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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
South Carolina Workers' Compensation Commission

R. Michael Campbell, II, Commissioner; T. Scott Beck, Commissioner; Gene McCaskill,
Commission Chair

W.C.C. File No.: 1708722
Appellate Case No.: 2020-000718

Timothy Clayton, Employee, Claimant, Appellant,

v.

South Carolina Department of Transportation, Employer; and S.C. State Accident Fund,
Carrier, Respondents.

APPENDIX TO RECORD ON APPEAL I AND II

Elizabeth McMahon Pentz, S.C. Bar No. 68426
McWhirter Bellinger & Assoc., P.A.
119 East Main Street
Lexington, South Carolina 29072
803.359.5523 tele
803.359.1248 fax
liz@mcwhirterlaw.com
Attorneys for Appellant

Erin F. Farthing, S.C. Bar No., 76151
Deputy Chief Counsel
S.C. State Accident Fund
PO Box 1166
Lexington, South Carolina 29071
803.896.5800
803.896.5827
efarthing@saf.sc.gov
Attorneys for Respondent

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**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER**

This document is not a Decision and Order. It is a request for a proposed order. The Commissioners reserve the right to modify and/or delete any or all portions of the submitted Decision and Order.

Timothy Clayton v SCDOT

SCWCC: 1708722

Commission Panel: Beck, McCaskill, Campbell; Chair

Order Assigned to Commissioner: Campbell

Court Reporter – Amber Scarborough – 803-252-3445

Erin Farthing
Elizabeth M. Pentz

Defendants/Appellants
Claimant/Respondent

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and **Affirm in Part Reverse in Part** the decision and order of the Single Commissioner. Affirm seizure episode. Reverse finding on psyche as the only medical evidence supporting causation has been found unconvincing (finding of fact #13) by the Single Commissioner. A finding of compensability in concert with finding of fact #13 is wholly inconsistent with a finding of compensability.

Ms. Farthing please prepare a proposed order and submit to the Judicial Department within thirty (30) days of this notice. The proposed order shall be submitted in Word format to appeals@wcc.sc.gov and shared with each Party. Please make sure the Appellate Panel Decision and Order recites the specific Finds of Fact and Rulings of Law of the Single Commissioner's Decision and Order and reflects any comments requested by a Commissioner.

The signature page shall include a signature line for each Commissioner and the first signature should be the name of the Commissioner assigned the case as indicated above.

If you have any questions, please do not hesitate to email me at ehollmon@wcc.sc.gov or call at 803.737.5737

Judicial

Transmitted via email this 9 September 2019

SOUTH CAROLINA
STATE ACCIDENT FUND

HARRY B. GREGORY, JR., Director

March 23, 2018

HAND DELIVERY

Amy Bracy, Judicial Director
SC Workers' Compensation Commission
1333 Main Street, Suite 500
Columbia, SC 29201

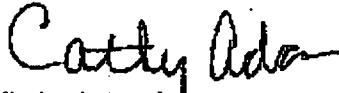
Re: Timothy Clayton v. Dept. of Transportation
WCC File Number: 17018201708722
SAF File Number: 2017-1785

Dear Ms. Bracy:

Enclosed please find a Form 21 with attachments along with the filing fee in the above-referenced claim. By copy of this letter, we are serving Attorney Pentz with same.

Thank you for your assistance in this matter.

Sincerely,



Catherine Adan
Paralegal

Enclosures

cc: Elizabeth M. Pentz, Esquire
Employer Representative



Claimant's Name: Timothy Clayton SSN: _____ Employer's Name: Dept. of Transportation
Address: _____ Address: P.O. Box 191
City: Lexington State: SC Zip: 29073 City: Columbia State: SC Zip: 29202
Home Phone: (803) 466-5413 Work Phone: () Insurance Carrier: State Accident Fund
Preparer's Name: Erin Farthing, Esquire Law Firm: State Accident Fund Preparer's Phone #: 803-896-5892

The date of injury reported on Form 12A is: 3/28/2017 (m/d/yyyy)

Check appropriate section(s). The Employer's Representative requests a hearing to:

I. Stop payment of compensation. Claimant has reached maximum medical improvement and Claimant continues to receive temporary compensation payments. The employer's representative requests a hearing pursuant to § 42-9-260(D) to stop payment of temporary compensation. A hearing requested pursuant to this section must be held within sixty days of the date of the request.

