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SC Court of Appeals

Transcript of the Testimony of
MELISSA MCKNIGHT

Date: July 19, 2021.



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Condensed Transcript and Word Index

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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1520443

Melissa McKnight,)
)
 Claimant,)
)
 v.)
)
 McCall Farms,)
)
 Employer,)
)
 and)
)
 Great American Alliance,)
)
 Carrier/Defendants.)
 _____)

VIRTUAL
FULL COMMISSION HEARING

Monday, July 19, 2021
4:14 p.m. - 4:40 p.m.

The Full Commission Hearing was heard virtually before Commissioners Aisha Taylor, Avery Wilkerson and Michael Campbell on the 19th day of July, 2021, before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.

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VIRTUAL APPEARANCES

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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.

1 CALL TO ORDER:

2 COMMISSIONER TAYLOR: Madame Court Reporter, will you
3 please call the case?

4 MADAME COURT REPORTER: Yes. Today is July 19th,
5 2021. This is South Carolina Workers'
6 Compensation Case Number 1520443. This is the
7 case of Melissa McKnight versus McCall Farms
8 and Great American Alliance. The Appellant is
9 the Claimant, represented by Ian D. Maguire.
10 The Respondent is represented by Walter H.
11 Barefoot. Each side is allowed 10 minutes for
12 oral argument and the Appellant three minutes
13 in reply. You are requested to argue the
14 grounds of exception and stay within the
15 record.

16 COMMISSIONER TAYLOR: All right. Very good. Mr.
17 Maguire, you have 10 minutes.

18 APPELLANT'S POSITION:

19 MR. MAGUIRE: Thank you, Commissioners. Good
20 afternoon. If it may please the Court, I'll
21 start by saying we -- we appealed the single
22 Commissioner's findings and Order based on a
23 number of things. Number one, we don't believe
24 that the Claimant was provided reasonable
25 treatment for both her -- her left shoulder and

1 her right wrist since the award of April 24th,
2 2018 from Commissioner Campbell, which was
3 affirmed I believe in December of 2018 by the
4 Full Commission. In addition, we believe that
5 the Claimant is entitled to past TTD payments
6 continuing up until now. Specifically, I -- I
7 find that there were violations we would claim
8 and there were violations of 42-9-260 in
9 regards to the failure to pay the TTD and to
10 stop the TTD and also numerous violations of
11 42-15-95 by the nurse case manager which was
12 extremely material to the results of -- of the
13 case. So I'll start with the fact and I'll try
14 to move pretty quickly through the -- it's not
15 a lot of time, but Commissioner Campbell's
16 Order as I said was April of 2018. Back in
17 December of 2017 Ms. McKnight had a right wrist
18 proximal row carpectomy by Doctor -- performed
19 by Dr. Leak, who was the authorized treating
20 physician. Thereafter, Dr. Leak in July 26,
21 2018 recommended a trapeziectomy with a
22 radialis lidectomy (sic) and arthroplasty. He
23 felt that that was -- was needed. He said that
24 -- that the Claimant is experiencing pain in
25 her thumb. It -- it's unusual but potential

1 complication of that initial surgery so it
2 needed to be done. The Defendants instead of
3 authorizing the surgery from the authorized
4 treating physician instead sent Ms. McKnight to
5 a second opinion with Dr. Young, Dr. Kimberly
6 Young and that date was 10/17/2018. At that
7 time Dr. Young's understanding was Dr. Leak was
8 still the treating surgeon. Dr. Leak at that
9 point was prescribing medication which included
10 Lyrica and pain medication, Hydrocodone I
11 believe. Dr. Young said to continue the
12 medication reported as directed by ordering
13 provider and that was Dr. Leak. That was in
14 October. In December Ms. McKnight had another
15 appointment with -- with Dr. Young. She did
16 miss that appointment. She had an emergency
17 gynecological issue. It was rescheduled for
18 January and she went to that appointment.
19 However, the Defendants at that time, after
20 missing one visit to Dr. Young, stopped the TTD
21 checks which of course was very upsetting for
22 -- for the Claimant. She went to that January
23 2019 appointment. At that time Dr. Young said
24 I'm always happy to be of assistance but I
25 would recommend continuing care with her

