatient care with recurrent risk assessment.

Previous Injuries/Psychological Treatment

Mr. Bias denied any previous Workers' Compensation claims. He denied prior mental health treatment or need for such services prior to his injury. He has since sought treatment through the VA and been prescribed antidepressant and sleep medications, which have reportedly been helpful.

Mental Status

Mr. Bias appears stated age. He is oriented in all spheres. Regarding level of consciousness, he appears alert. Reported mood is "wore out." Affect is flat. Mr. Bias presented himself in an appropriate fashion. Eye contact can be described as good. No noticeable memory impairment noted in the interview. There is a negligible degree of conceptual disorganization evident. Regarding perceptual functioning, he denied hallucinations and none appeared to be present. Attitude can be described as cooperative but discouraged. As far as insight is concerned, the examinee verbalizes awareness of

problems and he appears to see consequences. Judgment appears good. Attention/ Concentration is characterized by no noticeable difficulty attending or maintaining focus.

Quality of Historian. Mr. Bias' self-reporting of symptoms appeared consistent with his affect, presentation, medical documentation and psychological testing.

Results of Psychological Testing

Mr. Bias articulated understanding of each instrument. His responses appeared to be consistent within and among measures.

Personality. Mr. Bias appeared to approach the MMPI-2-RF in an open and honest manner; the resulting profile was determined to be valid. Individuals with similar profiles perceive others to be out to get them and to isolate themselves in times of stress, which can aggravate existing emotional symptoms. They present with neurological complaints, sleep disturbance, fatigue, low energy, and sexual dysfunction.

Mood/Emotional Symptoms. Mr. Bias was administered the Beck Depression Inventory-Second Edition, a 21-item self-report questionnaire assessing depressive symptoms in the time frame of the "past two weeks including today." Scores range from Minimal, Mild, Moderate to Severe levels of depressive symptoms. There is no validity measure. Compared to the normal population, he reported experiencing Moderate levels of depression (BDI-II=22).

The P3 is designed to identify pain patients who are experiencing emotional distress that may be affecting their physical symptoms and their response to treatment. Mr. Bias appeared to approach the items in an open and honest manner; the resulting profile was determined to be valid. He endorsed less anxiety but as much depression and somatization as the average pain patient.

DSM-5 Diagnoses

309.0 Adjustment Disorder with Depressed Mood, secondary to pain and limitations

Responses to Specific Questions

Does Mr. Bias have emotional impairment and, if so, is it within a degree of certainty related to his 14 October 2014 work-related injury? Yes. In my opinion his emotional symptoms are more likely than not, most probably to a reasonable degree of medical certainty, caused by his 14 October 2014 physical work-related injuries.

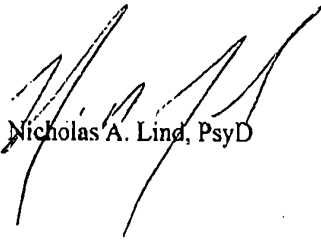
If so, has he met maximum medical improvement for these injuries? No. In my opinion, Mr. Bias has not yet met maximum medical improvement for the psychological consequences associated with his 14 October 2014 injury.

What treatment and/or duty restrictions, if any, would be appropriate? I recommend that Mr. Bias receive psychological and psychiatric treatment. Individuals with similar injuries and resulting symptoms have benefited from routine psychiatric visits for as long as the pain persists. This treatment plan is, in my opinion, reasonable, necessary and geared toward lessening the period of disability for his work-related injuries as stated

most probably to a reasonable degree of certainty. There are no current mental health contraindications to his working in any capacity. All of the above findings and opinions concerning Mr. Bias are stated most probably to a reasonable degree of certainty.

Thank you for allowing us to examine Mr. Bias. Please let us know if you have any questions or concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. A. Lind', is written over the printed name.

Nicholas A. Lind, PsyD

MEDICAL QUESTIONNAIRE

RE: Johnnie Bias

DOI: October 14, 2014

1. Do you believe most probably to a reasonable degree of medical certainty that Mr. Johnnie Bias' work-related psychological injury most probably results from his performance of his work-related physical injuries, job activities and/or work-related aggravation of a pre-existing condition?

Yes No

2. Do you believe most probably to a reasonable degree of medical certainty that the medical care, medical treatment (conservative or otherwise) and/or medications heretofore provided to Mr. Johnnie Bias were reasonable, necessary and geared toward tending to lessen the period of disability of his work-related psychological injury stemming from his work-related physical injuries?

Yes No

3. Do you believe most probably to a reasonable degree of medical certainty that Mr. Johnnie Bias continues to require medical care, medical treatment (conservative or otherwise) and/or medications prior to maximum medical improvement, which are reasonable, necessary, and geared toward tending to lessen the period of disability for his psychological injury stemming from his work-related physical injuries?

Yes No

If so, please explain your treatment plan: Combined psychological/psychiatric
care

4. Do you believe most probably to a reasonable degree of medical certainty that Mr. Johnnie Bias has reached maximum medical improvement as to his work-related psychological injuries emanating from his work-related physical injuries?

Yes No

5. If Mr. Johnnie Bias is not at maximum medical improvement for his psychological injury stemming from his work-related physical injuries, most probably to a reasonable degree of medical certainty, what is his current work status?

Refer to medical doctors re: physical work
limitations.

6. Are all your opinions and findings in this questionnaire and elsewhere concerning Mr. Johnnie Bias stated most probably to a reasonable degree of psychological certainty?

Yes No

I, Dr. Nicholas Lind hereby certify that my responses to the above-listed questions represent my opinions, most probably to a reasonable degree of medical certainty, as to each of these points.

Nicholas Lind, PsyD

Date

2/15/17

Southeastern Spine Institute

PATIENT INFORMATION

Name: Johnnie Bias	Patient Number: 90201
Address One: _____	SSN: _____
Address Two: _____	Date of Birth: (____/____/____)
City: Denmark	Sex: M
State: SC County: 05	Ethnicity: African American
Zip: 29042	Emergency Phone#: _____
Home Phone#: _____	Emergency Contact: _____
Work Phone#: _____	Employer: _____
Cell Phone#: _____	Referring Doctor: Jones, Robert M

GUARANTOR INFORMATION

Name: Johnnie Bias	Date of Birth: (____/____/____)
Address One: _____	_____
Address Two: _____	_____
City: Denmark	Employer: _____
State: SC Zip: 29042	Employer Address: _____
Home Phone#: _____	Employer City: _____
Work Phone#: _____	Employer State: Zip: _____
Cell Phone#: (____) _____	_____

INSURANCE INFORMATION

Primary Insurance: SC BCBS	Secondary Insurance: _____
Certificate#: SAU388486789719	Certificate#: _____
Group Number: _____	Group Number: _____
Group Name: _____	Group Name: _____
Address: PO Box 100300 Columbia SC 29202	Address: _____
Subscriber Name: Johnnie Bias	Subscriber Name: _____
Workers Comp Insurance: _____	Certificate#: _____

Authorization To Pay Benefits To Physician: I authorize the release of medical or other information necessary to process health insurance claims. I also request payment of benefits to myself or to my Provider, when he accepts assignment.

Authorization To Release Medical Information. I hereby authorize my Provider, to release any information necessary for my course of treatment.

Signed (patient or parent if minor)

Date

PATIENT MEDICATION MANAGEMENT AGREEMENT

Patient Name: Johnnie T. Bias Pharmacy: Daniel's

Doctor: _____ Family Doctor: _____

Please read and initial the following:

- ☐ Only your physician at The Southeastern Spine Institute will prescribe narcotic medication for you. It is our legal obligation to contact DHEC if we find you are getting medication from any other providers.
- ☐ You agree not to ask for narcotic medication from any other doctor without the knowledge and assent of your physician at The Southeastern Spine Institute.
- ☐ You agree to keep all scheduled appointments, not just with your physician, but also with recommended therapists and physicians. Three or more missed appointments or same day cancellations will lead to patient dismissal.
- ☒ No prescriptions will be refilled early.
- ☒ No prescriptions will be refilled if you lose, destroy, or have any of your medication stolen.
- ☒ Prescription refills will be authorized only during regular office hours. If you want to refill your prescription, call two working days in advance of renewal date.
- ☐ Patients taking chronic narcotics should NOT drink alcohol.
- ☒ No prescription dosage changes will be made without an office visit.
- ☒ Prefer Only one Pharmacy may be used.
- ☐ You agree to comply fully with all aspects of your treatment program including behavioral medicine (psychology/psychiatry) and physical therapy, if recommended. Failure to do so may result in discontinuation of your medication and referral to another provider or treatment center.
- ☒ Successful pain management includes using multiple interventions, including active participation in regular exercise and use of psychological coping strategies. Failure to follow the prescribed treatment plan including medication, therapy, etc., may result in discontinuation of medication and/or referral to another provider or treatment center.
- ☒ Southeastern Spine reserves the right to check the South Carolina DHEC Drug website to ensure patient is not receiving narcotics from other physicians.

(3)

Side Effects:

Opioids (narcotics) may cause drowsiness that can be worsened with alcohol, benzodiazepines, and other sedating medications. Use care when driving and operating machinery. An overdose can cause severe side effects, even death.

Other common, usually temporary, side effects include nausea, itching, and sweating. Psychological depression and lowered testosterone levels (in men) may also occur. Sleep apnea, if present, may be worsened by opioids. Constipation commonly occurs and often does not improve with time. It is impossible to predict opioid side effects in any individual patient. Having side effects on one opioid does not necessarily mean there will be side effects on another opioid.

You must take opioids only as directed. Federal law prohibits giving this medication to anyone else. Physical dependence will develop with regular use but does not by itself indicate addiction; this means that a withdrawal syndrome will develop if you stop your medication abruptly. Tolerance may develop to the pain-relieving effects of opioids; this means that the pain relief may decrease over time, but in chronic pain states this usually occurs slowly if at all.

Not all pain conditions respond to opioids. Some pain may only be partially responsive to opioid therapy. Total elimination of pain is an unrealistic goal. Increasing dosages may indicate that opioids are not effective or that there is an underlying problem with addiction or psychological dependence. Discontinuation of opioid medications may need to be done under these circumstances: Not enough pain relief, persistent side effects, not achieving goals of opioid treatment (such as improvement in function), problematic dosage increases, or inability to comply with the treatment agreement.

I, the undersigned, agree to follow these guidelines that have been fully explained to me. All of my questions and concerns regarding treatment have been adequately answered.

I, the undersigned, give permission to my pain doctor to contact my other healthcare providers for the purposes of sharing information concerning my situation as is deemed necessary for coordinated, high-quality care.

If I do not follow these guidelines fully, my doctor may stop opioid treatment and refer me elsewhere for care.

A copy of this document has been given to me.

Patient Signature: Johnna B. B. B. Date: 10/13/12

Physician Signature: _____ Date: _____

(4)

Use the body diagram below to indicate the location of any of the 5 sensations listed. Mark the areas on the drawings with the symbol that best describes the sensation that you feel.

=====
 O O O O O
 X X X X X
 / / / / /
 ^ ^ ^ ^ ^

Numbness
 Pins and needles
 Burning Pain
 Stabbing Pain
 Aching Pain

FRONT

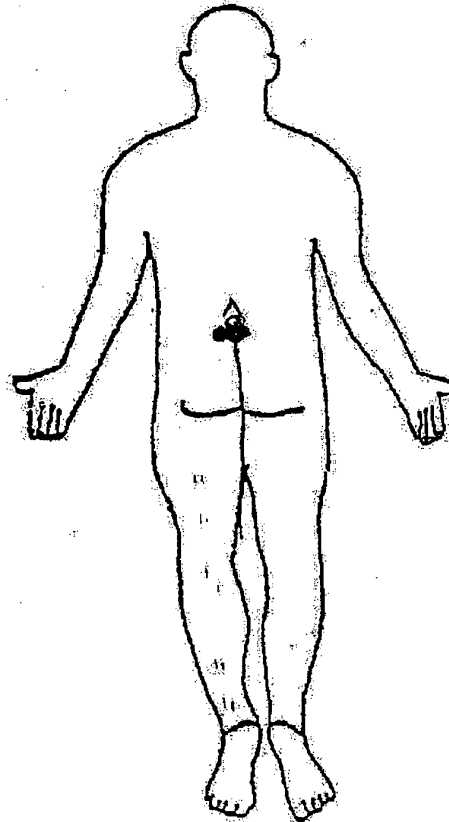
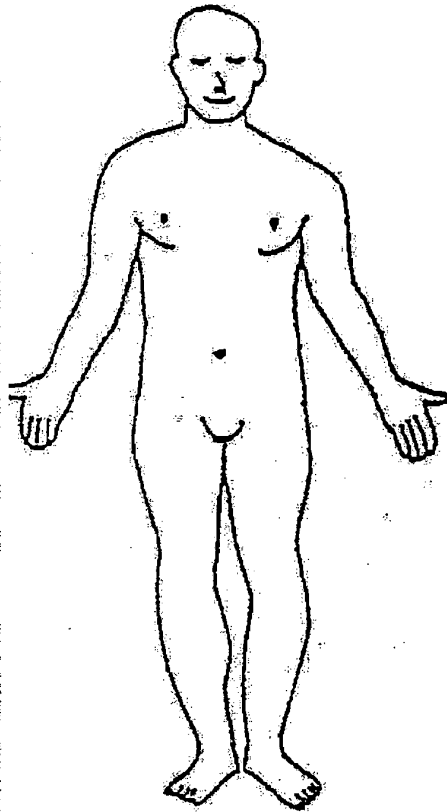
BACK

Right

Left

Left

Right



(5)

- (1) Who referred you to us?
Not a New Patient
- (2) Who is your primary care physician?
Dr.
- (3) Briefly describe the details of your injury or the initial onset of your symptoms:

- (4) How long have the symptoms been present?

- (5) Please provide the following information:
If this was a work injury or a motor vehicle accident: _____
Please briefly describe the accident/injury: _____

- Were you taken to the hospital? Yes No
- Were you hospitalized? Yes No
- What physicians (or other) healthcare professionals who have treated you for this injury to date?

- (6) How would you compare your pain ratio (circle one)

FOR BACK AND LEG PAIN ONLY

- ☒ 1 = 100% back pain and 0% leg pain
2 = 75% back pain and 25% leg pain
3 = 50% back pain and 50% leg pain
4 = 25% back pain and 75% leg pain
5 = 0% back pain and 100% leg pain

FOR NECK AND ARM PAIN ONLY

- 1 = 100% neck pain and 0% arm pain
2 = 75% neck pain and 25% arm pain
3 = 50% neck pain and 50% arm pain
4 = 25% neck pain and 75% arm pain
5 = 0% neck pain and 100% arm pain

(6)

(7) Put a check mark next to the activities which change the nature of your pain:

	Aggravates	Relieves
1. Sitting	☒	☐
2. Standing	☒	☐
3. Rising from sitting	☒	☐
4. Leaning forward (Brushing teeth)	☒	☐
5. Walking	☐	☐
6. Lying on your side	☐	☐
7. Lying on your back	☐	☐
8. Lying on your stomach	☐	☐
9. Driving	☐	☐
10. Coughing/sneezing	☒	☐
11. Bending forward	☒	☐

(8) Please circle the number that best applies to your usual level of pain.

0 = No pain

10 = Pain as bad as it can be

0 1 2 3 4 5 6 7 8 9 10

(9) What makes your pain better?

Something like sitting and then standing

(10) What makes your pain worse?

Bending forward

(11) Circle the tests that have been performed thus far:

X-ray CT-Scan Myelogram MRI EMG

Other: _____

(12) Circle the treatment that you have had so far:

Back Brace Nerve Block Physical Therapy Chiropractic
TENS Unit

Other: _____

(13) Have you had any previous neck or back problems or surgeries? Describe:

Neck pain that Ran down arm

(14) List all major illnesses (glaucoma, diabetes, high blood pressure, heart attack, etc.) or injuries (concussion, etc.):

(7)

(15) List any medications you currently take: Same

(16) Do you have allergies to any medications? YES ☒ NO
If YES, list the medications: _____

(17) Do you currently have any problems in the following areas? If YES, please provide additional information.

	YES	NO	Details
Eyes (poor vision, eye pain, tearing, redness, etc.)		☒	
General / constitutional (fever, heat stroke, weight loss, weight gain, unusually tired)		☒	
Ears, nose, throat (hard of hearing, stuffy nose, earache, cough, dry mouth, etc.)		☒	
Cardiovascular (high bp, racing pulse, etc.)		☒	
Respiratory (congestion, wheezing, short of breath, etc.)		☒	
Gastrointestinal (stomach upset, diarrhea, constipation, hernia, ulcers, etc.)		☒	
Genital, kidney, bladder (painful urination, frequent urination, impotence, yellow jaundice, etc.)		☒	
Females: are you pregnant? Nursing?		☒	
Muscles, bones, joints (joint pain, stiffness, swelling, cramps, arthritis, etc.)		☒	
Skin (pimples, warts, growths, rash, etc.)		☒	
Neurological (numbness, headache, seizures, paralysis, etc.)		☒	
Psychiatric (anxiety, depression, insomnia)		☒	
Endocrine (diabetes, hypothyroid, etc.)		☒	
Blood / lymph (bleeding, cholesteroemia, anemia, problems related to blood transfusion, etc.)		☒	
Allergic / immunologic (sneezing, swelling, redness, itching, hives, lupus, etc.)		☒	

(18) Social History

Have you ever had a blood transfusion?.....YES ☒ NO

Do you drink alcohol.....☒ YES ☒ NO If YES, how much? Beer weekend

Do you presently smoke?... YES ☒ NO If YES, how many packs per day? _____
How many years? _____

Are you a past smoker?.....YES ☒ NO If YES, how many packs per day? _____
How many years? _____

(8)

(19) Family History of: (Please Circle)

1- Arthritis	5- Diabetes	9- Tuberculosis
2- Back Pain	6- Glaucoma	10- Other Inheritable Diseases
3- Neck Pain	7- Cancer	11- Blood Transfusion - yes or no
4- Hypertension	8- Stroke	
Other _____		

(20) Are you (circle one)

1- Unemployed	2- Employed	3- Homemaker
4- Student	5- Retired	

(21) If you selected "1" or "2", please answer the following questions:

1- If you have been off work this year, how much time have you lost?

1- Unknown	2- About 1 day
3- About 3 days	4- About a week
5- About 1 month	6- About 3 months
7- About 6 months	8- About 6 months to a year

(22) To help us better understand the physical stresses during your work day, please tell us what type of job you do.

Job Description: _____

Employer: _____

(23) If you want to make any additional comments please do so below and on the back of this page.

Patient Signature _____

Date _____

(9)

Name: _____

Patient # _____

"The Real Dope" on Pain Pills

When your back hurts, your body is trying to tell you something. Usually the pain signals your brain to tell your back to stop twisting, bending, etc.. Unfortunately, when it comes to back pain many patients and doctors spell relief P-A-I-N P-I-L-L-S.

Let's see what pain pills really do:

1. Blocking the pain can make it last longer.

Let's say you sprained your ankle badly. If you took novocaine shots in your leg and walked a few miles, when the novocaine wore off the pain would come back with a vengeance. The ankle would also be more damaged and take longer to heal.

Narcotic pain pills block our perception of pain. We may walk a little easier and lift a little more while the pills are working, but when they wear off, you're worse in the long run.

Anti-inflammatory pills such as Aspirin or Ibuprofen are much different. They block pain by taking out inflammation and swelling. These act the same as an ice pack to a badly sprained ankle.

2. Your body makes its own pain pills.

The human brain produces endorphins, which are "natural pain pills". Everyone has heard of a situation where in the heat of battle a soldier is shot or injured and does not notice the wound until much later. This is because his brain produced endorphins and these "natural pain" chemicals blocked the pain.

When your body is hurting, your brain determines if it needs to make endorphins. If you are taking narcotic pain pills, the signal that the brain sees is that "you've got enough already" and does not make endorphins. This can make your pain even worse when the pain pills wear off.

3. Pain pills are addictive.

All pain medications are in the same family of narcotics as heroin or morphine. Most people are dependent on such medications after 2-3 weeks. Breaking such dependency is very difficult. Approximately 50% of all patients referred to CSI have such a problem when they are first seen. We will not contribute to narcotic addictions.

Our philosophy is to help your pain, not to block your pain. This can usually best be done with anti-inflammatory pills and supervised rehabilitation. Many of you have been given narcotic pain pills after you were hurt and may be disappointed that we don't refill your prescription.

If you have an injection we will give you pain medicine for 2-3 days afterwards if necessary. If you have surgery we will also give narcotic pain medicine to help in the immediate postoperative period. Otherwise, we have a **NO NARCOTIC POLICY**. So if this is your 1st or 10th visit, please don't expect us to give or refill narcotic prescriptions. We're trying to do our best to help you.

I, Johnnie B. AS, have read and understand the Carolina Spine Institute's NO NARCOTICS POLICY. As a patient at Carolina Spine Institute, I understand my physician will not prescribe narcotic medications.

Signature _____

Date 5/23/01

Review of Systems

Please circle any of the following problems which you now have or which you have had in the past six months:

Constitutional

- 1= Weight Gain
- 2= Weight Loss
- 3= Appetite Change
- 4= Marked Fatigue
- 5= Unexplained High Fever
- 6= Night Sweats
- 7= Difficulty Sleeping
- 8= None

Cardiovascular

- 1= Chest Pain, Tightness
- 2= Palpitations
- 3= None

Gastrointestinal

- 1= Persistent/Recurring Belly Pain
- 2= Uncontrolled Loss of Stool
- 3= Diarrhea
- 4= Blood in Stool
- 5= Heartburn
- 6= Constipation
- 7= Yellow Jaundice
- 8= Pain with Bowel Movement

Integumentary

- 1= Discoloration of Skin
- 2= Pain
- 3= None

Psychological

- 1= Psychological Difficulties
- 2= Mood Changes
- 3= None

Hematology/Endocrinology

- 1= Swelling
- 2= Bruising
- 3= Bleeding
- 4= None

Allergic/Immunologic

- 1= Rashes
- 2= Itching
- 3= Wheezing
- 4= None

Respiratory

- 1= Shortness of Breath with normal activities
- 2= Wheezing
- 3= Recurring Cough
- 4= None

Urological

- 1= Difficulty with Urination
- 2= Blood in Urine
- 3= None

Musculoskeletal

- 1= Joint Pain
- 2= Joint Stiffness
- 3= Joint Redness
- 4= Joint Swelling
- 5= Loss of Strength
- 6= Weakness
- 7= None

Neurological

- 1= Headaches
- 2= Change in Sensation to lower extremities
- 3= Numbness in Extremities
- 4= None

Physician Signature(s)

Date(s) Reviewed

Use the body diagram below to indicate the location of any of the sensation listed.
Mark the areas on the drawings with the symbol that best describes the sensation
that you feel.

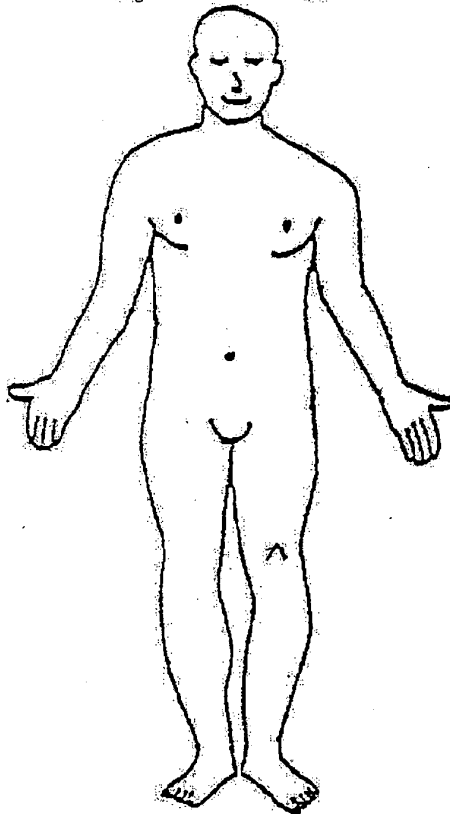
=====
O O O O O
X X X X X
/ / / / /
^ ^ ^ ^ ^

Numbrness
Pins and needles
Burning Pain
Stabbing Pain
Aching Pain

FRONT

Right

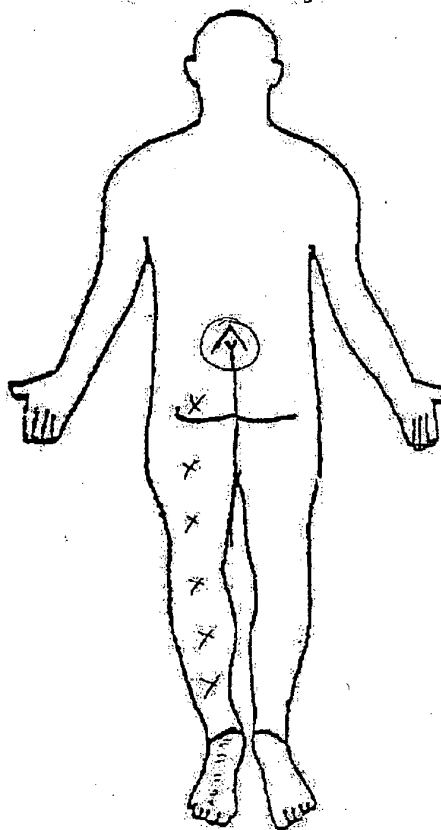
left



BACK

left

right



1. Briefly, describe the details of your injury or the initial onset of your symptoms:
Climbing into a hole to work, I twisted to get
feet down felt sharp pain and heard a thump in lower
back

2. How would you compare your pain ratio (circle one)

FOR BACK AND LEG PAIN ONLY

- 1 = 100% back pain and 0% leg pain
 2 = 75% back pain and 25% leg pain
 3 = 50% back pain and 50% leg pain
 4 = 25% back pain and 75% leg pain
 5 = 0% back pain and 100% leg pain

FOR NECK AND ARM PAIN ONLY

- 1 = 100% neck pain and 0% arm pain
 2 = 75% neck pain and 25% arm pain
 3 = 50% neck pain and 50% arm pain
 4 = 25% neck pain and 75% arm pain
 5 = 0% neck pain and 100% arm pain

3. Put a check mark next to the activities which change the nature of your pain:

	Aggravates	Relieves
① Sitting	☐	☒
② Standing	☐	☐
③ Rising from sitting	☐	☐
④ Leaning forward (Brushing teeth)	☒	☐
⑤ Walking	☒	☐
⑥ Lying on your side	☐	☐
⑦ Lying on your back	☒	☐
⑧ Lying on your stomach	☐	☐
⑨ Driving	☐	☐
⑩ Coughing/sneezing	☒	☐
⑪ Bending forward	☒	☐

4. List any other physicians you have seen for this problem:

Please indicate who referred you to Carolina Spine Institute

MEDICATIONS:

5. What medications have you used in the past year?

What pain medications do you presently take for your back pain and how often?

6. Circle the tests that have been performed thus far:

☒ X-ray ☐ CT Scan ☐ Myelogram ☒ MRI ☐ EMG

Other: _____

7. Circle the treatment that you have had so far.

Back Brace

Nerve Block

Physical Therapy

Chiropractic

TENS Unit

Other: _____

8. Has anything helped your problem thus far? Yes

9. Have you had any previous neck or back problems or surgeries? Describe:

Surgery in Lower back

10. Family History of:

1 = Arthritis

2 = Back Pain

3 = Neck pain

4 = Migraine headaches

5 = Tuberculosis

11. Are you a cigarette smoker? Yes or No
If you answered Yes, how much do you smoke?

0 = Less than 1/4 pack per day
1 = 1/4 pack per day (5 cigarettes)
2 = 1/2 pack per day (10 cigarettes)
3 = 3/4 pack per day (15 cigarettes)
4 = 1 pack per day
5 = More than 1 pack per day

Have you ever smoked? Yes or No
If yes, how much? 1 pack per 3 days
If yes, how long? 5 years

12. Do you drink alcoholic beverages? Yes or No
If you answered Yes, please circle your consumption. Please place an (*) next to your consumption during the past month.

0 = Less than 1 drink per day
1 = 1 drink per day
2 = 2 drinks per day
3 = 3 to 5 drinks per day
4 = 5 to 10 drinks per day
5 = More than 10 drinks per day

13. List all previous surgeries, excluding the back surgeries you have already discussed.

14. List all other hospitalizations.

15. List all other major illnesses: Heart Disease Diabetes
Other:

16. List any allergies.

17. List all other physicians with whom you have consulted in the past year.

18. Are you (circle one)

1 = Unemployed 2 = Employed 3 = Homemaker
4 = Student 5 = Retired

If you selected "1" or "2", please answer the following questions:

1. If you have been off work this year, how much time have you lost?
- | | |
|--------------------|------------------------------|
| 1 = Unknown | 2 = About 1 day |
| 3 = About 3 days | 4 = About 1 week |
| 5 = About 1 month | 6 = About 3 months |
| 7 = About 6 months | 8 = About 6 months to 1 year |

2. Are you presently working Yes or No? If you answered No, please complete the following:

1. What was the date that you last worked? 1/1/00
2. Is your job still available? Yes or No
3. Was your reason for leaving work:
A = Due to a back problem?
B = Not due to a back problem?

19. To help us better understand the physical stresses during your working day, please tell us what type of job you do.

Job Title
Operator

Employer S. C. E. H.

-
20. Is there current or upcoming litigation (lawsuit)? Yes or No
21. Is there a current or upcoming Workers' Compensation hearing? Yes or No
22. If you want to make any additional comments, please do so below and on the back of this page.

Name: _____ M.D. _____
 ACCT: _____ Date: _____

This questionnaire is about the way your back pain is affecting your daily life. People with back problems may find it difficult to perform some of their daily activities. We would like to know if you find it difficult to perform any of the activities listed below, because of your back. Please choose one response option for each activity (do not skip any activity) and check the corresponding space.

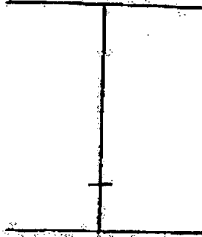
TODAY, DO YOU FIND IT DIFFICULT TO PERFORM THE FOLLOWING ACTIVITIES BECAUSE OF YOUR BACK?

Activity	Not At All	Minimally	Somewhat	Fairly	Very	Unable To Do
Get out of bed	_____	_____	☒	_____	_____	_____
Sleep for at least 8 hours	_____	_____	_____	_____	☒	_____
Turn over in bed	_____	_____	_____	☒	_____	_____
Travel 1 hour in a car	_____	_____	_____	☒	_____	_____
Stand for 4 hours	_____	_____	_____	☒	_____	_____
Climb one flight of stairs	_____	☒	_____	_____	_____	_____
Walk a few blocks	_____	_____	_____	☒	_____	_____
Walk several miles	_____	_____	_____	_____	_____	☒
Reach up in high shelves	_____	_____	☒	_____	_____	_____
Throw a ball	_____	_____	_____	_____	_____	☒
Run two blocks	_____	_____	_____	_____	_____	☒
Take food out of refrigerator	_____	_____	☒	_____	_____	_____
Make your bed	_____	_____	_____	☒	_____	_____
Put on socks (puttyhose)	_____	_____	_____	☒	_____	_____
Bend over a sink for 10 min.	_____	_____	_____	_____	☒	_____
Move a table	_____	_____	_____	_____	_____	_____
Pull / Push heavy doors	_____	_____	_____	_____	_____	_____
Carry two bags of groceries	_____	_____	_____	_____	_____	_____
Lift 40 lbs.	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____

INSTRUCTIONS

Make a mark (-) across the line to indicate how bad your pain is TODAY between the extremes of "No Pain At All" on the bottom of the line and "Pain As Bad As It Could Be" on the top of the line.

PAIN AS BAD AS
IT COULD BE



NO PAIN AT ALL

I have read and completed this patient questionnaire to the best of my ability.

Patient Signature

John T. Biss

Date

5/23/01

M.D. Date Reviewed

M.D. Signature



The Regional Medical Center

of Orangeburg/Calhoun Counties
3000 St. Matthews Road, Orangeburg, SC 29115
(803) 533-2355

IMAGING SERVICES

PATIENT NAME: BIAS, JOHNNIE T
DOB: [REDACTED]
PT. I: [REDACTED]
EXAM DATE/TIME: 05/11/2001 15:35
ORDERED BY: JAMES H. BRUNSON, JR.
1173 Blvd. Street, NE
ORANGEBURG, SC 29115

EXAM: MRI LUMBAR SPINE W/MO T215R
ACCOUNT #: 0113100030
MR #: 0020089283
ADMITTING MD: BRUNSON, JR., JAMES H.
REFERRING MD: [REDACTED]

Admitting Diagnosis: BACK PAIN MRI: L5

CLINICAL HISTORY: LOW BACK AND LEFT LOWER EXTREMITY PAIN.

DATE OF EXAM: 5-11-01.

MRI evaluation was carried out utilizing a 1.0 Tesla magnet. Multiple T1, T2, and proton density MR images of the lumbar spine were obtained in the axial and sagittal planes.

A large, focal, left parasagittal L4-5 disc herniation is present, with marked compression of the thecal sac. A very small, focal, left parasagittal disc herniation is seen at L1-2, with minimal deformation of the thecal sac. A very small, focal, midline L5-S1 disc herniation is present, with no significant deformation of the thecal sac or compression of the S1 nerve roots. No other extradural abnormalities are seen. The L1-2, L4-5 and L5-S1 discs are narrowed and desiccated. No abnormal signal is seen within the remaining discs or bone marrow. Mild to moderate spinal stenosis is present at all levels, due to a combination of congenitally short pedicles and moderate facet hypertrophy. Bony spinal stenosis appears greatest at L3-4. The conus terminates at the L1 level.

IMPRESSION:

Large, focal, left parasagittal L4-5 disc herniation. Small, left parasagittal L1-2 disc herniation, and small, midline L5-S1 disc herniation. Mild to moderate, diffuse spinal stenosis, greatest at L3-4.

ELECTRONICALLY APPROVED BY:

CHARLES TUBBS
Approved Date: 05/11/01 15:18

Handwritten signature: JH Bruns
Handwritten date: 5/14

Transcribed: 2030
Transcribed Date: May 11, 2001 15:18

BIAS, JOHNNIE T
Exam #: E-00800333
Page 1

7139



The Regional Medical Center

of Orangeburg/Calhoun Counties
3000 St Matthews Road Orangeburg, SC 29115
(803) 539-2385

IMAGING SERVICES

PATIENT NAME: B. JOHNSON
DOB: [REDACTED]
PT. LOCATION: Physician Referral
EXAM DATE/TIME: 05/11/2001 13:18
ORDERED BY: JAMES H BRUNSON JR
1170 Blvd Street, NE
ORANGEBURG, SC 29115

EXAM: SPINE-L3 AP/LAT/SPOT
ACCOUNT #: 0113100030
MR #: 000000265
ADMITTING MD: BRUNSON JR, JAMES H
REFERRING MD:

Admitting Diagnosis: BACK PAIN MRI L3

CLINICAL HISTORY: LOW BACK AND LEFT LOWER EXTREMITY PAIN.

DATE OF EXAM: 5-11-01

AP, lateral and spot lateral views of the lumbar spine reveal disc space loss with associated osteophyte formation at L1-2, L4-5 and L5-S1. Small anterior osteophytes are seen diffusely. Old, ununited ring apophyses are seen at the upper anterior margin of T12 and at the lower anterior margin of L1.

IMPRESSION:

Degenerative changes as described.

ELECTRONICALLY APPROVED BY:

CHARLES TUBBS
Approved Date: 05/11/01 18:30

Transcribed 2030
Transcribed Date: May 17, 2001 18:11

BAS. JOHNNIE T.
Exam #: E-00630715
Page 1



The Regional Medical Center

of Orangeburg/Calhoun Counties
3000 St. Matthews Road, Orangeburg, SC 29115
(803) 533-2345

IMAGING SERVICES

PATIENT: SAMS, JOHANNIE T.
DOB: 05/11/1951
PT. LOCATION: Physician Referral
EXAM DATE/TIME: 05/11/2001 13:18
ORDERED BY: JAMES H. BRUNSON, JR.
1175 Elm Street, NE
ORANGEBURG, SC 29115

EXAM: MRI X-RAY SCREENING
ACCOUNT #: 0113100030
MR#: 0000000000
ADMITTING NO.: BRUNSON, JR, JAMES H.
REFERRING MD:

Admitting Diagnosis: BACK PAIN MRI L5

DATE OF EXAM: 5-11-01

A Waters View was obtained in preparation for an MRI to rule out metallic foreign bodies.
No metallic foreign bodies were identified.

IMPRESSION:

No foreign body identified.

ELECTRONICALLY APPROVED BY:

CHARLES TUBBS
Approved Date: 05/11/01 13:51

Transcribed 2030
Transcription Date: MAY 11, 2001 13:17

SAMS, JOHANNIE T.
Exam #: E00830314
Page 1

CAROLINA SPINE INSTITUTE

BIAS, JOHNNIE
Patient #90201

May 31, 2001 Mr. Bias is seen for evaluation of back and left leg pain. He is kindly referred by Dr. James Brunson in Orangeburg. This man had surgical intervention in 1988 per Dr. Eaddy. He has a job related injury with low back pain, buttocks, and left leg pain. It is moderate. He is on light duty. He has no symptoms of incontinence or similar neurologic disturbance.

His pain radiates in an L5 distribution. He is working in a light duty capacity.