Claimant reached maximum medical improvement on 9/21/17 & 1/4/2018 (m/d/yyyy) (copy of medical report must be attached). Compensation payments are current as of 3/14/2018 (m/d/yyyy) and shall continue until otherwise ordered or until Form 17 is signed by the claimant. A Form 17 was offered and refused on 3/13/2018 (m/d/yyyy).

II. Address suspension, termination, or reduction of temporary disability payments for any cause.

- a. At any time pursuant to § 42-9-260(E).
- b. After the one-hundred-fifty day period has expired pursuant to § 42-9-260(F), R.67-505 and R.67-506.

The basis for the termination/suspension is _____

III. Determine if compensation is due pursuant to § 42-9-10, § 42-9-20 or § 42-9-30 and, if so, in what amount, based on the following grounds: Claimant was placed at MMI with a 0% impairment rating to the low back by Iven LaMotta, M.D. on 9/21/2017, and again placed at MMI with a 0% impairment rating by Michael Peelle, M.D. on 1/4/2018.

Claimant reached maximum medical improvement on 9/21/2017 & 1/4/2018 (m/d/yyyy) (copy of medical report must be attached).

IV. Request Credit for Overpayment of temporary compensation pursuant to § 42-9-210.

V. Determine amount of compensation for claims involving a fatality.

- a. Payment of unpaid balance of compensation when employee dies pursuant to § 42-9-280.
- b. Amount of compensation for death of employee due to accident pursuant to § 42-9-290.

VI. 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.

Failure to respond pursuant to Reg. 67-208 B in writing or by submission of a Form 22 may result in ordered mediation pursuant to Reg. 67-1801 B. Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Elizabeth M. Pentz, Esquire, 119 East Main Street, Lexington, SC 29072 and SC Worker's Compensation Commission Judicial Department, P.O. Box 1715, Columbia, SC 29202-1715 on the 23 day of March, 2018, by: first class postage certified mail personal services electronic service. A \$25.00 filing fee and updated Form 18 is required.

Preparer's Signature

Deputy Chief Counsel
Title

efarthing@saf.sc.gov
Email

3/21/18
Date

Questions about the use of this form should be directed to the Judicial Department at 803-737-5675, or judicial@wcc.sc.gov or mediation@wcc.sc.gov. Refer to Regulations 67-211, 67-504, 67-505, 67-506; and 67-510.

BEFORE THE
SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION
WCC FILE NO. 1708722

Timothy Clayton,)
 Claimant,)
))
 vs.))
))
Dept. of Transportation,))
 Employer,))
))
and))
))
State Accident Fund,))
 Carrier/Defendants.))
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing WCC Form 21 with attachments has been served upon the following on this 23 day of March, 2018, by placing a copy in the U.S. Postal Service, addressed to:

Elizabeth M. Pentz, Esquire
119 East Main Street
Lexington, SC 29072

I hereby certify that a copy of the foregoing WCC Form 21 has been hand delivered to the following on this 23 day of March, 2018.

Amy Bracy, Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715



Catherine Adan
Paralegal
State Accident Fund
P.O. Box 102100
Columbia, SC 29221-5000

LAW OFFICES
McWHIRTER, BELLINGER & ASSOCIATES, P.A.