1 surgeon. She is very happy with, she is much
2 closer to home and she does not wish to
3 transfer care. Not out of refusal, but because
4 again the relationship she has built with her
5 surgeon and she is very happy with the care
6 she's been receiving. Now that was from Dr.
7 Young talking to Dr. Leak who is the author- --
8 both authorized treating physicians. An order,
9 a Consent Order was signed in order for Ms.
10 McKnight to get her checks started. She agreed
11 to say that Dr. Young would be an authorized
12 treating physician, which she did. And at that
13 point she went back to Dr. Young and when she
14 went to Dr. Young it was -- it was noted again
15 that she was taking medication. Dr. Young was
16 aware she was taking medication. And she went
17 again in on 4/17/2019, she returned to Dr.
18 Young who reiterated that Claimant at that
19 point was referred back to Dr. Leak. But in
20 the appointments before that, Dr. Young was
21 saying you should go back to Dr. Leak, I agree.
22 She thought Dr. Leak was the treating
23 physician. In the 4/17/2019 meeting with --
24 with -- appointment, Dr. Young referred
25 Claimant to Dr. Bret Young for a shoulder

1 evaluation. And that is extremely important
2 because up until this time from April of 2018
3 really to the to up until Dr. McFadden in 2020,
4 despite the fact that there was an Order for
5 medical care for the left shoulder, she never
6 got any care for the left shoulder. She was
7 never given an appointment. Dr. Young referred
8 her -- Dr. Leak referred her and that's on APA
9 142 where he tried to refer her but it was --
10 it was never approved. There was also, there
11 was pain management that was never approved and
12 Dr. Young had referred her pain management. So
13 at some point after -- and everything seemed
14 fine. On April 17th Dr. Young's referring her
15 out and all these appointments. On May 17th
16 Dr. Young sends a letter stating that she's no
17 longer going to treat and she's terminating or
18 severing the doctor/patient relationship. Of
19 course, Claimant doesn't get that letter.
20 However, the nurse case manager was aware of
21 that yet she -- she didn't tell the patient.
22 In fact, they show up to the appointment on May
23 30th and she finds out -- on May 31st, excuse
24 me -- and Ms. McKnight finds out that's she
25 been terminated from -- and -- and what's

1 really troubling about this is they knew and
2 they allowed her to go anyway. Why? Because
3 it -- and what I didn't mention at the
4 beginning was the other thing that Campbell
5 stated was that TTD would stop if she was on
6 light duty -- if she was on light duty. So it
7 was important for her to get a -- if she was
8 going to get on light duty that was going to be
9 -- the TTD would be stopped. So I'm going to
10 have to talk real fast. So what happened was
11 she goes to that appointment, she leaves that
12 appointment, which she wasn't even supposed to
13 go because there was no -- there was no
14 doctor/patient relationship. The nurse case
15 manager at that point has a 30 minute
16 conversation with Dr. Young. And at that point
17 after Dr. Young in each of these visits has
18 said you have a -- in every single visit says
19 that you don't -- that you're out of work, now
20 says that no, you can go back on light duty.
21 So and then they -- and then they continue, of
22 course, to stop the checks again. So, you
23 know, that was certainly improper and basically
24 the remedy for that is Dr. Young's records
25 should be stricken. I mean, it's clear and