Physical Examination: Exam shows him to have a long well healed scar. Knee and ankle jerk reflexes are normal. He has dysesthesia in an L5 distribution. He has lateral dysesthesia in the calf and slight EHL weakness. His hip motion is normal. There are no long tract signs.

Imaging Studies: I have reviewed his MRI study, indicating that he does have a large recurrent disc herniation at L4-5 in a central position, slightly left paracentral.

Plan: I think this is something that can be potentially a surgical situation, but we are going to try a non-operative approach by the fact that he is working full time. We will see him back after this.

Steven C. Poletti, M. D.
SCP/hcs

Cc: James Brunson, M.D.

Dictated but not read.
T-6/3/01

900 Bowman Road, #300
1941 Savage Rd., Ste. 100-E
9295 Medical Plaza Drive

Mt. Pleasant, SC 29564
Charleston, SC 29414
N. Charleston, SC 29418

(843) 649-1551
(843) 763-2729
(843) 863-8542

Fax: 884-0629
Fax: 769-6022
Fax: 569-5931

EAST COOPER REGIONAL MEDICAL CENTER
1200 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464

REPORT OF OPERATION

Patient Name: BIAS, JOHNNIE
DOB: _____

MRN: 118-38-37
Pt. Class: Outpatient Room/Bed: --

Surgeon: L. FORREST, M.D.
Assistant: \

Date of Operation: 6/7/01
Anesthesia: \
Anesthetist: \

INTERPRETATION: \

Preoperative Dx: 1. Lumbar radiculitis
2. Disc disruption

Postoperative Dx: \

Operation Title: Left L5 transforaminal injection

PROCEDURE: After IV placement, the patient was positioned prone on the fluoroscopy table. Under fluoroscopy, appropriate sites of injection were identified and the overlying skin marked. The area was prepped and draped in the usual sterile fashion. Skin and subcutaneous tissue were anesthetized with 1% Xylocaine. A 3 1/2 inch 22 gauge needle was advanced into the appropriate interspace. The position within the epidural space was confirmed with Omnipaque contrast. A solution of 3 cc 1% Xylocaine and 160 mg Depo-Medrol was injected. Patient tolerated the procedure satisfactorily.

Follow up evaluation of the patient in the recovery area showed that the patient was doing well post procedure and was discharged from the hospital without incident.

The patient was given 2 mg Versed by IV. He was monitored both during the procedure and in recovery.

LEONARD FORREST, M.D.

Dictated on: Jun 7 2001 12:00A Transcribed By: VM on Jun 11, 2001

Page 1 of 1

CAROLINA SPINE INSTITUTE

BIAS, JOHNNIE
Patient #90201

July 29, 2002

Mr. Bias returns in follow-up. He had a left L5 selective nerve root block approximately a year ago. This was done for a large recurrent herniation. He has pain into his left leg, positive straight leg raising, and EHL weakness.

He may require updated scanning but I'm recommending that he get a selective nerve root block. We will schedule this and see him back afterward.

Steven C. Poletti, M.D.
SCP/cdb

Dictated but not read
T-08/02/02

900 Bowman Road, #300	Mid-Pleasant, SC 29664	(843) 849-1551	Fax 799-0629
1941 Savage Rd., Ste. 100B-2	Charleston, SC 29414	(843) 763-2720	Fax 799-6022
9295 Medical Plaza Drive	N. Charleston, SC 29418	(843) 861-8542	Fax 849-5921

CAROLINA SPINE INSTITUTE

BIAS, JOHNNIE
Patient #90201

August 20, 2001

Mr. Bias returns in follow-up. He has a MRI scan showing a large recurrent disc herniation at L4-5.

There is no simple answer here. I do not think that surgical intervention is indicated at this point. He is certainly improved from previous and I would consider repeating the block if his symptoms flare in light of his good result with the first injection. He has done as well as we could hope from the transforaminal injection at L5. He will follow-up with me as needed.

Steven C. Poleri, M.D.
SCP/cdb

Cc: James Brunson, M.D.

Dictated but not read
T-08/24/01

900 Bowman Road, #300
1941 Spring Rd., Ste. 100-E
929 Medical Plaza Drive

Mt. Pleasant, SC 29564
Charleston, SC 29414
N. Charleston, SC 29418

(843) 849-1351
(843) 763-2721
(843) 563-8542

Fax 884-0629
Fax 769-0022
Fax 569-3931

HEALTHSOUTH SURGERY CENTER OF CHARLESTON
OPERATIVE REPORT

PATIENT: BIAS, JOHNNY
MRN: 28677
DATE: 07/30/2002

SURGEON: MARK NETHERTON, M.D.
PREOPERATIVE DIAGNOSIS: POSTLAMINECTOMY SYNDROME AND LUMBAR
RADICULITIS.
POSTOPERATIVE DIAGNOSIS: POSTLAMINECTOMY SYNDROME AND LUMBAR
RADICULITIS.
OPERATION: LUMBAR STEROID EPIDURAL INJECTION
AND SELECTIVE NERVE ROOT BLOCK.

PROCEDURE: The patient was admitted to the clinic, consent was obtained and an IV was started. The patient was brought into the block room and placed in the prone position on the fluoroscopy bed. He was monitored for blood pressure, pulse, respiration and pulse oximetry. He was given a total of 6 mg of IV Versed in divided doses. His back was prepped with Betadine times three and sterilely draped. A total of 3 cc of 1% lidocaine was then used for local anesthetic. From a left paramedian position to the L4-L5 interspace, an 18-gauge epidural needle was advanced to the epidural space to positive loss of resistance. A total of 1 cc of 1% lidocaine was used for local anesthetic over the L5 nerve root. A 22-gauge spinal needle was then advanced using, again, fluoroscopy in the AP and lateral views, to placement at the L5 nerve root. After placing both needles with negative aspiration of blood and CSF and no paresthesias being noted, at the epidural level, 80 mg of Depo steroid was injected with 3 cc of 0.25% Marcaine. The needle was flushed with 1 cc of preservative-free normal saline and removed. A significant amount of pressure was noted in the patient's low back with some radicular component pain into the left lower extremity down to approximately the knee. At the L5 level, 80 mg of Depo steroid was injected with 2 cc of 0.25% Marcaine. The needle was flushed with 1 cc of preservative-free normal saline and removed.

The patient tolerated the procedure well.

IMPRESSION: Postlaminectomy syndrome and lumbar radiculitis.

HEALTHSOUTH SURGERY CENTER OF CHARLESTON
OPERATIVE REPORT

Page 2

PATIENT: BIAS, JOHNNY
MR#: 29677
DATE: 07/30/2002

PLAN:

1. Injection as above.
2. Return to clinic as needed.

MARK NETHERTON, M.D.

250/CTT:CHA/100/797582

D: 07/30/2002 1938

T: 07/30/2002 1006

CC: STEVEN C. POLETTI, M.D., CAROLINA SPINE INSTITUTE

CAROLINA SPINE INSTITUTE

BIAS, JOHNNIE

Patient #90201

September 30, 2002

Mr. Bias returns in follow-up. The injection has helped him but not completely. He still has some buttocks pain, back, hip and leg pain. He has some slight EHL weakness. He has a recurrent disc herniation at L5-S1 responsive to an injection he had a year ago.

RECOMMENDATIONS: My recommendation is for observation.

Steven C. Poletti, M.D.

SCP/dam

Dictated but not read.

T-10/3/02

900 Bowman Road, #300
1941 Savage Rd., Ste. 100-B
9295 Medical Plaza Drive

Mr. Pleasant, SC 29464
Charleston, SC 29414
N. Charleston, SC 29418

(843) 849-1553
(843) 763-7720
(843) 863-4542

Fax: 884-0629
Fax: 769-6022
Fax: 863-7012

EAST COOPER REGIONAL MEDICAL CENTER
1200 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464

REPORT OF OPERATION

Patient Name: **BLAS, JOHNNIE**
DOB: _____

MRN: 138-38-37
Pt. Class: Outpatient Room/Bed: --

Surgeon: **LEONARD FORREST, M.D.**
Assistants: \

Date of Operation: 03/06/03
Anesthesia: \
Anesthetist: \

**INTERPRETATION: **

Preoperative Dx:

1. Post laminectomy syndrome.
2. Disc disruption.
3. Lumbar radiculitis.

**Postoperative Dx: **

Operation Title: Left L5 transforaminal injection.

PROCEDURE: After IV placement, the patient was positioned prone on the fluoroscopy table. Under fluoroscopy, the appropriate site of injection were identified and the overlying skin marked. The area was prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Xylocaine.

A 22 gauge needle was advanced to the nerve root exit foramen. The position was confirmed with AP and lateral fluoroscopic views and also reproduction of the patient's symptoms in that nerve root distribution of the extremity. A solution of 3 cc 1% Xylocaine and 160 mg of Depo-Medrol was injected. The patient tolerated the procedure satisfactorily.

The patient was given 2 mg of Versed by IV and was monitored both during the procedure and in the recovery area.

The patient was evaluated in the recovery area and continued doing satisfactorily and was discharged without incident.

LEONARD FORREST, M.D.

Dictated on: Mar 6 2003 12:00A Transcribed By: RMP on Mar 09, 2003

Page 1 of 1

SOUTHEASTERN SPINE INSTITUTE

BIAS, JOHNNIE
Patient #90201

June 24, 2004

Mr. Bias is seen in follow-up. He has not been seen for two years. He has pain in his left leg and back. He describes a pattern of increasing pain in the lateral aspect of his calf. The numbness is slightly increased in the lateral aspect of his toes. He remains with L5 weakness and dysesthesia in the lateral aspect of his calf. He has positive straight leg raising to exam.

I have reviewed the prior reports indicating him to have a recurrent/lateral disc herniation at L5-S1. This man has a diagnosis of radiculopathy. He should be assigned an impairment relative to radiculopathy. This would be an impairment of 10% and he should avoid the heaviest of bending, lifting, twisting, pushing, and pulling.

He could consider a MRI scan but at this point he is medically stationary. He remains with his aforementioned symptoms. He is to follow-up with me on an as needed basis.

Steven C. Poletti, M.D.
SCP/cdb

Dictated but not read
T-06/29/04

900 Bowman Road, #300
1941 Strong Rd., Ste. 100-E

My. Pleasant, SC 29464
Charleston, SC 29414

(843) 849-1331
(843) 561-2720

Fax 843-849-
Fax 769-8012

Southeastern Spine Institute ASC

Mt. Pleasant - Chuck Dawley

Patient: Johnnie Bias
ID#: 90201

Date: 2/19/10

Surgeon: Leonard E. Forrest, M.D.

Preoperative Diagnosis: Disc Disruption

Postoperative Diagnosis: Disc Disruption

Operation: 1. Right L4-5 Lumbar Epidural Steroid Injection

Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation was obtained using IV Versed. Under fluoroscopy, the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 3 1/2 inch 17 gauge Tuohy needle was advanced to the appropriate interspace. The epidural space was reached utilizing loss of resistance technique. Correct positioning was confirmed under fluoroscopy with 1 cc Isovue contrast dye (200 mg/ml Iodine) with good epidural flow. Aspiration was negative for blood and CSF. Then a solution of 2 cc 1% Lidocaine and 80 mg of Methylprednisolone was injected.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Leonard E. Forrest, M.D.

LEF/kcc
T - 2/26/10

SOUTHEASTERN SPINE INSTITUTE

BIAS, JOINNIE

Patient #90201

February 19, 2010

Mr. Bias returns after an absence from the office, having last been seen in 2004. He comes in complaining of severe right-sided low back, buttock and right lower extremity pain. He states the symptoms started last Saturday after the snow. He states the pain is an intense, sharp, stabbing, shooting pain down his right lower extremity. Initially, it was more of a spasm to his right thigh, but that has since diminished. He did see his primary care physician, Dr. Jones who put him on Lortab, which he takes about four to five times a day. He is on a muscle relaxer and Ibuprofen to help manage his pain.

On exam, he is laying on his stomach or on his left side secondary to pain. He does have a positive right straight leg raise. He has ankle dorsiflexion and big toe extension weakness on the right when compared to the left. He has diminished reflexes and the right Achilles is hard to elicit. It is present, but slightly diminished on the right side. He has subjective dysesthesia of his right lower extremity and a significant antalgic gait. He has limited range of motion throughout his lumbar spine, possibly secondary to pain, as he is tender and guarded today.

I would recommend sending him down for a scan today. He did have documented disc disruption in 2004 to the L5-S1 level. He did undergo an injection with good improvement at that time. He has done well since. Initially, the left low leg pain was on the left. His new acute symptoms are now right-sided and are progressively worsening. We will see him back following his scan today.

Amanda Thurber, PA-C
Amanda Thurber, PA-C

AT/krc
T-2/25/10

1106 Chuck Dawley Blvd., Ste. 200,
1941 Savage Rd., Ste. 100-E

Mr. Pleasant, SC 29464
Charleston, SC 29414

(843) 849-1351
(843) 763-2720

Fax: (843) 884-0629
Fax: (843) 763-6022

SOUTHEASTERN SPINE INSTITUTE

BIAS, JOHNNIE

Patient #90201

February 19, 2010

ADDENDUM: MRI REVIEW

Mr. Bias is seen back up from his lumbar MRI scan. I did review this MRI scan with Dr. Blake Dennis today, which showed an L4-5 possible calcification of the annulus at this level. He had previous surgery at the L4-5 level. He continues to have a disc disruption at this level. Calcification is more severe on the left at this level with a disc disruption slightly to the right. The L5-S1 level still shows central disc herniation as well. Dr. Dennis stated that he would suggest a right L4-5 epidural injection with a steroid pack to get him through the weekend. We will have him see Dr. Poletto first thing next week for possible surgical discussion, as he will most likely need to be decompression, specifically at the L4-5 level. I will also write Mr. Bias for some pain medication for the weekend as well. We will see him back first thing Monday.

Amanda Thurber, PA-C

Amanda Thurber, PA-C

AT/kic

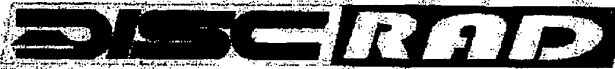
T-2/25/10

1106 Chuck Dawley Blvd., Ste. 200
1941 Savage Rd., Ste. 100-E

Mc Pleasant, SC 29464
Chadston, SC 29414

(843) 849-1551
(843) 763-2720

Fax: (843) 884-0629
Fax: (843) 769-6022



Richard C. Hoyle, M.D.

The Southeastern Spine Institute
 289 Johnnie Dodds Blvd
 Suite 117A
 Mount Pleasant, SC 29484
 843-266-0720

FINAL REPORT

Patient: Johnnie Bias

Exam Date: 2/19/2010

Patient

Exam Name: Lumbar

Phone:

SSN:

Modality: MRI

Patient #: 90201

Referring Doctor: Poletti, Steven

Clinical Information: 53 male with low back pain into right hip and leg with occasional numbness for 5 days, without recent injury. Hx. 1983 back surgery. 5'11 @ 195 lbs.

TECHNIQUE: The patient is examined on the High Field GE Horizon LX High Speed MR System which functions at 1.0 Tesla. A dedicated spine coil is used to obtain high resolution images of the lumbar spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, Proton, FSE, 3 mm; 3) AX, Oblique, Proton, T2, FSE, 3 mm; 4) AX, T1, SE, 5 mm. **ADDITIONAL SEQUENCES:** 1) MR myelotomography. **3D REFORMATIONS:** 1) COR-OBL T2FSE/FS, 20mm MIPS; 2) SAG-OBL reformations both right and left.

OVERVIEW: Overview of the lumbar spine shows that there is normal bony alignment and normal marrow signal apart from Modic changes with no evidence of a congenital anomaly of the spine. The visualized paraspinal soft tissues are unremarkable. Images of the hips, sacroiliac joints, piriformis muscles and proximal sciatic nerves reveal no abnormality.

THORACIC SPINE: There is multilevel spondylosis with osteophytic ridging. There is contact with the spinal cord in multiple locations but I have not been able to identify evidence of cord compression.

INTERVERTEBRAL DISCS:

L1-2: There is disc space narrowing and sclerotic annular osteophytes and there is moderate bilateral lateral recess stenosis.

L2-3: There is mild signal loss with moderate bilateral lateral recess stenosis.

L3-4: There are sclerotic osteophytes and there is a mild diffuse protrusion of disc material with an extraforaminal annular tear on the right side. There is moderate lateral recess stenosis.

L4-5: There is disc space narrowing, there has been a previous left-sided laminectomy. There is protrusion of disc material in combination with osteophytes centrally on the left and there is severe left lateral recess stenosis with probable entrapment of the left 5th root in transit.

L5-S1: There is signal loss and there is a central protrusion of disc material accompanied by osteophytes, and there is contact with and mild displacement of both S1 nerve roots.

3D REFORMATIONS AND MYELOTOMOGRAPHY: MR myelotomography is a 3D sequence which displays the distribution of cerebrospinal fluid within the lumbar subarachnoid space and simulates an x-ray myelogram without spinal injection. Multiple

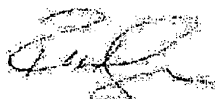
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2/22/2010

oblique projections were performed and confirm the findings set out above.

Opinion: MRI of the lumbar spine with 3D myelotomography and multiplanar reformations demonstrates multilevel spondylosis. There is potential root compression identified at multiple locations. The most prominent abnormalities are a probable recurrent herniation on the left at L4-5 and a central protrusion at L5-S1.

Patient: Johnnie Blas
Patient #: 90201
Exam Name: Lumbar
Exam Date: 2/19/2010



Richard C. Holgate, MD
DISC Radiologists
1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-2175 - (800) 896-1294 - Fax (843) 856-7312

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2/22/2010

SOUTHEASTERN SPINE INSTITUTE

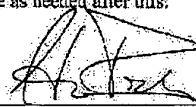
BLAS, JOHNNIE

Patient #90201

February 23, 2010

Mr. Blas is seen in follow-up. He had the MRI scan of his lumbar spine. He is status post surgical intervention years ago by Dr. Eaddy and had an MRI scan done about eight years ago by us showing a recurrent disc herniation at the L4-5 level lateralizing to the left. He has had an injection or two and has improved. He began having some right-sided leg pain, was seen in our clinic last week and has had an MRI scan. He has no distinct ankle dorsiflexion weakness. He is better than he was. He has some slight toe extension weakness and some slight dysesthesia in the lateral aspect of his calf. There are no upper or lower extremity long tract signs.

The MRI scan does show some lateral recess stenosis at the L4-5 level, some disc degeneration at the L5-S1 level, postoperative changes extensively at the L4-5 level on the left with a calcified recurrent herniation on the left at L4-5. I think this man has some right-sided pain. I do not think that he requires surgery. He is improving. He could consider a selective epidural injection if his symptoms flare. He is going to follow up with me as needed after this.



Steven C. Poletti, M.D.

SCP/dmp
T-2/25/10

1106 Chuck Dawley Blvd., Ste. 200
1941 Savage Rd., Ste. 100-E

Mc. Pleasant, SC 29464
Charleston, SC 29414

(843) 849-1551
(843) 763-2720

Fax: (843) 884-0629
Fax: (843) 769-6022

SOUTHEASTERN SPINE INSTITUTE

BIAS, JOHNNIE

Patient #90201

DOB:

October 12, 2012

Mr. Bias is being seen for a follow-up visit today. He was last seen in 2010. His last MRI was in February of 2010, which documented some lateral recess stenosis at the L4-5 level, some disc degeneration at the L5-S1 level, and some postoperative changes at the L4-5 level on the left with calcific recurrent herniation on the left at L4-5. He says that he has had a return of his symptoms over the last three weeks with pain predominantly in his low back but also radiating down the posterior aspect of his left leg stopping at the knee. He is also describing pain in his anterior left thigh on occasion. He has numbness in his left toes, but this is residual from prior surgeries. He denies any loss of bowel/bladder function, any paralysis, or focal muscle weaknesses.

Physical examination: He is a well-developed, well-nourished male alert and oriented x3 in no acute distress. He is slow to rise from a seated position. His strength in the lower extremity is 5/5 with hip flexion, knee flexion, knee extension, ankle dorsiflexion, and EHL extension. He is able to toe rise and heel rise. He has positive straight leg raising on the left, negative on the right. His DTRs at the patellars are diminished bilaterally, and I'm unable to elicit Achilles DTRs bilaterally. He has no lower extremity edema noted. No long tract signs.

Based on Mr. Bias' symptoms and his radiographic history, I am recommending a lumbar MRI today since his last MRI was in 2010 and he has had a return of symptoms. I am recommending a lumbar MRI with 3D rendering with possibilities of injections or potential surgical interventions. We will see him back after his MRI to discuss a lumbar epidural steroid injection today.


Ryan April, PA-C

RA/dmp
T- 10/25/12

1106 Clute Drive (Rd.)

Myrtle Beach, SC 29564

(843) 849-1551

Fax (843) 844-0679

SOUTHEASTERN SPINE INSTITUTE

BIAS, JOHNNIE

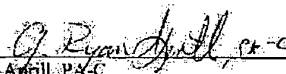
Patient #90701

DOB:

October 12, 2012

ADDENDUM:

Mr. Bias has returned from his lumbar MRI today. It does show that he has some disc bulging at L3-4, L4-5, and L5-S1 with significant stenosis at those levels. There does not appear to be any spondylolisthesis or any cord compression on images reviewed today. I did discuss with him doing a left-sided L4-5 LESI today with a two-week follow-up. This is my recommendation based on his physical exam findings and his radiographic findings. He and his wife are in agreement with this today. We will go ahead and schedule this for him today with a two-week follow-up. He will contact us with any worsening symptoms. I did discuss with him symptoms of cord compression, and he has agreed to contact us and seek emergency treatment if he experiences any of these. These symptoms would include but are not limited to episodes of paralysis, loss of bowel/bladder function, focal muscle weakness, or any other changes in his lower extremity neurological status. We will see him back in two weeks time after his injection for a follow-up visit. He will contact us with any worsening symptoms or concerns.


Ryan April, PA-C

RA/dmp

T: 10/26/12

1106 Chuck Dawley Blvd.

Mr. Pleasant, SC 29664

(843) 849-1551

Fax (843) 844-0679

Southeastern Spine Institute ASC
Mt Pleasant - Chuck Dawley

Patient: Bias, Johnnie Date: October 12, 2012
ID: # 90201

Physician: Leonard E. Forrest, M.D.

Preoperative Diagnosis: Disc Disruption.

Postoperative Diagnosis: Disc Disruption.

Operation: L4-5 Lumbar Epidural Steroid Injection

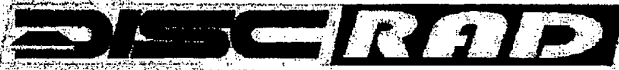
Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation obtained using IV Versed. Under fluoroscopy the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 3/4 inch 17 gauge Tuohy needle was advanced to the appropriate interspace. The epidural space was reached utilizing loss of resistance technique. Correct positioning was confirmed under fluoroscopy with 1 cc Isovue contrast dye (200 mg/mL iodine) with good epidural flow. Aspiration was negative for blood and CSF. Then a solution of 2 cc 1% Lidocaine and 80 mg of methylprednisolone was injected.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Leonard E. Forrest, M.D.

LEF/bbb
T: 10/15/2012



Richard C. Holgate, M.D.

The Southeastern Spine Institute
389 Johnnie Dodds Blvd.
Suite 117A
Mount Pleasant, SC 29464
843-266-0720

FINAL REPORT

Patient: Johnnie Bias

Exam Date: 10/12/2012

Patient
Phone:

Exam Name: Lumbar

SSN:

Modality: MRI

Patient #: 90201

Referring Doctor: Poletti, Steven

Clinical Information: M/56 WITH PAIN IN THE LOW BACK AND SOMETIMES IN THE LEFT LOWER BUTTOCK WITH OCCASSIONAL NUMBNESS DOWN THE LEFT LEG FOR 3WKS. NO TRAUMA. PREVIOUS BACK SURGERY 1980'S. HT-5'11" WT-198 LBS.

TECHNIQUE: The patient is examined on the High Field GE Horizon LX High Speed MR System. A phased array coil is used to obtain high resolution images of the lumbar spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, Proton, FSE, 3 mm; 3) AX, Oblique, Proton, T2, FSE, 3 mm; 4) AX, T1, SE, 5 mm; 5) AX, Proton, FSE, 4 mm; **ADDITIONAL SEQUENCES:** 1) MR myelotomography; **3D REFORMATIONS:** 1) COR-OBL, T2FSE/FS, 20mm MIPs; 2) SAG-OBL reformations, both right and left.

OVERVIEW: Overview of the lumbar spine shows normal bony alignment and normal marrow signal apart from Modic changes with no evidence of a congenital anomaly of the spine. The visualized paraspinal soft tissues are unremarkable. Images of the hips, sacroiliac joints, piriformis muscles and proximal sciatic nerves reveal no abnormality.

THORACIC SPINE: Views of the distal thoracic spine show a normal spinal cord and conus medullaris, normal vertebrae and moderate non-compressive spondylosis with osteophytes and protruding disc material.

INTERVERTEBRAL DISCS:

L1-2: Moderate facet arthropathy and a diffuse protrusion of disc material. There is moderate to severe left lateral recess stenosis.

L2-3: Moderate to severe facet arthropathy and a diffuse protrusion of disc. There is severe left lateral recess stenosis.

L3-4: Moderate facet arthropathy and diffuse bulging disc with an extraforaminal herniation with annular tear on the right. There is probable compression of the right L3 nerve root.

L4-5: Moderate facet arthropathy, disc space narrowing, signal loss in the central herniation disc material more pronounced on the left with a free fragment command. There is displacement of the compression of both L5 nerve roots. There is a probable left laminotomy.

L5-S1: Signal loss and a central herniation of disc material. There is displacement and potential compression of both L5 nerve roots.

3D REFORMATIONS AND MYELOTOMOGRAPHY: MR myelotomography is a 3D sequence which displays the distribution of cerebral spinal fluid within the lumbar

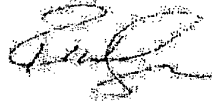
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10/15/2012

subarachnoid space and simulates an x-ray myelogram without spinal injection. Multiple oblique projections were performed and confirm the findings set out above.

Opinion: MRI of the lumbar spine including 3D myelotomographic images and multiplanar reformations showed multilevel moderately severe spondylosis with potential nerve root compression identified at all lumbar levels.

Patient: Johnnie Blas
Patient #: 80201
Exam Name: Lumbar
Exam Date: 10/12/2012



Richard C. Holgate, MD
DISC Radiologists
1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312

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10/15/2012



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 12/27/2013

Date of Birth:

Account Number: 90201

Mr. Bias is seen today in follow-up. He was last seen in the office in October of 2012 and at that time had an MRI scan completed showing multilevel pathology particularly on the left at L4-5. He had an L4-5 epidural injection the same day which has worked very well for him for over eight months. His pain has only recently started to return. He reports no injury or trauma to explain the return of his symptoms. He just feels that the steroid injection has worn off at this point. He is continuing to have lower back pain, left-sided buttock pain and left posterolateral leg pain in an L5 distribution. He does not have any significant right-sided symptoms. He reports no weakness, no falls, no bowel or bladder incontinence. Overall, he is feeling the same today as he did prior to his injection last October.

He has not had any changes to his past medical history, family history, social history or surgical history since his last visit with us.

He takes no pain medications at this point. He does use a TENS unit which seems to work very well for him. We will refill the pads for him today. He has also used a Flector Patch in the past which also works well for him. We will give him a prescription and samples for this at today's visit.

Diagnosis Codes:

724.02 SPINAL STENOS LUMBAR WO NEUR CLAUD

724.2 PAIN LUMBAR

Impression: Spinal stenosis

Treatment Plan: I have recommended a repeat left-sided L4-5 LESI which we will complete for him today. If this continues to help with his symptoms, we will see him back on an as needed basis. He understands that if the injection does not help, if his symptoms change, worsen or progress in any way, he will need to contact us for a sooner office appointment. He may require updated x-rays and an updated MRI scan at that time. He is in agreement with this plan today.

Lumbar epidural steroid injection was ordered. Flector 1.3 % Adhesive Patches were prescribed; side effects were discussed and appropriate instructions were provided. The patient was given a sample of Flector Patch 1.3% in 2 patches per box. The patient is instructed to call us if pain persists or get worse.

CBOCK PA-C

Seen By: Courtney Bock, PA-C

DIGITALLY SIGNED Courtney Bock, PA-C
12/27/2013

1 of 2

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Patient Name: Bias, Johnnie
Account number: 90201
DOB: -
Encounter Date: 12/27/2013

Date: 12/27/2013
CEB/js

DIGITALLY SIGNED Courtney Bock, PA-C
12/27/2013

2 of 2

Page 100

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Southeastern Spine Institute ASC
Mt. Pleasant -- Chuck Dawley

Patient: Bias, Johnnie
ID#: 90201

Date: 12/27/2013

Physician: Mark Netherton, M.D.

Preop Diagnosis: Lumbar radiculitis.

Postop Diagnosis: Lumbar radiculitis.

Operation: Left L4 Transforaminal Epidural Steroid Injection.
Left L5 Transforaminal Epidural Steroid Injection.

Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation was obtained using IV versed. Under fluoroscopy the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 3 1/2 inch 22 gauge spinal needle was advanced to L4 foraminal level from a posterolateral approach. Correct positioning was confirmed under fluoroscopy with 1/2 cc Isovue contrast dye (200 mg/mL Iodine) with epidural flow. Aspiration was negative for blood and CSF. Then a solution of 2 cc 0.25% Marcaine and 40 mg of Methylprednisolone was injected.

Then another 3 1/2 inch 22 gauge needle was advanced to the L5 foraminal level from a posterolateral approach. Correct positioning was confirmed under fluoroscopy with 1/2 cc Isovue contrast dye (200 mg/mL Iodine) with epidural flow. Then a solution of 2 cc 0.25% Marcaine and 40 mg of Methylprednisolone was injected.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Mark D. Netherton, M.D.

MDN/jld
T-12/30/2013



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 2/21/2014

Date of Birth:

Account Number: 90201

Mr. Bias is seen today in followup. He was last seen in the office in October 2012 with complaints of back and left leg pain and this is persisting at today's visit. He reports it is much more severe at today's visit versus his appointment in 2012. He had an updated MRI scan at that time showing multilevel pathology. He has responded well to epidural injections in the past; however, his last injection a left L4 and L5 selective nerve root block performed 12/27/13 did not give him any relief from his symptoms.

He states his pain is changing at this point and he has complete numbness in the dorsum of his left foot. He has pins and needles and stabbing sensations in his left calf. He describes 50% back 50% leg pain. He reports no weakness, falls, bowel or bladder incontinence. An MRI has not been done since October 2012.

We updated his plain film x-rays today including AP, lateral, flexion and extension. These show no evidence of instability. There is noted degeneration at 4-5 and 5-1 in particular.

On exam, this is an elderly, African-American male who is walking without an assistive device but has a significantly antalgic gait. He has weakness in his left lower extremity particularly with dorsiflexion, plantar flexion and EHL. This is exquisitely painful for him. He has positive straight leg raising at about 30 degrees on the left, weakness in his right hip flexor but this may be secondary to pain 4/5. Strength is 5/5 in the right lower extremity. Straight leg raising is negative on the right.

Diagnosis Codes:

724.4 UNS THORACIC/LUMB NEURITIS/RADICUL

724.2 PAIN LUMBAR

Impression: Lumbar radiculitis.

Treatment Plan: At this point I have recommended he have an updated lumbar MRI scan. He has requested a repeat injection, however, his symptoms are severe and seem to be changing based he and his wife's report. I am recommending a new MRI scan before considering any further injections. We will see him back today post completion of this MRI scan to review the images and discuss treatment options. He is in agreement with this plan today.

Lumbar epidural steroid injection was ordered. An MRI of the lumbar spine was ordered. Follow up with PA Patient to return in 1 week for follow up with Dr. Poletti.

CBOCK PA

DIGITALLY SIGNED Courtney Bock, PA-C
2/27/2014

1 of 2

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Patient Name: Bias, Johnnie

Account number: 90201

DOB: _____

Encounter Date: 2/21/2014

Seen By: Courtney Bock, PA-C

Date: 2/24/2014

CEB/jbe

X-RAY REPORT:

Plain film x-rays today include AP, lateral, flexion and extension views. These show no evidence of instability. There is noted degeneration at 4-5 and 5-1 in particular.

DIGITALLY SIGNED Courtney Bock, PA-C
2/27/2014

2 of 2

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 2/21/2014

Date of Birth:

Account Number: 90201

Mr. Bias is seen today after completion of his MRI scan. He has evidence of pathology at both the L4-5 and L5-S1 levels. He has complaints of primarily left-sided back and leg pain. His discs at both L4-5 and L5-S1 seem to have progressed from his previous MRI in 2012. He has a paracentral left-sided disc protrusion at the L5-S1 level. He has a larger left-sided herniation at L4-5. There appears to be some evidence of disc fragment with migration posterior to the L5 vertebral body. This level is more consistent with his current symptoms which seem to radiate in an L5 distribution. We have discussed an injection today, however, he understands this may not help him. He did not respond well to the L4-5 nerve blocks he had done in December. I have recommended he try an epidural injection today at the 4-5 level on the left; however, he needs to follow up with us in about one week to discuss his response to this injection. If this is unsuccessful, he may require surgical intervention. He is in agreement with this plan today. We will see him back in one week unless his symptoms dictate otherwise.

CBOCK PA-C

Courtney-Bock-PA-C

CEB/jbe
T-02/21/14

1106 Chuck Dawley Blvd.
Mt. Pleasant, SC 29464
(843) 849-1551

1 of 1

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Southeastern Spine Institute ASC
Mt Pleasant - Chuck Dawley

Patient: Bias, Johnnie
ID#: 90201
DOB: _____

Date: 02/21/2014

Physician: Leonard E. Forrest, M.D.

Preoperative Diagnosis: Disc disruption.

Postoperative Diagnosis: Disc disruption.

Operation: Left L5-S1 Lumbar Epidural Steroid Injection with cephalad flow.

Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation obtained using IV versed. Under fluoroscopy the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 3 1/2 inch 17 gauge Tuohy needle was advanced to the appropriate interspace. The epidural space was reached utilizing loss of resistance technique. Correct positioning was confirmed under fluoroscopy with 1 cc Isovue contrast dye (200 mg/mL Iodine) with good epidural flow. Aspiration was negative for blood and CSF. Then a solution of 2 cc 1% Lidocaine and 80 mg of Methylprednisolone was injected.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Leonard E. Forrest, M.D.

LEF/jld
T:02/24/2014



Richard C. Holgate, M.D.

The Southeastern Spine Institute
1106 Chuck Dawley Blvd.
Mount Pleasant, SC 29464
843-849-1551

FINAL REPORT

Patient: Johnnie Bias

Exam Date: 2/21/2014

Patient:

Exam Name: Lumbar

Phone:

SSN:

Modality: MRI

Patient #: 90201

Referring Doctor: Poletti, Steven

Clinical: M/57 WITH CHRONIC LEFT LOW BACK AND LEG PAIN. NO RECENT TRAUMA.
Information: PREVIOUS LUMBAR SX. HT-5'11" WT-193 LBS.

TECHNIQUE: The patient is examined on the High Field GE Horizon LX High Speed MR System. A phased array coil is used to obtain high resolution images of the lumbar spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAG, Proton, FSE, 3 mm; 3) AX, Oblique, Proton, T2, FSE, 3 mm; 4) AX, T1, SE, 5 mm; 5) AX, Proton, FSE, 4 mm. **ADDITIONAL SEQUENCES:** 1) MR myelotomography. **3D REFORMATIONS:** 1) COR-OBL T2FSE/FS, 20mm MIPS, 2) SAG-OBL reformations both right and left.

OVERVIEW: Overview of the lumbar spine shows normal bony alignment and normal marrow signal apart from Modic changes with no evidence of a congenital anomaly of the spine. The visualized paraspinal soft tissues are unremarkable. Images of the hips, sacroiliac joints, piriformis muscles and proximal sciatic nerves reveal no abnormality.

THORACIC SPINE: Views of the distal thoracic spine show a normal spinal cord and conus medullaris, normal vertebrae and moderate to severe noncompressive spondylosis with osteophytic ridges and protruding disc.

INTERVERTEBRAL DISCS:

L1-2. Moderate facet arthropathy, signal loss and protruding disc material more on the left. There is severe bilateral lateral recess stenosis.

L2-3. Severe facet arthropathy and a diffuse protrusion more pronounced on the left. There is severe left lateral recess stenosis.

L3-4. Severe facet arthropathy, signal loss and a diffuse shallow protrusion. There is moderate to severe bilateral lateral recess stenosis and moderate to severe right exit stenosis.

L4-5. Moderate facet arthropathy, disc space narrowing and sclerotic osteophytes with Modic changes and a central protrusion of disc. There is severe bilateral lateral recess stenosis with probable compression of L5 roots.

L5-S1. Severe facet arthropathy, signal loss, annular osteophytes and protruding disc material. There is severe bilateral lateral recess stenosis with probable compression of the S1 roots.

3D REFORMATIONS AND MYELOTOMOGRAPHY: MR myelotomography is a 3D sequence which displays the distribution of cerebral spinal fluid within the lumbar

subarachnoid space and simulates an x-ray myelogram without spinal injection. Multiple oblique projections were performed and confirm the findings set out above.

Opinion: MRI of the lumbar spine including 3D myelotomographic images and multiplanar reformations shows multilevel severe spondylosis with probable nerve root compression at all lumbar levels.