119 EAST MAIN STREET,
LEXINGTON, SOUTH CAROLINA 29072
(803) 359-5523
FAX (803) 359-1248
mail@mcwhirterlaw.com

H. PATTERSON McWHIRTER
THOMAS P. BELLINGER
GARLAND P. McWHIRTER
STACEY TARTE MEYER
J. TYLER LEE, JR
JOSEPH R. DASTA
L. LISA McPHERSON

ELIZABETH McMAHON PENTZ
RICHARD W. SIMMONS, II.
MELISSA G. MOSIER
JOHN P. MEADORS
AMANDA N. PITTMAN
CHRISTOPHER M. CUNNINGHAM
MADELYN E. DUKES

April 5, 2018

South Carolina Workers' Compensation Commission
ATTENTION: Judicial Department
PO Box 1715
Columbia, SC 29202

RE: EMPLOYEE: Timothy Neal Clayton
EMPLOYER: Department of Transportation
WCC FILE: 1708722

Dear Sir or Madam:

Enclosed you will please find the original Form 50 along with the Certificate of Service and \$25.00 filing fee. By copy of this letter, we are serving the same upon Page S. Hilton, Attorney for the Employer/Carrier. Also, please combine this Form 50 along with the March 21, 2018 Form 21 hearing scheduled for May 31, 2018.

Thank you.

Sincerely yours,



Elizabeth McMahon Pentz

EMP/EKM
Enclosures

cc: Page S. Hilton
State Accident Fund
PO Box 102100
Columbia, SC 29221-5000

Timothy Clayton

000593



Claimant's Name: Timothy N. Clayton SSN: [REDACTED] Employer's Name: South Carolina Department of Transportation
Address: [REDACTED] Address: 955 Park Street
City: Lexington State: SC Zip: 29073 City: Columbia State: SC Zip: 29202
Home Phone: 803-466-5413 Work Phone: _____ Insurance Carrier: S.C. State Accident Fund
Preparer's Name: Elizabeth M. Pertz Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-359-5523

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 3/28/2017

- Injury Illness Repetitive Trauma Occupational Disease Physical Brain Injury Concurrent Jurisdiction
- 1a. The claimant sustained an injury to Back, right hip, right leg and psychological overlay in Richland county, State of South Carolina on 3/28/2017.
- 1b. Body part(s) affected are: Back, right hip, right leg and psychological overlay.
2. Briefly describe how the accident occurred: While loading hydraulic pumps and saddles onto truck, the Claimant felt a pop in his low back.
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 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 5/30/2017 (Month/Day/Year) in the following manner: Verbal. Carl Mintz, Superintendent.
7. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for:
 (b) additional medical examination and treatment for: Back, right hip, right leg and psychological overlay.
8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: June 28, 2017.
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
- 9a. A determination of permanent disability is premature at this time.
10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$ 452.04, and demands accounting of days worked and wages earned as provided by law.
- 10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
11. Further grounds or unusual aspects of claim: Back, right hip, right leg, Compensability psychological overlay, Medical bill payment for July 20, 2017: Lexington County EMS, Palmetto Health Baptist Parkridge, and Pitts Radiology as related to Claimant's seizure while in the authorized treating physician's, Dr. Lamotta's, office. All available under the Act including penalties, interest, James v. Anne's Inc. language in the order, lump sum payment of award, attorney fees and costs.
- 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 ATTACHMENT
- 11b. To the best of your knowledge, did you have any prior permanent disability?
If yes, describe:
12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.
- 13a. I am filing a claim. I am not requesting a hearing at this time. 14. Estimated time needed for hearing: 1 Hour and 30 minutes
- 13b. I am requesting a hearing. A \$25 fee is required.
- 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 certify that I served this document pursuant to S.C. Reg. 67-211 by delivering a copy to Page Hilton, Esquire, S.C. State Accident Fund, PO Box 102100, Columbia, SC 29221 on the 5th day of April 2018 by first class postage; certified mail; personal service. I verify that the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: [Signature] Attorney Title: _____ Email: liz@mcwhirterlaw.com
Date: April 5, 2018

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-219 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675