1 that's the, you know, there's no question that
2 nobody was put on notice and she had a meeting
3 without that. I'll also move real quickly into
4 Dr. McFadden. A letter was written to Dr.
5 McFadden by the nurse case manager. By the
6 way, these are never put in their notes, so we
7 know they know they're doing it. And you know,
8 it really makes me concerned at how many cases
9 this is going on in. But in the letter it
10 says, and per the adjuster, does Dr. McFadden
11 agree with MMI and the rating for which Dr.
12 Friedman with MUSC help on 12/13/2017. You
13 know, by the way is before the Order. He finds
14 something on the MMI with zero percent. How
15 can he relate her current condition? So now
16 he's questioning -- getting the doctor to
17 question the causal relationship but that's not
18 even an issue in the case. So that's
19 completely improper. To make matters worse
20 after she does that then she goes and has a
21 private conversation with Doctor, without any
22 notice to us, with Dr. McFadden and we know
23 that from the records. The only reason we know
24 all this the doctor's reference because
25 certainly the nurse isn't telling us. And then

1 if you -- how much time? And quickly, you know
2 from the time of Commissioner Campbell to the
3 present, the only two people that that have
4 given anything, said anything negative have
5 been the two doctors that -- that have actually
6 sat down with the nurse case manager without
7 the opportunity for Ms. McKnight or her legal
8 counsel be present which is completely
9 improper. We also know the nurse case manager,
10 if you look at the Defendant's APA page 336 she
11 also spoke with Brian Fegan (sp) who was the
12 physical therapist and that actually says, I
13 did not inform the patient about what was
14 discussed with Dr. Young and that's when Dr.
15 Young says she's not going to treat Ms.
16 McKnight anymore but I have been in contact
17 with ---

18 COMMISSIONER TAYLOR: Your times expired, Mr.

19 Maguire, but you will have three minutes on
20 rebuttal.

21 MR. MAGUIRE: Thank you so much.

22 COMMISSIONER TAYLOR: Okay. Thank you. All right.

23 Mr. Barefoot.

24 RESPONDENT'S POSITION:

25 MR. BAREFOOT: Your Honor, I'm Walt Barefoot on

1 behalf of the Defendants or the Respondents.
2 I'm going to correct some factual errors that
3 Mr. Maguire had. I'm not calling him
4 misrepresenting, but he's been on this claim
5 less than a year and he's the third attorney,
6 okay. So let me -- the Claimant had an
7 admitted to the left shoulder back on November
8 7th, 2015, okay. She claimed that she was
9 having trouble with her right wrist. We went
10 to a hearing on October 2nd, 2017. That's
11 Commissioner Campbell's hearing. That's the
12 date we had the hearing, not the day of the
13 Order. That's when the hearing was. And at
14 that Commissioner Campbell found that the
15 Claimant had aggravated her pre-existing right
16 wrist problem when she fell. So he said y'all
17 need her to have a evaluation treatment for the
18 shoulder and the wrist. He also found she's
19 not entitled to temporary total disability
20 benefit while on light duty because she had
21 been terminated for cause. The Claimant's
22 first attorney appealed that. A Full
23 Commissioner affirmed in full and it is the law
24 of the case. We divided treatment with Dr.
25 Leak for the right wrist. He did a surgery in

1 December of 2017 called a carpectomy. It
2 failed. Dr. Leak said that's unusual, but it
3 failed. Things weren't going well in regards
4 to the right wrist. So we said we'd like a
5 second opinion with Dr. Young and we scheduled
6 her to see Dr. Young. She went once but then
7 she wouldn't follow up. I'm going to have to
8 correct Mr. Maguire. He said that she had an
9 emergency that was gynecological. That's not
10 true. I'll refer you to APA page 390, our APA
11 in which the prior attorney telling us she's
12 not going to make it to that appointment. We
13 said we expect her to go. She said no, she has
14 a long standing appointment to go to that
15 contradicts. It wasn't an emergency. It was
16 a long standing appointment. Regardless, at
17 that time she got Attorney William Barr. We
18 filed a Form 21 so we could address this issue.
19 We're not trying to do anything wrong. We want
20 this issue addressed and we did. The attorney
21 reached an agreement with us prior to a hearing
22 on March 5th for a Consent Order. One, Dr.
23 Young will be the authorized treating physician
24 and two, the part the Claimant doesn't want to
25 talk about is the Claimant will attend the next