Patient: Johnnie Bias
Patient #: 90201
Exam Name: Lumbar
Exam Date: 2/21/2014



Richard C. Holgate, MD

DISC Radiologists

1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 3/3/2014

Date of Birth:

Account Number: 90201

Mr. Bias is seen for a 1 week follow up appointment. Briefly this man had surgery in the 80's . We have managed him with complaints of back and leg pain over the years. He had a marked increase in his back and leg pain with his previous visit. We tried to do an injection on him but over the course of the last week he has developed progressive weakness in his leg and his pain is profound. He has previous evidence of what would appear to be a free fragment herniation at L4-S5, he also has a herniation at L5-S1, he has had previous surgery at these levels. He has an increase in his disc herniation now with marked compression against the S-1 root, he has an absent Achilles reflex and a partial foot drop on his exam. I described his foot drop as progressive. That is he has a progressive neurologic deficit with increasing foot drop when compared to his previous scan.

His indications for surgical intervention are based on a progressive neurologic deficit with noted increase or a drop foot which has begun increasing in its intensity. He has marked degeneration in his back. I have told him that surgery will not help him with his back and I would not recommend fusion unless he became iatrogenically unstable with repeat surgery.

Diagnosis Codes:

722.10 DISPLACED LUMBAR INTERVERT DISC

Impression: Lumbar HNP

Treatment Plan: I do think that decompressive laminectomy with discectomy L-4 to S-1 is indicated based on his foot drop and progressive deficit and I think this should be done semiurgently. He would require a period of bracing periodically. His follow-up is to be with me pending surgical approval.

Since non operative measures have not given lasting relief and pain persists, surgery was advised. Nature of the procedure, risks, problems, possible complications, sequelae of complications as well as rehabilitation involved all were discussed and explained. All questions were answered. Prescription is written for the patient to be fitted with a LSO today and begin wearing immediately to aid in the stabilization and decompression as treatment for pain related to their spinal disc disease. A work status report was created and given to the patient.

Seen By: Steven C. Poletti, MD

Date: 3/4/2014

DIGITALLY SIGNED Steven C. Poletti, MD
3/12/2014

1 of 1

Clinical Laboratory
Phone: (843) 416-6260

Medical Directors:
Joseph Harmon, M.D.

**East Cooper Medical
Center**

2000 Hospital Dr
Mt Pleasant, SC
29464

Patient Name: **BIAS, JOHNNIE T**
MRN: 1183837
Acct #: 19520295

H E M A T O L O G Y

CBC

Date: 03/03/2014
Time: 12:00:00 EST
Day of Stay: -3

Procedure		Units	Ref Range
WBC	8.7	10 ³ cells/mcl	[4.8-10.8]
RBC	4.77	10 ⁶ cells/mcl	[4.70-6.10]
Hgb	14.20	g/dL	[14.00-18.00]
Hct	42.3	%	[42.0-52.0]
MCV	89	fL	[81-99]
MCH	29.8	pg	[27.0-34.0]
MCHC	33.6	g/dL	[33.0-37.0]
RDW	13.1	%	[11.5-14.5]
Platelet Count	243	10 ³ cells/mcl	[150-400]
MPV	8.8	fL	[7.4-10.4]

Automated Differential

Date: 03/03/2014
Time: 12:00:00 EST
Day of Stay: -3

Procedure		Units	Ref Range
Neutrophil Rel	57.7	%	[50.0-75.0]
Lymphocyte Rel	35.5	%	[20.0-45.0]
Monocyte Rel	5.5	%	[0.0-10.0]
Eosinophil Rel	1.1	%	[0.0-5.0]
Basophil Rel	0.3	%	[0.0-2.0]
Neutrophil Abs	5.0	10 ³ cells/mcl	[2.0-8.1]
Lymphocyte Abs	3.1	10 ³ cells/mcl	[1.0-4.9]
Monocyte Abs	0.5	10 ³ cells/mcl	[0.0-1.1]
Eosinophil Abs	0.1	10 ³ cells/mcl	[0.0-0.5]
Basophil Abs	0.0	10 ³ cells/mcl	[0.0-0.2]

Legend: * = Abnormal, H = High, L = Low, C = Critical, T = footnote, r = reference, c = corrected, i = interpretation

Ordering: N/A
Admitting: ROBERTI MD, STEVEN C
Consulting: N/A

Interim Any
17202086
Printed: 03/03/2014 12:03:11 GST

Patient Name: **BIAS, JOHNNIE T**
MRN: 1183837
Acct #: 19520295
DOB: / / Age: 57 years Sex: Male
Location: EC11-XT Pre-Admit Testing
Admitted: 03/07/2014
Discharge:

Clinical Laboratory
Phone (843) 466-6260

Medical Directors:
Joseph Harmon, M.D.

East Cooper Medical Center

2600 Hospital Dr.
Mt Pleasant, SC
29464

Patient Name: **BIAS, JOHNNIE T**
MRN: **EL83837**
Acct #: **19520295**

C H E M I S T R Y

Routine Chemistry

Date: 03/03/2014
Time: 12:00:00 EST
Day of Stay: 5

Procedure		Units	Ref Range
Sodium Lvl	136	mmol/L	[136-144]
Potassium Lvl	4.10	mmol/L	[3.60-5.10]
Chloride Lvl	102.3	mmol/L	[98.0-107.0]
CO2	26.8	mmol/L	[22.0-32.0]
Calcium Lvl	9.1	mg/dL	[8.9-10.3]
BUN	18.0	mg/dL	[8.0-21.0]
Creatinine Lvl	0.70	mg/dL	[0.61-1.21]
GER African-Am	<60	mL/min	[<=60]
GER Non African-Am	<60	mL/min	[<=60]
Glucose Level	97	mg/dL	[74-118]

03/03/2014 12:00:00 EST GER Non African-Am
Glomerular Filtration Rate (GFR) Interpretation: (mL/minute)

<60 mL/min 73 mL/min is within the expected range.
African Americans: multiply the eGFR by 1.212

Glomerular Filtration Rate (GFR) Interpretation: (mL/minute)

<60 Normal or mild kidney disease
30-59 Moderate kidney disease
15-29 Severe kidney disease
≤15 Renal Failure

The Modification of Diet in Renal Disease (MDRD) GFR is a calculated value which is valid only for adults between ages of 18-70. If the results are applied to patients not in that age range, the interpretation may not be valid. The following conditions may alter the GFR result: extremes in body size, severe malnutrition or obesity, skeletal muscle disease, paraplegia or quadriplegia.

Legend: * = Abnormal, H = High, L = Low, C = Critical, T = Tostotic, r = reference, c = corrected, interpretation

Ordering: N/A
Admitting: POLKITT AND STEVENSON
Consulting: N/A

Intern: Amy
17202086
Printed: 03/03/2014 12:03:43 CST

Patient Name: **BIAS, JOHNNIE T**
MRN: **EL83837**
Acct #: **19520295**
DOB: Age: 57 years Sex: Male
Location: ECH - XI Pre-Admit Testing
Admitted: 03/03/2014
Discharge:

East Cooper Medical Center
2000 Hospital Drive
Mount Pleasant, SC 29464
(843) 881-0100

History and Physical

Patient Name:	BIAS, JOHNNIE T	STEVEN C POLETTI, M.D.
MRN:	1183837ECH	ADM: 03/07/2014
ACCT:	195202951CTI	Pt. Class: P
DOB:		Room/Bed:

DATE SCHEDULED FOR SURGERY: 3/7/2014

CHIEF COMPLAINT: Severe left-sided hip, buttock, and leg pain.

HISTORY OF PRESENT ILLNESS: Mr. Bias is a 57-year-old male with the above complaints. He has had chronic and worsening low back pain. He now has more acute onset hip and leg pain on the left side. He has increasing pain radiating from his buttock down into his leg and into his foot. He has increasing numbness diminished ability to walk longer distances. He has diminished ADLs, diminished sleep. He has updated imaging consistent with disk protrusions at L4-L5 and L5-S1.

PAST MEDICAL HISTORY: Reviewed. This shows a history of hypertension and hyperlipidemia.

ALLERGIES: He denies any drug allergies.

REVIEW OF SYSTEMS: He denies any shortness of breath or chest pain. He denies any unexplained weight loss or fatigue. He denies any type of bowel or bladder disturbance. He does report back pain, hip and leg pain on the left, left lower extremity weakness with numbness and difficulty walking.

PHYSICAL EXAMINATION:

GENERAL: Mr. Bias is alert and oriented x3 in no acute distress.

NEUROLOGIC: Cranial nerves intact.

HEART: Regular rate and rhythm.

LUNGS: Clear to auscultation bilaterally.

NEUROLOGIC: He has limited motion of the lumbar spine, pain with extension, strongly positive straight leg raise on the left, subjective dysesthesia in the left lower extremity. He has diminished patellar tendon reflex, ankle dorsiflexor strength. He has diminished toe extension strength, gastroc function on the left relative to the right. He has diminished Achilles reflex on the left, diminished sensation in the left foot.

ASSESSMENT: Lumbar disk herniation, L4-L5 and L5-S1.

PLAN: He will undergo laminectomy, discectomy, L4-L5 and L5-S1, left.

"I have examined the patient and there are no changes to the H&P."

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3/6/2014 4:34:38 PM PAGE 5/005 Fax Server

East Cooper Medical Center

Patient Name:
MRN:

BLAS, JOHN N L T
1183837ECH

STEVEN C POLETTI, M.D.
ACCE 19520293ECH

Signature: _____

Date: _____

Time: _____

STEVEN C POLETTI, M.D.

Dictated by JUSTIN SWAIN, PA-C
DATE _____ TIME _____

SPKR: JS DD: 03/06/2014 08:24 EST DT: 03/06/2014 09:49 EST
JOB#: 4757850 MT: FI
DOCUMENT#: 11681008
R:

Page 2 of 2

East Cooper Medical Center
2000 Hospital Drive
Mount Pleasant, SC 29464
(843) 881-0100

Consultation

Patient Name:	BIAS, JOINNIE T	DEBORAH SLAY, D.O.	
MRN:	1183837ECH	Pt. Class:	1
ACCT:	19520295FCH	Room / Bed:	0425-0
DOB:		Requesting:	STEVEN C POLETTI

DATE OF CONSULTATION: 03/07/2014.

PHYSICIAN REQUESTING CONSULTATION: Steven Poletti, M.D.

REASON FOR CONSULTATION: Hypertension and hyperlipidemia.

OUTPATIENT PRIMARY CARE PHYSICIAN: Dr. Singleton located in Orangeburg, South Carolina.

HISTORY OF PRESENT ILLNESS: Mr. Bias is a very pleasant 57-year-old black male who presents to East Cooper Medical Center secondary to left hip, buttock and lower extremity pain. He underwent L4 through S1 laminectomy and discectomy. There were no surgical intraoperative complications as far as I can tell from chart review. The patient is seen postoperatively in his hospital room. Physical therapy and his wife are both at the bedside. Patient reports pain from his surgery, but otherwise denies any additional acute complaints. He reports a history of intermittent wheezing, but denies any chest pain. He reports that he is able to ambulate up and down flight of stairs and carries groceries without any chest discomfort or shortness of breath. He denies any recent fevers, chills, cough or URI symptoms. No recent nausea or vomiting. No chronic lower extremity edema.

REVIEW OF SYSTEMS: A 10-point review of systems is as mentioned above, otherwise negative.

PAST MEDICAL HISTORY:

1. Hypertension.
2. Hyperlipidemia.
3. Intermittent insomnia.

PAST SURGICAL HISTORY: Previous back surgery in 1983, tonsillectomy, above-mentioned laminectomy and discectomy today. Previous colonoscopy as well.

SOCIAL HISTORY: Patient does not smoke. He drinks beer on the weekends only. He is married.

FAMILY HISTORY: Significant for mother with history of COPD/emphysema with history of heavy tobacco use.

ALLERGIES: NKDA.

Page 1 of 1

East Cooper Medical Center

Patient Name: BIAS, JOHNNIE T
MRN: 1183837ECH

DEBORAH S LAY, D.O.
ACCT: 19520295ECH

OUTPATIENT MEDICATIONS: Include Percocet 10/325 mg p.r.n., Lisinopril/HCTZ 20/12.5 mg daily, multivitamin daily, pravastatin daily, Ambien 10 mg nightly as needed for insomnia.

PHYSICAL EXAMINATION:

VITAL SIGNS: Preoperatively, temperature 98.5, blood pressure 126/80, heart rate 80, respirations 18 and oxygen saturation 97% on room air.

CURRENT VITAL SIGNS: Temperature 98, blood pressure 144/93, heart rate 106, respirations 18 and oxygen saturation 95% on room air.

GENERAL APPEARANCE: A 57-year-old African-American male, awake, alert and oriented x3. Mentation is appropriate.

HEENT: NCAT. EOM: Nares patent. Oropharynx is grossly clear.

CARDIOVASCULAR: Regular rate and rhythm. No murmur, gallop or rub appreciated.

LUNGS: Clear to auscultation bilaterally.

ABDOMEN: Soft, nontender, nondistended with normal bowel sounds.

EXTREMITIES: Without any cyanosis, clubbing or edema. Dorsiflexion and plantar flexion are grossly intact.

LABORATORY DATA: From 03/03/2014 is reviewed. CBC and BMP are normal. EKG is reviewed and shows normal sinus rhythm with rate of 75. Poor tracing/baseline, but otherwise no acute ST or T-wave segment changes appreciated.

ASSESSMENT AND RECOMMENDATIONS:

1. Hypertension: The patient most likely has postoperative hypertension because of pain. He will be maintained on his lisinopril and hydrochlorothiazide. Hydralazine as needed for severely elevated blood pressure readings.
2. Hyperlipidemia: Continue pravastatin.
3. Insomnia: I am going to change Mr. Bias' Ambien from 10 mg nightly to 5 mg nightly because of the concern for possible medication interaction with stronger pain medications during his inpatient stay. _____ he

East Cooper Medical Center

Patient Name: BIAS, JOHNNIE T. DEBORAH S LAY, D.O.
MRN: H838376C1F ACCT: 19520295ECH

would normally be taking as an outpatient. He can resume his 10 mg nightly as needed with caution at discharge.

4. Lumbar disk herniation, status post laminectomy and discectomy. Patient to proceed with postoperative care as per Southeastern Spine, Dr. Poletti. Postoperative care including deep venous thrombosis prophylaxis, rehabilitation, recommendations and pain management will be deferred to Dr. Poletti.

Thank you for this consultation. We will be happy to follow Mr. Bias along with you during his inpatient stay.

DEBORAH S. LAY, D.O.

DATE: TIME:

SPKR:DST DD: 03/07/2014 13:07 EST DT: 03/07/2014 21:26 EST

JOB#: 4763588 MT#: FI

DOCUMENT#: 11694937

R:

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ECH - East Cooper Medical Center
2000 Hospital Drive
Mt. Pleasant, SC 29464
(843)881-0100

Date and Time Generated: Thu Mar 20 13:32:17 EDT 2014
Generated by: tanisha.yann

SIGNED

BIAS, JOHNNIE T (SU 0425 0)

Report Name	ECH-Operative Report	Dictation Date/Time	03/12/2014 08:43:00
Dictating Physician	POLETTI, STEVEN C	Transcription Date/Time	03/12/2014 10:28:00
Medical Record Number	1183837	Document ID	11731580
Account Number	19520295	Admit Date	03/07/2014 06:21:00
Date Of Birth		Discharge Date	03/08/2014 13:40:00

System copy - not from charted Original. This is not an official and legal document.

DATE OF SERVICE: 03/07/2014

PREOPERATIVE DIAGNOSES:

1. Recurrent disk herniation, left L5-S1.
2. Disk herniation, left L4-L5.

POSTOPERATIVE DIAGNOSES:

1. Recurrent disk herniation, left L5-S1.
2. Disk herniation, left L4-L5.

PROCEDURES:

1. Redo laminectomy/diskectomy, L5-S1.
2. Laminectomy/discectomy, L4-L5.

SURGEON: Steven Poletti, M.D.

ASSISTANT: Richard Frisch, M.D.

ESTIMATED BLOOD LOSS: 100 mL.

BRIEF CLINICAL NOTE: This man has had previous back surgery to involve microdiscectomy at the L5-S1 level. He has a recurrent disk herniation, as well as a moderately large left-sided herniation at the L4-L5 level. He has findings of both L4 and L5 radiculopathy and he has other levels of degeneration with relative loss of normal lordosis and multiple levels of wear and tear throughout his back.

He theoretically could consider some type of multilevel arthrodesis. What we are choosing to do is a decompression of the nerve roots alone, understanding that the goal is for relief of radiating leg pain and that he is likely to have some continued back pain ongoing. Correction of ongoing back pain by attempted long segment fusion is a possibility, but a last resort. He understands this as the major complication of the surgery, that is he could have a technically successful results and get only partial relief of his leg pain and continue to have back pain. He understands this and he wishes to proceed.

DESCRIPTION OF PROCEDURE: Patient was placed under a general anesthetic, prone on the spine frame, back was prepped and draped in the usual and sterile fashion. Perioperative antibiotics were administered and a preincision timeout was conducted. His prior incision was utilized and the inferior 2 inches of it were utilized to create a muscle-splitting approach to the lamina from L4 through the sacrum and self-retaining tubular retractors

were placed. Redo decompressive laminectomy was achieved at the L5-S1 level, the scar plane elevated and partial facetectomy achieved to create foraminotomy at the S1 root and visualization of the exiting L5 root. Significant sequestered disk herniation was noted at the L5-S1 level with evidence of recurrent herniation. Removal of the sequestered disk showed a large rent in the annulus, through which further free nuclear material was removed. The nerve root was freely mobile after this. Dissection was then taken down to the L4-L5 level, where decompressive laminectomy was achieved, lateral recess stenosis taken down at the L4-L5 level to allow for visualization of the L5 nerve root at its onset with foraminotomy accomplished. There was a disk herniation, pseudocapsule elevated with a Penfield 4 and all free nuclear material was removed with microscissors. The L5 root was freely mobile after this.

Wash was irrigated with bacitracin-saline. Fascia closed with 0 Vicryl suture, subcutaneous tissue with 2-0 Vicryl and the skin with a running Monocryl suture. Intraoperative SSEP and EMG potentials were utilized throughout the case and remained unchanged. Lumbar decompression _____. Patient was transferred to the recovery room stable.

STEVEN C. POLETTI, M.D.

TR:RCP/TK

DD:03/12/2014 08:43 EDT

DT:03/12/2014 10:28 EDT

Dictation ID: 11731680/Confirmation #: 5184978

R:

Authenticated by STEVEN POLETTI, MD on 03/13/2014 12:17:41 PM

End of Report

SIGNED

End of Report



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 3/21/2014

Date of Birth: _____

Account Number: 90201

History of Present Illness: Mr. Bias is being seen today for his first two-week postoperative visit. He is status post redo lam disc at the L5-S1 level and lam disc at L4-5 on the left side for disc herniation. He continues to report some component of left lower extremity pain and weakness, however this is dependent on his position. He denies any consistent or worsening pain in his left leg. He continues to have weakness with ankle dorsiflexion and gastroc function on the left compared to the right. He does however feel improvement of his pain from surgery. He complains of bilateral lower extremity swelling around his calves and ankles. He denies fevers, chills, night sweats, any chest pain, palpitations or shortness of breath. He denies any loss of bowel or bladder function, paralysis or any worsening weakness. He is wearing his LSO brace as instructed. He is walking to his tolerance on a daily basis. He is taking pain medications sparingly as needed.

Past Medical History: Hypertension (401.9)

Current Medications: Flector 1.3 % Transderm 12 hr Patch 1 apply on the skin Q12h, zolpidem 10 mg tablet Oral, lisinopril 20 mg-hydrochlorothiazide 12.5 mg tablet Oral, pravastatin 40 mg tablet Oral, Celebrex 200 mg capsule Oral, hydrocodone 10 mg-acetaminophen 325 mg tablet Oral, meloxicam 7.5 mg tablet Oral.

Drug Allergies: No known drug allergies.

Physical Examination: He is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is wearing his LSO brace. I removed the bandage and Steri-Strips from his posterior incision site. The bandage is clean, dry and intact. There is no erythema, drainage, swelling or signs of infection. He has a negative straight leg raise. He continues to have weakness with ankle dorsiflexion, EHL extension and gastroc function on the left compared to the right which is similar to his preoperative status. He is ambulatory with a slightly antalgic gait.

Imaging: AP and lateral lumbar films were reviewed. They show loss of disc height space at L4-5 and L5-S1 which is consistent with recent surgery. There is no complete collapse on x-rays.

Diagnosis Codes:

V45.89 POSTSURGICAL STATUS

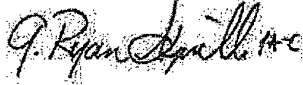
Treatment Plan: I have discussed with Mr. Bias generalized precautions and continued restrictions of no lifting, bending or twisting. He is to continue in his brace. I have recommended a bilateral lower extremity Doppler study to rule out DVT due to swelling postoperatively in his lower extremities. He is in no need of refills at today's visit. We will keep him out of work until he is reevaluated at his second postoperative visit in four weeks. Should he have any worsening symptoms or concerns, he has agreed to contact the office and we will see him back immediately, otherwise we will see him back in four weeks.

DIGITALLY SIGNED G. Ryan Aprill, PA-C
4/11/2014

1 of 2

Patient Name: Bias, Johnnie
Account number: 90201
DOE
Encounter Date: 3/21/2014

Venous doppler ultrasound of the left and right lower extremities was ordered. A work status report was created and given to the patient. Patient to return in 4 weeks for follow up.



Seen By: G. Ryan Aprill, PA-C

Date: 3/24/2014
GRA/js

X-RAYS:

X-ray Report: AP and lateral lumbar films were reviewed. They show loss of disc height space at L4-5 and L5-S1 which is consistent with recent surgery. There is no complete collapse on x-rays.

DIGITALLY SIGNED G. Ryan Aprill, PA-C
4/11/2014

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Diagnostic Imaging Department
Telephone: (843) 416-6138
Fax: (843) 416-6855

East Cooper Medical Center
2000 Hospital Dr
Mt Pleasant, SC 29464

Patient name: BIAS, JOHNNIE T
MRN: 1183837
Acc #: 19551258
Encounter Type: 2 - Outpatient

Imaging

Procedure:	Accession:	Ordering:	Date of Examination:
US LE Venous Duplex Bilateral	391:US-14-000971	POLETTI MD, STEVEN C	03/21/2014 10:41:34 EDT

Report

EXAMINATION: US LE Venous Duplex Bilateral

INTERPRETATION:

Duplex ultrasound and color flow imaging of the lower extremity common femoral vein, superficial femoral vein, popliteal vein, peroneal veins and posterior tibial veins showed normal venous flow and them to be free of thrombus.

IMPRESSION:

There is no deep vein thrombosis in the lower extremities bilaterally.

Technologist: Nancy K Long, RVT

Final Report

Electronic Signature: 03/24/2014 8:59 am Signed By: KJIJOURY, NORMAN

NL Transcribed: 03/21/2014 10:35 am

Ordering: POLETTI MD, STEVEN C
Admitting: APRIL PAC, GERMAINE
Consulting:

Chart Type: Cumulative
Chart Request ID: 17957708
Printed: 03/24/2014 08:07:57 CDT

Patient Name: BIAS, JOHNNIE T
MRN: 1183837
Acc #: 49551258
DOB: Age: 57 years Sex: Male
Location: JCT - J8 Ultrasound
Admitted: 03/21/2014
Discharge: 03/21/2014

1 of 1



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 4/30/2014

Date of Birth:

Account Number: 90201

Mr. Bias returns for a second postoperative visit today. He has a chief complaint of persistent numbness in his left leg. He has generalized low back pain. He's able to walk approximately a mile at a time but has increased pain into his back if he tries to walk more than this; I think a mile is acceptable at this point. He has relatively good function. He reports residual numbness and weakness in the left leg. He has had a large recurrent disc herniation at L4-5 on the left and a herniation at L5-S1. He has multilevel lumbar disc problems outside of the surgical site.

His exam currently shows continued positive straight leg raising and subjective dysesthesias in the left lower extremity. He has diminished toe extension strength on the left relative to the right but no further neurologic decline is detected.

I've gone over some generalized precautions with him. I recommend he continue walking and wean out of his brace. He will see physical therapy. I gave him a refill for the Flector patch. He will call with any questions, persistent or worsening pain issues. We will plan to see him back at least in the next six weeks' time for reevaluation.

Diagnosis Codes:

V45.89 POSTSURGICAL STATUS

Treatment Plan: A course of physical therapy was recommended. A work status report was created and given to the patient. Patient to return in 6 weeks for follow up.

Seen By: Justin P. Swain, PA

Date: 5/6/2014

sk

DIGITALLY SIGNED Justin P. Swain, PA
5/19/2014

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 6/11/2014

Date of Birth:

Account Number: 90201

Mr. Bias is being seen for a six week follow-up appointment today. He's approximately three months status post a redo laminectomy/discectomy at the L5-S1 level as well as a laminectomy/discectomy done on the left at the L4-5 level for a disc herniation. Today, Mr. Bias states that he's doing fairly well overall. He has been seeing physical therapy twice a week for the past few weeks and is doing very well with this. He has noticed an improvement in his core strength and left leg strength. He feels slightly weak in his left foot but this is not worsening or changing. Mr. Bias feels that he has begun to walk with a left sided limp since he began therapy and attributes the limp to this. They are working him very hard, and he has some soreness with therapy. He quantifies the pain at a 3 to 4 out of 10 on the pain scale. He denies any bowel or bladder disturbances. He denies any focal muscle weakness. He denies any paralysis. He's continuing to use the Flector patches and Norco for pain control. He's out of work at this time and is interested in the timeline of when he will be returning to work. Mr. Bias has a labor-intensive job, as he does a lot of crawling and climbing as well as lifting. Overall, he's stable and quite pleased with his progress.

He's a well-developed, well-nourished male who is alert and oriented x3 in no acute distress. He's ambulatory with a slight limp on the left. He has negative straight leg raising bilaterally. He has diminished toe extension strength on the left compared to the right but this is subjectively improving. He has no further neurological deficits noted on exam. Overall, he's stable.

I discussed some generalized precautions with Mr. Bias today. I would like for him to continue with physical therapy and I'll give him a new order today. I'll refill his Flector patches. He called in for the Norco last week but this was not available at the pharmacy; he will contact them today and we will refill this for him if the prescription is not ready. We will see him back in the office in six to eight weeks' time for reevaluation. He's interested in doing some upper body strengthening and at this point I feel this is reasonable. We will keep him out of work at this time. We will reevaluate Mr. Bias' work status at his next visit. If he has any worsening pain or changes in his symptoms, he will contact our office and we will be happy to see him for a sooner appointment. Otherwise, we will see him back in the office in six to eight weeks' time for reevaluation.

Diagnosis Codes:

V45.89 POSTSURGICAL STATUS

Treatment Plan: A course of physical therapy was recommended. A work status report was created and given to the patient. The patient is instructed to call us if pain persists or get worse. Patient to return in 6-8 weeks for follow up.

Seen By: Justin P. Swain, PA

LT/sk 6/13/14

DIGITALLY SIGNED Justin P. Swain, PA
6/19/2014

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 8/6/2014

Date of Birth

Account Number: 90201

History of Present Illness: Mr. Bias is being seen for an eight week follow-up appointment today. He's approximately five months status post redo lam/disc at L5-S1 and a left sided L4-5 lam/disc for a herniation. He continues to do very well. He has had great improvement in his overall strength and mobility. He continues to have some weakness and numbness into his left foot but this is greatly improved and continues to get better on a daily basis. He was released from physical therapy and given a home-exercise program, which he's doing on a daily basis, and is doing very well with this. He continues to use Flector patches as well as 10/325-mg Norco for pain control. He denies any bowel or bladder disturbance. He denies any focal muscle weakness. He denies any paralysis. He continues to quantify his pain at a 3 to 4 out of 10 on the pain scale. He spoke to his employer regarding returning to work, as he has been out of work since his surgery, and states they have been understanding as far as having him return to work in a sedentary status. He feels they will allow him to do a desk job at this point in time. Overall, he's continuing to progress very well.

Past Medical History: Hypertension 401.9 (401.9).

Current Medications: Lisinopril 20 mg-hydrochlorothiazide 12.5 mg tablet Oral, pravastatin 40 mg tablet Oral, zolpidem 10 mg tablet Oral, hydrocodone 10 mg-acetaminophen 325 mg tablet Oral, meloxicam 7.5 mg tablet Oral, and Norco 10 mg-325 mg tablet 1 by mouth prn pain.

Drug Allergies: No known allergies.

Physical Examination: He's a well-developed, well-nourished male. He's alert and oriented x3. He's in no acute distress. He's ambulatory with a non-antalgic gait. He has a negative straight leg raise bilaterally. He has no worsening neurological deficits noted on exam. He has slight difficulty with toe rise on the left but this is improving.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Impression: Postlaminectomy syndrome, lumbar.

Treatment Plan: I advised him to continue with his home-exercise program at this point in time. I would also like to try him on Neurontin to assist with the nerve pain that he's experiencing in his left extremity and he's in agreement with this. I'll start him off with 300 mg twice a day, if tolerated well will increase to three times a day. We discussed side effects and precautions with this medication and he understands these. I'll refill his Flector patches for him. We will see him back in the office in two months' time for reevaluation. I'll give him a return to work report; we discussed limitations as well as restrictions and he understands these. If he has any worsening pain or changes in his symptoms, he will contact our office. I advised if he has any difficulty with returning to work that he contact our office immediately. Otherwise, we will see him back in the office in two months' time for reevaluation.

DIGITALLY SIGNED Lane Tuggle, PA-C
8/26/2014

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Patient Name: Bias, Johnnie
Account number: 90201
DOB: 5
Encounter Date: 8/6/2014

Neurontin 300 mg capsules were prescribed; side effects were discussed and appropriate instructions were provided. A work status report was created and given to the patient. The patient is instructed to call us if pain persists or get worse. Patient to return in 2 months for follow up.

Seen By: Lane Tuggle, PA-C

sk 8/8/14

DIGITALLY SIGNED Lane Tuggle, PA-C
8/26/2014

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1106 Chuck Dawley Blvd, Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 10/15/2014

Date of Birth: _____

Account Number: 90201

History of Present Illness: Mr. Bias is being seen for a two month follow-up appointment today. He's approximately seven months status post redo laminectomy and discectomy at L5-S1 and a laminectomy and discectomy at the L4-5 level. Today, he has minimal pain complaints. He feels greatly improved since the surgery. He continues to have some aspect of numbness in his left foot and calf but feels a slight improvement. At his last visit, he was given a prescription for Neurontin but states he never received this. He continues to maintain his home exercise program and does very well with this. He's back to work and is training an employee for the next six to eight weeks but this does not require him to do any heavy lifting or bending. He's very mindful with his activity level and understands his limitations. He denies any loss of bowel or bladder function. He denies any focal muscle weakness. He denies any paralysis. He uses Flector patches very sparingly. He takes one to two Norco in the afternoon after work. Overall, he's quite pleased with his progress.

Past Medical History: Hypertension 401.9 (401.9).

Current Medications: Flector 1.3 % Transderm 12 hr Patch 1 apply on the skin Q12h, lisinopril 20 mg-hydrochlorothiazide 12.5 mg tablet Oral, pravastatin 40 mg tablet Oral, zolpidem 10 mg tablet Oral, hydrocodone 10 mg-acetaminophen 325 mg tablet Oral, meloxicam 7.5 mg tablet Oral, and Norco 10 mg-325 mg tablet 1 by mouth prn pain.

Drug Allergies: No known allergies.

Physical Examination: He's a well-developed, well-nourished male. He's alert and oriented x3. He's in no acute distress. He's ambulatory with a non-antalgic gait. He has a negative straight leg raise. He has subjective dysesthesias into his left foot. He has no worsening neurological deficits noted. He has slightly diminished range of motion of the lumbar spine.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: I discussed generalized precautions with Mr. Bias today. I'll give him another prescription for the Neurontin. We will see him back in the office in two months' time for reevaluation. If he has any worsening pain or changes in his symptoms, he will contact our office immediately. Otherwise, we will see him back in two months' time.

The patient is instructed to call us if pain persists or get worse. Patient to return in 2 months for follow up.

Lane Tuggle, PA-C

sk

DIGITALLY SIGNED Lane Tuggle, PA-C
11/19/2014

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Patient Name: Bias, Johnnie
Account number: 90201
DOB 6
Encounter Date: 10/15/2014



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 10/22/2014

Date of Birth: _____

Account Number: 90201

History of Present Illness: Mr. Bias is being seen for a work-in appointment today. He's seven months status post a redo lam/disc at L5-S1 and lam/disc at L4-5. He states a few days ago he was coming down a flight of stairs, slipped, and fell backwards on his tailbone. Since then, his left leg has felt "cold." He's having increasing weakness in this leg. He has low back pain that has always been on the left but it's now lateralizing around to the right. He has difficulty with ambulation. He denies any loss of bowel or bladder function. He denies any paralysis. He's currently taking more of the Hydrocodone and continuing with the Neurontin. He continues to have numbness in his left calf and foot, which is unchanged. He's also complaining of neck and shoulder blade pain. He denies any radiating arm pain. He denies any loss of grip strength.

Past Medical History: Hypertension 401.9 (401.9).

Current Medications: Flector 1.3 % Transderm 12 hr Patch 1 apply on the skin Q12h, lisinopril 20 mg-hydrochlorothiazide 12.5 mg tablet Oral, pravastatin 40 mg tablet Oral, zolpidem 10 mg tablet Oral, hydrocodone 10 mg-acetaminophen 325 mg tablet Oral, meloxicam 7.5 mg tablet Oral, and Norco 10 mg-325 mg tablet 1 by mouth prn pain.

Drug Allergies: No known allergies.

Physical Examination: He's a well-developed, well-nourished male. He's alert and oriented x3. He's in no acute distress. He's ambulatory with an antalgic gait. He has a positive straight leg raise. He has diminished reflexes on the left. He has difficulty with heel and toe rise on the left. He has slightly diminished range of motion of the lumbar spine.

Regarding the cervical spine, 2+ radial pulses are noted. He has a negative Hoffman's sign. He has well preserved grip strength bilaterally.

Imaging Orders: AP and Lateral views of the cervical spine were ordered, obtained and interpreted from an orthopedic standpoint. X-rays of the lumbosacral spine were ordered, obtained and interpreted from an orthopedic standpoint.

Imaging Findings: AP and lateral views of the cervical spine were reviewed with him today. There's loss of disc-height space at the L5-S1 level. Two views of the cervical spine were also reviewed. There appears to be multilevel spondylosis noted. There are no acute fractures in the cervical or lumbar spine.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

723.1 CERVICALGIA

DIGITALLY SIGNED Lane Tuggle, PA-C
11/19/2014

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Patient Name: Bias, Johnnie
Account number: 90201
DOB: _____
Encounter Date: 10/22/2014

Impression: Cervical pain.

Treatment Plan: At this point, I'm recommending an updated lumbar MRI scan to assess for a reherniation and he's in agreement with this. We will have him return to the office to discuss the results with him. I'll give him an out-of-work note for the time being. If he has any worsening pain or changes in his symptoms, he will contact our office immediately. Otherwise, we will see him back after the scan.

An MRI of the lumbar spine was ordered. The scan will need to include 3-D reformations to evaluate for any potential extraforaminal herniations as well as anticipation of injection therapy or surgical intervention. A work status report was created and given to the patient. The patient is instructed to call us if pain persists or get worse. The patient is to return when the result of MRI is available.

Lane Tuggle, PA-C

sk

X-Ray Report:

X-Rays: AP and lateral views of the cervical spine were reviewed with him today. There's loss of disc-height space at the L5-S1 level. Two views of the cervical spine were also reviewed. There appears to be multilevel spondylosis noted. There are no acute fractures in the cervical or lumbar spine.

DIGITALLY SIGNED Lane Tuggle, PA-C
11/19/2014

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 10/29/2014

Date of Birth:

Account Number: 90201

Johnnie is seen in follow-up. He had a redo decompressive laminectomy at the lumbosacral junction. He has some increasing pain in his right side after a fall. I don't think he can work at this point. He would appear to have a recurrent herniation lateralizing to the left at 4-5. He also has some element of synovial cyst formation. This is on the right side at 5-1.

This man's situation is a difficult one. He has severe bilateral stenosis. He has severe multilevel disc disease. He is potentially a candidate to consider operative intervention to involve redo decompressive laminectomy at the 4-5 level extending to the L5-S1 level with excision of the synovial cyst. Further operative intervention most likely will require complete facetectomy; and as a consequence of complete facetectomy, he would require fusion.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Impression: Postlaminectomy syndrome, Lumbar

Treatment Plan: This is something he is not really interested in doing right now. He wants to know if there is anything else that could potentially help him. I've told him he could potentially consider an epidural injection, continue on his present analgesics, and follow up in four weeks; and he is in agreement.

Lumbar epidural steroid injection was ordered. Norco 10-325 mg tablets were prescribed; side effects were discussed and appropriate instructions were provided. A work status report was created and given to the patient. Patient to return in 4 weeks for follow up.

Steven C. Poletti, MD

SCP/dmp

DIGITALLY SIGNED Steven C. Poletti, MD
11/11/2014

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The Southeastern Spine Institute
1106 Chuck Dawley Blvd.
Mount Pleasant, SC 29464
843-849-1551

Richard C. Hoigate, M.D.