WCC File #: 1708722
Carrier File #: 2017-001785
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Timothy N. Clayton SSN: _____ Employer's Name: Department of Transportation
Address: _____ Address: 955 Park Street
City: Lexington State: SC Zip: 29073-7322 City: Columbia State: SC Zip: 29202
Home Phone: 803-466-5413 Work Phone: _____ Insurance Carrier: State Accident Fund
Preparer's Name: Elizabeth M. Pentz Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-359-5523

Addendum to Form 50: Question 11b:

First Physical Therapy
108 Palmetto Park Boulevard, St. B
Lexington, SC 29072

Carolina Occupational Healthcare Records
1715 Blanding Street
Columbia, SC 29201-3441

Palmetto Imaging - Reports
1331 Lady Street
Columbia, SC 29201

Carolina Physical Therapy Records
1715 Blanding St.
Columbia, SC 29201

James R. Kirkland, MD
1919 Gadsden Street
Columbia, SC 29202

Lexington County EMS - Medical Reports
407 Ball Park Road
Lexington, SC 29072

Lowmides-Rosen, Dyana
655 St. Andrews Boulevard
Charleston, SC 29407

Palmetto Health Baptist - Parkridge
400 Palmetto Health Parkway
Columbia, SC 29212

Palmetto Health USC Medical Group - Neurology
8 Richland Medical Park Drive, Ste. 420
Columbia, SC 29203

Tracy Hill, R.P.T.
2362 Two Notch Road
Columbia, SC 29204

Michael W. Peelle, M.D.
14 Richland Medical Park Dr., Suite 200
Columbia, SC 29203

James A. O'Leary, M.D.
1910 Blanding Street
Columbia, SC 29201

Ivan E. Lamotta, M.D. - Midlands Orthopaedic and Neurosurgery
1910 Blanding Street
Columbia, SC 29201

LAW OFFICES
McWHIRTER, BELLINGER & ASSOCIATES, P.A.

119 EAST MAIN STREET,
LEXINGTON, SOUTH CAROLINA 29072
(803) 359-5523
FAX (803) 359-1248
mail@mcwhirterlaw.com

H. PATTERSON McWHIRTER
THOMAS P. BELLINGER
GARLAND P. McWHIRTER
STACEY TARTE MEYER
J. TYLER LEE, JR
JOSEPH R. DASTA
L. LISA McPHERSON

ELIZABETH McMAHON PENTZ
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MELISSA G. MOSIER
JOHN P. MEADORS
AMANDA N. PITTMAN
CHRISTOPHER M. CUNNINGHAM
MADELYN E. DUKES

May 1, 2018

South Carolina Workers' Compensation Commission
ATTENTION: Judicial Department
PO Box 1715
Columbia, SC 29202

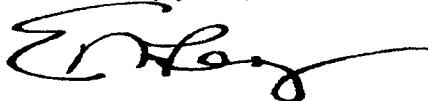
RE: EMPLOYEE: Timothy Neal Clayton
EMPLOYER: Department of Transportation
WCC FILE: 1708722

Dear Sir or Madam:

Enclosed you will please find the original Form 22. By copy of this letter, we are serving the same upon Page P. Hilton, Attorney for the Employer/Carrier.

Thank you.

Sincerely yours,



Elizabeth McMahon Pentz

EMP/EKM
Enclosures

cc: Page P. Hilton
State Accident Fund
PO Box 102100
Columbia, SC 29221-5000

Timothy Neal Clayton

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675 www.wcc.sc.gov



WCC File #: 1708722
Carrier File #: 2017-001785
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Timothy N. Clayton SSN: _____ Employer's Name: S.C. Department of Transportation
Address: _____ Address: 955 Park Street
City: Lexington State: SC Zip: 29073-7322 City: Columbia State: SC Zip: 29202
Home Phone: 803-466-5413 Work Phone: _____ Insurance Carrier: S.C. State Accident Fund
Preparer's Name: Elizabeth McMahon Pentz Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-359-5523

Date of Injury or Illness: 3/28/2017

Complete each information blank. Clearly specify when contention are admitted in part and denied in part. The Claimant's answer to the claim respectfully shows:

I. Stop payment of compensation.

It is admitted denied the Claimant has reached maximum medical improvement and continues to receive temporary compensation payment.
It is admitted denied the Claimant's temporary total payments are current.
It is admitted denied the Claimant's total payments have been properly stopped as of 03/07/2018 pursuant to Reg. 67-505.