1 scheduled visit with Dr. Young and resume
2 treatment with her. Not with Dr. Leak but Dr.
3 Young. She agreed to that. That's an
4 unappealed Order. And then after all this
5 discussion Mr. Maguire mentioned that Dr. Young
6 said if you want to go back to your other
7 doctor that's fine with me. This was after
8 that. So the Claimant has agreed to this.
9 Then on May 17th, 2019, Dr. Young sends her a
10 letter saying I'm discharging you "for non-
11 compliance". That's Claimant's APA 3 page 316.
12 The Claimant went to see Dr. Young one more
13 time. She released her to work as far as the
14 right wrist goes, which was the only reason she
15 was seeing Dr. Young. You can work light duty,
16 no use of the right hand. That makes sense.
17 Shortly after that the Claimant fired her
18 second attorney. We filed a hearing request.
19 We tried to get it to a hearing desperately on
20 our 21 but then Claimant showed up, I want a
21 new attorney. Showed up again, I want a new
22 attorney and then she hired Mr. Maguire.
23 Finally, we got in front of -- we filed a new
24 Form 21 in March of 2020. They filed a new
25 Form 50 in April 2020. We had a hearing on

1 June 24th, 2020. The hearing Commissioner had
2 a very lengthy and thorough pre-hearing
3 conference. We said okay, here's the deal, we
4 had tried to send the Claimant to Dr. Barrie,
5 a doctor in Fayetteville who graduated from
6 Tufts University Medical School, did her
7 internship and her residency at Yale University
8 Medical school and her Fellowship at the Mayo
9 Clinic that specializes in wrists, who Dr. Leak
10 in his deposition said is imminently qualified.
11 We wanted to send her to Dr. Barrie and the
12 Claimant would not go. I will not go. We
13 offered to pay for transportation, hotel, food.
14 I will not go. I don't agree with that. So
15 Commissioner said I'm going to send you to Dr.
16 Barrie. I'm going to order you to go up there
17 and if you say there's still something wrong
18 with your left shoulder, we have a lot of
19 evidence about the left shoulder, I'm going to
20 send you to a doctor I choose. I choose Dr.
21 McFadden. You're going to go see Dr. McFadden.
22 That was unappealed. Claimant then went to
23 these appointments once. But then in September
24 of 2020 the Claimant filed a Motion to Compel
25 the Defendant to pay for the surgery

1 recommended by Dr. Young -- Dr. Leak called a
2 CMC arthroplasty. September 21st the
3 Commissioner issued an Order denying that
4 Motion and finding that Dr. Barrie is the
5 treating physician, that's APA pages 441 and
6 442. The Claimant still wouldn't go back to
7 Dr. Barrie. So we had to file a Rule to Show
8 Cause, please comply with the Commissioner's
9 Order. And that brings us to the hearing which
10 bring us here today. The most important parts
11 I think of that hearing are the finding that
12 the Claimant's at MMI for the left shoulder and
13 that she's on light duty for the right wrist
14 and not total temporary disability benefits and
15 that she needs to go see Dr. Barrie and get the
16 surgery done as Barrie has recommended or not
17 and if she doesn't she's going to be at MMI.
18 The Claimant appealed that. They raised 15
19 errors in the 30. I think they brought it down
20 to 5 arguments. I will try to jump into it
21 fast because there's a lot to the left shoulder
22 I need to tell y'all about. (Technical break
23 in audio) saw Claimant for the left shoulder in
24 2016. She found presentation was quote,
25 "overly dramatized". The Claimant refused to