FINAL REPORT

Patient: **Johnnie Bias**

Exam Date: **10/29/2014**

Patient

Exam Name: **Lumbar**

Phone:

SSN:

Modality: **MR**

Patient #: **90201**

Referring Doctor: **Poletti, Steven**

Clinical Information: **M/58 WITH PAIN IN THE RIGHT SIDE OF THE BACK FOR 2-3WKS; RECENT FALL. PREVIOUS BACK SURGERY 3/7/14. HT-5'11" WT-199 LBS.**

TECHNIQUE: The patient is examined on the High Field GE Horizon LX High-Speed MR System. A phased array coil is used to obtain high resolution images of the lumbar spine. **SERIES:** 1) COR, T1, SE, 7 mm; 2) SAC, Proton, FSE, 3 mm; 3) AX, Oblique, Proton, T2, FSE, 3 mm; 4) AX, T1, SE, 5 mm. **ADDITIONAL SEQUENCES:** 1) SAC, T1, SE/Fat Sat, 3 mm; 2) AX, T1, SE, 5 mm. **3D REFORMATIONS:** 1) COR-OBL, T2FSE/FS, 20mm MIPS.

CONTRAST: The last two pulse sequences were carried out following injection of 9 cc of contrast. (With and Without Contrast)

OVERVIEW: Overview of the lumbar spine shows there is normal bony alignment and normal marrow signal apart from Modic changes with no evidence of a congenital anomaly of the spine. Images of the hips, sacroiliac joints, piriformis muscles and proximal sciatic nerves reveal no abnormality. There is a left renal cyst.

THORACIC SPINE: Views of the distal thoracic spine show a normal spinal cord and conus medullaris, normal vertebra and moderate to severe spondylosis with potential root compression at T9-10 and T10-11. There is no evidence of spinal cord compression.

INTERVERTEBRAL DISCS:

L1-2. Moderate facet arthropathy, signal loss and a central protrusion with some migration downward on the left potential compression of the left L2 root.

L2-3. Moderate to severe facet arthropathy, signal loss and a shallow protrusion. There is severe left lateral recess stenosis.

L3-4. Moderate severe facet arthropathy, signal loss and a shallow protrusion. There is moderately severe bilateral lateral recess stenosis.

L4-5. Moderate severe facet arthropathy, signal loss, annular osteophytes and a central protrusion with some migration downward with an enhancing annular tear. There is displacement and probable compression of both L5 roots.

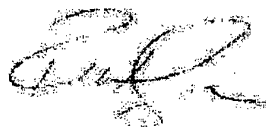
L5-S1. Moderate severe facet arthropathy, a left laminectomy, signal loss and sclerotic osteophytes with a diffuse protrusion of enhancing granulating disc. There is displacement and probable compression of the S1 roots and there is severe left exit stenosis.

3D REFORMATIONS AND MYELOTOMOGRAPHY: MR myelotomography is a 3D sequence which displays the distribution of cerebral spinal fluid within the lumbar subarachnoid space and simulates an x-ray myelogram without spinal injection. Multiple oblique projections were performed and confirm the findings set out above.

GADOLINIUM-ENHANCED IMAGES: Gadolinium enhanced images show no additional evidence of abnormal enhancement within the lumbar spine.

Opinion: MRI of the lumbar spine with 3D myelotomographic images and oblique reformations shows moderately severe spondylosis with potential/probable nerve root compression at L1-2, L2-3 and L3-4. There is severe spondylosis with disc herniations and more probable root compression at L4-5 and L5-S1.

Patient: Johnnie Blas
Patient #: 90201
Exam Name: Lumbar
Exam Date: 10/29/2014



Richard C. Holgate, MD

DISC Radiologists

1341C Old Georgetown Road - Mount Pleasant, SC 29464
(843) 884-8095 - (800) 898-1294 - Fax (843) 856-7312

Southeastern Spine Institute ASC
Mt Pleasant – Chuck Dawley

Patient: Bias, Johnnie Date: November 12, 2014
ID: # 90201
DOB: _____

Physician: Mark D. Netherton, M.D.

Preoperative Diagnosis: Lumbar radiculitis.

Postoperative Diagnosis: Lumbar radiculitis.

Operation: L3-4 Lumbar Epidural Steroid Injection

Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation obtained using IV Versed. Under fluoroscopy the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 3.5-inch, 18 gauge Tuohy needle was advanced to the appropriate interspace. The epidural space was reached utilizing loss of resistance technique. Correct positioning was confirmed under fluoroscopy. Aspiration was negative for blood and CSF. Then a solution of 2 cc normal saline, 4 cc Marcaine 0.25% and 80 mg of methylprednisolone was injected.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Mark D. Netherton, M.D.

MDN/jbb
T: 11/13/2014

CC: Mark D. Netherton, M.D.

Medication Summary Report

For Dates: 9/16/2013 to 11/18/2014

For Prescriber: All Providers

For Patient: Bias, Johnnie

For Medication: All Medications

Date	Account Number	Patient	DOB	Rx	Qty	Gen	Ref	Prescriber	Status
12/27/2013	90201	Bias, Johnnie		1 Flector 1.3 % Transderm 12 hr Patch Q12h	60 patches	Yes	2	Bock, Courtney	Refilled
4/25/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet PRN	90	Yes		Poletti, Steven	Refilled
4/30/2014	90201	Bias, Johnnie		1 Flector 1.3 % Transderm 12 hr Patch Q12h	60 patches	Yes	2	Swain, Justin	Refilled
6/4/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet PRN	90	Yes	0	Poletti, Steven	Refilled
6/11/2014	90201	Bias, Johnnie		1 Flector 1.3 % Transderm 12 hr Patch Q12h	60 patches	Yes	2	Swain, Justin	Refilled
6/30/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet Add'l Sig	90	Yes	0	Poletti, Steven	Refilled
7/30/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet PRN	90	Yes	0	Poletti, Steven	Refilled

11/18/2014 12:42:15 PM

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Medication Summary Report

For Dates: 9/16/2013 to 11/18/2014

For Prescriber: All Providers

For Patient: Bias, Johnnie

For Medication: All Medications

Date	Account Number	Patient	DOB	Rx	Qty	Gen	Ref	Prescriber	Status
8/6/2014	90201	Bias, Johnnie		1 Neurontin 300 mg capsule TID	90 Capsu	Yes	2	Tuggle, Lane	Refilled
8/6/2014	90201	Bias, Johnnie		1 Flector 1.3 % Transderm 12 hr Patch Q12h	60 patches	Yes	2	Tuggle, Lane	Active
8/28/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet Q4-6h	90	Yes	0	Poletti, Steven	Refilled
10/2/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet PRN	90	Yes	0	Poletti, Steven	Active
10/15/2014	90201	Bias, Johnnie		1 Neurontin 300 mg capsule TID	90 Capsu	Yes	2	Tuggle, Lane	Unknown
10/29/2014	90201	Bias, Johnnie		1 Norco 10 mg-325 mg tablet PRN	90 Tablet	Yes		Poletti, Steven	Active

11/18/2014 12:42:15 PM

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13 Records



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 1/7/2015

Date of Birth: _____

Account Number: 90201

Mr. Bias is seen for a follow-up visit. He has a history of a decompressive laminectomy at the L4-5 level with evidence of a documented left sided L4-L5 herniation as well as an element of synovial cyst formation at the L5-S1 level. He has multi-level disc disease, and severe bilateral stenosis as described by Dr. Poletti. He has continued to have mid to lower back pain and continued leg pain. He is irritated due to the fact his job has "dropped him secondary to his status" and he no longer has insurance. He continues to require Norco on a daily basis. He has had injections in the recent past for the severe pain with some improvement.

Please refer to Dr. Poletti's comments for further office visit.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: Mr. Bias is seen in follow-up. I saw him on 10/29/2014. Mr. Bias is somebody I've known for some time. He's had a decompressive laminectomy in February of 2014 and was doing well and had returned to work. On 10/14/2014 he slipped and fell while at work and after this began having severe right-sided leg pain. I should note that his preoperative symptoms were of back and left leg pain, and these left leg symptoms had improved. After the fall he began having some increasing weakness into the left leg and some pain into the right leg, which he had not had before. When I saw him on 10/29/2014, we recommended that he have an MRI scan; and this MRI scan demonstrated a worsening of his disc at the L4-5 level lateralizing to the right. This is consistent with injuries sustained in a slip and fall. I believe to a reasonable degree of medical certainty most probably that his fall of 10/14/2014 caused his L4-5 disc to re-herniate and is contributing to the worsening of his back and leg pain. He is unable to work at this point. Apparently he has been approached about pursuing permanent long-term disability. This may very well likely be the case. He potentially could be a candidate for further operative intervention, which is something that he would like to avoid.

He has had an epidural injection. He is making no real significant progress. I am recommending that he continue with analgesic medication. I have told him that I don't want him to do any exertional work. I have told him that he could potentially do some sedentary activity. I have told him that he potentially could try to use the riding lawn mower should he desire, and that wouldn't be contraindicated; but I don't want him being up and around all day. I want to see him back in two weeks' time. He has toe extension weakness, ankle dorsiflexion weakness, and dysesthesia in the posterolateral aspect of the buttocks, hip, and right leg. He states he is having some questionable urinary frequency, potentially even some dribbling, which could be consistent with severe sacral root compression. I don't see anything that would indicate a need for immediate or urgent surgery. Further operative intervention would involve wide decompression with ankylosis and screw fixation, which is something that we would like to avoid but possibly could happen.

He is going to come and see me in two weeks. He is on off-duty status.

Patient to return in 2 weeks for follow up.

DIGITALLY SIGNED Steven C. Poletti, MD
1/20/2015

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Patient Name: Bias, Johnnie
Account number: 90201
DOB: _____
Encounter Date: 1/7/2015

Steven C. Poletti, MD

SCP

DIGITALLY SIGNED Steven C. Poletti, MD
1/20/2015

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 1/21/2015

Date of Birth: [REDACTED]

Account Number: 90201

Johnnie is seen in follow-up. He is getting worsening pain. He had this fall where he extended his disc herniation at L4-5 and L5-S1 after having successful surgery in March of last year. I do believe that his work-related injury most likely caused his discs to herniate further and is contributing to his inability to return to work. I think most likely he should consider operative intervention. It would involve wide decompressive laminectomy with ankylosis most likely from L4 through S1 possibly extending up to L3-4. This is a significant operation and something that I'm not sure would provide him complete relief but most likely he will require. He had an injection, which has only given him some measure of relief.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: I want him on off-duty status. He is going to follow up with me in one month's time. He remains with low back pain, buttocks pain, hip pain, positive straight leg raising, and toe and ankle dorsiflexion weakness on the right. I don't want him doing any exertional-level work at this point.

The patient was given Necessity/Excuse Form. Patient to return in 1 month for follow up.

Steven C. Poletti, MD

SCP/dmp

DIGITALLY SIGNED Steven C. Poletti, MD
1/25/2015

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 1/23/2015

Date of Birth: _____

Account Number: 90201

I saw Mr. Bias today. I have previously dictated a note documenting his fall on 10/14/2014 with increasing back and right leg pain.

Mr. Bias iterated this to my physician assistant when he was seen on 10/22/2014. He was noted to be having increasing weakness in his leg. On 10/22/2014 the note which I reviewed today states: "He has low back pain, which has always been on the left; but it is now lateralizing around to the right." He was noted to have "difficulty with ambulation" on 10/22/2014.

It should be noted that Mr. Bias was seen by my physician assistant on 10/15/2014 for a seven-month follow-up after his surgery. At that point his fall was not mentioned in the note.

I certainly do think that it is more likely than not that his increase in right leg pain as documented on 10/22/2014 was the direct result of his fall. He has been consistent in this complaint. I hold this opinion true to a reasonable degree of medical certainty most probably.

Steven C. Poletti, MD
SCP/dmp



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 2/23/2015

Date of Birth:

Account Number: 90201

Mr. Bias has returned to the office with continued complaints of back and leg pain. He has some good days and bad but mostly he has difficulty with his overall mobility. He has pain in his back and pain in his legs. He has had previous discectomy at L4-5. He has disc disruption and disc height collapse. He has had disc herniation at the L5-S1 level. There is noted disc disruption in his thoracic lumbar spine.

Overall, his condition is unchanged. He continues to have pain and overall dysfunction. On exam today he has sitting intolerance and a slow antalgic gait. He has pain with extension and positive straight leg raising. No further neurologic decline is detected.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: I have gone through his medications to include Hydrocodone and Neurontin. I recommend a course of a Medrol Dosepak. We will see him back in the next four months' time for evaluation.

He is sorting out some issues with his insurance. We will continue to monitor his function. He could theoretically consider injection or potentially even surgery depending on his symptom progression over the next month or two. We will discuss this again at the next visit.

A Medrol Dosepak was prescribed; side effects were discussed and appropriate instructions were provided. Patient to return in 1 month for follow up.

Justin P. Swain, PA

JPS/pr

DIGITALLY SIGNED Justin P. Swain, PA
3/3/2015

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie Bias

Encounter Date: 3/23/2015

Date of Birth:

Account Number: 90201

Mr. Bias is being seen today for a 1 month follow-up appointment. He is status postredo laminectomy/discectomy at the L5-S1 level as well as a laminectomy/discectomy done on the left at the L4-5 level for a disc herniation done in March of last year. He has evidence of reherniation at the L4-5 level. He has a disc herniation at L5-S1. Today he states his symptoms have been unchanged. He continues to have back pain and leg pain. He is beginning to have some right-sided pain complaints. He continues to have weakness in his left leg. He was given a Medrol Dosepak after his last visit and states this helped significantly. He continues to require Neurontin and Norco. He denies loss of bowel or bladder function or paralysis.

At this point he is unable to work. He denies fever, chills, chest pain, or shortness of breath.

On exam, he is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is ambulatory with slow antalgic gait. He has positive straight leg raise. Peripheral pulses are palpable. He has 4/5 strength in his left extremity regarding EHL extension and ankle dorsiflexion. He has diminished range motion of his lumbar spine.

We discussed his generalized precautions and restrictions. We will continue to monitor him. His situation is unchanged. We will see him back in the office in 2 months time for reevaluation. I'll refill his medication. I will have him undergo a urine drug screen for compliance. He may require future medrol dose packs for acute flare ups. He'll contact our office with any further issues.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: A work status report was created and given to the patient. The patient is instructed to call us if pain persists or get worse. Patient to return in 2 months for follow up.

Lane Tuggle, PA-C

DICTATED, NOT READ

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 4/13/2015

Date of Birth:

Account Number: 90201

Patient's UDS was reviewed and is consistent with prescription therapy. We will rescreen again in 3 months as routine or if pt selected for a random urine drug screen.

Amanda Harridge, PAC

Electronically signed by: Amanda Harridge-PAC

Date: 4/13/2015



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 6/17/2015

Date of Birth: _____

Account Number: 90201

Mr. Bias is being seen today for a 3 month follow-up appointment. He has surgical history to involve redo laminectomy/discectomy at the L5-S1 level and laminectomy/discectomy on the left at L4-5. He has evidence of disc herniations at both of these levels. He continues to complain of back pain and right greater than left leg pain. He has numbness in his right big toe. He feels his pain complaints have been unchanged. He also complains of neck pain and right shoulder pain. He has been dropping things on the right. He states he had been thinking about returning to see a chiropractor as he has been through chiropractic care years ago for his neck which helped. He continues to require Norco for pain control but does not take this daily. He also takes Neurontin. He denies loss of bowel or bladder function or paralysis.

We reviewed his cervical x-rays from October of last year. He has multilevel loss of disc height space and spondylosis.

On exam, he is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is wearing a left AFO. He has restricted range of motion. He has no worsening neurologic deficits. He continues to have diminished strength with left EHL extension. Peripheral pulses are palpable. He is tender to palpation across his right trapezius. He has positive straight leg raise.

We will continue to monitor him. We will continue to recommend surgical intervention. He is unable to work secondary to his lumbar pathology. I will give him an order for physical therapy for his lumbar and cervical spine for increased mobility and strengthening. I will have him undergo a urine drug screen for compliance per routine protocol. I will give him a prescription for a Medrol Dosepak as he has done well with these in the past for acute pain control. He will contact our office if he has worsening issues with his cervical spine. At that point we will move forward with a cervical MRI scan. He understands this. Otherwise we will see him back in 8 weeks' time for reevaluation after physical therapy.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: A course of physical therapy was recommended. A Medrol Dosepak was prescribed; side effects were discussed and appropriate instructions were provided. The patient is instructed to call us if pain persists or get worse. Patient to return in 8 weeks for follow up.

Lane Tuggle, PA-C

DIGITALLY SIGNED Lane Tuggle, PA-C
7/19/2015

1 of 1



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 7/6/2015

Date of Birth: _____

Account Number: 90201

Patient's UDS from 6/17/15 was reviewed and is consistent with prescription therapy. We will rescreen again in 3 months as routine or if pt selected for a random urine drug screen.

Kimsey Cooper-PA-C

Electronically signed by: Kimsey Cooper, PA-C
Date: 7/6/2015



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 8/17/2015

Date of Birth: _____

Account Number: 90201

Mr. Bias has returned to the office 8/17/15. He's had a history of laminectomy and has evidence of disc disruption at L4-5 and L5-S1. He has reported persistent back pain and right-sided buttock and leg pain. He has pain somewhat in the L5 distribution on the right. He states that he has also had continued neck pain but denies any worsening arm pain, numbness, or any type of bowel/bladder disturbance. He does report that he has not worsened with regards to the level of pain that he has had.

Today on exam he has continued limited motion in his lumbar spine, pain with extension. He has positive straight leg raising particularly on the right. He has continued evidence of diminished EHL and ADL from the left. No further neurologic decline is detected.

Diagnosis Codes:

722.83 POSTLAMINECTOMY SYND LUMBAR REGION

Treatment Plan: Mr. Bias does have a history of disc disruption with significant foraminal narrowing. He has a history of laminectomy. We discussed an L5 transforaminal injection. This could help control some component of his symptoms. He states he would like to try an injection on both sides right and left given his persistent bilateral symptoms. This is reasonable. We will see how he progresses with this. I have refilled his hydrocodone today. I recommend he continue with physical therapy.

Transforaminal/Lumb injection was ordered. The patient is instructed to call us if pain persists or get worse. Patient to return in 6-8 weeks for follow up.

Justin P. Swain, PA

JPS/dmp

DIGITALLY SIGNED Justin P. Swain, PA
8/31/2015

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 10/20/2015

Date of Birth:

Account Number: 90201

Mr. Bias returns to the office for follow-up. He was last seen in August 2015. He has previous surgical history to include a laminectomy and has residual evidence of disc residual disc disruption from L4-S1. He continues to have significant foraminal narrowing and nerve root compression at the L5 and S1 level bilaterally causing back and mostly right lower extremity pain. He also continues to have difficulty with ambulation secondary to foot drop on the left and has been wearing an ankle foot orthotic since his surgery.

At his last visit he was scheduled to undergo bilateral L5 transforaminal injections however, he had a birth in the family and needed to be in Charlotte, North Carolina for 2 months. He has now returned and is interested in proceeding with this injection.

He continues to take hydrocodone 4 pills daily for relief of his symptoms. He has no changes to his medical or social history since August. He denies change or worsening in pain, bladder or bowel dysfunction, focal muscle deficits.

On exam he is ambulatory with an antalgic gait. He is alert and oriented x3 with an appropriate affect. His left lower extremity he has diminished EHL, ankle plantar and dorsiflexion and is wearing an AFO. On the right he has 5 out of 5 strength with the above-mentioned physical exam. He has 5 out of 5 strength bilaterally with hip flexion, hip abduction and adduction. He does have pain in his back with hip abduction on the right.

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

Treatment Plan: At this point, I believe it is reasonable to proceed with bilateral L5 selective nerve root blocks. This was previously mentioned and plan of care in August. He would like to have this completed. He does have a driver present with him and does not take anticoagulation. Should this injection not relieve his pain or he continued to have worsening symptoms or change in symptoms, he may potentially be a candidate for updated imaging as his last MRI was in October 2014. He does not require a refill of his medications. He has asked me about finishing and I have advised this is also reasonable as long as he is mostly sitting and not using heavy tackle or poles. Transforaminal/Lumb injection was ordered. The patient is instructed to call us if pain persists or get worse. Patient to return in 6-8 weeks for follow up.

Kimsey Cooper, PA-C

DIGITALLY SIGNED Kimsey Cooper, PA-C
10/20/2015

1 of 1

**Southeastern Spine Institute ASC
Mt Pleasant – Chuck Dawley**

Patient: Bias, Johnnie
ID#: 90201
DOB: [REDACTED]

Date: October 20, 2015

Physician: : Leonard E. Forrest, M.D.

Preoperative Diagnosis: Bilateral L5 radiculitis.
Postoperative Diagnosis: Bilateral L5 radiculitis.

Operation: 1. Right and left L5 Transforaminal Epidural Steroid Injection

Procedure Note:

After informed consent was obtained from the patient, and IV placed, the patient was taken to the Block Suite and placed prone on the fluoroscopy table. Conscious sedation was obtained using IV versed. Under fluoroscopy the appropriate sites of injection were identified and the overlying skin marked. The area was then prepped and draped in the usual sterile fashion. The skin and subcutaneous tissues were anesthetized with 1% Lidocaine. A 6 inch, 20 gauge spinal needle was advanced to the appropriate foraminal level from a posterolateral approach. Correct positioning was confirmed under fluoroscopy with 1cc. Isovue contrast dye (200mg/ml Iodine) with epidural flow. Aspiration was negative for blood and CSF. Then a solution of 2 cc normal saline and 80 mg of methylprednisolone was injected for each side.

Vital signs were monitored including blood pressure, pulse, and O₂ saturation prior to, during, and after the procedure. The patient tolerated the procedure well without complications and was discharged without incident.

Leonard E. Forrest, M.D.

LEF/jbb
T:10/21/2015

CC: Leonard E. Forrest, M.D.

08/27/2015
Transforaminal ESI



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 12/21/2015

Date of Birth:

Account Number: 90201

Mr. Bias is seen for a 4 week follow-up visit status post bilateral L5 transforaminal injections done October 20, 2015. He states the injections took about 2-3 weeks to work, but they have continued to work "pretty well for his back pain". He states he does still get left leg diminished sensibility and cold sensation consistently. He states the hypersensitivity into his feet and toes has continued to progress, but his leg symptoms have remained stable. He rates his pain a 5 out of a 10 on a visual analog pain scale today. He requires the use of hydrocodone 10 mg anywhere from 4-6 times a day. He has documented disc disruption from L4-S1 on his imaging studies taken last year. This also shows foraminal narrowing and nerve root compression on both sides contributing to his pain presentation. He also has a history of a foot drop on the left side in which an ankle foot orthotic is worn daily.

He has no significant health history change since last visit in October.

He is a well-developed, well-nourished, well-groomed 59 year old African-American male who is alert and oriented x3 in no acute pulmonary distress. He is ambulatory with an antalgic gait and a presence of an AFO on his left side. He has positive straight leg raise at less than 30° reproducing back pain only.

Presently Mr. Bias is doing well on his current pain control and he feels his symptoms are stable. He does not require any further aggressive treatment. It was discussed for increase of symptoms or refractory to injection therapy, MRI imaging studies would be ordered. He has compliant urine drug screens on file is a low risk patient based on opiod addiction assessment. Refill of his medication was given as well as a three-month follow-up for reevaluation. He is in agreement and understands plan of care. I advised he contact the office should his symptoms elicit for potential discussion of a repeat bilateral transforaminal injection.

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

Treatment Plan: Repeat injection if patient calls. Patient to return in 3 months for follow up.

Amanda Harridge, PA-C

DIGITALLY SIGNED Amanda Harridge, PA-C
12/21/2015

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 4/8/2016

Date of Birth:

Account Number: 90201

CC: Follow up low back and bilateral leg pain.

HPI: Mr. Bias presents today for 3 month follow-up evaluation. He has documented evidence of disc disruption at L4-5 and L5-S1 periodically completes bilateral transforaminal injection L5 level with significant improvement. He has known history of left sided foot drop and wears an AFO. At this point he states his pain is worse on the right than left and he has subjective dyesthesia in his right foot. He states today that he remain stable his last visit she denies any worsening pain complaints, weakness, numbness, tingling, or changes in bowel or bladder function.

He continues to require the use of Norco 10/325 4-6 times daily as needed for pain. He has been in this regimen for sometime and works very well for him. He has a history of medication compliance.

PMH: He has recently been complaining of shortness of breath his primary care provider and started on albuterol and Symbicort. He otherwise denies any recent changes to his past medical surgical, social history.

ROS: He denies any chest pain, fever, chills, headache, nausea, vomiting, changes in vision, weakness, or disturbance in bowel or bladder function.

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

Treatment Plan: Greater than 15 minutes face-to-face time spent with Ms. Tobias discussing his current pain complaints, previous imaging, and plan of care. We offered updated plain films today, however, he declined these. He does not require refill of medications today. I recommend repeat urine drug screening in the future to ensure medication compliance. We will place an order for bilateral transforaminal injection to be completed his convenience should he note an increase in his symptoms. He expressed understanding. He is to return for follow-up evaluation in 3 months time or sooner should symptoms dictate. Transforaminal/Lumb injection was ordered. The patient is instructed to call us if pain persists or get worse. Patient to return in 3 months for follow up.

Clinical Quality Reporting:

The patent reports they previously received a flu shot. An exercise regimen was recommended and encouraged.

Anne E. Buck, PA-C

DIGITALLY SIGNED Anne E. Buck, PA-C
4/8/2016

1 of 1



1106 Chuck Dawley Blvd., Suite 200 ■ Mr. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 7/8/2016

Date of Birth:

Account Number: 90701

Mr. Bias presents today for 3 months follow up evaluation. He has previous surgical history to include laminectomy with noted disc herniations at L4-5 and L5-S1 and possible surgical indication to include decompressive laminectomy with fusion L4-S1 possibly L3-4 per Dr. Poletti's notes. He states since his last visit he has had worsening numbness and tingling in his bilateral legs with new onset of right lower extremity weakness. He was recommended for updated imaging of his last visit which he deferred. He states this is been worsening over the last several months without specific inciting injury trauma and he is walking with a walking stick for fall prevention. He complains of increased urinary urgency and has seen a urologist and was told his symptoms were unrelated to his urogenital tract. He continues to take Norco 10/325 4-6 times daily as needed for pain rates his symptoms as a 7/10 on the numeric pain scale.

4 view lumbar plane films were obtained and reviewed with him today. They show evidence of multilevel disc disruption with significant disc degeneration at L1-2, L4-5, and L5-S1. There is slight retrolisthesis at L4-5. Significant facet arthropathy and lumbar spondylosis.

He has a well-developed, well-nourished 59-year-old male who appears older than stated age. He has left AFO in place at time of exam for chronic left foot drop. He continues to have weakness on the left with knee flexion 4-/5 and on the right with ankle dorsi flexion, knee extension. Positive straight leg raise bilaterally. He is ambulatory

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

M48.06 Spinal stenosis, lumbar region

Treatment Plan: Recommendation for Mr. Bias today is for an updated lumbar MRI scan to further evaluate his neurologic structures given his worsening pain complaints and weakness on exam. He is hesitant to pursue this secondary to funding. He does not require refill of his pain medications today. We will obtain a urine drug screen to test for medication compliance. He is to return for follow up evaluation upon completion of MRI scan or in 3 months time. An MRI of the lumbar spine was ordered. The scan will need to include 3-D reformations to evaluate for any potential extraforaminal herniations as well as anticipation of injection therapy or surgical intervention. The patient is instructed to call us if pain persists or get worse. Patient to return in 3 months for follow up. The patient will follow up with Dr. Poletti once the result of MRI is available.

Anne E. Buck, PA-C

DIGITALLY SIGNED Anne E. Buck, PA-C
7/8/2016

1 of 1



1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 11/3/2016

Date of Birth: _____

Account Number: 90201

Mr. Bias is being seen today for a 4 month follow-up appointment secondary to continued low back pain. He has surgical history to involve redo laminectomy/discectomy at the L5-S1 level and laminectomy/discectomy on the left at L4-5 done years ago. He continues to struggle with back pain and bilateral leg pain. He has numbness in his left leg. He also notes weakness bilaterally. He uses a left AFO which helps significantly. He currently quantifies his pain level at a 6 out of 10 on the pain scale. He has been trying to be more active and is walking more often. He does feel more stable. He has been using a stationary bike which helps. He continues to require hydrocodone on a daily basis for pain control. He admits to urinary issues and has been seeing a urologist for this. He denies bowel dysfunction or paralysis.

He denies fever, chills, chest pain, or shortness of breath. He has had no changes to his medical history since his last visit with us in July. He admits to receiving his flu vaccine this year.

On exam, he is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is ambulatory with slow antalgic gait. He is wearing a left AFO secondary to chronic left foot drop. He has positive straight leg raise. He has weakness with left knee flexion. He has weakness with right ankle dorsiflexion and EHL extension.

We discussed his situation in detail. At last visit it was recommended he undergo an updated lumbar MRI scan secondary to new onset right lower extremity weakness. He would like to move forward with this today. We will schedule this at his convenience. We will continue to refill his medication. I will give him a home exercise program to assist with core strengthening. We will see him after the MRI has been completed to discuss further treatment options.

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

M48.06 Spinal stenosis, lumbar region

Treatment Plan: An MRI of the lumbar spine was ordered. The scan will need to include 3-D reformations to evaluate for any potential extraforaminal herniations as well as anticipation of injection therapy or surgical intervention. A printed lumbar home exercise program was provided today. The patient is instructed to call us if pain persists or get worse. The patient is to return when the result of MRI is available.

Clinical Quality Reporting:

An exercise regimen was recommended and encouraged. The patient reports they previously received a flu shot.

Lane Tuggle, PA-C

DIGITALLY SIGNED Lane Tuggle, PA-C
11/20/2016

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 12/22/2016

Date of Birth: _____

Account Number: 90201

I've known Mr. Bias for years. He has had back surgery and has nerve damage, which requires him to walk with a brace on his leg. He has weakness in his leg. He has difficulty with ambulation, and his symptoms are ongoing.

He potentially could consider further surgery, but it is unlikely that this will allow him to return to full function. He has been recommended for an updated MRI scan.

This man has a chronic foot drop. He has weakness and atrophy of his leg. Apparently there has been some opinion raised through his long-term disability benefit carrier that he is somehow now able to return to work after being totally and permanently disabled in the past.

Again, this atrophy and nerve damage is permanent. It is not likely to improve. His disability is permanent; and he is someone who would require lifetime medical benefits and disability, which I believe he will receive through Social Security disability. I would be glad to answer any further questions with regards to this.

Steven C. Poletti, MD
SCP/dmp

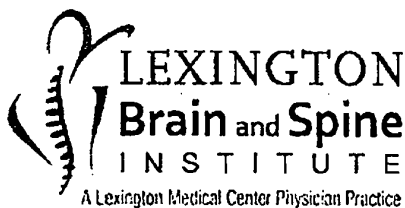
DIGITALLY SIGNED Steven C. Poletti, MD
12/28/2016

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Lexington Brain and Spine Institute
146 N. Hospital Drive, Suite 120
West Columbia, SC 29169
(803) 935-8410

Patient: JOHNNIE BIAS
20126 HERITAGE HIGHWAY
DENMARK, SC 29042

DOS: 01/18/2017

DOB: _____

Gender: M

MR#: 2209604

Provider: Brett C. Gunter MD

Vitals

Vital Signs [Data Includes: Current Encounter]

Recorded: 18Jan2017 02:21PM

Heart Rate: 111

Height: 5 ft 11 in

Blood Pressure: 131 / 76

Weight: 192 lb

BMI Calculated: 26.78

BSA Calculated: 2.07

Chief Complaint

IME

History of Present Illness

INDEPENDENT MEDICAL EVALUATION

DOI: 10/14/2014

1983 Lumbar Discectomy L5-S1 - Dr. Eaddy Orangeburg, SC

3/7/2014 Redo Discectomy L5-S1/Laminectomy Discectomy L4-5 Dr. Poletti

Mr. Bias is a 60-year-old right-hand-dominant male seen today in independent medical evaluation regarding a work-related injury that he sustained on 10/14/2014. Patient is employed at SCANA as a lab technician in the chemistry Department. He was descending a flight of concrete stairs. He inadvertently stepped on some rocks which were positioned at the bottom stair. He slipped and fell landing soundly on his tailbone on the corner of the stairs. He braced his fall with both of his hands, his LEFT foot and ankle slipped RIGHT out from under him. He had immediate onset of pain in his bilateral wrists and ankles. He denies loss of consciousness, but says he was "stunned". He was able to get himself up after a few minutes and walk back to his office.

He reported the injury to his supervisor and complained of bilateral wrist pain, bilateral ankle pain, and some bilateral buttock pain. Approximately 3-4 days after the injury, he described a significant cold sensation in his LEFT leg. He returned to see Dr. Poletti at the Southeastern spine Institute, who had done a previous surgery on him in March 2014. He had a previous LEFT sided microdiscectomy at L4-5 and redo at L5-S1. He did very well from the surgery and had some improvement in his preoperative foot drop. He did describe a little bit of baseline pain in his low back and intermittent pain down his LEFT leg after this surgery and before the injury, although this was very minimal.

Dr. Poletti ordered a repeat MRI of his lumbar spine and he was told that he had more advanced degeneration of his lumbar spine and lumbar spinal stenosis.

He was sent to see a physical therapist, and he has since undergone 2 rounds of physical therapy since the injury. Both of these rounds were for about 8 week's duration, 2 times a week, so approximately 32 visits of physical therapy. He continues a home exercise program with mild improvement in syndrome.

Date of Service: 01/18/2017
Patient Name: JOHNNIE BIAS
Patient DOB: _____
MR#: 2209604
Gender: M
Provider: Brett C. Gunter MD

He has had multiple injections in his back since this injury as well, and describes one injection in his thoracic spine, and 2 injections in his low back.

In terms of medications for this problem, he continues to take Norco 10/325 milligrams, 4-6 pills per day. He continues to see Dr. Poletti who prescribes these medications for him.

His present syndrome is as follows:

Low back: 50%. The patient describes diffuse axial back pain throughout the region of L5. He rates this pain constantly as a 6-7/10. His pain is present with prolonged standing, sitting, walking, and with mechanical activities such as bending, twisting, and lifting. His pain will ease off a little bit following medications, which only reduces his pain to a 5/10.

Bilateral buttocks and legs: 50%. The patient describes RIGHT greater than LEFT bilateral radiating buttock pain which extends from his buttocks down the posterior aspect of his legs to the proximal calf. His leg symptoms are worse first thing in the morning when he wakes up, with prolonged walking, and with transitioning type activities. He describes diffuse numbness into the dorsum of his LEFT foot. He does describe some numbness that extends all the way down the LEFT leg to the top of the knee. On his RIGHT foot he does describe chronic numbness in the plantar aspect of his foot as well as with his great toe and his second toe. He describes persistent weakness of his LEFT leg primarily, and his LEFT foot "feels floppy".

Ancillary symptoms include some mild urinary incontinence since this injury. He states that he has full feeling in his genital area. He states that with any type of stress, some urinary images "leaks out". He has some nocturnal incontinence as well. He denies bowel incontinence, states that he's mildly constipated.

The patient did see a neurologist, Dr. Ross Rames at MUSC, who has apparently offered the opinion that is urinary urgency and urge incontinence, nocturnal enuresis, erectile dysfunction, and ejaculatory dysfunction, are causally linked to his injury. His opinion included evidence of sacral nerve dysfunction with absent bowel cavernosum reflex possibly requiring further workup and treatment in the future.

He had the left sided symptoms only prior to the on the job injury. His lower back pain since the fall is more severe. His right leg pain is new from before the fall. His urinary symptoms are new since the fall.

Review of Systems

Constitutional: weight change, appetite change and has had a change in energy level.
Ear/Nose/Mouth/Throat: denies headaches, denies visual changes, denies hearing changes, denies nasal changes and denies throat problems.
Neck: tenderness, but denies swelling and denies goiter.
Chest: denies chest pain, denies pressure and denies racing heart/palpitations.
Breast: denies tenderness and denies lumps.
Lungs: denies chronic cough, denies shortness of breath and denies blood in sputum.
Digestive System: change in bowel habits, but denies abdominal pain, denies nausea, denies black tarry stool and denies red blood in stool.
Genitourinary: change in urinary system, but denies urinary pain.
Neurological: weakness in arms/legs, but denies dizziness/fainting and denies stroke/TIA.
Extremities: swelling of hands/feet, but denies leg cramps and denies varicose veins.
Skin: denies having any rashes and denies history of skin cancer.
Musculoskeletal: joint pain/swelling and low back pain, but denies rheumatoid arthritis.
Psychological: depression and anxiety, but denies sexual difficulties and denies alcohol or drug addiction.

Active Problems

1. Low back pain (724.2) (M54.5)

Date of Service: 01/18/2017
Patient Name: JOHNNIE BIAS
Patient DOB: _____
MR#: 2209604
Gender: M
Provider: Brett C. Gunter MD

Past Medical History

1. History of arthritis (V13.4) (Z87.39)
2. History of depression (V11.8) (Z86.59)
3. History of hypertension (V12.59) (Z86.79)

Surgical History

1. History of Back Surgery
 - 1983
 - 2014

Family History

No pertinent family history

Social History

- Moderate alcohol use
- Non smoker (V49.89) (Z78.9)

Results/Data

MRI of his lumbar spine from the Southeastern spine Institute dated 10/29/2014 per report demonstrate moderately severe spondylosis with potential/probable nerve root compression at L1-2, L2-3, and L3-4. There is severe spondylosis with disc herniations and more probable nerve root compression at L4-5 and L5-S1 per the radiologist notes Dr. Richard Holgate. The studies are unavailable for my review today.