II. Address suspension, termination, or reduction of temporary disability payments for any cause.

- a. At any time pursuant to § 42-9-260(E).
- b. After the one-hundred-fifty-day period has expired pursuant to § 42-9-260(F), R.67-505 and R.67-506.
- c. Temporary total compensation was suspended, terminated, or reduced without proper order of the Commission.
- d. Additional compensation and penalties are requested pursuant to Reg. 67-510.

The basis for additional compensation and penalty is _____

III. Determine if compensation is due pursuant to § 42-9-10, § 42-9-20 or § 42-9-30 and, if so, in what amount, based on the following grounds:

Claimant reached maximum medical improvement on 09/12/2017; Ivan E. LaMotta, M.D.; 0% lumbar spine impairment with permanent restrictions, 01/04/2018; Michael W. Peelle, M.D.; did not address lumbar spine impairment; assigned permanent restrictions. (Copy of medical report must be attached).

It is admitted denied the Claimant has reached maximum medical improvement.
Claimant has has not returned to work. Claimant has has not returned to light duty.
 a. Permanency is premature at this time.
 b. Claimant is in need of additional medical care and treatment. Aggravated psychological condition.
 c. Claimant is entitled to permanent partial disability pursuant to 42-9-30.
 d. Claimant is entitled to wage loss pursuant to 42-9-20.
 e. Claimant is entitled to total and permanent disability pursuant to 42-9-10 or 42-9-30(21) and Reg. 67-1802.

IV. Request Credit for Overpayment of temporary compensation pursuant to § 42-9-210

It is admitted denied that the Employer/Carrier is due a credit for overpayment.
Although permanency is premature, the Claimant maintains he is permanently and totally disabled pursuant to S.C. Code Ann. §42-9-10.

V. Determine amount of compensation for claims involving a fatality.

- a. Payment of unpaid balance of compensation when employee dies pursuant to § 42-9-280.
- b. Amount of compensation for death of employee due to accident pursuant to § 42-9-290.

VI. 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.

Failure to respond pursuant to Reg. 67-208 B in writing or by submission of a Form 22 may result in ordered mediation pursuant to Reg. 67-1801 B. Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify that I served this document pursuant to S.C. Reg. 67-211 by delivering a copy to Page S. Hilton, S.C. State Accident Fund, PO Box 102100, Columbia, SC 29221-5000 on the 1st day of May 2018 by first class postage certified mail personal service.

Preparer's Signature _____

Attorney
Title _____

liz@mcwhirterlaw.com
Email _____

Date _____

Questions about the use of this form should be directed to the Judicial Department at 803-757-5675 or jud@wcc.sc.gov or mediation@wcc.sc.gov. Refer to Regulations 67-211, 67-504, 67-505, 67-506, 67-510, and 67-1801.

WCC Form # 22
Created 7/13

22

Claimant's Answer to Request for Hearing

000597

F22

CERTIFICATE OF SERVICE BY MAIL

This is to certify that I, Eden K. Fields, paralegal for Elizabeth McMahon Pentz, attorney for the Claimant, have mailed a copy of the foregoing Form 22, with sufficient postage affixed and return address clearly indicated to:

Page P. Hilton
State Accident Fund
PO Box 102100
Columbia, SC 29221-5000



Eden M. Fields

Dated: May 1, 2018

LAW OFFICES
MCWHIRTER, BELLINGER & ASSOCIATES, P.A.