1 perform range of motion testing. The Claimant
2 was ultimately discharged to physical therapy
3 for not going. We had sent the Claimant to Dr.
4 Gate. You may have just heard from that the
5 first time. Dr. Gate saw her and stated very
6 difficult during her exam and then somewhat
7 belligerent about her symptoms and where
8 they're coming from. Quote, "I am still not
9 convinced there's any true pathology and that
10 it's not just for secondary gain." Due to her,
11 quote, "belligerence and difficulty" he
12 discharged her. The Claimant then saw Dr.
13 Greer, another orthopedic surgeon, for her
14 shoulder 2017. Quote, "Any surgery of the left
15 shoulder would likely yield guarded results",
16 unquote. Her symptoms in physical exam did
17 not correlate with her MRI. There's, quote,
18 "there is no other treatment at this point that
19 I could recommend that may give a reasonable
20 result for her symptoms", unquote. He released
21 her with no restrictions. Now, if the claimant
22 wants to say well there's been no treatment to
23 the left shoulder since the Order.
24 Technically, that's true. There has been since
25 the Order in which we were ordered to send her

1 for treatment or I mean a hearing in which we
2 were ordered to send her for treatment.
3 December 13th we sent her to Dr. Friedman.
4 Quote, "there is no indication for any further
5 diagnostic studies or treatment the patient is
6 at MMI. She can be released to full
7 unrestricted activity", unquote, Dr. Friedman.
8 Okay. Now the Claimant's first attorney also
9 sent her to Dr. Woolf the chief of Sports
10 Medicine at MUSC Orthopedics in April 2018. He
11 did not find any pathology that would prevent
12 her from working. He said you know what, it's
13 probably not unreasonable to consider one more
14 injection but other than that there's nothing
15 to offer. Quote, "Short of that, I have
16 nothing further to recommend", unquote. Quote,
17 "She has exhausted everything else", unquote.
18 Quote, "There is no further treatment that will
19 lessen to her degree of disability", unquote.
20 This is her point she got, not Defendants, the
21 Claimant. Okay. Then the Commissioner sends
22 her to Dr. McFadden who writes, quote,
23 "unilateral left shoulder is basically normal",
24 unquote. He could not find a cause or a
25 problem. He found her at MMI and released her

1 to work with no restrictions. Dr. Friedman,
2 Dr. Greer, Dr. Woolf, Dr. McFadden all
3 basically kind of agreed. This isn't a
4 situation where somebody's trying to railroad
5 the Claimant. There's overwhelming evidence
6 that she's at MMI to the left shoulder. The
7 Claimant wants to say well Dr. Chamber says I
8 need surgery. We -- Dr. Chamber's deposition
9 was taken. First of all, he's a outlier, then
10 he says that his recommendation diagnosis is
11 "based on her subjective complaints of pain",
12 unquote. That's his quote. In other words, we
13 got to believe what she's telling us cause
14 there's nothing else to rely on. And we know
15 you can't believe her. Secondly, the hearing
16 Commissioner partly refused to order treatment
17 of Dr. Leak. Four major points: Number one,
18 the order of September 21st, 2020 and the
19 consent order of March 5th, 2019 all indicated
20 the authorized treating physician for the right
21 wrist and the Claimant shall have treatment
22 with Dr. Barrie. I'm sorry it's Dr. Young and
23 then Dr. Barrie not Dr. Leak. Secondly, Dr.
24 Leak acknowledges his first surgery did not
25 work. With all due respect, maybe it's a good

1 idea to try somebody else. Third, Dr. Leak
2 continued to prescribe narcotic pain medication
3 without seeing the Claimant for over a year.
4 He did not monitor medication. Nothing. We're
5 in the middle of an opioid crisis in this
6 country and that's what Dr. Leak did. And
7 fourth, Dr. Leak acknowledges the surgery he's
8 recommending now, quote, "is definitely out of
9 the ordinary." That's his deposition pages 12
10 and 13. So all of this indicates Dr. Leak is
11 not the authorizing treating physician. We
12 don't need to be authorizing him. At one
13 point, I think in the brief, the Claimant
14 argues that the doctor is too far for me to go
15 to. Dr. Barrie's in Fayetteville, an hour and
16 a half from Florence. Dr. Leak is about an
17 hour and a half from Florence. About equal
18 distance. The hearing Commissioner partly
19 denied the claim for TTD. You just heard me
20 tell you all those shoulder doctors who have
21 released her to work with no restrictions. All
22 right. So let's look at the right wrist. Dr.
23 Young said she can work with no use of the
24 right hand. Pretty straight forward. Based on
25 the prior law of the case I think that stands