Physical Exam

GENERAL EXAM:

GAIT: The patient arises from the chair very slowly and has a slow and cautious gait across the room. He is unable to heel or toe walk secondary to pain.

GENERAL: appropriate for age

HEAD: normocephalic

EYES: pupils equal and reactive, extraocular movements intact

EARS: external anatomy unremarkable

THROAT: oropharynx clear to visual inspection

LUNGS: clear to auscultation bilaterally

HEART: regular rate and rhythm

ABDOMEN: soft non-distended, nontender

EXTREMITIES: warm, moist, pulses present

BACK: He has well-healed midline incision on his lumbar spine. No masses or lesions. He has diffuse tenderness to palpation throughout his lumbar spine. He is able to forward flex about 10 or 15° with moderate pain. Extension of his spine reproduces moderate axial back discomfort and radiating RIGHT hip and leg pain.

NEUROLOGICAL EXAM:

MENTAL STATUS: awake alert and oriented to person, place and time

SPEECH: fluent and conversant

CRANIAL NERVE:

I Olfactory: sense of smell present

II Optic: visual acuity present

III Oculomotor: medial, superior, inferior rectus muscle intact

IV Trochlear: superior oblique muscle intact

V Trigeminal: facial sensory muscle intact

VI Abducent: lateral rectus muscle intact

VII Facial: muscle of facial expression symmetric

VIII Vestibulocochlear: hearing in both ears present

IX Glossopharyngeal: sensation of oropharynx present

3 of 4

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Date of Service: 01/18/2017
Patient Name: JOHNNIE BIAS
Patient DOB:
MR#: 2209604
Gender: M
Provider: Brett C. Gunter MD

X Vagus: elevation of oropharynx present
XI Accessory: shoulder shrug intact
XII Hypoglossal: tongue protrudes normally in the midline
POWER EXAM:
LOWER EXTREMITIES:
HIP FLEXORS: power 5/5 bilaterally
QUADRICEPS: power 5/5 bilaterally
HAMSTRINGS: power 5/5 bilaterally
ANTERIOR TIBIALIS: power 4/5 on RIGHT, 1/5 on LEFT
EXTENSOR HALLICUS LONGUS: power 4/5 on RIGHT, 1/5 on LEFT
GASTROSOLEUS: power 4/5 bilaterally
SENSORY EXAM:
LOWER EXTREMITIES: sensation intact to light touch
CEREBELLAR: gait and finger to nose testing intact
REFLEXES: upper and lower extremity reflexes symmetric and intact
ADDITIONAL EXAM:
Negative clonus: He has a moderately positive straight leg raise bilaterally. Gentle passive range of motion of his hips are fluid non-provocative bilaterally.

Assessment

1. Low back pain (724.2) (M54.5)
2. Bilateral lumbar radiculopathy (724.4) (M54.16)

Assessment: Complex clinical syndrome. His LEFT hip and leg pain was present prior to the injury. His back pain is more severe since the injury and his RIGHT leg pain is new since the injury. Dr. Rames has addressed the issues related to incontinence. In order to make a determination about whether there are any further options with regard to this patient we would need to determine whether not he has a mechanically stable spine and whether or not he has nerve root entrapment. Once that information is now we can make a determination about whether any additional treatment might be useful.

Plan

Plan: MRI lumbar spine with and without contrast "evaluate for lumbar spinal stenosis/mechanical failure"
AP, lateral, lateral flexion and extension x-rays lumbar spine "evaluate for instability"
F/U after above.

Signatures

Electronically signed by : Brett Gunter, MD; Jan 18 2017 3:27PM EST

PATIENT'S NAME. Johnnie Bras

[illegible]

DATE			SUBSEQUENT VISITS AND FINDINGS		
MO.	DAY	YR.			
4-2	80		WT 150	T. 97.2	BP 118/70
			cc: back & shoulders hurt.		
			fr: Tendons under scalp too touch Bilobes:		
			sp: hypogloss		
			ur: Urinary Forde Fg W		
			No work Friday		
5-5	80		WT 152	T. 98.	BP 110/70
			cc: pains in bottom of stomach - slight discharge		
			fr: further under Bilobes		
			sp: G.P.		
			ur: Culture - neg.		
			Vibrio: neg qd.		
			Friday		
11-9	82		cc: Stomach pains, itaking, (headaches)		
			fr: further under Bilobes		
			sp: Chest pain		
			ur: Culture - neg.		
			Vibrio: neg qd.		
			Friday		
11-10	82		cc: needs re-culture. Astill		
3-9	84		cc: Back	✓ urine	
			fr: RSA	by at 90°	
			sp: LBS		
			ur: Culture - neg.		
			Vibrio: neg qd.		
			halfway to 90°		
5-11	84		cc: Stomach		

10-5. Worsen L4/L5 lower leg just below knee & soft tissue swelling. Ambulates well.
 Rx: paraspinal muscle spasm (+). & ROM & bending @ the waist. 3/P Disectomy lumbar spine.
 A: Whiplash.
 No nerve entrapment: Pinched Nerves.
 P: Skelaxin 400x po TID.
 Naproxen 500 BID.
 Mx: 1st visit: OCT Scan Cerv. spine + CT of head.

10-13-92: Pain @ hip radiating down (L) leg & foot. Pain improved in neck. Back pain still hurts & radiation (+) leg.
 D: Neck pain: T'd in (R) side of neck. ROM improved.
 Back: Lumbar pain & pain radiating down (L) leg.
 A: Lumbar Disc Disease.
 Whiplash.
 P: firm support to low back.
 OCT Scan of Lumbar Oct. 14-92 10:30
 cont. current Rx.

10-20-92: Rem H 10-14 Sept (10-12-92 & 10-15-92) checked.
 10-20-92: X-ray reports & F14 exam; mild improvement noted. Steve has constant "pressure feeling" @ neck. Also has low back pain & intermittent (+) leg radiation.
 D: ROM but pain still (+) on (R) side of neck. (hips straight) reduced on (R). pt (+) handed.
 D: K's neck L & R @ knee. pt (+) handed.
 PT Scan results: abnormal @ cervical & lumbar areas.
 A: MUA - Kinetic & lumbar abnormalities.
 P: cont current Rx; Schedule MPT of cervical & lumbar spine.
 10/23/92 at 12pm ORH.

COLUMBIA COMPANY, CHAMPAIGN, ILLINOIS

ADDRESS (1) DATE

10-30-92 a. Ch up from MVA. Neck sources some better. Numbness in @ leg.
 Q: Neck: T12 ROM, mild pain in (12) Taperin
 area. Back: (Lumbar) Disc herniation. @
 radiation & (L) leg.
 A: Lumbar Disc Herniation
 Cervical strain.
 P: pelvic traction
 (M88)

11-3-92
 S - C10 some numbness to arm still
 w relief & cervical collar
 Q - FROM to look
 A - Cervical strain.
 P - Refr to Dr Epstein in LK
 RHC in truck
 P3 Blackwell M88 FIP
 student

11-13-92 11/17/92 Dr. Epstein Ch. 12/14/92 at 1:30 (M88)
 12-3-92 a. To see Dr. Epstein tomorrow. He has a few
 questions to ask. Feels a little better.
 Q: Neck: improved ROM & less pain. Grip
 strength improved.
 Back: pain @ in lumbar area & radiation
 down (L) buttock & thigh.
 A: Lumbar Disc Herniation
 P: Keep appt to Dr. Epstein. Start some Cervical
 S.C.P. & Darnel N. 100 R12 per pri.
 (M88)

12-15-92. Letter from the Southern Neurology Institute 12-14-92
 12-22-92 a. Talk about report. Some Cpl. & Cpl.
 Neck pain almost gone. Occ. CEN 100. Bill
 mild pain down (R) arm in deltoid area.
 (L) buttock & thigh "burning" - numb pain. Occasional
 not particularly related to activity. Spontaneously
 resolves after a while (c-20-30 minutes). No acute
 leg weakness, or foot drop & burning pain. ROM
 improving in back. Pain reported about the same as it
 was two weeks ago in the back - Neck is much
 improved. (our)
 (M88)

1/19/94 CC: Numbness in (R) leg + (L) foot
 Has been seeing Dr. Beaumont -
 last visit - 3 months ago. Had improvement
 Pops neck (a lot) often - several
 times a day which helps (R) hand
 grip. Stiffness in back after sitting
 for a while. Cannot stand over 30 min.
 Best situation is to change positions from
 time to time. (R) foot. Great toe has always
 been numb. Now the next three are beginning
 to become numb.
 (O) Chest: lungs clear Heart-SR.
 (A) Ext: good strength + tone. No numbness
 in (L) great toe numb. Sensation is a
 pinprick + light touch.
 * Pt. running about one mile every other
 day. Then walks 7 miles back home.
 A: Sp. Back Injury
 P: cont. current Rx. Flexail (or) Lox
 P/L: T. morph.
 1/21/94 Filed C. Allen
 9/29/94 Had Cervical Spine / Orangeburg Hospital 9/23/92
 9/30/94 cc. Check up Numbness No numb
 in (L) foot + toes, pain
 in (L) leg + lt shoulder. Now numbness
 has spread. Now experiencing a sharp
 pain in leg intermittently.
 Medications not helping much.
 Pain in scapula area sometimes in
 extension. Concerned over foot dragging
 while walking. Happened three times
 over past few months.
 (O) Chest: lungs clear Heart-SR. All well.

RELAFEN
 NABUMETONE

ONCE-A-DAY
**For osteoarthritis and
 rheumatoid arthritis**

SB
 SmithKline Beecham
 Pharmaceuticals
 Philadelphia, PA 19101
© SmithKline Beecham, 1992 AL208



Tenderness: No muscle coding
 Ext: good strength & tone. No muscle atrophy
 or weakness. Back: T's ROM. No pain
 ROM on bending. Side bending achieved 5
 pain. DTR's +2-3 on (L); +2 on (R).
 Sexual function has decreased - he cannot
 maintain an erection which has affected his
 sexual relationship by at least 50%.
 He has been unable to participate in his usual
 sports (recreation) activities (basketball, fishing, running)
 at all.
 A: some improvement from the standpoint of less
 pain, but sexual function & recreation activities
 have sharply curtailed.
 P: Ant. current care & participation.
 Testosterone 50 mg I.M. / 12/10/92 5:45 PM

12/22/92. The Southern Neurologic Institute 12/22/92

2-5-93a: Feeling well except, his throat is sore.
 w/ 1-0
 Occas. pain touch back
 if he sleeps wrong pos (thoracic ext)
 it resolves itself. (Mile to)
 bike 8-10 miles 2 days. 0 pblm 2500
 On going sore throat. 12/22/92 w/ 1-0
 HEENT - PEE 40 JMS clear hoarseness, patent
 mouth. Pharynx injected 2+ C/DK
 Temp 100
 Heart RRR 30/Min MS neck full flexion &
 3/3 clear extension & rotation
 (A) Pharynx 5, 4, 3 ↓ lateral rotation
 SLP MVA Back - full flexion &
 (P) Warm saline gargles rotation, lateral
 New tooth brush rotation
 Obesity 0 point tenderness
 Pen VK 250 mg po BID
 Vaccine apply to head BID
 RTC 1 mo. P3/Black Kim Fpr?
 12/22/92

FORM 0111 COLWELL SYSTEMS, CHAMPAIGN, ILLINOIS

JORN D. WARD, M.D.
PAUL FLAVELL, M.D.
JOHN M. DOWNEY, D.O.

FACSIMILE
803•649•7551

PHYSICAL MEDICINE AND
REHABILITATION
ELECTROENCEPHALOGRAPHY
NEUROPHYSIOLOGY
EMG, NCT

8 January 1993

RECEIVED
EVERT COMER, JR.
ATTORNEY AT LAW

Mr. Evert Comer, Jr.
P.O. Box 675
Denmark, SC 29072

JAN 15 1993

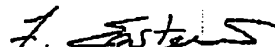
JOHNNIE T. BIAS

Dear Mr. Comer,

Mr. Bias has two disc herniations, one in the neck at C4-5 to the right and one in the back at L4-5 to the left. He has also had previous low back surgery.

On the basis of his clinical findings, which include specific neurologic deficits in the left leg and persistent pain in the right arm, he has sustained a 20% impairment of the lumbar spine and a 10% impairment of the cervical spine. It is possible that his conditions will worsen in the future requiring one or more disc excisions surgically and perhaps an upward alteration in his impairment ratings to either region.

With kindest regards,


Franklin M. Epstein, M.D./jld

Aiken Medical Center•Suite 2360

210 University Parkway•P.O. Box 1061

Aiken, South Carolina 29802

7-23-01

(To be completed every three (3) months)

MR# DM-6194

Age 49 Sex male

MR# DM-6194

Allergies NKA

"hunting" $\times 24 \text{ years}$

Current Medications

Ambien Long

Lotrel 5110 - 1 ps daily

Education/Instructions Given

☐ Diet 2gm Na/lowfat diet

☒ Weight Loss due

Exercise walk

☒ Caffeine Intake

Date 2-25-06

Labo

This Office Visit ☐ / Next Office Visit (0)

☐ O. Lipid

☐ **O** Liver

☐ O M/A

☐ **IO BMP**

Referral

☐ Ophthalmology

■ Nephrology

☐ **Health Education**

☐ Health Education

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 84

54

treaching

NOV 3 1968

607.84 IMPOTENCE OF ORGANIC ORIGIN
716.9 UNSPECIFIED ARTHROPATHY
722.73
INTERVERTEBRAL LUMBAR DISC DISORDER WITH MYELOPATHY
724.2 LOW BACK PAIN

780.51 INSOMNIA WITH SLEEP APNEA
PAST MEDICAL HISTORY:
CURRENT MEDICATION
LIST:

AMBIEN ORAL TABLET 10 MG, 1 po q hs
LORTAB 10 ORAL TABLET
10-500 MG, 1 po q 12 hrs prn
LISINAPRIL-HYDROCHLOROTHIAZIDE ORAL TABLET
20-12.5 MG, 1 Q.A.M. High BP
PRAVASTATIN SODIUM ORAL TABLET 40 MG, 1
QHS Cholesterol Pill
IBU ORAL TABLET 600 MG, 1 T.I.D P.R.N.
leg or back pain
BIAXIN XL ORAL TABLET 24 HR 500 MG, 2 qd
with food
POLY-VENT IR ORAL TABLET 45-400 MG, 1 q 6 prn cough and congestion

XRAY, Xray the left knee
Dgn : Arthritis
CIALIS ORAL
TABLET 20 MG, Use as instructed
SOMA ORAL TABLET 350 MG, 1 Every Eight Hours,
As Needed for muscle spasms
TENS UNIT, Dgn
: Herniated Lumbar Disc with Radiculopathy
CURRENT ALLERGY LIST:

NKDA
SOCIAL HISTORY:
MARITAL HISTORY:

LIVING WILL:

TOBACCO USE:
Has no significant smoking history.
SEXUAL HISTORY:
PHYSICAL EXAMINATION:

VITALS SIGNS:

TEMPERATURE: 97.7°F Oral
PULSE: 65
Apical, Regular
BLOOD PRESSURE: 132/75 Right Arm Sitting
RESPIRATION: 20
VS-WEIGHT: 194 lbs

EARS, NOSE, MOUTH AND THROAT:

EXTERNAL/EARS AND NOSE: Overall appearance
normal with no scars, lesions or masses.

EARS:
Tympanic membranes shiny without retraction. Canals unremarkable. Hearing grossly
normal.

NOSE (AND SINUS): No abnormality of the nose or sinuses is
noted.

ORAL:
Inspection of gums, lips, palate, and teeth normal. No scars, lesions, or masses.
Oral mucosa unremarkable with non-inflamed posterior pharynx.

09/22/2015 12:03 pm

Johnnie T. Bas

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History & Physical Report #40

JOHNNIE T. BIAS

1/20/2012 3:34 PM

Location: LOW COUNTRY HEALTH CARE SYSTEM

Patient #: 3018304

DOB: /

Married / Language: Undefined / Race: Undefined

Male

History of Present Illness (ROBERT JONES, MD; 1/20/2012 4:24 PM)

The patient is a 55 year old male who presents with a complaint of 4 month follow up. 55 yo male with hx of hypertension and chronic back pain. Pt taking 1-2 Lortabs per day for back pain. Pt needs Ambien almost every other night. Pt gets to sleep fast but wakes up every at 2 am. Pt does snores as per wife.

Problem List/Past Medical (ROBERT JONES, MD; 1/20/2012 5:26 PM)

Disorder, lumbar disc w/ myelopathy (722.73). 02/15/2010

Arthropathy NOS (716.9). 10/07/2009

Sinusitis, acute NEC (461.8). 11/20/2008

Impotence, organic origin (607.84). 07/10/2008

Hypertension, essential NOS (401.9). 10/18/2007

Hyperlipidemia, mixed (272.2). 09/21/2006

Symptom, insomnia w/ sleep apnea NOS (780.51). 09/21/2006

DO NOT USE THIS DIAGNOSIS EFF 8-2007. 09/21/2006

Lumbago (724.2). 09/21/2006

Allergies (MELISSA TEEMS; 1/20/2012 3:34 PM)

NKDA. 09/21/2006

Family History (MELISSA TEEMS; 1/20/2012 3:34 PM)

Family history was updated. 09/02/2010

MOTHER: The cause of death was natural causes. 09/21/2006

MOTHER: The cause of death is unknown. 09/21/2006

FATHER: The father is deceased. 09/21/2006

FATHER: No major illnesses are known. 09/21/2006

Social History (MELISSA TEEMS; 1/20/2012 3:34 PM)

ALCOHOL: Does not give any significant history of alcohol usage. 09/02/2010

SAFETY ISSUES: Uses seat belts, has smoke alarms, carbon monoxide alarms. No guns in the home. 07/10/2008

ALCOHOL: Drinks a minimal amount of alcohol. 10/18/2007

ILICIT DRUG USE: Denies illicit drug use. 09/21/2006

CAFFEINE: A minimal amount of caffeinated beverages daily. 09/21/2006

DIET: Follows a low salt diet. 09/21/2006

Medication History (MELISSA TEEMS; 1/20/2012 3:34 PM)

Ambien (10MG Tablet 1 Oral 1 po q hs, Taken starting 09/02/2011) Active.

Pravastatin Sodium (40MG Tablet 1 Oral 1 QHS Cholesterol Pill, Taken starting 09/02/2011) Active. (DX: 272.2)

Lisinopril-Hydrochlorothiazide (20-12.5MG Tablet 1 Oral 1 Q.A.M. High BP, Taken starting 09/02/2011) Active. (DX: 401.9)

Lortab (10-500MG Tablet 1 Oral three times daily, as needed, Taken starting 09/02/2011) Active. (DX: 724.2)

Mobic (15MG Tablet 1 Oral daily with food (Back pain), Taken starting 09/02/2011) Active.

TENS UNIT - this medication is not being screened (Dgn : Herniated Lumbar Disc with Radiculopathy, Taken starting 03/22/2010) Active. (DX: 722.73 ;)

Cialis (20MG Tablet Use as instructed, Taken starting 02/05/2010) Active. (DX: 607.84)

XRAY - this medication is not being screened (Xray the left knee Dgn : Arthritis, Taken starting 10/07/2009) Active. (DX: 716.9 ;)

Poly-Vent IR (45-400MG Tablet 1 q 6 pm cough and congestion, Taken starting 11/20/2008) Active. (DX: 461.8)

Biaxin XL (500MG Tablet ER 24HR 2 qd with food, Taken starting 11/20/2008) Active. (DX: 461.8)

IBU (600MG Tablet 1 T.I.D P.R.N. leg or back pain, Taken starting 07/10/2008) Active. (DX: 724.2)

Review of Systems (ROBERT JONES, MD; 1/20/2012 4:27 PM)

General: Present- Feeling well. Not Present- Fever.

HEENT: Not Present- Frequent Colds, Nasal Congestion and Seasonal Allergies.

Respiratory: Not Present- Cough and Difficulty Breathing.

Cardiovascular: Not Present- Chest Pain, Difficulty Breathing On Exertion, Edema, Shortness of Breath and Swelling of Extremities.

Gastrointestinal: Not Present- Nausea and Vomiting.

Vitals (MELISSA TEEMS; 1/20/2012 3:35 PM)

1/20/2012 3:34 PM

Weight: 191 lb

Temp.: 99° F Pulse: 80 (Regular) Resp.: 20 (Unlabored)

BP: 135/84 (Sitting, Left Arm, Standard)

Physical Exam (ROBERT JONES, MD; 1/20/2012 5:26 PM)

09/22/2015 12:03 pm

Johnnie T. Bias

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The physical exam findings are as follows:

General

Mental Status - Alert. **General Appearance** - Not in acute distress. **Orientation** - Oriented X3.

Head and Neck

Neck

Global Assessment - no lymphadenopathy.

Trachea - midline.

Thyroid

Gland Characteristics - normal size and consistency.

Eye

Cornea - Bilateral - Normal. **Lens** - Bilateral - Clear. **Fundi** - Bilateral - Normal. **Pupil** - Bilateral - Normal, Equal, Regular and Round.

ENMT

Ears

Otoscopic Exam: Middle Ear - Bilateral - no effusion noted. **Tympanic Membrane** - Bilateral - tympanic membrane is amber in appearance, no decreased movement observed and no purulent effusion observed.

Nose and Sinuses

Nasal Mucosa - Bilateral - no congestion observed.

Mouth and Throat

Nasopharynx - no discharge present and no exudate observed.

Chest and Lung Exam

Chest and lung exam reveals - normal excursion with symmetric chest walls, quiet, even and easy respiratory effort with no use of accessory muscles and on auscultation, normal breath sounds, no adventitious sounds and normal vocal resonance.

Cardiovascular

Cardiovascular examination reveals - on palpation PMI is normal in location and amplitude, no palpable S3 or S4. Normal cardiac borders, normal heart sounds, regular rate and rhythm with no murmurs, carotid auscultation reveals no bruits and no digital clubbing, cyanosis, edema, increased warmth or tenderness.

Abdomen

Palpation/Percussion: Palpation and Percussion of the abdomen reveal - Non Tender, No Rebound tenderness, No hepatosplenomegaly and Soft.

Auscultation: Auscultation of the abdomen reveals - Bowel sounds normal.

Musculoskeletal

Spine/Ribs/Pelvis

Lumbosacral Spine:

Inspection and Palpation: Tenderness - 1+, mild and medial low back.

Assessment & Plan (ROBERT JONES, MD; 1/20/2012 5:26 PM)

Disorder, lumbar disc w/myelopathy (722.73)

Current Plans

| Lortab 10-500MG, 1 Tablet three times daily, as needed, #90, 01/20/2012, Ref. x2. Active.
DX: 724.2

Hypertension, essential NOS (401.9)

Current Plans

| Lisinopril-Hydrochlorothiazide 20-12.5MG, 1 Tablet 1 Q.A.M. High BP, #30, 01/20/2012, Ref. x11. Active.
DX: 401.9

Hyperlipidemia, mixed (272.2)

Current Plans

| Pravastatin Sodium 40MG, 1 Tablet 1 QHS Cholesterol Pill, #30, 01/20/2012, Ref. x11. Active.
DX: 272.2

Symptom, insomnia w/sleep apnea NOS (780.51)

Impression: schedule sleep study.

Current Plans

| Ambien 10MG, 1 Tablet 1 po q hs, #30, 01/20/2012, Ref. x3. Active.
| Follow up in 1 month or as needed

Signed electronically by ROBERT JONES, MD (1/20/2012 5:28 PM)

Telephone: (803) 632-2333
Fax: (803) 632-3285

DEA # _____
Lic. # _____

LOW COUNTRY HEALTH CARE SYSTEM, Inc.
333 Revolutionary Trail, Box 990 — Fairfax, SC 29827

Janet M. McKissick, M.D.
Margaret Taylor, C.R.N.P.
Amy Loughlin, C.N.M.

Kevin T. Brown, D.O.
Robert M. Jones, M.D.
Kim C. Terry, P.A.-C.

Name: Johnnie Bias Date: 11/20/12
Address: DOR

R

TENS unit & electrodes
/ supplies

Dgn: Lumbosacral
stimulated
disk

☐ Label

Refill - 0 - 1 - 2 - 3 - 4 - PRN

Dispensed As Written

Substitution Permissible

History & Physical Report #41

JOHNNIE T. BIAS

10/11/2012 2:39 PM

Location: LOW COUNTRY HEALTH CARE SYSTEM

Patient #: 2010204

DOB:

Married / Language: Undefined / Race: Black or African American
Male

History of Present Illness (Bobbie Ayers; 10/11/2012 3:43 PM)

The patient is a 56 year old male who presents with a complaint of back pain.

Note: States that he has been having more back pain than usual and he has an appt tomorrow in Mt Pleasant, SC at a Spine Center. He has been treated there before but has not been in the past 3 years. He had extensive labwork done at work which will be scanned to his file here.

Problem List/Past Medical (Bobbie Ayers; 10/11/2012 3:40 PM)

Intervertebral lumbar disc disorder with myelopathy, lumbar region (722.73). 02/15/2010

Arthropathy NOS (716.9). 10/07/2009

Acute sinusitis (461.8). 11/20/2008

Impotence of organic origin (607.84). 07/10/2008

Essential hypertension (401.9). 10/18/2007

Insomnia with sleep apnea (780.51). 09/21/2006

Hyperlipidemia, mixed (272.2). 09/21/2006

Lumbago (724.2). 09/21/2006

DO NOT USE THIS DIAGNOSIS EFF 8-2007. 09/21/2006

Allergies (JANET BARKER; 10/11/2012 2:41 PM)

NKDA. 09/21/2006

Social History (JANET BARKER; 10/11/2012 2:41 PM)

ALCOHOL: Does not give any significant history of alcohol usage. 09/02/2010

SAFETY ISSUES: Uses seat belts, has smoke alarms, carbon monoxide alarms. No guns in the home. 07/10/2008

ALCOHOL: Drinks a minimal amount of alcohol. 10/18/2007

ILLEGAL DRUG USE: Denies illicit drug use. 09/21/2006

CAFFEINE: A minimal amount of caffeinated beverages daily. 09/21/2006

DIET: Follows a low salt diet. 09/21/2006

Vitals (JANET BARKER; 10/11/2012 2:41 PM)

10/11/2012 2:39 PM

Weight: 198.13 lb Height: 71 in

Body Surface Area: 2.12 m² Body Mass Index: 27.63 kg/m²

Temp.: 98° F Pulse: 78 (Regular)

BP: 141/96 (Sitting, Left Arm, Standard)

Physical Exam (Bobbie Ayers; 10/11/2012 3:36 PM)

The physical exam findings are as follows:

General

Mental Status - Alert. **General Appearance** - Cooperative. **Orientation** - Oriented X4. **Build & Nutrition** - Well nourished. **Posture** - Normal posture.

Chest and Lung Exam

Chest and lung exam reveals - normal excursion with symmetric chest walls, quiet, even and easy respiratory effort with no use of accessory muscles and on auscultation, normal breath sounds, no adventitious sounds and normal vocal resonance.

Cardiovascular

Cardiovascular examination reveals - normal heart sounds, regular rate and rhythm with no murmurs.

Peripheral Vascular

Lower Extremity:

Palpation: Edema - Bilateral - No edema

Assessment & Plan (Bobbie Ayers; 10/11/2012 3:40 PM)

History & Physical Report #42

JOHNNIE T. BIAS

1/11/2013 3:11 PM

Location: LOW COUNTRY HEALTH CARE SYSTEM

Patient #: 3018304

DOB:

Married / Language: English / Race: Black or African American
Male

History of Present Illness (JANET BARKER; 1/11/2013 3:11 PM)

The patient is a 56 year old male who presents with a complaint of check up.

Problem List/Past Medical (Bobbie Ayers; 1/11/2013 4:02 PM)

Intervertebral lumbar disc disorder with myelopathy, lumbar region (722.73). 02/15/2010

Arthropathy NOS (716.9). 10/07/2009

Acute sinusitis (461.8). 11/20/2008

Impotence of organic origin (607.84). 07/10/2008

Essential hypertension (401.9). 10/18/2007

Hyperlipidemia, mixed (272.2). 09/21/2006

Lumbago (724.2). 09/21/2006

DO NOT USE THIS DIAGNOSIS EFF 8-2007. 09/21/2006

Insomnia with sleep apnea (780.51). 09/21/2006

Allergies (JANET BARKER; 1/11/2013 3:13 PM)

NKDA. 09/21/2006

Social History (JANET BARKER; 1/11/2013 3:14 PM)

ALCOHOL: Does not give any significant history of alcohol usage. 09/02/2010

SAFETY ISSUES: Uses seat belts, has smoke alarms, carbon monoxide alarms. No guns in the home. 07/10/2008

ALCOHOL: Drinks a minimal amount of alcohol. 10/18/2007

ILLEGAL DRUG USE: Denies illicit drug use. 09/21/2006

CAFFEINE: A minimal amount of caffeinated beverages daily. 09/21/2006

DIET: Follows a low salt diet. 09/21/2006

Vitals (JANET BARKER; 1/11/2013 3:13 PM)

1/11/2013 3:11 PM

Weight: 193.25 lb Height: 71 in

Body Surface Area: 2.1 m² Body Mass Index: 26.95 kg/m²

Temp.: 98° F Pulse: 102 (Regular) Resp.: 20 (Unlabored)

BP: 116/75 (Sitting, Right Arm, Standard)

Physical Exam (Bobbie Ayers; 1/11/2013 4:09 PM)

The physical exam findings are as follows:

Chest and Lung Exam

Note: Mild bilateral bronchospasm with no audible rales

Cardiovascular

Cardiovascular examination reveals - normal heart sounds, regular rate and rhythm with no murmurs.

Assessment & Plan (Bobbie Ayers; 1/11/2013 4:08 PM)

Lumbago (724.2)

Spondylosis with myelopathy, lumbar region (721.42)

Essential hypertension (401.9)

Hyperlipidemia, mixed (272.2)

Insomnia (780.52)

Bronchitis (490)

Current Plans

| ADMINISTRATION OF INJECTION (96372)

| KENALOG 40 MG (J3301)

| Started Z PAK, Take Tablets as directed, #1, 01/11/2013, No Refill.

| Started Guaifenesin 600MG, 2 (two) Tablet ER 12HR po q 12 hrs too loosen congestion, 10 days starting 01/11/2013, No Refill.

| Started Tessalon 200MG, 1 Capsule po tid prn cough, #30, 01/11/2013, Ref. x1.

| Started ProAir HFA 108 (90 Base) MCG/ACT, 2 (two) Aerosol Soln inhalations q 6 hrs prn wheezing, 1 Aerosol Soln, 01/11/2013, No Refill.

Note: Followup if sx worsen or do not improve, otherwise FU in 3 months

Signed electronically by Bobbie Ayers (1/11/2013 4:09 PM) ·

Procedures

ADMINISTRATION OF INJECTION (96372) Performed: 01/11/2013 (Ordered)
KENALOG 40 MG (J3301) Performed: 01/11/2013 (Final, Reviewed)

History & Physical Report #46

JOHNNIE T. BIAS

1/24/2014 8:51 AM

Location: LOW COUNTRY HEALTH CARE SYSTEM

Patient:

DOB:

Married / Language: English / Race: Black or African American
Male

History of Present Illness (Catherine H Toomer, MD; 1/24/2014 10:37 AM)

Patient words: in excruciating back and left leg pain. Now with new symptoms of lower leg weakness and "pins in my calf". Works as a lab tech requiring climb ladders and being on his feet and having difficulty without taking extra meds especially in the recent cold weather. Pt asking for ST Disability.

The patient is a 57 year old male who presents with a complaint of 3 month follow up. C/O worsening lower back pain radiating down into legs

Problem List/Past Medical (MELISSA TEEMS; 1/24/2014 10:38 AM)

Intervertebral lumbar disc disorder with myelopathy, lumbar region (722.73). 02/15/2010

Arthropathy NOS (716.9). 10/07/2009

Acute sinusitis (461.8). 11/20/2008

Impotence of organic origin (607.84). 07/10/2008

Essential hypertension (401.9). 10/18/2007

Hyperlipidemia, mixed (272.2). 09/21/2006

Insomnia with sleep apnea (780.51). 09/21/2006

DO NOT USE THIS DIAGNOSIS EFF 8-2007. 09/21/2006

Lumbago (724.2). 09/21/2006

Allergies (MELISSA TEEMS; 1/24/2014 8:52 AM)

NKDA. 09/21/2006

Family History (MELISSA TEEMS; 1/24/2014 8:52 AM)

Family history was updated. 09/02/2010

MOTHER: The cause of death was natural causes. 09/21/2006

MOTHER: The cause of death is unknown. 09/21/2006

FATHER: The father is deceased. 09/21/2006

FATHER: No major illnesses are known. 09/21/2006

Social History (MELISSA TEEMS; 1/24/2014 8:52 AM)

ALCOHOL: Does not give any significant history of alcohol usage. 09/02/2010

SAFETY ISSUES: Uses seat belts, has smoke alarms, carbon monoxide alarms. No guns in the home. 07/10/2008

ALCOHOL: Drinks a minimal amount of alcohol. 10/18/2007

DIET: Follows a low salt diet. 09/21/2006

ILICIT DRUG USE: Denies illicit drug use. 09/21/2006

CAFFEINE: A minimal amount of caffeinated beverages daily. 09/21/2006

Review of Systems (Catherine H Toomer, MD; 1/24/2014 9:38 AM)

General: Present- Feeling well. Not Present- Fever.

HEENT: Not Present- Frequent Colds, Nasal Congestion and Seasonal Allergies.

Respiratory: Not Present- Cough and Difficulty Breathing.

Cardiovascular: Not Present- Chest Pain, Difficulty Breathing On Exertion, Edema, Shortness of Breath and Swelling of Extremities.

Gastrointestinal: Not Present- Nausea and Vomiting.

Musculoskeletal: Present- Back Pain, Calf Pain, Leg Weakness, Muscle Cramps and Physical Disability. Not Present- Swelling of Extremities.

Vitals (MELISSA TEEMS; 1/24/2014 8:55 AM)

1/24/2014 8:55 AM

Weight: 191 lb Height: 71 in

Body Surface Area: 2.08 m² Body Mass Index: 26.64 kg/m²

Temp.: 98.3° F Pulse: 82 (Regular) Resp.: 20 (Unlabored)

BP: 153/91 (Sitting, Left Arm, Standard)

Physical Exam (Catherine H Toomer, MD; 1/24/2014 9:40 AM)

The physical exam findings are as follows:

Neurologic

Note: pt participation limited due to pain
unable to determine focal deficit

Musculoskeletal

Note: Pain to palpation left lumbar paraspinous muscles
decreased hip flexion and hip rotation
limping favoring right leg

Assessment & Plan (Catherine H Toomer, MD; 1/24/2014 10:38 AM)

Intractable pain (338.29)

Impression: has taken 90 Hydro-Amph 10-123 in 2 weeks. Advised to use pain patches given by Pain Management and follow up with them.

Current Plans

| NALBUPHINE HYDROCHLORIDE 10mg/1ml (Nubain) (J2300)
| URIC ACID BLOOD (84550)
| RHEUMATOID FACTOR-QUANT 006502 (86431)
| ESR-F (SED RATE ERYTHROCYTE - MALE) (85651)

Sciatica of left side (724.3)

Impression: refer back to pain specialist - Dr P

Insomnia (780.52)

Current Plans

| Continued Ambien 10MG, 1 Tablet po hs pm rest, #30, 01/24/2014, Ref. x2.

Spondylosis, lumbosacral (721.3)

Lumbar nerve root compression (724.4)

Impression: per MRI done 10/2013

Signed electronically by Catherine H Toomer, MD (1/24/2014 10:38 AM)

Laboratories

URIC ACID BLOOD (84550) Final, Reviewed (Collected: 01/24/2014)

Diagnosis: Intractable pain (338.29)

Note: PATIENT NOT FASTING

PERFORMED BY: BN LabCorp Burlington 1447 York Court Burlington NC 27215 3361 8007624344

Uric Acid, **7.8** mg/dL (Normal Range: 3.7-8.6 mg/dL) Result Note:
Serum target for gout patients: <6.0
Result Annotation:

Therapeutic

RHEUMATOID FACTOR-QUANT 006502 (86431) Final, Reviewed (Collected: 01/24/2014)

Diagnosis: Intractable pain (338.29)

Note: PATIENT NOT FASTING

PERFORMED BY: BN LabCorp Burlington 1447 York Court Burlington NC 27215 3361 8007624344

RA Latex Turbid. **9.2** IU/mL (Normal Range: 0.0-13.9 IU/mL) Result Note:
Result Annotation:

ESR-F (SED RATE ERYTHROCYTE - MALE) (85651) Final, Reviewed (Collected: 01/24/2014)

Diagnosis: Intractable pain (338.29)

Note: PATIENT NOT FASTING

PERFORMED BY: BN LabCorp Burlington 1447 York Court Burlington NC 27215 3361 8007624344

Sedimentation Rate-Westergren **9** mm/hr (Normal Range: 0-30 mm/hr) Result Note:
Result Annotation:

Procedures

NALBUPHINE HYDROCHLORIDE 10mg/1ml (Nubain) (J2300) Performed: 01/24/2014 (Ordered)

History & Physical Report #45

JOHNNIE T. BIAS

1/6/2014 4:38 PM

Location: LOW COUNTRY HEALTH CARE SYSTEM

Patient #: 3018394

DOB

Married / Language: English / Race: Black or African American

Male

The patient is a 57 year old Male.