119 EAST MAIN STREET,
LEXINGTON, SOUTH CAROLINA 29072
(803) 359-5523
FAX (803) 359-1248
mail@mcwhirterlaw.com

H. PATTERSON McWHIRTER
THOMAS P. BELLINGER
GARLAND P. McWHIRTER
STACEY TARTE MEYER
J. TYLER LEE, JR
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MELISSA G. MOSIER
JOHN P. MEADORS
AMANDA N. PITTMAN
CHRISTOPHER M. CUNNINGHAM
MADELYN E. DUKES

May 1, 2018

South Carolina Workers' Compensation Commission
ATTENTION: Judicial Department
PO Box 1715
Columbia, SC 29202

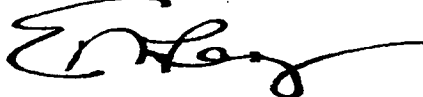
RE: EMPLOYEE: Timothy Neal Clayton
EMPLOYER: Department of Transportation
WCC FILE: 1708722

Dear Sir or Madam:

Enclosed you will please find the original Amended Form 50 along with the Certificate of Service. By copy of this letter, we are serving the same upon Page P. Hilton, Attorney for the Employer/Carrier.

Thank you.

Sincerely yours,



Elizabeth McMahon Pentz

EMP/EKM
Enclosures

cc: Page P. Hilton
State Accident Fund
PO Box 102100
Columbia, SC 29221-5000



Claimant's Name: Timothy N. Clayton SSN: _____ Employer's Name: South Carolina Department of Transportation
Address: _____ Address: 955 Park Street
City: Lexington State: SC Zip: 29073 City: Columbia State: SC Zip: 29202
Home Phone: 803-466-5413 Work Phone: _____ Insurance Carrier: S.C. State Accident Fund
Preparer's Name: Elizabeth M. Pentz Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-359-5523

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 3/28/2017

- Injury Illness Repetitive Trauma Occupational Disease Physical Brain Injury Concurrent Jurisdiction
- 1a. The claimant sustained an injury to Back, right hip on 3/28/2017 in Richland county, State of South Carolina.
- 1b. Body part(s) affected are: Back, right hip, right leg and psychological overlay.
2. Briefly describe how the accident occurred. While loading hydraulic pumps and saddles onto truck, Claimant felt a low back pop.
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 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 5/30/2017 (Month/Day/Year) in the following manner: Verbal. Carl Mintz, Superintendent.
7. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for:
 (b) additional medical examination and treatment for: Back, right hip, right leg and psychological overlay.
8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: June 28, 2017
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
- 9a. A determination of permanent disability is premature at this time.
10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$ 462.04, and demands accounting of days worked and wages earned as provided by law.
- 10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
11. Further grounds or unusual aspects of claim: Back, right hip, right leg, Compensability psychological overlay. Medical bill payment for July 20, 2017: Lexington County EMS, Palmetto Health Baptist Parkridge, and Pitts Radiology as related to Claimant's seizure while in the authorized treating physician's, Dr. Lamotta's, office. All available under the Act including penalties. Interest: James v. Anne's Inc language in the order. Lump sum payment of award, attorney fees and costs. If the Commission finds that the Claimant is not at maximum medical improvement, then the Claimant asserts he is permanently and totally disabled. Therefore, S.C. Reg. 67-1802 is applicable.
- 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 ATTACHMENT
- 11b. To the best of your knowledge, did you have any prior permanent disability? No
If yes, describe:
12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.
- 13a. I am filing a claim. I am not requesting a hearing at this time. 14. Estimated time needed for hearing: 1 Hour and 30 minutes
- 13b. I am requesting a hearing. A \$25 fee is required.
- 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 certify that I served this document pursuant to S.C. Reg. 67-211 by delivering a copy to Page s. Hilton, Esquire, S.C. State Accident Fund, PO Box 102100, Columbia, SC 29221 on the 1st day of May 2018 by first class postage; certified mail; personal service. I verify that the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: [Signature] Attorney Title: _____ Email: liz@mcwhirterlaw.com