1 on its own. And it's very important, the
2 hearing Commissioner properly considered Dr.
3 Young's report. First and foremost, and I
4 can't say this enough, that report was admitted
5 into evidence by the Claimant. Claimant's APA
6 pages 317 to 320. They submitted it into
7 evidence. They didn't move to withdraw it.
8 They put it in evidence and now say don't
9 consider it. You can't do that. You put it
10 into evidence. To think that there's no real
11 evidence or violation of 42-15-95. The only
12 evidence of it is the Claimant saying oh, she
13 went in there on the 31st and talked to the
14 doctor. I don't know what you're talking
15 about. This -- that's the only evidence of it
16 and quite frankly they didn't bring in the
17 doctor to talk about it. They didn't depose
18 the doctor. All we have is a Claimant who is
19 not credible, giving testimony, which I think
20 she'll say anything to get what she wants. In
21 regards to the -- Mr. Fagan (sp) the
22 occupational therapist -- is that my 10
23 minutes.

24 COMMISSIONER TAYLOR: It is. You can finish this --
25 go ahead and finish this last point.

1 MR. BAREFOOT: Okay. Well, the last point I want to
2 make as far as her credibility. This is not a
3 Crane case. The - the fact is -- matter of
4 fact the description that the Commissioner
5 uses; the words belligerence, secondary gain
6 issues and dramatic all come directly from the
7 medical records as well as the massive amount
8 of credibility problems. Thank you,
9 Commissioner.

10 COMMISSIONER TAYLOR: All right. Thank you very
11 much. Mr. Maguire, you have three minutes on
12 rebuttal.

13 APPELLANT'S REPLY:

14 MR. MAGUIRE: Ninety percent of the stuff that we're
15 talking about with this credibility was all
16 before Commissioner Campbell. You know, as far
17 as 42-9-260 there is, there is nothing to be
18 said. They didn't file a 15, they didn't file
19 a 17, they improperly stopped the checks and
20 they didn't start them again. It's just --
21 that's the law. So I don't want to waste any
22 more time on that. As far as 42-15 and 95, you
23 got the meeting with Dr. Young, the letter to
24 Dr. McFadden, the meeting with Dr. McFadden and
25 this is all in the notes. I mean, it -- it's

1 uncontroverted and when, you know, there was no
2 attorney. She didn't even have an attorney
3 when it was with Dr. Young and a letter was
4 sent to the Commission in April. So she was on
5 her own and she testified that she didn't get
6 any notice and she wasn't there and why would
7 you even be talking to the doctor when we're
8 not there. It's improper and it's why we have
9 the rules and the rules are very clear in what
10 the remedy is. The remedy is that Dr. Young's
11 records and reports have got to go out and so
12 now there's no -- there's no doctor in regards
13 to that and -- and there's been no shoulder
14 testimony, I mean excuse me, treatment after --
15 after Commissioner Campbell because there's no
16 way that McFadden's record -- Dr. McFadden,
17 excuse me, can come in when you write a letter
18 such as that and you don't copy and you don't
19 give 10 days notice and then you go to -- to
20 make matters worse you go and you meet with
21 them. So it -- it's improper on every front
22 and it -- it's -- it's and as far as the missed
23 appointment, yeah, it was -- it was imminent in
24 the sense that she thought she had cancer so
25 she went to -- so yeah, it was scheduled but