Assessment & Plan (Bobbie Ayers; 1/6/2014 4:40 PM)

Unspecified Diagnosis

Current Plans

Started Norco 10-325MG, 1 (one) Tablet po tid prn pain, #90, 01/06/2014, No Refill.

Signed electronically by Bobbie Ayers (1/6/2014 4:41 PM)

SIF QUESTIONNAIRE
Regarding Johnnie Bias
RCI File # 25361

1. Did the following conditions pre-exist the injury of November 17, 2000?
A. degenerative disease of the lumbar spine Yes ☒ No ☐
B. prior herniated disc and surgery of the lumbar spine Yes ☒ No ☐
2. Is the following condition considered to be arthritis in this case?
A. degenerative disease Yes ☒ No ☐

IN ACCORDANCE WITH THE SECOND INJURY FUND REQUIREMENTS, IF YOU ANSWERED "YES" TO QUESTION #2, PLEASE PROVIDE A BRIEF EXPLANATION AS TO HOW YOU DETERMINED THIS CONDITION TO BE ARTHRITIS.

*degeneration is synonymous to arthritis.
prior disc surgery causes premature degeneration*

- avoid heavy work to avoid further injury*
4. Did the injury of November 17, 2000, aggravate or combine with the following pre-existing conditions?
A. degenerative disease Yes ☒ No ☐
B. prior herniated disc and surgery Yes ☒ No ☐
5. Did the aggravation or combination of the below conditions result in:

Substantially greater lost time from work?

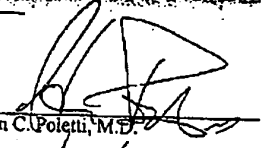
- A. degenerative disease Yes ☒ No ☐
B. prior herniated disc and surgery Yes ☒ No ☐

Substantially greater permanent disability?

- A. degenerative disease Yes ☒ No ☐
B. prior herniated disc and surgery Yes ☒ No ☐

Substantially greater medical costs?

- A. degenerative disease Yes ☒ No ☐
B. prior herniated disc and surgery Yes ☒ No ☐


Steven C. Poletti, M.D.

8/14/02
Date

Medication Summary Report

For Dates: 9/16/2013 to 4/8/2015
 For Prescriber: All Providers
 For Patient: Bias, Johnnie
 For Medication: All Medications

| Date | Account Number | Patient | DOB | Rx | Qty | Gen | Ref | Prescriber | Status |
|------------|----------------|---------------|-----|--|---------------|-----|-----|-----------------|----------|
| 12/27/2013 | 90201 | Bias, Johnnie | | Flector 1.3 %
Transderm 12 hr Patch
Q12h | 60
patches | Yes | 2 | Bock, Courtney | Refilled |
| 4/25/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg
tablet PRN | 90 | Yes | | Poletti, Steven | Refilled |
| 4/30/2014 | 90201 | Bias, Johnnie | | 1 Flector 1.3 %
Transderm 12 hr Patch
Q12h | 60
patches | Yes | 2 | Swain, Justin | Refilled |
| 6/4/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg
tablet PRN | 90 | Yes | 0 | Poletti, Steven | Refilled |
| 6/11/2014 | 90201 | Bias, Johnnie | | 1 Flector 1.3 %
Transderm 12 hr Patch
Q12h | 60
patches | Yes | 2 | Swain, Justin | Refilled |
| 6/30/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg
tablet Add'l Sig | 90 | Yes | 0 | Poletti, Steven | Refilled |
| 7/30/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg
tablet PRN | 90 | Yes | 0 | Poletti, Steven | Refilled |

4/8/2015 3:06:40 PM

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22 Records

Medication Summary Report

For Dates: 9/16/2013 to 4/8/2015
 For Prescriber: All Providers
 For Patient: Bias, Johnnie
 For Medication: All Medications

| Date | Account Number | Patient | DOB | Rx | Qty | Gen | Ref | Prescriber | Status |
|---------------------|----------------|---------------|-----|--|----------------|-----|-----|-----------------|----------|
| 8/6/2014 | 90201 | Bias, Johnnie | | 1 Neurontin 300 mg capsule TID | 90 Capsu
l | Yes | 2 | Tuggle, Lane | Refilled |
| 8/6/2014 | 90201 | Bias, Johnnie | | 1 Flector 1.3 % Transderm 12 hr Patch Q12h | 60 patche
s | Yes | 2 | Tuggle, Lane | Active |
| 8/28/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg tablet Q4-6h | 90 | Yes | 0 | Poletti, Steven | Refilled |
| 10/2/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg tablet PRN | 90 | Yes | 0 | Poletti, Steven | Active |
| 10/15/2014 | 90201 | Bias, Johnnie | | 1 Neurontin 300 mg capsule TID | 90 Capsu
l | Yes | 2 | Tuggle, Lane | Refilled |
| 10/29/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg tablet PRN | 90 Tablet
s | Yes | | Poletti, Steven | Refilled |
| 11/26/2014 | 90201 | Bias, Johnnie | | 1 Norco 10 mg-325 mg tablet PRN | 90 Tablet
s | Yes | 0 | Poletti, Steven | Refilled |
| 4/8/2015 3:06:40 PM | | | | | | | | | |
| Page 2 of 4 | | | | | | | | | |
| 22 Records | | | | | | | | | |

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1106 Chuck Dawley Blvd., Suite 200 ■ Mt. Pleasant, SC 29464

Patient Name: Johnnie T Bias

Encounter Date: 2/22/2017

Date of Birth: [REDACTED]

Account Number: 90201

To me, Mr. Bias' MRI scan shows post-laminectomy changes at L4-5 and L5-S1. He had a footdrop and has some persistent calcific changes in and around his L4-5 and L5-S1 roots. His footdrop is chronic, and he wears an AFO; and he developed this large disc herniation with a footdrop necessitating microdiscectomy for severe stenosis and a herniation years ago. He is medically stationary. He quantifies his pain level at a 7 out of 10 on the pain scale. He is having difficulty with day to day activities. He is unable to complete his home exercises at this time. I really don't see a surgical indication except as some type of salvage decompression and ankylosis, which could be multilevel; and I've told him that this type of operation may not help him. He takes some pain medication, which is stable for him. He would like to try epidural injections, which I think is reasonable to do at the L3-4 level.

Diagnosis Codes:

G89.4 Chronic pain syndrome

M96.1 Postlaminectomy syndrome, not elsewhere classified

M48.06 Spinal stenosis, lumbar region

Treatment Plan: He is going to follow up with me in three months.

Lumbar epidural steroid injection under fluoroscopic guidance was ordered. The patient is instructed to call us if pain persists or get worse. Patient to return in 3 months for follow up.

Steven C. Poletti, MD

SCP/dmp

DIGITALLY SIGNED Steven C. Poletti, MD
3/9/2017

1 of 1

70

393

396



KIMBERLYE FORD-DAVIS
Direct Dial 803 231.7842
Direct Fax 803 231.7893
Email kdavis@sowellgray.com

April 28, 2015

William B. Salley, Jr., Esquire
Salley Law Firm, P.A.
129 E Main Street
Post Office Box 925
Lexington SC 29071-0925

RE: Johnnie T. Bias v. SCANA Corporation
WCC File No.: Not assigned
Date of Accident: 10/14/14
Claim No.: 780020000
Our File No.: 6569/8009

Dear Mr. Salley:

Please allow this correspondence to respond to your subpoena request of April 13, 2015, requesting employment information with regards to the above-referenced case.

Please feel free to contact me should you have any questions or need any additional information.

Very truly yours,

A handwritten signature in black ink, appearing to be "Kimberley Ford-Davis", written over a horizontal line.

Kimberley Ford-Davis
Paralegal to Grady L. Beard
Enclosure

cc: Ms. Kimberly Sims (Via E-mail; w/o enclosures)
Ms. Dei Singletary (Via E-mail; w/o enclosures)

SALLEY LAW FIRM, P.A.

129 East Main Street
Lexington, South Carolina 29072

Post Office Box 925
Lexington, SC 29071-0925
www.salleylawfirm.com

April 13, 2015

Grady L. Beard, Esquire
Sowell, Gray, Stepp, & Laffitte
Post Office Box 11449
Columbia, SC 29211

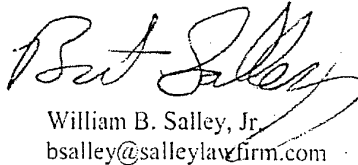
RE: Employee: Johnnie T. Bias
Employer: Scana Corporation
W.C.C. File No: 1421397
Date of Injury: October 14, 2014

Dear Grady:

Please be advised that I represent Mr. Johnnie T. Bias as a result of injuries he sustained on or about October 14, 2014, while in the course of his employment. Enclosed please find a subpoena for your client to provide their entire file in reference to Mr. Johnnie T. Bias. I would appreciate you producing this information for me to inspect and copy at my office located at 129 East Main Street, Lexington, South Carolina on or before April 23, 2015 at 5:00 p.m. If you have any questions regarding this request, please do not hesitate to contact me.

Thank you for your consideration.

Sincerely,



William B. Salley, Jr.
bsalley@salleylawfirm.com

WBS:dy
Enclosure

cc: Mr. Johnnie T. Bias

RECEIVED
APR 14 2015

BY: 0569/8009

Telephone (803) 356-5000
Fax (803) 356-1439
Email: info@salleylawfirm.com
(Response to subpoena
due: 04/23/15)

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500 • Post Office Box 1715

Columbia, South Carolina 29202-1715

(803) 737-5723



WCC File #: 1421397

Carrier File #: 780020001125

Carrier Code #:

Employer FEIN #:

Claimant's Name: Johnnie T. Bias SSN: _____

Employer's Name: Scana Corporation

Address _____

Address: 405 Teamwork Road

City: Denmark State: SC Zip: 29042

City: Cope State: SC Zip: 29038

Home Phone: _____

Work Phone: _____

Insurance Carrier: Companion TPA

Preparer's Name: William B. Salley, Jr., Esquire

Law Firm: Salley Law Firm, P.A.

Preparer's Phone #: (803) 356-5000

SUBPOENA

TO: Scana Corporation c/o Grady L. Beard, Esquire

- ☐ **YOU ARE COMMANDED** to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____

ROOM: _____

DATE AND TIME: _____

- ☐ **YOU ARE COMMANDED** to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____

DATE AND TIME: _____

- ☐ **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

LIST OF DOCUMENTS: Please provide the entire file pertaining to Johnnie T. Bias including, but not limited to, payroll records, wage information, W-2 forms, job descriptions, annual reviews/evaluations, incident reports, the medical file, surveillance, any and all witness statements, and other documents. Please see detailed listing attached hereto

**This subpoena is to be considered continuing throughout the pendency of the litigation. Specifically, in reference to documents obtained after the date of the subpoena.*

PLACE: 129 East Main Street, Lexington, S.C. 29072

DATE AND TIME: 04/23/15 at 5:00 p.m.

- ☐ **YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES: _____

DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

William B. Salley, Jr.
ISSUING OFFICER'S SIGNATURE AND TITLE

(803) 356-5000
PHONE NO.

April 13, 2015
DATE

Serve this form according to R.67-212b. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department at 803-737-5675.

SUBPOENA DUCES TECUM

1. **Complete** files, records, and documents containing any information relating to claimant/employee's employment, his/her medical condition, and his/her workers' compensation claim, including, but not limited to, the following:

- a. Employment files, records and documents;
- b. Personnel files, records and documents;
- c. Medical files, plant nurse/physician records, and documents;
- d. Insurance (any kind) files, records, and documents;
- e. Workers' compensation files, records, and documents;
- f. Safety files, records, and documents;
- g. Short term disability files, records, and documents;
- h. Long term disability files, records and documents;
- i. Nurse's files, records, and documents;
- j. Company doctor's files, records, and documents;
- k. Unemployment files, records, and documents;
- l. Investigative files, records, and documents;
- m. Accident files, records, and documents, including OSHA 200 logs and other OSHA documents; and,
- n. Any other files, records, and documents containing information relating to claimant's employment, medical condition, and/or workers' compensation claim.

All files, records and documents should be produced in their original condition, with no documents removed or altered. These files and records should be produced whether in the physical possession of the employer, carrier, the attorneys of either, or any other agent or employee of the employer or carrier.

2. Item 1 above seeks **ALL** documents of any kind in possession of the employer, carrier, the attorneys of either, and the agents or employees of either. **The term "all" means full, complete, unaltered, unadulterated, unabridged, etc.** The following is a partial list of some of the documents typically found in the aforesaid records and files:

- a. Medical records and reports; doctors' excuses and return to work notes; work restriction documents; physical capacities forms; health insurance claim forms; disability insurance claim forms; short term and long term disability claim form and payment records; bills and records of medical providers; bills and records of company nurses, first aid stations and plant doctors (including treatment logs and registers); records, reports and bills of rehabilitation nurses; records, reports or bills of private investigators; records of any investigation conducted by employer or carrier or anyone retained by employer, carrier or third party administrator (of claimant/employee and/or the accident); video tapes; photographs; accident reports and records (workers' compensation and others);
- b. All workers' compensation commission forms, signed or unsigned, filed or unfiled;
- c. All attendance records; payroll records; salary records; time cards; time sheets; records of pay raises; work production (standards and output) records; records of off premises work orders or assignments; W-2 forms; 1099 forms;
- d. All personnel records; personnel evaluations; promotions; disciplinary records; work quality evaluations; job applications; physicals; awards; achievements; certificates; job descriptions; termination notices; ergonomic assessments of work duties;
- e. All records maintained pursuant to OSHA, DHEC, or other federal or state government statute or regulation;
- f. Statements and affidavits, written or recorded, taken from claimant, any co-workers or other persons having information pertaining to this workers' compensation claim;
- g. Correspondence between the employer (its agents or employees) and medical providers, insurance carriers (workers' compensation and others), investigators, and any other persons (other than your attorney) which pertain in any way to this claim and/or claimant's medical condition;
- h. Memorandums or other notes of any conversations between the employer (its agents or employees) and medical providers, insurance carriers (workers' compensation and others), investigators, and any other persons (other than your attorney) which pertain in any way to this claim and/or claimant's medical condition;

The preceding list does **NOT** limit the records sought. This subpoena still seeks **ALL** records or documents with the ambit of item 1. It is meant only as an illustration of **some** of the documents and records sought.

3. Production of any portion of the documents requested will be deemed a representation by the party responding to the request, and its attorney, that no other documents or records covered by the terms of this subpoena exist. In other words, partial responses concluding with the phrase "Call me if you need anything else" will not satisfy the terms of this subpoena.

4. The records and documents covered by the terms of this subpoena should be produced whether kept in a physical file or folder, or kept loose, scattered, at large, free form, etc.

5. Unless otherwise indicated, this subpoena seeks original documents and records. Copies or reproductions are unacceptable unless authorized by separate cover.

6. Records, documents and files sought herein should be produced whether in written, recorded, electronic, digital, or any other format.

7. If the attached subpoena is not directed to a specific individual, the employer and carrier are required to designate a representative having knowledge of the documents sought.

BIAS, JOHNNIE T

From: MILES, ANTHONY M
Sent: Tuesday, October 14, 2014 10:52 AM
To: SEAGLE, TERRY L
Cc: BIAS, JOHNNIE T
Subject: Reporting of Johnnie Bias First Aid Case

Terry,

As we discussed, Johnnie Bias slipped on the steps heading to the wastewater treatment area. Specifically, Johnnie stated that he slipped on a rock and lost his footing. He stated that his backside, hands and ankle were sore from slipping on the step. The accident occurred around 10:07 A.M. and was reported to me at 10:12 A.M. I asked Johnnie if he needed first aid care or outside medical assistance and he stated that it was not warranted at this time. Afterwards, I called you to make the official report of his first aid accident.

Before I leave this afternoon, I will see if he is still doing ok. If something else is needed, please let me know.

Thanks,

Anthony

SALLEY LAW FIRM, P.A.

129 East Main Street
Lexington, South Carolina 29072

EXHIBIT

D-6

Post Office Box 925
Lexington, SC 29071-0925
www.salleylawfirm.com

February 25, 2016

Telephone (803) 356-5000
Fax (803) 356-1439
Email: info@salleylawfirm.com

Justin Kelby Hutcheson, M.D.
Carolinas Center for Advanced Management of Pain
109 B. Midlands Court
West Columbia, S.C. 29169

RE: W.C.C. File No: February 13, 2008
Employee: Johnnie T. Bias ✓
Employer: Scana Corporation
Date of Injury: 10/14/2014
Birth Date:
Social Security No:

3-22-16
12:00

Dear Dr. Hutcheson:

As advised, I represent Mr. Johnnie T. Bias in a workers' compensation matter. Please find enclosed copies of Mr. Bias' medical records for your review and consideration of an independent medical evaluation.

Mr. Bias is a 59 year old, who worked for Scana Corporation as a Plant Analyst. On October 14, 2014, while in the furtherance of his work-related duties, he was walking down steps to go to the waste water ponds, when he stepped on a rock. Apparently, his foot twisted resulting in a fall with multiple injuries. It is my understanding, that he sustained injuries to his left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot left hip, left leg, nervous system, and resultant psychological.

Prior to Mr. Bias' work-related injury, it is my understanding that he experienced lower back pain, left-sided buttock pain and left posterolateral leg pain in an L5 distribution. On March 7, 2014, Dr. Poletti performed a redo laminectomy/diskectomy at L5-S1.

On August 6, 2014, Lane Tuggle, PA-C noted, "he's approximately five months status post redo lam/disc at L5-S1 and a left sided L4-5 lam/disc for a herniation. He continues to do very well. He has had great improvement in his overall strength and mobility. He continues to have some weakness and numbness into his left foot, but this is greatly improved and continues to get better on a daily basis. He was released from physical therapy and given a home exercise program, which he's doing on a daily basis, and is doing very well with this. He continues to use Flector patches as well as 10/325 Norco for pain control. He continues to quantify his pain at a 3-4/10. He spoke to his employer regarding returning to work, as he has been out of work since his surgery, and states they have been understanding as far as having him return to work in a sedentary status. He feels they will allow him to do a desk job at this point in time. Overall, he's continuing to progress very well."

On October 22, 2014, Laura Tuggle, PA-C noted, "He states a few days ago he was coming down a flight of stairs, slipped, and fell backwards on his tailbone. Since then, his left leg has felt "cold". He's having increasing weakness in this leg. He has low back pain that has always been on the left, but it's now lateralizing around to the right. He has difficulty with ambulation. He's currently taking more of the Hydrocodone and continue with Neurontin. He continues to have numbness in his left calf and foot, which is unchanged. He's also complaining of neck and shoulder blade pain... Physical Examination: He's ambulatory with antalgic gait. He has a positive straight leg raise. He has diminished reflexes on the left. He has difficulty with heel and toe rise on the left. He has slightly diminished range of motion of the lumbar spine... Imaging Findings: There's loss of disc height space at the L5-S1 level. Two views of the cervical spine were also reviewed. There appears to be multilevel spondylosis noted... At this point, I'm recommending an updated lumbar MRI scan to assess for a reherniation and he's in agreement."

On October 29, 2014, Dr. Poletti noted, "he has some increasing pain in his right side after a fall. I don't think he can work at this point. He would appear to have a recurrent herniation lateralizing to the left at 4-5. He also has some element of synovial cyst formation. This is on the right side at 5-1... Lumbar epidural injection was ordered. Norco 10-325 mg prescribed."

On October 29, 2014, lumbar spine MRI revealed, "moderately severe spondylosis with potential/probably nerve root compression at L1-2, L2-3, and L3-4. There is severe spondylosis with disc herniations and more probably root compression at L4-5 and L5-S1."

On January 21, 2015, Dr. Poletti noted, "he is getting worsening pain. He had this fall where he extended his disc herniation at L4-5 and L5-S1 after having successful surgery in March of last year. I do believe that his work-related injury most likely caused his discs to herniate further and is contributing to his inability to return to work. I think most likely he should consider operative intervention. It would involve wide decompressive laminectomy with ankylosis most likely from L4 through S1 possibly extending up to L3-4. This is a significant operation and something that I'm not sure would provide him complete relief, but most likely he will require. He had an injection, which has only given him some measure of relief... Diagnosis: Postlaminectomy syndrome, lumbar region... I want him off-duty status. He is going to follow up with me in one month's time. He remains with low back pain, buttocks pain, hip pain, positive straight leg raising, and toe and ankle dorsiflexion weakness on the right. I don't want him doing any exertional level work at this point."

On January 23, 2015, Dr. Poletti noted, "I saw Mr. Bias today. I have previously dictated a note documenting his fall on 10/14/14 with increasing back and right leg pain. Mr. Bias iterated this to my physician assistant when he was seen on 10/22/14. He was noted to be having increasing weakness in his leg. On 10/22/14 the note which I reviewed today states: "He has low back pain, which has always been on the left; but it is now lateralizing around to the right." He was noted to have "difficulty with ambulation" on 10/22/14.... It should be noted that Mr. Bias was seen by my physician assistant on 10/15/14 for a seven-month follow-up after his surgery. At that point his fall was not mentioned in the note... I certainly do think that it is more likely than not that his increase in right leg pain as documented on 10/22/14 was the direct result of his fall. He has been consistent in this complaint. I hold this opinion true to a reasonable degree of medical certainty most probably."

On February 23, 2015, Justin Swain, PA-C noted, "He continues to have pain and overall dysfunction. On exam today, he has sitting intolerance and a slow antalgic gait. He has pain with extension and positive straight leg raising. No further neurologic decline is detected... I recommend a course of a Medrol Dosepak. We will see him back in the next four months time for evaluation."

On March 23, 2015, Lane Tuggle, PA-C noted, "he states his symptoms have been unchanged. He continues to have back pain and leg pain. He is beginning to have some right-sided pain complaints. He continues to have weakness in his left leg. He was given a Medrol Dosepak after his last visit and states this helped significantly. He continues to require Neurontin and Norco... On exam, he is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is ambulatory with slow antalgic gait. He has positive straight leg raise. Peripheral pulses are palpable. He has 4/5 strength in his left extremity regarding EHL extension and ankle dorsiflexion. He has diminished range of motion of his lumbar spine... We discussed his generalized precautions and restrictions. We will continue to monitor him. His situation is unchanged. We will see him back in the office in 2 months time for reevaluation."

On April 28, 2015, Dr. Singleton noted, "Depression Screening: PHQ-2. In last 2 weeks have you been bothered by little interest or pleasure in doing things? Yes. Feeling down, depressed, or hopeless? Yes. PHQ-9 little interest or pleasure in doing things? Several days. Feeling down depressed or hopeless? Several days. Trouble falling or staying asleep, or sleeping too much? Several days. Feeling tired or having little energy? More than half the days. Poor appetite or overeating? Several days. Feeling bad about yourself or that you are a failure, or have let yourself or your family down? Several days. Moving or speaking so slowly that other people could have noticed; or the opposite, being so fidgety or restless that you have been moving around a lot more than usual. Not at all. Thought that you would be better off dead or hurting yourself in some way? Not at all. Total Score, 8, Interpretation, Mild Depression. Fell several months ago, and broke the fall with his arms and hands. Since that time there has been a progressive problem with dropping things as a result of numbness. He also has pain in his wrists... Mild arthritic changes present; mild crepitus knees; left wrist pain with mild grip weakness compared with right... Assessment:

1. Obstructive chronic bronchitis. 2. Essential hypertension. 3. Degeneration of lumbar or lumbosacral intervertebral disc. 4. Allergic rhinitis. 5. Insomnia. 6. Hyperlipidemia. 7. Sebaceous cyst."

On June 17, 2015, Lane Tuggle, PA-C, noted "3 month follow up. He continues to complain of back pain and right greater than left leg pain. He has numbness in his right big toe. He feels his pain complaints have been unchanged. He also complains of neck pain and right shoulder pain. He has been dropping things on the right. He states he had been thinking about returning to a chiropractor as he has been through chiropractic care years ago for his neck which helped. He continues to require Norco for pain control but does not take this daily. He also takes Neurontin... X-rays from October of last year reviewed. He has multilevel loss of disc height space and spondylosis... He is wearing a left AFO. He has restricted ROM. He has no worsening neurologic deficits. He continues to have diminished strength with left EHL extension. He is tender to palpation across his right trapezius. He has positive straight leg raise... Will continue to monitor him. Recommend surgical intervention. He is unable to work secondary to lumbar pathology. I will give him an order for PT for lumbar and cervical spine. I will have him undergo routine drugs screen and prescribe Medrol Dosepak. Move forward with a cervical MRI. He will return in 8 weeks after PT."

On August 17, 2015, Justin Swain, PA-C, noted, "reported persistent back pain and right sided buttock and leg pain. He has pain somewhat in the L5 distribution on the right. He states that he has also had continued neck pain.. On exam, continued limited motion in his lumbar spine, pain with extension. He has positive SLR, particularly on the right. He has continued evidence of diminished EHL and ADL from the left... Diagnosis: Postlaminectomy syndrome lumbar region... Plan: History of disc disruption with significant foraminal narrowing. He has a history of laminectomy... I have refilled his Hydrocodone today. I recommend he continue with physical therapy. Transforaminal/lumbar injection was ordered. The patient is to call if pain persists or gets worse. Patient is to return in 6-8 weeks for follow up."

On October 20, 201, Kimsey Cooper, PA-C noted, "continues to have significant foraminal narrowing and nerve root compression at the L5 and S1 level bilaterally causing back and mostly right lower extremity pain. He also continues to have difficulty with ambulation secondary to foot drop on the left and has been wearing an ankle foot orthotic since his surgery... Examination: Ambulatory with antalgic gait. His left lower extremity he has diminished EHL, ankle plantar and dorsiflexion and is wearing an AFO. On the right he has 5 out of 5 strength with the above-mentioned exam. He has 5 out of 5 strength bilaterally with hip flexion, hip abduction and adduction. He does have pain in his back with hip abduction on the right... Diagnosis: Chronic pain syndromes. Postlaminectomy syndrome, not elsewhere classified... Injection ordered. On October 20 2015, Dr. Forest performed right and left L5 transforaminal epidural steroid injection."

On December 1, 2015, Amanda Harridge, PA-C noted, "he is ambulatory with an antalgic gait and a presence of an AFO on his left side. He has positive straight leg raise at less than 30 degrees reproducing back pain only... Diagnosis: chronic pain syndrome. Post-laminectomy syndrome... Plan: repeat injection if patient calls. Patient return in 3 months for follow up."

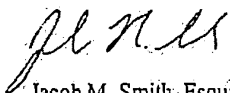
Today, it is my understanding that Mr. Bias continues to experience chronic back pain with radiation into his legs, depression and sleep disturbances secondary to pain.

We would like your opinion as to whether or not Mr. Bias has suffered a work-related injury directly or as an aggravation of a pre-existing condition. We would like your opinion as to a reasonable degree of medical certainty as to whether or not Mr. Bias has reached maximum medical improvement as to his work-related injuries. If not at maximum medical improvement, what course of medical treatment that is reasonable, necessary and geared toward tending to lessen the period of disability for his work-related injuries? If not at maximum medical improvement, please opine, as to his work status/restrictions, if any. If at maximum medical improvement, what degree of permanent impairment(s) pursuant to the AMA Guide to the Evaluation of Permanent Impairment, 5th Edition will not Mr. Bias have, if any, to his work-related injuries? What work-related injury permanent impairment(s), if any, does he have as to any other body parts? Will he have permanent restrictions? If so, please identify those, including, but not limited to, positional lifting, pushing, pulling, overhead lifting, overhead reaching, standing, uneven surfaces, sitting, climbing, crawling, stooping, squatting, kneeling, bending and twisting restrictions, if any. Also, what recommendations, if any, do you have for future medication, pain management, future treatment (surgical or conservative), all of which are reasonable, necessary and geared toward tending to lessen his period of disability for his work-related injuries? What other work-related injury affect(s)

and/or loss of use on other body part(s), if any, will he have? Please kindly also state whether your future medical care recommendations, if any, will most probably to a reasonable degree of medical certainty tend to lessen the period of disability for not Mr. Bias' work-related injuries in accord with the attached workers' compensation medical statute, S.C. Code Ann. §42-15-60, and the seminal attached case of *Dodge v. Brucoli*. Please note that future medical care as referenced in the *Dodge* case is allowed even after maximum medical improvement that tends to lessen the period of disability for claimant's work-related injuries through maintaining their level of function. Please kindly state all your findings and opinions regarding not Mr. Bias most probably to a reasonable degree of medical certainty, if possible.

Thank you for your assistance. If you have any questions or comments, please do not hesitate to contact me. We look forward to receiving your report.

Sincerely,



Jacob M. Smith, Esquire
jsmith@salleylawfirm.com

JMS:sc
Enclosures

EXHIBIT

DS

June 22, 2016

Dr. Ivan LaMotta
Attn: Karen Love
Midlands Orthopaedics
1910 Blanding Street
Columbia, S.C. 29201

RE: W.C.C. File No: 1421397
Employee: Johnnie T. Bias
Employer: Scana Corporation
Date of Injury: 10/14/2014
Birth Date:
Social Security No:

Dear Dr. LaMotta:

As advised, I represent Mr. Johnnie T. Bias in a workers' compensation matter. Please find enclosed copies of Mr. Bias' medical records for your review and consideration of an independent medical evaluation.

Mr. Bias is a 59 year old male, who worked for Scana Corporation as a Plant Analyst. On October 14, 2014, while in the furtherance of his work-related duties, he was walking down steps to go to the waste water ponds, when he stepped on a rock. Apparently, his foot twisted resulting in a fall with multiple injuries. It is my understanding, that he sustained injuries to his left foot, left ankle, left hand, left wrist, left arm, buttocks, back, right hip, right leg, right ankle, right foot left hip, left leg, nervous system, and resultant psychological.

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On October 29, 2014, lumbar spine MRI revealed, "moderately severe spondylosis with potential/probably nerve root compression at L1-2, L2-3, and L3-4. There is severe spondylosis with disc herniations and more probably root compression at L4-5 and L5-S1."

On January 21, 2015, Dr. Poletti noted, "he is getting worsening pain. He had this fall where he extended his disc herniation at L4-5 and L5-S1 after having successful surgery in March of last year. I do believe that his work-related injury most likely caused his discs to herniate further and is contributing to his inability to return to work. I think most likely he should consider operative intervention. It would involve wide decompressive laminectomy with ankylosis most likely from L4 through S1 possibly extending up to L3-4. This is a significant operation and something that I'm not sure would provide him complete relief, but most likely he will require. He had an injection, which has only given him some measure of relief... Diagnosis: Postlaminectomy syndrome, lumbar region... I want him off-duty status. He is going to follow up with me in one month's time. He remains with low back pain, buttocks pain, hip pain, positive straight leg raising, and toe and ankle dorsiflexion weakness on the right. I don't want him doing any exertional level work at this point."

On January 23, 2015, Dr. Poletti noted, "I saw Mr. Bias today. I have previously dictated a note documenting his fall on 10/14/14 with increasing back and right leg pain. Mr. Bias iterated this to my physician assistant when he was seen on 10/22/14. He was noted to be having increasing weakness in his leg. On 10/22/14 the note which I reviewed today states: "He has low D back pain, which has always been on the left, but it is now lateralizing around to the right." He was noted to have "difficulty with ambulation" on 10/22/14.... It should be noted that Mr. Bias was seen by my physician assistant on 10/15/14 for a seven-month follow-up after his surgery. At that point his fall was not mentioned in the note... I certainly do think that it is more likely than not that his increase in right leg pain as documented on 10/22/14 was the direct result of his fall. He has been consistent in this complaint. I hold this opinion true to a reasonable degree of medical certainty most

probably."

On February 23, 2015, Justin Swain, PA-C noted, "He continues to have pain and overall dysfunction. On exam today, he has sitting intolerance and a slow antalgic gait. He has pain with extension and positive straight leg raising. No further neurologic decline is detected... I recommend a course of a Medrol Dosepak. We will see him back in the next four months time for evaluation.

On March 23, 2015, Lane Tuggle, PA-C noted, "he states his symptoms have been unchanged. He continues to have back pain and leg pain. He is beginning to have some right-sided pain complaints. He continues to have weakness in his left leg. He was given a Medrol Dosepak after his last visit and states this helped significantly. He continues to require Neurontin and Norco... On exam, he is a well-developed, well-nourished male, alert and oriented x3 in no acute distress. He is ambulatory with slow antalgic gait. He has positive straight leg raise. Peripheral pulses are palpable. He has 4/5 strength in his left extremity regarding EHL extension and ankle dorsiflexion. He has diminished range of motion of his lumbar spine... We discussed his generalized precautions and restrictions. We will continue to monitor him. His situation is unchanged. We will see him back in the office in 2 months time for reevaluation."

On April 28, 2015, Dr. Singleton noted, "Depression Screening: PHQ-2. In last 2 weeks have you been bothered by little interest or pleasure in doing things? Yes. Feeling down, depressed, or hopeless? Yes. PHQ-9 little interest or pleasure in doing things? Several days. Feeling down depressed or hopeless? Several days. Trouble falling or staying asleep, or sleeping too much? Several days. Feeling tired or having little energy? More than half the days. Poor appetite or overeating? Several days. Feeling bad about yourself or that you are a failure, or have let yourself or your family down? Several days. Moving or speaking so slowly that other people could have noticed; or the opposite, being so fidgety or restless that you have been moving around a lot more than usual. Not at all. Thought that you would be better off dead or hurting yourself in some way? Not at all. Total Score, 8, Interpretation, Mild Depression. Fell several months ago, and broke the fall with his arms and hands. Since that time there has been a progressive problem with dropping things as a result of numbness. He also has pain in his wrists... Mild arthritic changes present; mild crepitus knees; left wrist pain with mild grip weakness compared with right... Assessment: 1. Obstructive chronic bronchitis. 2. Essential hypertension. 3. Degeneration of lumbar or lumbosacral intervertebral disc. 4. Allergic rhinitis. 5. Insomnia. 6. Hyperlipidemia. 7. Sebaceous cyst."

On June 17, 2015, Lane Tuggle, PA-C, noted "3 month follow up. He continues to complain of back pain and right greater than left leg pain. He has numbness in his right bit toe. He feels his pain complaints have been unchanged. He also complains of neck pain and right shoulder pain. He has been dropping things on the right. He states he had been thinking about returning to a chiropractor as he has been through chiropractic care years ago for his neck which helped. He continues to requires Norco for pain control but does not take this daily. He also takes Neurontin... X-rays from October of last year reviewed. He has multilevel loss of disc height space and spondylosis... He is wearing a left AFO. He has restricted ROM. He has no worsening neurologic deficits. He continues to have diminished strength with left EHL extension. He is tender to palpation across his right trapezius. He has positive straight leg raise... Will continue to monitor him. Recommend surgical intervention. He is unable to work secondary to lumbar pathology. I will give

him an order for PT for lumbar and cervical spine. I will have him undergo routine drugs screen and prescribe Medrol Dosepak. Move forward with a cervical MRI. He will return in 8 weeks after PT."

On August 17, 2015, Justin Swain, PA-C, noted, "reported persistent back pain and right sided buttock and leg pain. He has pain somewhat in the L5 distribution on the right. He states that he has also had continued neck pain. On exam, continued limited motion in his lumbar spine, pain with extension. He has positive SLR, particularly on the right. He has continued evidence of diminished EHL and ADL from the left... Diagnosis: Postlaminectomy syndrome lumbar region... Plan: History of disc disruption with significant foraminal narrowing. He has a history of laminectomy... I have refilled his Hydrocodone today. I recommend he continue with physical therapy. Transforaminal/lumbar injection was ordered. The patient is to call if pain persists or gets worse. Patient is to return in 6-8 weeks for follow up."

On October 20, 2015, Kimsey Cooper, PA-C noted, "continues to have significant foraminal narrowing and nerve root compression at the L5 and S1 level bilaterally causing back and mostly right lower extremity pain. He also continues to have difficulty with ambulation secondary to foot drop on the left and has been wearing an ankle foot orthotic since his surgery... Examination: Ambulatory with antalgic gait. His left lower extremity he has diminished EHL, ankle plantar and dorsiflexion and is wearing an AFO. On the right he has 5 out of 5 strength with the above-mentioned exam. He has 5 out of 5 strength bilaterally with hip flexion, hip abduction and adduction. He does have pain in his back with hip abduction on the right... Diagnosis: Chronic pain syndromes. Postlaminectomy syndrome, not elsewhere classified... Injection ordered. On October 20 2015, Dr. Forest performed right and left L5 transforaminal epidural steroid injection."

On December 1, 2015, Amanda Harridge, PA-C noted, "he is ambulatory with an antalgic gait and a presence of an AFO on his left side. He has positive straight leg raise at less than 30 degrees reproducing back pain only... Diagnosis: chronic pain syndrome. Post-laminectomy syndrome... Plan: repeat injection if patient calls. Patient return in 3 months for follow up."

On February 3, 2016, Dr. Poletti indicated in his deposition that Mr. Bias has reached maximum medical improvement with a 20% impairment rating (deposition transcript page 31, lines 12-22). Additionally, Dr. Poletti indicated that Mr. Bias would not be able to do full time sedentary work (deposition transcript page 33, lines 5-15) and didn't think that he could return to any type of employment (deposition transcript page 34, lines 19-25).

On March 16, 2016, Dr. Lind noted, "diagnosis: adjustment disorder with depressed mood secondary to pain and limitations... In my opinion, his emotional symptoms are more likely than not, most probably to a reasonable degree of medical certainty, caused by his 14 October 2014 physical work-related injuries... Mr. Bias has not yet met maximum medical improvement for the psychological consequences associated with his 14 October 2014 injury... I recommend that Mr. Bias receive psychological and psychiatric treatment. Given left leg weakness, he would likely benefit from home occupational therapy to help him navigate with foot drop and leg weakness. With urinary incontinence, he will likely need to see a urologist. Impairment: 27% lumbar spine. Work status- per fee 3/21/16 but it is unlikely given afo brace, leg weakness and urinary incontinence issues that he will be employable in any capacity."