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

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5675



WCC File #: 1708722
Carrier File #: 2017-001785
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Timothy N. Clayton SSN: [REDACTED] Employer's Name: Department of Transportation
Address: [REDACTED] Address: 955 Park Street
City: Lexington State: SC Zip: 29073-7322 City: Columbia State: SC Zip: 29202
Home Phone: 803-466-5413 Work Phone: _____ Insurance Carrier: State Accident Fund
Preparer's Name: Elizabeth M. Pentz Law Firm: McWhirter, Bellinger & Associates, P.A. Preparer's Phone #: 803-359-5523

Addendum to Form 50: Question 11b:

First Physical Therapy
108 Palmetto Park Boulevard, St. B
Lexington, SC 29072

Carolina Occupational Healthcare Records
1715 Blanding Street
Columbia, SC 29201-3441

Palmetto Imaging - Reports
1331 Lady Street
Columbia, SC 29201

Carolina Physical Therapy Records
1715 Blanding St.
Columbia, SC 29201

Lencke, Mark K.
1333 Taylor Street, Suite 1-C
Columbia, SC 29201

Kevin Shalkham, MD
5535 Platt Springs Road
Lexington, SC 29073

Dutch Fork Psychological Services
7373 College Street
Irmo, SC 29063

James R. Kirkland, MD
1919 Gadsden Street
Columbia, SC 29202

Lexington County EMS - Medical Reports
407 Ball Park Road
Lexington, SC 29072

Lowndes-Rosen, Dyana
655 St. Andrews Boulevard
Charleston, SC 29407

Palmetto Health Baptist - Parkridge
400 Palmetto Health Parkway
Columbia, SC 29212

Palmetto Health USC Medical Group - Neurology
8 Richland Medical Park Drive, Ste. 420
Columbia, SC 29203

Tracy Hill, R.P.T.
2362 Two Notch Road
Columbia, SC 29204

Michael W. Peelle, M.D.
14 Richland Medical Park Dr., Suite 200
Columbia, SC 29203

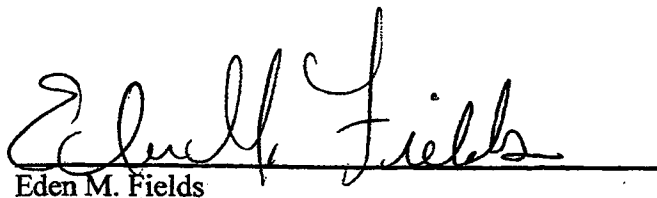
James A. O'Leary, M.D.
1910 Blanding Street
Columbia, SC 29201

Ivan E. Lamotta, M.D. - Midlands Orthopaedics and Neurosurgery
1910 Blanding Street
Columbia, SC 29201

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the paralegal for Elizabeth McMahon Pentz, attorney for the employee-claimant in the above-entitled action, and that the foregoing Amended Form 50 was served upon the persons listed below by depositing a copy thereof in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Page P. Hilton
State Accident Fund
PO Box 102100
Columbia, SC 29221-5000


Eden M. Fields

May 1, 2018

SOUTH CAROLINA
STATE ACCIDENT FUND

HARRY B. GREGORY, JR., Director

May 4, 2018

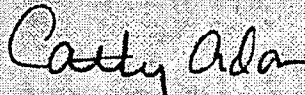
Amy Bracy, Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Re: Timothy Clayton v. Dept. of Transportation
WCC File Number: 1708722
SAF File Number: 2017-1785

Dear Ms. Bracy:

Enclosed please find the Form 51 which has been completed by this office in the above-entitled claim. If I may be of further assistance, please feel free to call me.