1 she couldn't miss it and it was one
2 appointment. You cannot -- that's not refusing
3 treatment and even if she did, she went back in
4 January so there's no way under 42-9-260 that
5 that flies. You know, I got a couple of
6 seconds, right. Most -- we keep throwing back
7 like this is this awful, awful woman and -- and
8 I won't even -- I don't have time to get to the
9 way she was treated and we know she was treated
10 in a way that was that -- that put her in a
11 position where she -- she couldn't trust. And
12 -- and -- and there I could go through all the
13 doctors that did say nice things about her and
14 did want to help her. Dr. Chambers -- by the
15 way Dr. Chambers wrote -- 20 seconds -- Dr.
16 Chambers makes a -- from the very beginning
17 suspected a slap injury. It was after the
18 second MRI that there's no question in his mind
19 that it needs the surgery that he thought from
20 the beginning. Dr. Friedman actually puts in
21 his notes tendinosis and irregularity of the
22 labrum. A lot of these other doctors said the
23 same thing about the MRIs. There -- there's
24 definitely issues and it's just not got
25 treated.

1 COMMISSIONER TAYLOR: Thank you, Mr. Maguire.

2 Listen, y'all know how to cram it in. That is
3 awesome. Very good. Very good. Well, that
4 concludes this matter -- oh, Commissioner
5 Campbell.

6 COMMISSIONER CAMPBELL: I just want to -- I want to
7 make one thing clear just as we capture this
8 for the record. I know that we all know this
9 on this hearing but what we're here for is not
10 my Order but for Commissioner Barden's Order.

11 COMMISSIONER TAYLOR: Right. Right.

12 COMMISSIONER CAMPBELL: I don't want that to be
13 confused just for anybody reading this
14 transcript at a later time.

15 COMMISSIONER TAYLOR: Correct. Right. But your
16 prior Order was referred to but the direct
17 Order on appeal is from Commissioner Barden.

18 COMMISSIONER CAMPBELL: Right. And I just noticed
19 that Susan's name hadn't gotten brought up and
20 I just wanted to make sure that it was put in
21 -- put on the record that is was her.

22 COMMISSIONER TAYLOR: Duly noted. All right.

23 COMMISSIONER CAMPBELL: Thank you.

24 COMMISSIONER TAYLOR: Thank you all very much. You
25 all have a good afternoon.

1 (There being nothing further, the virtual full
2 commission hearing concluded at 4:40 p.m.)

3

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1520443

Melissa McKnight,)
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 Claimant,)
)
v.)
)
McCall Farms, Inc.,)
)
 Employer,)
)
and)
)
Great American Alliance,)
)
 Carrier/Defendants.)
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HEARING

Tuesday, January 12, 2021
11:45 a.m. - 2:08 p.m.

The hearing was heard before Commissioner Susan S. Barden at 1947 West Darlington Street, Florence, South Carolina, on the 12th day of January, 2021, before Katherine M. Boone, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
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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.



1 CALL TO ORDER:

2 **THE COURT:** Today's date is January 12th, 2021.
3 This is South Carolina Workers' Compensation
4 Commission File No. 1520443. This is the case
5 of the Claimant, Ms. Melissa McKnight, who is
6 present today and represented by Attorney Ian
7 Maguire, versus the Employer, McCall Farms, and
8 its Carrier, Great American Alliance, both of
9 which are represented by Attorney Walt
10 Barefoot. The purpose of today's hearing is to
11 determine issues raised in the Defendants'
12 motion, as well as the Defendants' Form 21
13 request to stop payment of temporary benefits.
14 We were -- well, let me go ahead and finish
15 some other preliminaries. The parties agree
16 through prior litigation -- and, I believe,
17 consent order as well, but definitely prior
18 litigation -- that Ms. McKnight's average
19 weekly wage is \$761.40, yielding a compensation
20 rate of \$507.62. The date of this admitted
21 accident was November 6th or 7th. I've seen
22 both dates in some of the pleadings in the
23 file. If y'all would like to stipulate as to
24 whether it was the 7th or the 6th -- I think in
25 my last order it says the 6th, but on your



1 prehearing briefs today I noticed y'all have
2 the 7th. Does that matter? Can we say the 6th
3 or the 7th, or did y'all want to stipulate to
4 a certain date?