On March 21, 2016, Mr. Bias was seen for an impairment rating of his lumbar spine with

Tracy Hill, P.T. of Columbia Rehabilitation Clinic. "Mr. Bias sustained a work injury to his lumbar spine on October 14, 2014. A MRI of the lumbar spine dated May 11, 2000 indicated a large left L4-5 disc herniation (diffuse) spinal stenosis greatest at L3-4. Radiographs of the lumbar spine dated May 11, 2001 indicated disc space loss with associated osteophyte formation at L1-2, L4-5, and L5-S1. Medical records dated May 31, 2001 indicated a prior surgical intervention in 1988. He was also noted to have a large recurrent disc herniation at L4-5 in a central position, slightly left paracentral. Mr. Bias reports his first lumbar surgery was in 1983 due to a herniated disc. Medical records dated September 30, 2002 indicated a recurrent disc herniation at L5-S1. Medical records dated June 24, 2004 indicated a recurrent lateral disc herniation at L5-S1 (10% impairment rating). Medical records dated February 19, 2010 indicated right lumbar radiculopathy. A MRI of the lumbar spine dated February 19, 2010 indicated multilevel spondylosis with potential root compression at multiple locations. The most prominent abnormalities are a probable recurrent herniation on the left at L4-5 and a central protrusion at L5-S1. Medical records dated October 12, 2012 indicated lumbar and left lower extremity pain. A MRI of the lumbar spine dated October 12, 2012 indicated disc bulging at L3-4, L4-5 and L5-S1 with significant stenosis at those levels. He was noted to have multilevel moderately severe spondylosis with potential nerve root compression at all lumbar levels. Medical records dated December 7, 2013 indicated lumbar/left buttock/left posterolateral leg pain in the a L5 distribution. Radiographs of the lumbar spine dated February 21, 2014 indicated degeneration at L4-5 and L5-S1. Medical records dated February 21, 2014 indicated a paracentral left sided protrusion at the L5-S1 level and a larger left sided herniation at L4-5 with some evidence of disc fragment with migration posterior to the L5 vertebral body (worsening since previous MRI in 2012). A MRI of the lumbar spine dated February 21, 2014 indicated multilevel severe spondylosis with probable nerve root compression at all lumbar levels. Mr. Bias had a laminectomy and discectomy at L4-5 and L5-S1 (left) on March 7, 2014 due to recurrent disc herniation left L5-S1 and a disc herniation left L4-5. Medical records dated March 7, 2014 indicated a prior lumbar surgery in 1983 (L5-S1 level). Radiographs of the lumbar spine dated March 21, 2014 indicated loss of disc height space at L4-5 and L5-S1. Medical records dated October 22, 2014 indicated increasing weakness left lower extremity and right lumbar pain (patient reported falling backwards on his tailbone when descending stairs a few days ago). Radiographs of the lumbar spine dated October 22, 2014 indicated loss of disc height at L5-S1. A MRI of the lumbar spine dated October 29, 2014 indicated moderately severe spondylosis with potential probable nerve root compression at L1-2, L2-3, and L3-4. There is severe spondylosis with disc herniations and more probably root compression at L4-5 and L5-S1. Medical records dated January 21, 2015 indicated an extension of disc herniations at L4-5 and L5-S1 secondary to his fall. Medical records dated March 23, 2015 indicated evidence of reherniation at the L4-5 level and a disc herniation at L5-S1. Medical records dated June 17, 2015 indicated lumbar pain and right greater than left leg pain. He was noted to be wearing an AFO on the left lower extremity. Medical records dated October 20, 2015 indicated left foot drop since his lumbar surgery (March 7, 2014). Mr. Bias reports he did not get the AFO for his left lower extremity til after his work injury. Mr. Bias reports constant lumbar/right buttock/right posterior thigh pain since his work injury. He reports constant numbness in his left lower extremity and bilateral feet. He reports prior to the work injury his issues were always on the left. He reports difficulty with yardwork and prolonged sitting/standing/walking. He reports inability to lift heavy objects. The American Medical Association's Guides to the Evaluation of Permanent Impairment, fifth edition, was utilized to determine his impairment. According to Table 15-3 on page 384, Mr. Bias qualifies for a DRE (Diagnostic Related Estimates) Lumbar Category III. This whole person impairment rating is 13%. In order to convert a whole person impairment into a regional spine impairment, one must divide the whole person impairment by 0.75. Please refer to the page 427 of the Guides.

Therefore, 13% divided by 0.75 results in a 17% impairment of the lumbar spine. According to the Guides, the Range of Motion (ROM) Method should be utilized for recurrent disc herniations and for bilateral lower extremity radiculopathy. Please refer to page 380 of the Guides. According to Table 15-7 on page 404, he qualifies for Disorder II, C, F. This whole person impairment rating is 8%. According to Table 15-8 on page 407, he qualifies for a whole person impairment rating of 7% for loss of lumbar flexion range of motion and for a whole person impairment rating of 6% for loss of lumbar extension range of motion. According to Table 15-9 on page 409, he qualifies for a whole person impairment rating of 2% for loss of left lumbar lateral bending range of motion and for a whole person impairment rating of 2% for loss of right lumbar lateral bending range of motion. Adding the range of motion impairments results in a total whole person impairment rating of 17%. Using the Combined Values Chart on page 604 (combining 8% with 17%), results in a total whole person impairment rating of 24%. In order to convert a whole person impairment into a regional spine impairment, one must divide the whole person impairment by 0.90. Please refer to page 427 of the Guides. Therefore, 24% divided by 0.90 results in a 27% impairment of the lumbar spine. According to the Guides, if the ROM and the DRE methods can both be utilized, the patient should be evaluated with both methods and awarded the higher rating. Please refer to page 380 of the Guides. In conclusion, Mr. Bias qualifies for a whole person impairment rating of 24% which converts to a 27% impairment of the lumbar spine. Please refer to page 381 of the Guides if apportionment is required. Mr. Bias reports his lumbar spine has never been rated for a workers compensation claim."

Also on March 21, 2016, Tracy Hill, P.T., completed a Functional Capacity Evaluation on Mr. Bias. "Mr. Bias is a 59 year old male who sustained a work injury to his lumbar spine on October 14, 2014. The patient reported an initial pain level of a '6' on a '0-10' pain scale in which '0' represents no pain and '10' represents maximal emergency level pain. The highest reported pain level during today's evaluation was '8' and this occurred with modified squatting and lifting overhead. The results of the Functional Capacity Evaluation performed on this date indicate that he can meet the demands of limited sedentary to limited light work. He tolerates occasional walking, stairclimbing, and reaching. He does not tolerate occasional kneeling, squatting, bending, or twist. He can lift from 6 to 11 pounds at various heights on an occasional basis. The lowest level lift he could complete was 12 inches from floor level. He can carry 12 pounds with 2 hands. He can carry 10 pounds in the right hand and 10 pounds in the left hand. He can push 20 pounds loaded in a sled and can pull 20 pounds loaded in a sled. He has a self-reported sitting and standing/walking tolerance of 60 and 70 minutes respectively. He was observed to sit for a maximal time of 39 minutes and stand/walk for a maximal time of 25 minutes. The patient's lumbar range of motion is limited. Please refer to the enclosed forms for range of motion measurements. The results of the treadmill test place Mr. Bias in the fair Classification of Aerobic Capacity. Mr. Bias' Functional Aerobic Capacity qualifies him for light work. Mr. Bias put forth a consistent effort during the evaluation. He qualifies for limited sedentary to limited light work. Please refer to page 2 of the enclosed forms for specific lifting ability. He does not meet the full physical requirements necessary for sedentary or light work. He does not tolerate occasional kneeling, squatting, bending, or twisting."

On March 22, 2016, Dr. Hutcheson noted, "assessment: sacroiliitis, lumbo-sacral spondylosis, post-laminectomy pain syndrome lumbar, lumbar radiculopathy... From a pain management standpoint, he is at mm. He will need ongoing medications, urine testing while on controlled substances, dme (for leg weakness, incontinence, back pain), injections, PT, imaging and spinal cord

stimulator. He will need ongoing psych care per Dr. Bergmann and a psychiatrist. He will need ongoing spine surgeon care per Dr. Poletti including L4-S1 fusion when he is ready to go for it."

On May 27, 2016, Mr. Bias was seen by Dr. Ross Rames, an urologist, for an Independent Medical Evaluation. "59 year old with history of low back injury as outlined above from record review. This has resulted in significant pain and impairment as determined by his treating physicians and outlined in the records. He presents now for evaluation of urologic complaints. Lower Urinary Tract Symptoms: he reports urinary incontinence for approximately one year, and it is worsening. He will find his pants are wet at times with no warning. He also has urgency and urge incontinence with little warning. He has nocturia, and will awaken at night with urine running out of his bladder...Impression: Fecal urgency, urinary urgency, urge incontinence, nocturnal enuresis, erectile dysfunction, ejaculatory dysfunction. These issues appeared and worsened following his back injury and are more likely than not (to a reasonable degree of medical certainty) causally linked. He has evidence of sacral nerve dysfunction with absent bulbocavernosus reflex. He will likely require further treatment and evaluation of these issues, possibly including: bladder videourodynamic studies, cystoscopy, treatment with overactive bladder medications or surgery/other medications based on symptoms and findings. ED: Trial of PDE-5 inhibitor meds (Viagra, etc) with other medications, such as injection of medications into the penis, if pills not successful. Ejaculatory dysfunction: may not be reversible. Impairment rating: Bladder: 24% impairment of the whole person. Sexual function: 9% impairment of the whole person."

Today, it is my understanding that Mr. Bias continues to experience chronic back pain with radiation into his legs, depression and sleep disturbances secondary to pain.

We would like your opinion as to whether or not Mr. Bias has suffered a work-related injury directly or as an aggravation of a pre-existing condition. We would like your opinion as to a reasonable degree of medical certainty as to whether or not Mr. Bias has reached maximum medical improvement as to his work-related injuries. If not at maximum medical improvement, what course of medical treatment that is reasonable, necessary and geared toward tending to lessen the period of disability for his work-related injuries? If not at maximum medical improvement, please opine as to his work status/restrictions, if any. If at maximum medical improvement, what degree of permanent impairment(s) pursuant to the AMA Guide to the Evaluation of Permanent Impairment, 5th Edition will Mr. Bias have, if any, related to his work-related injuries? What work-related injury permanent impairment(s), if any, does he have as to any other body parts? Will he have permanent restrictions? If so, please identify those, including, but not limited to, positional lifting, pushing, pulling, overhead lifting, overhead reaching, standing, uneven surfaces, sitting, climbing, crawling, stooping, squatting, kneeling, bending and twisting restrictions, if any. Also, what recommendations, if any, do you have for future medication, pain management, future treatment (surgical or conservative), all of which are reasonable, necessary and geared toward tending to lessen his period of disability for his work-related injuries? What other work-related injury affect(s) and/or loss of use on other body part(s), if any, will he have? Please kindly also state whether your future medical care recommendations, if any, will most probably to a reasonable degree of medical certainty tend to lessen the period of disability for not Mr. Bias' work-related injuries in accord with the attached workers' compensation medical statute, S.C. Code Ann. §42-15-60, and the seminal attached case of *Dodge v. Brucoli*. Please note that future medical care as referenced in the *Dodge* case is allowed even after maximum medical improvement that tends to lessen the period of disability for claimant's work-related injuries through maintaining their level of function. Please

kindly state all your findings and opinions regarding not Mr. Bias most probably to a reasonable degree of medical certainty, if possible.

Thank you for your assistance. If you have any questions or comments, please do not hesitate to contact me. I look forward to hearing whether or not you will see Mr. Bias for an Independent Medical Evaluation.

Sincerely,

Jacob M. Smith, Esquire
jsmith@salleylawfirm.com

JMS:drl
Enclosures

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1421397

Johnnie T. Bias,
Claimant,
v.
SCANA Services,
Employer,
and
SCANA,
Carrier/Defendants.

FULL COMMISSION HEARING

Monday, April 16, 2018
2:34 p.m. - 2:59 p.m.

COPY

The Full Commission Hearing was heard before Commissioner Aisha Taylor, T. Scott Beck, and Gene McCaskill, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 16th day of April, 2018, before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

Jacob M. Smith, Esquire
 Smith & Jones Law, LLC
 137 Circleview Drive
 Lexington, South Carolina 29072
 Attorney for Claimant/Appellant.

Nicholas L. Haigler, Esquire
 Meredith Ross, Esquire
 Robinson, Gray, Stepp & Laffitte, LLC
 1310 Gadsden Street
 Columbia, South Carolina 29201
 Attorney for the Defendants/Respondents

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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.



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CALL TO ORDER:

COURT REPORTER: Today is April 16th, 2018. This is South Carolina Workers' Compensation Case Number 1421397. This is the case of Johnnie T. Bias, Claimant, versus SCANA Services, Employer, and SCANA, Carrier. The Employer is Ambassador Personnel, Incorporated. The Appellant is the Claimant, represented by Jacob M. Smith. The Respondent is represented by Nick Haigler. 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 TAYLOR: Okay, Mr. Smith?

POSITION STATEMENT BY MR. SMITH:

MR. SMITH: Thank you, Commissioners. This is a case where it involves a Claimant who had a preexisting back condition. The preexisting back condition is sufficiently stated that it was predominantly a back and left leg condition. Ultimately, he did have some right leg symptoms in 2010 that were pointed out. This -- this condition lasted a period of about three months. He got injections, those



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1 resolved. There's really no mention in the
2 record after that 2010 injection of back and
3 right leg symptoms until a date of accident on
4 October 14th, 2014. There was a surgery in
5 March of 2014 that resulted from back and left
6 leg symptoms. Leading up following the
7 surgery, Mr. Bias was improving. He was doing
8 much better. By all accounts on the records,
9 his left leg weakness was getting better. He
10 was still having no right leg symptoms. The
11 back pain was improving. Ultimately, he was
12 able to go back to work. He goes back to work.
13 He has a slip and fall on October 14th, 2014.
14 It's important to note the date on this because
15 it was documented that day. It was documented
16 in the record that day. He actually goes to
17 his supervisor and says I've had an accident,
18 I'm having some soreness on my back side. That
19 email, there was an email that was sent based
20 on that conversation to another supervisor
21 documenting the injury saying that he had a
22 sore buttocks. He didn't go get medical
23 treatment that day. The next day, he had a
24 routine follow up with Dr. Poletti, who -- who
25 did the surgery before and who had been



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1 treating him for roughly about 15 years off and
2 on. At that point, he goes back to Dr.
3 Poletti's office on the 15th, doesn't mention
4 the work accident. We acknowledge that he
5 doesn't mention the work accident. Mr. Bias
6 acknowledged that he didn't mention the work
7 accident. He said that he wanted to follow
8 proper protocol and if he really was just
9 having soreness at the time, the symptoms
10 hadn't manifested themselves. At that point,
11 Dr. Poletti, or it's actually his nurse
12 practitioner, sends him on his way. A couple
13 of days later, the symptoms manifested
14 themselves. He starts to have lateralization
15 around to the right side, symptoms going down
16 the right side, left leg weakness gets
17 substantially worse. At that point, he tries
18 to have a -- a appointment through work. Tries
19 to get that scheduled. Ultimately, he's told
20 to follow up with his primary provider. So, he
21 goes back to Dr. Poletti on the 22nd. At that
22 appointment, he documents the work accident and
23 the slip and fall and the stairs, the
24 increasing symptoms. Dr. Poletti ultimately
25 says that that is a work -- work related



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1 aggravation. We've taken multiple depositions
2 in this case. Multiple IMEs were done in this
3 case by Dr. Hutchinson, Dr. Lamotta, Dr.
4 Gunter. Of that, Dr. Lamotta initially did
5 state that it was an aggravation of a
6 preexisting condition. However, in deposition,
7 Dr. Lamotta backed off that opinion and said I
8 can't say if it was an aggravation of a
9 preexisting condition, by the work accident, by
10 deterioration of his condition or by a fall.
11 That's his ultimate opinion. Dr. Poletti stuck
12 with his opinion, says it's an aggravation of
13 a preexisting condition. Dr. Hutchinson says
14 it's an aggravation of a preexisting condition.
15 Dr. Gunter says the back symptoms have gotten
16 worse, the left leg symptoms have gotten worse,
17 the right leg symptoms are new, following the
18 work accident. And Dr. Raimés, who treated him
19 for urological, noticed significant physical
20 deficiencies on the neurological examination
21 and says that he believes that's related. It's
22 important to note the urological symptoms were
23 noted by Dr. Poletti approximately three months
24 after the fall and then he was sent back to Dr.
25 Raimés. There are notes after that initial



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1 notation of urological symptoms that document
2 no urological symptoms, but ultimately he was
3 still having those problems noted by Dr.
4 Hutchinson, sent to Dr. Raimos for an
5 evaluation as to that regard. We feel the
6 greater weight of the evidence in the case is
7 support compensability in this claim. I think
8 it's also important to note, based on the Order
9 Instruction from the Hearing Commissioner, I
10 would draw your attention to Order Instruction
11 number 5 in which the Hearing Commissioner
12 indicated not all issues before date of
13 accident. Issues after incident similar. So,
14 he seems to be saying there is an incident,
15 it's been documented. Now, I also -- and back
16 to that email, that documentation, email wasn't
17 turned over for two -- two years and two
18 months. We didn't know about it. We had an
19 idea that it was out there because Mr. Bias was
20 actually cc'd on the email, but we didn't get
21 a copy, a physical copy with personnel file,
22 until -- actually until page 11 of Mr.
23 Steigel's deposition when the question was
24 asked to Mr. Steigel, is there any emails that
25 documents this injury? And then at that point,



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1 we go off the record, we're provided with a
2 copy of the -- the email, and then we go from
3 there. It's also important to note that there
4 were several questions leading up to that of
5 other doctors, kind of that go against that to
6 say this was a undocumented fall. Dr. Poletti
7 specifically was ask would it change your
8 opinion to know this was an undocumented fall.
9 Well, clearly, it wasn't undocumented. It was
10 a documented fall. The question is whether or
11 not it was an aggravation of a preexisting
12 condition. We feel the greater weight of the
13 evidence says that it was. That of the six
14 doctors that evaluated him, from a
15 psychological perspective, a urological
16 perspective, pain management perspective, and -
17 - and a spinal perspective, five of the six
18 said it's an aggravation of a preexisting
19 condition. One said I can't say. I don't know
20 if it was this. I don't know if it was that.
21 I think it's also to important to note that Dr.
22 Lamotta doesn't say it wasn't the work accident
23 that caused it. He just says it's possible
24 that it was a work accident. It's possible
25 that it was a cough, it's possible that it was



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1 this. And partly that is based on the -- the,
2 I guess the record that was given to him from
3 the Claimant. There's been a lot of notations
4 in the record about a letter that was sent, as
5 well. And I take complete ownership of that
6 letter that was sent. It did not document the
7 October 15th note following the accident -- the
8 day after the accident was not documented when
9 it was sent to the IME providers. However,
10 it's also important to note that the record
11 itself was sent to the providers. The letter
12 itself was drafted by my paralegal. I missed
13 it. And that is completely on me. That is my
14 responsibility to catch things like that. It
15 was not caught. But the record itself was sent
16 to the doctors. I want to be clear on that
17 that the record was sent there. There was no
18 intent to hide any evidence, but the -- the
19 record is not documented in the summary, but it
20 is documented in the actual records. Dr.
21 Hutchinson even went so far as to say he
22 doesn't really review the summary, he focuses
23 more on the records themselves in deposition.
24 Based on that, we feel the greater weight of
25 the evidence supports compensability of this



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1 claim. Also, the -- Mr. Bias was not been
2 released to maximum medical improvement for the
3 psychological component, so we feel that he is
4 not at MMI. So, we're just asking for a
5 finding of compensability with a determination
6 of permanency to be decided at a later date
7 when he reaches MMI for all causally related
8 body parts. The other things to address were
9 -- and back to Note 5 from the Order
10 Instructions, where it says issues after the
11 incident similar, not all issues before date of
12 accident, it's implying that -- to me that
13 implies that there was an incident on this
14 date, it did happen. The issues after are
15 similar, but not the same, so different. So,
16 we feel that Number 5 in and of itself is a --
17 is an error in the sense that it almost
18 describes an aggravation. If you're not having
19 all the issues before the work accident, you're
20 having issues after the work accident, the
21 doctors are relating it to the work accident,
22 we feel that's a -- a work related aggravation
23 of a preexisting condition based on Statute and
24 case law. And for that, we ask that you return
25 -- or overturn the Single Commissioner's



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1 decision and Order and issue an Order finding
2 this case compensable and starting of temporary
3 benefits. It is also noted Dr. Poletti wrote
4 Mr. Bias out of work following the accident.
5 Again, he was working, he was doing his job
6 and then he was written out of work following
7 the accident. So, that's -- that's what we're
8 here to ask for. Thank you.

9 COMMISSIONER TAYLOR: All right. Thank you.

10 POSITION STATEMENT BY MR. HAIGLER:

11 MR. HAIGLER: If it would please the Commission,
12 Good afternoon. We are here asking that you
13 affirm the denial of this case. The
14 compensability of this case. To us, it's
15 fairly cut and dry. Mr. Bias has the burden of
16 proof to show by the greater weight of the
17 evidence that he has sustained an aggravation
18 of a preexisting condition. If you look at the
19 totality of the records, that's a very high --
20 that's -- it's an impossible burden for him to
21 meet. And why it's impossible is solely based
22 upon, in my opinion, all the records, but more
23 importantly, the deposition testimony of Dr.
24 Lamotta, who was the only doctor who had
25 everything to look at when he gave his



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1 testimony. You know, Jake -- and I know this
2 has been kind of a similar issue in this case,
3 but that there are really two things that I
4 think attention needs to be drawn to. One is
5 -- and I think in my opinion, when someone's
6 been treating for these kind of back problems
7 for this long, with one -- really one doctor,
8 has an -- a fall and the fall was reported,
9 although it was unwitnessed. The fall was
10 reported. He fell on his back side. He did
11 not report any backache. He reported that his
12 buttocks hurt or was sore. Did not want
13 medical treatment and went on his way. My
14 client thought nothing further of it. The most
15 important document in the entire record is the
16 document that is Claimant's APA page 125, which
17 is a report from Dr. Poletti's office the very
18 day after his fall. Now, this gentleman had
19 had two back surgeries. One seven months
20 prior. He was still having symptoms. He'll --
21 he testified at the hearing, he was still
22 having significant symptoms. Was still taking
23 medication. In fact, was taking medication
24 that morning, the morning of the fall. Went to
25 Poletti's office the very next day. And let me



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1 read to you what he told that doctor how -- how
2 he was doing. "Minimal pain complaints. Feels
3 greatly improved since the surgery. Continues
4 to maintain his home exercise program and is
5 back to work training an employee. Overall
6 'quote' he's quite pleased with his progress."
7 Now, the Claimant testified that, well, my
8 problems didn't come 'til a few days later.
9 Well, that might be true in a normal person.
10 But when I -- when I asked not only Dr.
11 Lamotta, but Dr. Poletti testified to this, as
12 well, which I think is incredibly important.
13 When I said given a normal person, this might
14 be understandable, but this gentleman had a
15 severely -- he was already in bad shape when
16 this happened. Would you have expected him to
17 have immediate pain? Poletti said, yes. And
18 just so you know which -- I'm -- I'm referring
19 to page 22 of his deposition where he said I
20 would have expected his symptoms to be present
21 quote fairly quickly. Dr. Lamotta has said he
22 would have expected immediate symptomology
23 because his back was so fragile that something
24 like that would have caused him problems
25 immediately. So that -- that raised a red flag



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1 for both of -- at least for Dr. Lamotta. Dr.
2 Poletti didn't -- didn't have the same red
3 flag, which -- which doesn't come to a surprise
4 to me because his statement right after that
5 was quote on page 23 and 37, his deposition I'm
6 a patient advocate. Well, guess what? That
7 means Mr. Bias has two advocates. One on them
8 that is sitting next to me and one is down in
9 Charleston, Dr. Poletti, and you can't have an
10 advocate and give an independent opinion as to
11 what's going on. So, I don't know if his
12 opinion can be given any weight whatsoever
13 because of that statement. He gave that
14 testimony twice. I don't think that's
15 appropriate. But be that as it may, he also
16 said I would have expected immediate symptoms.
17 Now, what's important about Poletti's testimony
18 is that was a long time before we ever tried
19 this case. There were many, many, many, many
20 IMEs and many documents discovered after that
21 deposition, okay. So, when we got the whole
22 file together, it didn't look like it did when
23 I deposed Dr. Poletti in early 2016. But
24 again, the most important document, I think any
25 doctor will tell you this, is the document --



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1 the first report they go to when they go see
2 the doctor. The very first time they go see a
3 doctor is a pretty important document. And he
4 was quote doing fine. What is also interesting
5 is every time Jake sent or Brett, whoever did
6 it, sent Mr. Bias to an expert to be evaluated,
7 Dr. Hutchinson, Dr. Lamotta, and Dr. Lynn, they
8 drafted this seven page letter outlining all of
9 the relevant medical records. Including some
10 before the accident and some after. The one
11 document that's not included is, you guessed
12 it, 10/15/14 report the day after the accident,
13 is not summarized anywhere in these letters.
14 Which I had -- which I made exhibits to the
15 hearing. Now, I know Jake takes responsibility
16 for that, but the fact of the matter is they're
17 not in here and I think that's pretty important
18 when you're writing a nine page, some nine page
19 letter, some are seven page letters outlining
20 the medical treatment to the doctor you're
21 trying to get an independent evaluation from
22 and you don't give them the report from the day
23 after the accident. That's a pretty -- pretty
24 big omission in my opinion. Now, Jake's
25 testimony -- or Jake's statement earlier was,



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1 not testimony, statement, is that, well, I gave
2 the records. Well, that -- that might be true,
3 but when I look at their reports, I don't see
4 any evidence to that. I don't see any evidence
5 they reviewed the records. When I look at
6 Lamotta's record, he goes and he does his own
7 summary of the medical records. He has 8/6/14
8 and 10/22/14, but no 10/15/14. Which tells me
9 he didn't review the record. Which means he
10 either didn't get it or he relied on that
11 summary. And I asked Dr. Lomatta that, and he
12 said I don't know. And, in fact, Jake had been
13 in his office two days before I deposed him,
14 handing him the 10/15/14 report and it's in his
15 deposition. Which tells me he probably didn't
16 have it. If you look at Dr. Raimes, who's the
17 urologist's opinion, same thing. He summarizes
18 the medical records, but the 10/15/14 report's
19 not in there. You can get the same thing from
20 Hutchinson's report. So, I'm not really buying
21 the fact that they had the reports, they must
22 have seen them, so don't worry about what I
23 summarized. Because I -- you didn't --, you
24 didn't write a nine page letter to these
25 doctors for -- for no reason. I promise you



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1 people don't spend that kind of time. It's a
2 single page type letter. This takes some time
3 to do. So, somebody did this for a reason.
4 And when I read the reports, there's no
5 evidence of that. And when I deposed them,
6 every single one of them said quote, it's odd
7 it's not in there. That was Dr. Lynn. Dr.
8 Hutchinson said it's strange the report wasn't
9 included. And they all said it's important for
10 me to see that report. That's a pretty
11 important report. So, I -- you know, it goes
12 -- there's two issues. One, why wasn't the
13 report in there? Two, what does that really
14 mean? And I think when you throw away
15 everything, I think what you -- what you have
16 is a gentleman who may have fallen on his
17 buttocks, didn't report any problems then, went
18 to his neurosurgeon the next day, no problems,
19 continues to work, and then a week later
20 reports that his problems are a little bit
21 worse. And -- and here's the other part, his
22 symptoms weren't that -- they weren't that much
23 worse. The -- the whole issue was I'm having
24 -- most of the symptoms he complained of were
25 same as he had before. The only really new



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1 findings were urological, which weren't even
2 apparent at that time, and right legged
3 ridiculopathy, which he said he never had
4 before, which he told Lamotta and Hutchinson
5 he'd never had before, but he had -- he had had
6 it before. He had it in 2010 and it was severe
7 and progressing and it went on for a very long
8 time. And, in fact, it was so bad that he was
9 taken out of work for a period of time because
10 of it. So, there's a little bit of
11 inconsistency there. The other thing that's
12 important is during the discovery process, we
13 figured out this gentleman had gone to his
14 pulmonologist three days after the accident and
15 then four days later, which is bef- -- two
16 reports -- two visits to this pulmonologist
17 before he ever went to Paletti's office and
18 told them about the accident. At both of those
19 visits, he was complaining of chronic -- he was
20 having coughing convulsions where he was
21 coughing like crazy for a long -- and had been
22 for weeks. I didn't really think anything of
23 it at first. And then I'm deposing Dr. Lamotta
24 and I said, well, Doctor, you know if you have
25 it -- if these symptoms are worse, what could



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1 have caused that? He said, well, it could be
2 the continuation of these prior problems.. It
3 could have been a natural progression. He said
4 it could have been coughing. I said, whoa, you
5 said coughing? He says, yeah. I said, well,
6 let's go look at some reports. He said, yeah,
7 that could have done it. Of course it could
8 have done it. He's there coughing his brains
9 out. I've seen much worse or much less cause
10 back issues and this gentleman's already in bad
11 shape. So, then I get his VA records and low
12 and behold, he's told the VA -- now, this is
13 after the accident, granted -- but after the --
14 that back -- that coughing, it aggravates his
15 back pain. I don't know. So, I -- I think
16 there's -- when you look at it in -- I mean,
17 Jake's trying to tell you that I've got this
18 doctor, this doctor, this doctor, and this
19 doctor. Well, that's all true, but when we
20 deposed those doctors and showed them all the
21 records, that wasn't necessarily their opinion.
22 One more very important part, when I deposed
23 Dr. Hutchinson, he had given a -- he had put in
24 his report that this guy never had left foot
25 drop, which was a big deal with him before this



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1 accident. And that after this accident, he had
2 to have a brace for that foot drop. He did a
3 questionnaire after that. Even gave him an
4 impairment rating for it. When I deposed Dr.
5 Hutchinson, I said, well, Doctor, I -- I'm
6 showing you a -- here's a report from Dr.
7 Poletti where he had this brace for left foot
8 drop well before this accident. He looked at
9 it for a second and you'll read in his
10 transcript five pages of me finally trying to
11 like beg him to answer my question, is this --
12 is your -- is your questionnaire inaccurate.
13 Is it wrong? Do you need to withdraw it? He
14 would not answer my question. Finally, he did
15 and said, yes, it's inaccurate. My -- my -- my
16 questionnaire is wrong, it did not cause the
17 left foot drop, but miraculously he said it
18 aggravated it of course. I guess where I'm
19 going with this is, and Commissioner, may I
20 quickly finish up?

21 COMMISSIONER TAYLOR: Yes. Finish your thought.

22 MR. HAIGLER: Is, there are too many inconsistencies
23 to believe anything that has happened in this
24 case, and that's what Dr. Lamotta's testimony
25 -- that's not Nick's statement. That's what he



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1 testified to. We would ask that you deny this
2 case, as it should be. Thank you,
3 Commissioners.

4 COMMISSIONER TAYLOR: Thank you. Mr. Smith, you
5 have three minutes on reply?

6 REPLY BY MR. SMITH:

7 MR. SMITH: Yes. Thank you. Just said a few thing
8 that Mr. Haigler went through. He points out
9 Dr. Lamotta says this and Dr. Lamotta didn't
10 have the records and he's the last one we
11 deposed. And that is true. He was the last
12 one to depose -- to be deposed in this case.
13 However, Defendants still have not acknowledge
14 the fact that their IME expert, Dr. Gunter, in
15 January of 2017, the last Doctor, I believe,
16 that treated or saw Mr. Bias came through and
17 cited basically exactly what Dr. Paletti said,
18 is that the back symptoms are worse, the right
19 leg symptoms are new, the left leg symptoms are
20 worse, and he had a work accident. And he ties
21 it to the work accident. And that -- that's --
22 that's important to me, is that you're --
23 you're having multiple doctors saying that --
24 and it's important to note that he says the
25 doctors didn't have the records. Well, the



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1 doctors testified in their depositions that
2 they did. The only doctor that didn't testify
3 to that fact was Dr. Lamotta. And the only
4 reason that he didn't testify to that fact is
5 because he didn't have any of the records,
6 okay. So, we couldn't really cross him on what
7 records he did have. But it doesn't really
8 make sense that these two doctors have the
9 record, Dr. Lamotta is the only one that
10 doesn't. And that doesn't make sense. The
11 other thing that I think is important is that
12 Dr. Paletti and Dr. Hutchinson and even Dr.
13 Lamotta all testified that the delay in
14 symptoms is not unusual. Okay, and Dr. Paletti
15 noted this on page 22 of his deposition, lines
16 12 through 21. Dr. Hutchinson noted it in his
17 deposition, page 18, lines 14 through 24. And
18 Dr. Lamotta noted it in his deposition on page
19 33, lines 7 through 23. So, all of these
20 doctors still said that a delay in symptoms in
21 a fall like this is not unusual and also, it's
22 important to note that Dr. Paletti reviewed the
23 MRI, the actual disk to film and says that he's
24 had a migration of the disk, has reherniated,
25 has come down and is lateralizing to the right.



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1 Didn't have that before. That was new, okay.
2 That was something completely different, which
3 he tied back to the work accident. And also,
4 the -- the reference that it's the only report
5 from Southeastern Spine or the only report from
6 Dr. Paletti that's not included in -- in the
7 letter. I actually went back and checked it,
8 to be quite frank. I went back and reviewed
9 that letter to see what all wasn't there
10 because I had a problem with it, as well. And
11 there is three other reports that are not
12 included in that record, as well. So, it's not
13 a summary of all of the medical evidence, as
14 Mr. Haigler would like for you to believe.
15 It's just a -- a summary of a portion of the
16 medical evidence. The records themselves were
17 attached. Dr. Hutchinson reviewed those in his
18 deposition, and noticed that they, they were,
19 in fact, included. And again, we could only
20 assume what Dr. Gunter had when he reviewed the
21 -- the patient, Mr. Bias, because he's still
22 finding along the same lines. And then also,
23 Dr. Raimes. And it still doesn't change the
24 fact that if you go back and look at that
25 August note from Dr. Paletti's office,



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1 everything that Mr. Bias was experiencing
2 seemed to be improving. Foot drop improving,
3 right leg symptoms not there, back pain
4 improving, to the point where he goes back to
5 work. He has this injury, he -- you know, and
6 everything kind of regresses from there. So --
7

8 COMMISSIONER TAYLOR: Thank you, sir.

9 MR. SMITH: Thank you.

10 COMMISSIONER TAYLOR: All right. Have a wonderful
11 afternoon.

12 (There being nothing further, the full commission
13 hearing concluded at 2:59 p.m.)
14
15
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CERTIFICATE

This is to certify that the within hearing consisting of twenty four (24) 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 15, 2018.

Amber Scarborough
Amber Scarborough

Notary Public for South Carolina
My Commission Expires: May 30, 2023



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STATE OF SOUTH CAROLINA
 BEFORE THE
 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
 WCC FILE NO.: 1421397

| | | |
|--------------------|---|-----------------------|
| Johnnie Bias |) | |
| Employee-Claimant, |) | |
| vs. |) | |
| SCANA Corporation, |) | Deposition of |
| Employer, |) | STEVEN C. POLETTI, MD |
| and |) | February 3, 2016 |
| Self-Insured, |) | |
| Carrier, |) | |
| Defendants. |) | |

Deposition on oral examination of
 STEVEN C. POLETTI, MD, reported by Jeannette M.
 King, Court Reporter and Notary Public in and for
 the State of South Carolina; said deposition taken
 pursuant to Notice of Deposition and in accordance
 with the South Carolina Rules of Civil Procedure at
 the offices of Southeastern Spine Institute, 1106
 Chuck Dawley Boulevard, Suite 200, Mt. Pleasant,
 South Carolina, commencing on Wednesday, February 3,
 2016, at the hour of 3:35 p.m.

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 This deposition is taken in accordance
2 with the South Carolina Rules of Civil Procedure.

3 It is agreed and stipulated by the
4 deponent and respective counsel that the reading and
5 signing of the deposition transcript by the deponent
6 is expressly waived.

7 WHEREUPON:

8 STEVEN C. POLETTI, MD, after being duly
9 sworn and cautioned to speak the truth, the whole
10 truth and nothing but the truth, testified as
11 follows:

12 EXAMINATION

13 BY MR. HAIGLER:

14 Q. Dr. Poletti, please state your full name
15 for the record.

16 A. Steven Charles Poletti.

17 Q. Dr. Poletti, my name is Nick Haigler. I
18 represent SCANA or SCE&G in Mr. Bias' workers'
19 compensation claim. I've deposed you a few times
20 before, so I know you know kind of how this process
21 works.

22 I also know, and correct me if I'm wrong,
23 you're a board-certified orthopaedic surgeon. Is
24 that correct?

25 A. That's correct.

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 Q. And with all that being said, I won't get
2 into any of your -- necessarily your credentials and
3 your background as far as your medical education
4 goes. You are an employee here at the Southeastern
5 Spine Institute as a spine surgeon; is that correct?