Sincerely,



Catherine Adan
Paralegal

/ca
Enclosure

cc: Elizabeth M. Pentz, Esquire



Claimant's Name: Timothy Clayton SSN: _____ Employer's Name: SC Dept. of Transportation
Address: _____ Address: 955 Park Street
City: Lexington State: SC Zip: 29073 City: Columbia State: SC Zip: 29201
Home Phone: (803) 466-5413 Work Phone: () Insurance Carrier: State Accident Fund
Date of Injury: 3/28/2017
Preparer's Name: Erin Farthing, Esquire Law Firm: State Accident Fund Preparer's Phone #: 803-896-5892

Date of Injury or Illness: 3/28/2017 Estimated time for hearing: 30 minutes
Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

1. It is **Admitted** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Defendants admit injury to the low back only; however, extent of injury and all other body parts affected are denied.
2. It is **Admitted** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is **Admitted** the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is **Admitted** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: _____
5. It is **Admitted** notice of injury was given the employer. The reasons for denial are: _____
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: Claimant was rated and released on 1/4/2018.
7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of : To be determined.
8. It is **Denied** the employee is permanently disabled. The reasons for denial are: Disability, if any, to be determined by WCC.
9. It is **Denied** the employee has serious disfigurement.
10. It is contended that an average weekly wage of **\$693.02** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
All defenses available, including but not limited to, 42-9-60; 42-9-150; 42-9-160; 42-9-170; 42-15-20; 42-15-40; 42-15-60; 42-17-90; 42-9-210; Code of Laws of South Carolina, 1976

- 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 certify I have served this document pursuant to Reg. 67-211 by delivering a copy to **Judicial Department, SCWCC, P.O. Box 1715, Columbia, SC 29202-1715 and Elizabeth M. Pentz, Esquire, 119 East Main Street, Lexington, SC 29072 on the 4 day of May, 2018 by:**

first class postage certified mail personal service electronic service

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

Erin Farthing Deputy Chief Counsel efarthing@saf.sc.gov 5/4/18
Preparer's Signature Title Email 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.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
South Carolina Workers' Compensation Commission

R. Michael Campbell, II, Commissioner; T. Scott Beck, Commissioner; Gene McCaskill,
Commission Chair

W.C.C. File No.: 1708722
Appellate Case No.: 2020-000718

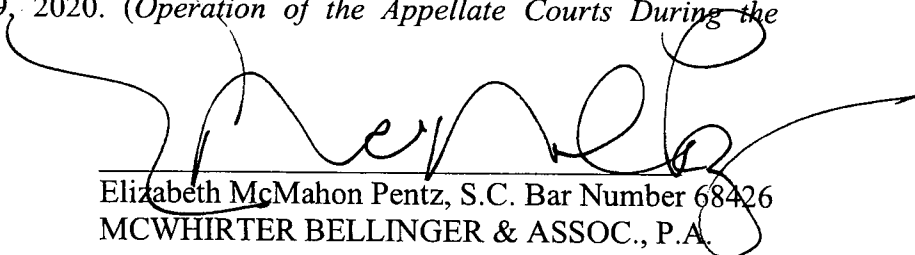
Timothy Clayton, Employee, Appellant,

v.

South Carolina Department of Transportation, Employer; and SC State Accident Fund,
Carrier, Respondents.

CERTIFICATE OF COUNSEL

The undersigned Counsel for the Appellant certifies that the **APPENDIX TO RECORD ON APPEAL** complies with S.C. Appellate Court Rules 210 and 267 which contains all material proposed to be included by any of the parties and not any other material. Further, the **APPENDIX TO RECORD ON APPEAL** complies with S.C. Supreme Court Order dated March 20, 2020, amended May 29, 2020. (*Operation of the Appellate Courts During the Coronavirus Emergency*).



Elizabeth McMahon Pentz, S.C. Bar Number 68426
MCWHIRTER BELLINGER & ASSOC., P.A.
119 East Main Street
Lexington, South Carolina 29072
803.359.5523 tele
803.359.1248 fax
liz@mcwhirterlaw.com
Attorney for Appellant

Lexington, South Carolina
May 10, 2021

RECEIVED
MAY 11 2021
SC Court of Appeals