6 A. That's correct.

7 Q. Let me do this and make sure I have all of
8 your records. Correct me if I'm wrong, but it looks
9 like you started seeing Mr. Bias as far back as
10 2001. Does that seem to be correct or consistent
11 with what you have?

12 A. That's correct.

13 Q. And the last report I have is from
14 December of 2015. Is that what you have?

15 A. Yes. December 21, 2015.

16 Q. Have you -- and I don't have anything of
17 this nature in my records, but just to make sure, do
18 you have any questionnaires or any kind of
19 statements that you've completed for his attorney?

20 A. No. We don't. And I want to make a
21 comment on this because it's related to
22 correspondence that was sent by you to me --

23 Q. Sure.

24 A. -- prior to this deposition.

25 Q. Sure.

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 A. And you sent correspondence to me prior to
2 the deposition where we had requested to be
3 reimbursed for the deposition because we had not
4 seen Mr. Bias through his workers' compensation
5 carrier but rather through his own insurance, and I
6 was sent a note back from Kim Davis in your office
7 for me to review two workers' compensation claims.
8 This was sent to me through your office where this
9 was an appeal from Dr. Chokshi with regards a
10 workers' compensation claim, and apparently the
11 position of the commission was that he had filled
12 out forms, specifically a 14B, and was therefore
13 under the auspice of the Medical Services Provider
14 Manual.

15 Using that rationale, they said that they
16 were sending me a \$400 pre-payment even though it's
17 my position that I did not treat him through
18 workers' compensation. So as a consequence of that,
19 I did get the Medical Services Provider Manual and
20 spoke over the phone yesterday to
21 Mr. Grant Duffield, who apparently is the
22 administrator of the Medical Services Provider
23 Manual for the South Carolina Workers' Compensation
24 Commission.

25 The first page of this does note -- and

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 I'll give you a copy of the Medical Services
2 Provider Manual, says that the Medical Services
3 Provider Manual is for any appropriately licensed
4 medical provider who is authorized by the employer
5 or insurance carrier to treat workers' compensation
6 claimants. And so I would say that my position, if
7 I'm being authorized, paid under the Medical
8 Services Provider Manual, is that the treatment that
9 I've provided to Mr. Bias has been as his treating
10 physician under the Workers' Compensation Act.

11 Q. Okay. I mean, are you requesting anything
12 or are you just stating this? I just want to make
13 sure I'm clear for the record.

14 A. Well, just stating for the record that
15 there was a question where they said that since we
16 didn't treat the patient through workers'
17 compensation -- but then I received this notice
18 through Mr. Beard that I have been paid through the
19 Medical Services Provider Manual, and it's my
20 position that Mr. Duffield said that he wasn't able
21 to state that that wasn't true, that him being paid
22 through the Medical Services Provider Manual, then
23 by definition, I've been authorized by the employer
24 or insurance carrier to treat the workers'
25 compensation patient.

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 Q. Okay.

2 A. One way or the other, if I'm outside the
3 system, so if -- example, if I lived in Georgia,
4 right, then by law, I would be paid the usual and
5 customary fee for going through this deposition, but
6 here in South Carolina, there is a fee schedule
7 under the Medical Services Provider Manual for
8 people who are authorized by the employer to treat
9 that, so if I'm going to accept the \$400 claim for
10 doing this deposition, which I'm happy to do, I
11 would like it to -- I would like to be the --
12 acknowledged as the authorized treating physician
13 and that the treatment I've given to Mr. Bias since
14 the time of his injury would be authorized to be
15 compensated.

16 Q. Are you -- and if you're not going to be
17 the authorized treating physician?

18 A. Well, if I'm not going to be the
19 authorized treating physician, then it would be my
20 position --

21 Q. I can't answer that right now.

22 A. If I was not the authorizing treating
23 physician, then it would be my position that the fee
24 for this deposition should be my usual customary fee
25 as is the case for people that are not paid through

ABC REPORTING SERVICE 803-730-3015

STEVEN C. POLETTI 2-3-2016

1 the Medical Services Provider Manual.

2 Q. Which is how much?

3 A. Which is \$1,000.

4 Q. And are you agreeing to do the deposition
5 and determine that at another time or --

6 A. Sure. I don't want to hold up Mr. Bias'
7 case, you know. It's just my position.

8 Q. Okay. Fair enough.

9 Back to my original question, did you
10 complete any questionnaires?

11 A. No, I did not.

12 Q. I think that's what led to that answer.

13 A. That's correct. This was just -- all came
14 about in the last couple of days. I just wanted to
15 respond to it.

16 Q. Correct me if I'm wrong, I believe there
17 are at least two reports, if you don't mind turning
18 to it. I'll give you the date in just a second.
19 The first one was January 23rd of '15 where you note
20 that in your opinion, more likely than not, the
21 increase in his right leg pain as documented on
22 October 22, 2014, was the direct result of his fall,
23 which at the very top you indicated was on
24 October 14th.

25 A. That's correct.

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1 Q. So you've given an opinion that this is
2 casually related to a workers' comp injury, correct?

3 A. Yes. The purposes of that opinion were in
4 the context of filling out the disability forms that
5 we filled out at Mr. Bias' request. In that, we
6 have to have rationale for whether that's -- what
7 the cause of it was, so that's just a documentation
8 of that rather than me providing that at the request
9 of an attorney or something.

10 Q. Fair enough. Let's go back, if we can.
11 I'm not going to belabor going through all of his
12 prior records. You saw him, as I mentioned earlier
13 and I think your confirmed -- I think you started
14 seeing him back in 2001. Was that treatment given
15 for the lumbar spine, and specifically the L4-5 or
16 L5 level?

17 A. Correct.

18 Q. And did he end up having surgery back then
19 or was that all just conservative care? I know,
20 based on your reports, that he had a prior surgery
21 before you ever started seeing him.

22 A. Right. I believe that he did not have
23 surgery, no.

24 Q. But you didn't perform surgery to him in
25 the early part of the 2000 decade; is that correct?

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1 A. Correct. I believe he had it done by
2 Dr. Eden.

3 Q. And that was back in the '80s?

4 A. Yes. Sometime ago.

5 Q. Fair enough. And I'm going to your June
6 2004 report, June 24, 2014. I can show it to you if
7 it's easier for me to do that.

8 A. It might be easier.

9 Q. Okay. Fair enough.

10 A. I'm sorry. I have it.

11 Q. Okay. Good. Before I ask you a question
12 on this particular report, has it been your
13 experience with Mr. Bias that you've basically been
14 treating him on and off for the better part of 15
15 years?

16 A. Yes.

17 Q. And has all that treatment been related to
18 the lumbar spine primarily?

19 A. Yes.

20 Q. Now, on this June 24, 2004, report, did
21 you give him an impairment rating?

22 A. Yes.

23 Q. What was that impairment rating?

24 A. It was 10 percent.

25 Q. Is that a whole person 10 percent or just

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1 10 percent?

2 A. 10 percent.

3 Q. What was that? How did you assign that or
4 why did you assign that?

5 A. We had evidence of recurrent or laterally
6 disk herniation at L5-S1.

7 Q. Is that basically the standard impairment
8 rating for that type of pathology?

9 A. I think it's in that range, yes.

10 Q. Fair enough. Is that pursuant to the AMA
11 Guides?

12 A. Correct.

13 Q. I don't know what edition you would use
14 back in 2004, but 4th or 5th, I would presume.

15 A. Probably the 5th.

16 Q. And then it looks like -- well, let me ask
17 you this. During the time that you've treated him,
18 has he had -- what has his symptoms been or what --
19 typically, what kind of symptoms has he had over the
20 last 15 years?

21 A. Back and leg pain.

22 Q. Has the leg pain been one side or the
23 other or has it varied from one side? It would go
24 to the right and then come back and it would be the
25 left and then it would be the right?

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1 A. Primarily the left.

2 Q. I think I saw a period of time, and I
3 believe it was right around that 2004 report, where
4 he was complaining of right leg pain as well. Would
5 that surprise you?

6 A. No.

7 Q. Does he have a type of condition -- I'm
8 sorry. It's 2010. February 19, 2010.

9 The nature of his condition and pathology
10 that you saw in the lumbar spine, was it such that
11 he could have pain in both legs or alternating or it
12 could come and go and things of that nature?

13 A. It's possible, yes.

14 Q. Is that typically what you saw in
15 Mr. Bias?

16 A. Well, again, I think I saw Mr. Bias on
17 basically two different periods of time. In 2002 to
18 '04 was for an episode of pain, and then really from
19 2011 to 2013 another and then 2014 another, but
20 there was basically variance of the same thing, back
21 pain and leg pain.

22 Q. Okay. When did you perform your first
23 surgery on Mr. Bias -- or your only surgery on
24 Mr. Bias?

25 A. It was on...

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1 Q. I have March of '14. Correct me if I'm
2 wrong.

3 A. It's March 7, 2014.

4 Q. What was the nature of that surgery?

5 A. That was for removal of a disk herniation
6 at L4-5 and L5-S1.

7 Q. So a two-level procedure?

8 A. Correct.

9 Q. What was the procedure specifically?

10 A. Laminectomy, discectomy, L4-5 and L5-S1.

11 Q. What are you trying to achieve in that
12 procedure?

13 A. Taking the pressure off of the nerves as
14 they run down the left leg.

15 Q. Is the goal more focused on relieving the
16 leg symptoms or the back or both or do you typically
17 see better results as to the leg pain over the back
18 pain or can you comment on that?

19 A. I can. It's the operative note that I
20 have for that day, so it says, We theoretically
21 could consider a type of multi-level ankylosis.
22 What we're choosing to do is decompression of the
23 nerve roots alone, understanding the goal is for
24 relief of radiating leg pain and that he is likely
25 to have some continued back pain ongoing.

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1 Q. And based on your subsequent notes, was
2 that exactly what occurred?

3 A. That's correct. Again, Mr. Bias had some
4 significant pain and weakness in his leg that
5 required him to have the surgery in 2014, maybe not
6 as an emergency, but under an urgent basis, and he
7 improved with regards to that after the surgery.

8 Q. Now, do you have a date -- and I think you
9 mentioned it in your January 15th report. I think
10 you noted the date of accident as 10-14-14.

11 A. That's correct.

12 Q. The first report that I -- the report I
13 have is just before 10-14-14. It's 8-6-14.

14 A. That's correct.

15 Q. Now, had he reached the point of, quote,
16 MMI? I know this wasn't a workers' comp case you
17 were dealing with. Had he reached that point by
18 this time?

19 A. Well, I mean, he was medically stationary.
20 We had given him a follow-up in a couple of months.
21 He had desired to return to work after surgery in
22 the modified-duty status and was improving at that
23 point.

24 Q. I know this -- again, this wasn't a
25 workers' comp case, but if you were asked to assign

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1 an impairment rating as a result of that surgery you
2 did back in '14, what would it have been?

3 A. Probably 15 percent.

4 Q. Okay. Another 5 percent from the
5 impairment rating that you gave him back in 2004, I
6 believe?

7 A. That's a harder question to answer.
8 Again, I'm not a judge. I don't know if it's an
9 additional 5 percent or if you consider if he starts
10 at zero and it's 15 percent, so I can't say that his
11 impairment is 5 percent as a consequence of the
12 surgery that he had. I can only say that his
13 impairment was 15 percent as a consequence of the
14 two-level discectomy that he had.

15 Q. Just pursuant to the AMA Guide, that's
16 what it would have been?

17 A. That's correct.

18 Q. Fair enough. That would have been a whole
19 person percentage?

20 A. Yes. Correct.

21 Q. And then you saw him on 10-15-14; is that
22 correct?

23 A. That's correct.

24 Q. How was he doing when he came into your
25 office on that day?

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1 A. Well, this note is -- he saw my physician
2 assistant, Lane Tuggle.

3 Q. Right.

4 A. She said in that note that he had minimum
5 pain complaints on that day, that he felt improved
6 from the surgery, was continuing to have some aspect
7 of numbness in the left foot but feels a slight
8 improvement. He was back at work and was training
9 an employee and he was not required to do any
10 lifting or bending.

11 Q. Did it appear to you as of October the
12 15th, 2014, when he came in and saw your PA,
13 Lane Tuggle, that he was doing very well from that
14 surgery from March?

15 A. Yes.

16 Q. Is there any mention of a work injury that
17 occurred the day before?

18 A. No.

19 Q. Is there any mention of any worsening of
20 any symptoms as a result of the work injury or
21 anything else that you can see from this report?

22 A. No.

23 Q. If Mr. Bias had come -- and I know you're
24 not Lane Tuggle, but had Mr. Bias come into your
25 office and made complaints that the day before he

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1 had a work injury and was having problems, would
2 those have been noted by Lane Tuggle?

3 A. I would think so, yes.

4 Q. Would you expect them to as the
5 supervising physician?

6 A. I would think so, but, again, I don't know
7 what happened that day.

8 Q. Okay. Fair enough. The next report I
9 have is 10-22-14.

10 A. Yes.

11 Q. Is this the day that the accident was
12 reported to your office?

13 A. That's correct.

14 Q. Again, this was reported to Lane Tuggle
15 based on the note; is that correct?

16 A. Yes.

17 Q. What were his symptoms on 10-22?

18 A. Said that a few days ago, he was coming
19 down a flight of stairs, slipped and fell backwards
20 on his tailbone. Since then his left leg has felt
21 cold and he was having increased weakness in this
22 leg. He has low back pain that has always been on
23 the left, but it is now lateralizing to the right
24 and he is having difficulty with walking.

25 Q. Was there any -- and I know you saw him

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1 again, it looks like, a week later, on 10-29. Were
2 the symptoms similar?

3 A. Yes.

4 Q. Okay. Let's go to that report since it is
5 actually a report that you authored and signed, if
6 we can. Given where he -- the procedure he had in
7 March and where he is on here October 29th, are
8 these symptoms that are in addition to the symptoms
9 that he was having before October the 15th?

10 A. Yes. I think he had some symptoms prior
11 to October 15th, but I think he had increasing
12 problems on the right side post-accident.

13 Q. Well, and let's -- are there things other
14 than an accident that can cause a patient in this
15 gentleman's condition who has had back problems he's
16 been treating with you for, at least at this point,
17 13 years -- I mean, can things other than an
18 accident cause someone to develop new symptoms?

19 A. Sure. You don't have to have trauma to
20 develop new symptoms. That's for sure.

21 Q. Is that even more so the case in a patient
22 with this kind of history?

23 A. I think that most patients that injure
24 their back don't have a specific problem.

25 Q. Your relation of these new symptoms to his

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1 employment or that accident, was that simply by what
2 he was telling you or telling your office? Did you
3 have any other outside information or evidence that
4 would have allowed you to make that causal link?

5 A. No. Well, no. Again, there's no way that
6 we can make the link that he was in the accident and
7 was worsening if he didn't tell us.

8 Q. Okay. It looks like you conducted on that
9 day in October another MRI.

10 A. Yes.

11 Q. Was there a difference in this MRI and the
12 MRI from -- let me ask it this way. Was there a --
13 what did you see on the 10-29 MRI?

14 A. Well, again, I thought that he had
15 evidence that he had undergone the surgery on the
16 left, L5-S1, but there were some increasing disk
17 changes at the L4-5 level. There was some migration
18 downward of a disk herniation at L4-5 consisting of
19 a worsening of that disk. There was evidence of
20 prior surgery on the left side with continued
21 pressure against the nerves on the right side.

22 Q. What in this MRI jumped out at you as
23 something that was probably new, if anything?

24 A. I would say when they talk about a central
25 disk protrusion with some migration downward, who

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1 had displacement and probably compression of the L5
2 roots, it's that disk herniation migrating
3 downwards, so, again, the position of the disk
4 herniation was migrating downwards when compared to
5 the MRI that he had previously.

6 Q. Okay. I'm reading the February report.
7 You're referring to the L5-S1; is that correct?

8 A. L4-5.

9 Q. And the downward migration, was that
10 protrusion -- was that there presurgery and you
11 fixed it and it's back or was that something that
12 wasn't there presurgery and it's now there?

13 A. It wasn't there presurgery and now it's
14 there.

15 Q. Fair enough. I hate to use those very
16 simple words, but for the record, it's easier for us
17 to understand that sometimes.

18 What can cause that particular pathology
19 that you saw there on the MRI?

20 A. Well, again, it can be caused by trauma.
21 It could just be caused through activities of daily
22 living. It's possible that he could have reinjured
23 it spontaneously. It's possible that he could have
24 reinjured it through trauma.

25 Q. Let me ask you this. When you have that

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1 type of -- let's assume it was through trauma.
2 Let's assume that the fall that he described to you
3 that occurred on October 14th did, in fact, cause
4 what you saw on this L4-L5 MRI or the MRI at that
5 level. Would you expect the symptoms to be there
6 fairly quickly?

7 A. Yes.

8 Q. Does it make any sense then, Doctor, that
9 he came into your office the very next day and had
10 no complaints? In fact, he told you he was doing
11 well.

12 A. I don't think that's inconsistent with it.
13 I mean, it wouldn't surprise me if somebody thought
14 they were doing pretty well, that they injured
15 themselves the day before and that the disk squirted
16 out or worked itself out over the next couple of
17 days. I mean, again, Mr. Bias was seen in the
18 office roughly less than ten days after his fall and
19 complained of increasing pain after that, so either
20 what he's telling me is not true or that he got
21 worse after he fell.

22 Q. But you would expect, based on your
23 experience, that usually if you have that type of
24 additional pathology in your lumbar spine, you've
25 got to feel some symptoms?

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1 A. That's possible. Again, it seems unusual
2 to me that it's not specifically mentioned that he
3 fell the day before, but if he had it documented, if
4 it was something that was noted, then it's not
5 something that was, I guess, just unwitnessed or
6 didn't happen, then I might feel different about it.
7 If he had a true fall and a true injury and his pain
8 is worse and his disk is worse, then it would make
9 sense to me that the fall caused the disk to worsen.

10 Q. What if I told you that it was unwitnessed
11 and undocumented?

12 A. Well, I mean, again --

13 MR. SMITH: Object to the form.

14 BY MR. HAIGLER:

15 Q. I'm just asking you to assume that the
16 fall was unwitnessed and not documented until after
17 you saw him.

18 A. Right. Again, you know, my position, and
19 I've told many people in these depositions, is that
20 I'm a patient advocate. I'm not a private
21 investigator. I've known Mr. Bias for 11 years in
22 the practice and has always known him to be genuine
23 in his clinical complaints. My feeling is that he
24 most likely wouldn't, you know, make up a fall that
25 didn't happen. He seems pretty genuine to me, but

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1 I'm not a private investigator.

2 Q. Okay. I want to show you one more
3 document, Doctor, if I can. It's the report from a
4 pulmonologist that he saw on 10-17.

5 A. Yes.

6 Q. That would have been three days after his
7 accident. Give you a chance to look at it.

8 A. Okay.

9 Q. Is that a report from Dr. Dan Love?

10 A. Yes.

11 Q. Do you know Dr. Love?

12 A. No.

13 Q. Okay. Does Dr. Love indicate on his
14 report that Mr. Bias has a history of back pain but
15 indicates that it's resolved? Is that what the
16 report says?

17 A. That's correct.

18 Q. And I'm not asking you to comment on the
19 accuracy of the report. I'm just asking, is that
20 what the report says?

21 A. That's correct.

22 Q. Does that report anywhere on it reference
23 any kind of fall or work-related injury that
24 occurred three days prior?

25 A. No.

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1 Q. Would you have expected, given the
2 pathology that you saw, for him to -- well, let me
3 ask you to assume that he actually told Dr. Love
4 that his back pain was resolved, which -- let's
5 assume he said that to him. Would you have expected
6 a patient to have had the type of fall that Mr. Bias
7 says he had on 10-14 and has the type of pathology
8 that you discovered in L4-5 to tell a physician that
9 his back pain was resolved, not having any
10 significant symptoms?

11 MR. SMITH: I object. Calls for
12 speculation.

13 BY MR. HAIGLER:

14 Q. Does that make any sense?

15 A. Well, again, the history is a part of an
16 electronic medical record. Electronic medical
17 records often carry problem lists from visit to
18 visit. These things that are in an electronic
19 medical record -- as you see from this, this is a
20 very detailed document talking about all of his past
21 medical issues in a way that didn't exist before,
22 electronic medical records, so it's hard for me to
23 tell whether this resolved back pain notation is
24 just a problem list that's carried on from the last
25 visit or if it's something that he stated on this

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1 visit.

2 I would feel differently about it, if
3 under the History of Present Illness where the
4 doctor is actually dictating his thoughts and
5 observations on that day, if he said, My back is
6 fine.

7 Q. Is it perhaps -- would you feel better if
8 Dr. Love said, Yeah, he actually told me that and I
9 wrote it and that's why I put resolved back pain?

10 A. Right.

11 Q. Would that make a difference?

12 A. It could make a difference if he said,
13 Yes. My back pain is resolved. I would tend to
14 think that -- again, with my use of medical records,
15 that these types of problems are often carried down
16 or -- I think that the computer term is "populated"
17 into the next note automatically.

18 Q. What if I told you that was the very first
19 time he had ever seen Mr. Bias? I think you
20 mentioned that sometimes that's carried over from
21 report to report. What if that was the very first
22 visit?

23 A. It would seem unusual to list his past
24 problems and have a list of his upcoming medical
25 health maintenance recommendations, so it's

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1 possible, but I would tend to think that some aspect
2 of that Past Medical History is populated from a
3 prior record.

4 Q. Would you defer to Dr. Love's opinion on
5 that matter?

6 A. Well, again, you know, I would defer to
7 Dr. Love's opinion on what he does with his medical
8 records, sure.

9 Q. Fair enough. Doctor, was the comment here
10 in Dr. Love's report that his back pain is -- and
11 I'm using the word "resolved" because that's what is
12 written on here. Is that somewhat similar to what
13 he was telling you when you saw him on 10-15, that
14 he was having minimal pain complaints?

15 A. Well, again, resolved means that it's not
16 there, so his back pain was not resolved when I saw
17 him on 10-14. It certainly was worse when I saw him
18 on 10-22.

19 Q. Okay. Let me ask you this question. When
20 you saw him on 10-15, was this as good a condition
21 that he had been in for quite some time? Going
22 backwards, how long had it been since he had minimal
23 pain complaints, if ever?

24 A. Well, on 8-6-14, he was described as doing
25 very well with great improvement in his overall

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1 strength and mobility. His pain was three out of
2 four and he was wanting to return to work and was
3 described as progressing very well, so I would say
4 that he was doing well on 8-6-14. That carried over
5 on that visit from 10-15-14.

6 Q. Was he continuing to improve as time went
7 on from the surgery that he had in March? Is that
8 fair?

9 A. I think that's fair, yes.

10 Q. At least as of 10-15?

11 A. It felt that way, yes.

12 Q. After you saw his MRI and spoke to the
13 patient again on 10-29, what were your plans for
14 Mr. Bias? What do you think you needed to do?

15 A. Again, Mr. Bias' situation is a difficult
16 one, that he could consider further surgery, but
17 because his problem was on the right side and he had
18 previous surgery on the left side, if we took off
19 the supporting structures on the right, take the
20 pressure off of the nerves, we would have to do a
21 spinal fusion, which is a bigger operation. And I
22 think I said this is something that he's really not
23 interested in doing right now, so we said we would
24 try some injections, take something for pain, watch
25 it along and see what happens.

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1 Q. And I reviewed all of your records from
2 10-29 up to the next 14 months. The conservative
3 treatment that you've offered him and provided him,
4 which I think includes medications, physical
5 therapy, injections, different types of injections,
6 have those provided him relief?

7 A. Yes. I think they've decreased his
8 disability. I think they're reasonable treatment to
9 do, and I don't think he would keep doing them if
10 they were completely ineffective.

11 Q. Got you.

12 A. I think some measure of relief. He's got
13 a difficult problem. We're managing this problem.
14 It's a very difficult dance to say that an operation
15 to include a fusion operation would help him as much
16 as he wants. He has a bad back at a couple of
17 levels. He's got some chronic issues and some new
18 issues and he's not in a position where his back is
19 such that he can work.

20 Q. And it looks like going up to December,
21 the last time you saw him, he was only -- I say
22 "only," but he was in five out of ten pain. Is that
23 correct?

24 A. That's correct.

25 Q. Given where he was in late '14 and early

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1 2015, he's had some improvement. Is that a fair
2 statement?

3 A. I think maybe some improvement. He was
4 taking a relatively high dose of medication for
5 pain. We're trying to stay away from that fusion
6 operation. I mean, again, basically, that's it for
7 Mr. Bias. He's got these couple of bad disks, could
8 consider a big operation that could be unpredictable
9 and as anybody knows that's looked into these for a
10 long time, sometimes people that have multiple
11 operations that involve a spinal fusion have less
12 than an ideal result.

13 Q. Okay. Sometimes surgery is not the
14 answer. Is that what you're saying?

15 A. It's not the perfect answer sometimes.

16 Q. Has he been -- at least since you started
17 seeing him again in 2012, '11 and '12, has he been
18 going down this road this whole time of, do we have
19 surgery, do we not have surgery, what kind of
20 surgery do we do, do we do a discectomy or a less
21 evasive procedure or do we do a fusion? Has he been
22 down this road basically for the last five years?
23 Every time he came in here, have you had the
24 discussion of what do you want to do now?

25 A. Well, in late '13 or '14, he got acutely

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1 worse, developed a worsening neurologic deficit,
2 which required him to do surgery. It was either we
3 do the decompression or we do the fusion, but we
4 have to do something. We have to take the pressure
5 off the nerves. His surgery was not really elective
6 in 2014.

7 Now, the surgery would be elective in a
8 way. It would be something that he would choose to
9 do in conjunction with us, but it's not something
10 that he has to do. In 2014, I felt that he had to
11 do surgery.

12 Q. Okay. Has he reached MMI at this point
13 assuming he doesn't want to have -- and I know we're
14 not talking about a comp claim per se, officially,
15 but assuming we are, has he reached MMI if he
16 doesn't want to have surgery?

17 A. Yes.

18 Q. Does he have an -- I know he does have an
19 impairment rating, but what is his current
20 impairment rating?

21 A. I think his current impairment rating
22 would be in the range of 20 percent.

23 Q. 5th Edition of the AMA Guides?

24 A. Correct.

25 Q. And we've gone from 10 to 15 to 20. I

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1 know why, but can you tell how we got from 15 to 20
2 percent?

3 A. Again, he has two-level disk involvement.
4 He has bilateral pain and weakness. I think he has
5 some measure of increased impairment as a
6 consequence of loss of use of his lower extremity.
7 His leg is weaker now than it was in '10, so that's
8 the reason for the increased impairment.

9 Q. And I've not noticed in any of your most
10 recent records, and maybe I just don't have it, but
11 have you given him any work restrictions or any
12 comments regarding employment or what he can do at
13 work?

14 A. Well, I believe that we filled out
15 disability forms for Mr. Bias. I don't know that
16 for a fact, but I want to say that we have. He
17 would know better than me. I would recommend that
18 he be out of work.

19 Q. Okay. And because you completed
20 disability forms, you've stopped completing work
21 notes; is that probably the case?

22 A. I don't know.

23 Q. Fair enough.

24 A. I'd be glad to fill out a note for him,
25 but here's something from MetLife where they want

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1 copies of his records and this is a disability form
2 that we filled out of him where we said that he's
3 unable to work. I signed this on 8-15-15. That's
4 the last disability form that I have for him.

5 Q. Is he not a candidate for any kind of
6 sedentary job?

7 A. Well, again, Mr. Bias takes moderately
8 high doses of analgesic medications. He's had a
9 couple of back surgeries. He's got some spinal --
10 he's got some spinal disk disruption. I feel that
11 he would not be able to do full-time sedentary work.
12 My feeling is that he wouldn't be able to work 20
13 hours a week. My feeling is that if he applied for
14 Social Security disability, that he would receive
15 it.

16 Q. And you previously allowed him to return
17 to work after his surgery, correct?

18 A. That's correct.

19 Q. And he's not at that condition where he --
20 what's changed since that time where he went back to
21 work that now you think he's not capable of working?

22 A. Well, he's got worsening back pain. He's
23 requiring the use of narcotic analgesics. He's got
24 pain in both legs. He's got weakness in his left
25 leg. He wears a brace on his left leg.

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1 Q. Was he not on narcotics before when he was
2 working? Was he not being prescribed those? I see
3 on August 6, 2014, during the time that he was
4 employed, that he was on Hydrocodone, 10 milligrams,
5 Acetaminophen, 325.

6 A. Yes. I mean, Mr. Bias had some pain where
7 he was able to work, where he was working in a
8 full-time capacity and doing well, and then, again,
9 a worsening of his pain and a worsening of his
10 condition that requires more interventional pain
11 management. Higher doses of analgesic medication,
12 in my opinion, represents a worsening of his
13 condition that is disabling.

14 Q. Okay. Doctor, on 8-6-14, he told you that
15 he was in three to four out of ten pain. It looks
16 like you were good if he went back and did a desk
17 job, a sedentary-type job. Is that fair?

18 A. That's correct.

19 Q. And he was still on pain medications that
20 we just discussed, and then as of your last report,
21 he's reporting five out of ten pain, so it's
22 basically gone up one point on the pain scale. He's
23 still on the pain medications and yet you don't
24 think he can return to any kind of employment?

25 A. Not at this time, no.

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1 Q. Do you ever think that he will be able to
2 return to employment?

3 A. No. As I've said, I think that if
4 Mr. Bias applied for Social Security disability, it
5 would be my opinion that most likely he would
6 receive it.

7 Q. Well, people on Social Security can still
8 work, can they not?

9 A. Well, again, to me, the criteria for being
10 disabled from the purposes of working is the
11 inability to work a four-hour day or a twenty-hour
12 week. I think that if you're on Social Security
13 disability, that there is some pathway for you to
14 work less than twenty hours a week or in some
15 capacity, but no, if you're capable of full-time
16 employment, then you can't receive Social Security
17 disability based on the inability to work.

18 Q. Okay. Let's assume he's not on Social
19 Security and came into your office as a -- on
20 December 21st. Doc, I've got a -- I'd like to try
21 to go back to work and do a job where I'm sitting
22 down, a sedentary-type job. What would you tell
23 him?

24 MR. SMITH: Calls for speculation.
25 Objection.

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1 THE WITNESS: Well, again, what we have
2 when it comes to nerve-based problems is the pain
3 that people have. If he said that I'm -- I feel
4 great, I feel 100 percent, I want to go back to
5 work, I'm ready to do it, then I wouldn't question
6 what he feels. I think that's the hardest part of a
7 nerve-based evaluation, is that much of it is based
8 on pain and we can't quantify that.

9 BY MR. HAIGLER:

10 Q. You mentioned that if he came back and
11 said I'm feeling great and I'm not -- I'm asking
12 about when he -- in his current -- in the condition
13 he was in on December 21st, with five out of ten
14 pain, basically the same -- you know, what if he
15 came in to you at that particular point and said,
16 I'd like to try to go back to a sedentary job, would
17 you allow him to try?

18 A. I think I would tell him that my opinion
19 would be that he wouldn't be able to do it, that I
20 might allow him to try it on a limited basis, part
21 time, and see if he progresses, but I wouldn't
22 advise him to.

23 Q. Okay. And, again, to be clear, your
24 opinion as to causation in this case is based on the
25 fact that Mr. Bias told you that he fell on October

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1 14, 2014?

2 A. I would say that's the case with all
3 opinions of causation. They have the veracity of
4 the truthfulness of the person that's claiming they
5 were injured. Yes. I'm not investigating whether
6 they fell or whether they were in a car wreck or
7 whether they were hit in the back. Like I said, I'm
8 a patient advocate. I'm here to listen to what
9 whoever comes in to see me tells me, and I believe
10 them.

11 Q. Fair enough. I think you testified that
12 it would be unusual, or was unusual, assuming he did
13 not tell your staff on October the 15th when he came
14 in here, it would be unusual that he wasn't having
15 symptoms given the pathology that you saw; is that
16 correct?

17 A. I would say that it wouldn't be unusual
18 that he wasn't having symptoms the day after. It
19 would be unusual that he had a fall and we didn't
20 make a note of it.

21 Q. Okay. You don't have any issue with the
22 fact that he came in the next day and told you he
23 was having minimal pain after having a fall?

24 A. That's correct. If he had come in and
25 said, I fell yesterday but I'm not really feeling

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1 much quite yet, and then a week later he said, Now
2 it's worse since that fall, that wouldn't surprise
3 me.

4 Q. But he didn't tell you he had a fall
5 according to the report?

6 A. That's correct.

7 Q. Okay. But when you looked at the MRI 15
8 days later, you saw that new protrusion, L4-5,
9 correct?

10 A. Correct. A worsening of the protrusion,
11 yes.

12 Q. And if someone had something acute that
13 causes what you saw in that MRI from 10-29, would
14 that be a pain generator in your opinion given --
15 especially given the patient that you're dealing
16 with?

17 A. Mostly likely it would be. Again, most
18 likely he would have presented the day after it, but
19 it's also possible that he could have fallen and
20 torn the disk and over the course of the next 48 to
21 72 hours, the disk migrated or moved behind the
22 nerves and caused his worsening pain. It wouldn't
23 surprise me.

24 I don't think that -- I think a lot of
25 people that are, for example, in accidents, car

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1 accidents or in football accidents, feel pretty good
2 during the game or right after, sprained ankle is a
3 classic one, and the next day, things swell up and
4 are worse, or two days later, it's worse than it
5 was. I think that all of us that are of a certain
6 age and have had some sort of injury can verify to
7 the fact that he may not think it's that bad the
8 first day, might just think it's a little something,
9 and then after a couple of days, you realize it's
10 quite a bit worse than that.

11 Q. Okay. Doesn't the chance -- the
12 likelihood of that story you just presented, which
13 happens on occasion, isn't that reduced -- given the
14 fact that this patient just had back surgery with
15 you during the same calendar year, wouldn't you
16 expect that if he had a fall down a flight of
17 stairs, that he would have come in and said, Doc,
18 this is what I did yesterday. Do you mind making
19 sure I'm okay? Would you have expected that
20 conversation to occur?

21 MR. SMITH: I'm going to object. Calls
22 for speculation.

23 THE WITNESS: Again, I think I said before
24 that the thing I really think is unusual about that
25 office visit of 10-15 is that there is no

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1 documentation of the fall.

2 MR. HAIGLER: I think those are all the
3 questions I have for you, Doctor. Thank you.

4 MR. SMITH: I just have a few follow-up
5 questions.

6 EXAMINATION

7 BY MR. SMITH:

8 Q. Mr. Bias' complaints following the
9 incident on the 14th, have they been primarily
10 right-sided pain extending down the right leg into
11 the big toe?

12 A. Yes. Those have been new changes that
13 Mr. Bias has had since his fall on 10-14-14.

14 Q. And is that consistent with an L5
15 dermatome distribution?

16 A. Yes.

17 Q. Is that consistent with what you're seeing
18 on the MRI?

19 A. Yes.

20 Q. And take it one step farther. Is that
21 consistent with what can happen in a slip and fall
22 in a case where you land on your backside?

23 A. Certainly, he can develop a worsening of a
24 disk as a consequence of a fall.

25 Q. And I guess to kind of turn Mr. Haigler's

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1 question around and phrase it in a different way, if
2 there was documentation of a fall on 10-14-14, would
3 that increase your confidence that this is what
4 caused this injury?

5 A. I would say probably if there was
6 documentation of that fall, if the fall, in fact,
7 happened. I suppose that's really it. The only
8 thing that would really change my mind about it is
9 if there really wasn't a fall.

10 Q. And it sounds like as of right now, you're
11 not recommending surgery?

12 A. Well, again, Mr. Bias and I have had this
13 discussion many times. Surgery is kind of a dance
14 with a problem like his. We can make a case for it
15 and he may choose to do it, but it's a whole lot
16 easier to restrict your activities than it is to do
17 a major spinal fusion surgery, and my recommendation
18 for him would be activity restrictions rather than
19 spinal fusion surgery.

20 Q. And you think the medications and
21 injections and things of that nature are something
22 that's going to continue on if he's going to
23 continue to maintain his level of disability?

24 A. Yes. I think Mr. Bias is going to have
25 ongoing problems with his back, which he's going to

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1 require ongoing non-surgical means.

2 Q. And would you recommend him for any sort
3 of pain management program based on his current
4 condition?

5 A. Well, again, to a certain extent, we've
6 been treating him with pain management in my
7 practice for the past year, so prescribing
8 medications, trying injections, those are the kinds
9 of things that you could try ongoing. That's mostly
10 what pain management programs are.

11 Q. And is your recommendation still today
12 that he not return to the workplace?

13 A. That's correct. My advice to him would be
14 not to return to exertional work and to pursue the
15 recommendations that we've made to him in those
16 forms that we filled out for him over the course of
17 the past year.

18 Q. And the treatment that we've discussed
19 here today, has that treatment been medically
20 necessary and geared toward to lessen the period of
21 his disability?

22 A. Yes. Yes.

23 Q. And I know that you've stated this in your
24 note, but just for the record, is it still your
25 opinion today that Mr. Bias' current condition is

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1 more likely than not a work-related aggravation of a
2 preexisting condition?

3 A. Yes, that's my opinion.

4 Q. And have all your opinions today been
5 stated to a reasonable degree of medical certainty?

6 A. They have.

7 MR. SMITH: Nothing further.

8 MR. HAIGLER: I think we're done, Doctor.

9 Thank you.

10 (WHEREUPON, the taking of this sworn
11 deposition was concluded at approximately 4:26 p.m.)
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