5 **MR. BAREFOOT:** The 6th or the 7th is fine with the
6 Defendants, Your Honor. We have the 7th.

7 **THE COURT:** Are you okay with that, Mr. Maguire, 6th
8 or 7th?

9 **MR. MAGUIRE:** We had the 7th, but it's fine.

10 **THE COURT:** Okay. All right. I'm gonna preempt Mr.
11 Barefoot on behalf of his clients. He does
12 object to the Claimant's APA submissions pages
13 372 through 379, and 458 through 465. I'm
14 holding that objection in abeyance. And he has
15 -- if there is any testimony today taken with
16 regard to those documents, nonetheless, at a
17 minimum, he has a running objection to any --
18 to those documents, and to any testimony
19 relating to those documents. And dependent
20 upon my ruling, that testimony may be stricken
21 from the record, and it may not. I have not
22 made a decision. Both parties have made cogent
23 arguments as to why they think it should be in
24 there, and I have attempted to address those.
25 But I just would like to reserve my rights and



1 hold that in abeyance, per my discretion. Are
2 there any further objections to APAs,
3 jurisdiction, venue, or any other items? You
4 are representing the moving party, Mr.
5 Barefoot. Do you -- I will start with you.

6 **MR. BAREFOOT:** None from the Defendants.

7 **THE COURT:** Thank you. Mr. Maguire?

8 **MR. MAGUIRE:** None, Your Honor.

9 **THE COURT:** Thank you, sir. Without objection, the
10 Commission -- or further objection, the
11 Commission file becomes part of the record,
12 with the exception of self-serving declarations
13 and unstipulated medical reports. Prior to
14 going on the record, we held a prehearing
15 conference. We were last together in person in
16 Conway. I don't believe there -- I know we've
17 had some phone discussions as well, I believe,
18 but we were together on June 24th, 2020. Mr.
19 Barefoot's clients have had a pending 21 since
20 2019. I issued an order in August of 2020
21 stating that the Claimant was entitled to more
22 medical treatment or evaluations for her
23 admitted right wrist and left shoulder
24 injuries, and I ordered that. In addition, the
25 Claimant also pleads, or at least did, and she



1 can -- that will be explored through testimony.
2 Her left shoulder, arm, elbow and wrist -- no,
3 excuse me, that's one of the admitted parts.
4 I think there was something else that was
5 originally pled that's no longer. So those are
6 admitted injuries in this case. Because of the
7 amount of time which has transpired since I
8 last saw the parties, including but not limited
9 to the fact that the Claimant attended some of
10 these, if not both of the visits that I ordered
11 back in August, just as for terms or for
12 purposes of updating the Commission as to where
13 the parties are, as well as to put a full and
14 complete summation of their respective
15 positions on the record, and to create a
16 complete record, I'm going to ask each to put
17 a position on the record today, which of course
18 deviates from my usual SOP, which is to state
19 the positions myself. But because of the
20 voluminous nature, in part, of these medical
21 records of which I have no -- I got these
22 today, so I haven't read a word of them. I
23 don't know what's in them. Commissioners don't
24 receive medical records until the time of the
25 hearing, so there's no way to prepare for that.



1 So I will ask each party to put a brief
2 position on the record, and I will begin, sir,
3 Mr. Barefoot, with you, as you represent the
4 moving party.

5 **POSITION STATEMENT:**

6 **MR. BAREFOOT:** Thank you, Your Honor. By way of
7 background, this matter went to a hearing on
8 October 7, 2017. At that time, the Claimant
9 was pursuing two injuries, one in October of
10 2015 and one in November. One was a repetitive
11 trauma claim. The single commissioner issued
12 an order. At that point, the repetitive trauma
13 claim was denied. The Claimant was also
14 seeking temporary disability benefits. The
15 single commissioner found the Claimant had been
16 terminated for cause while on light duty.
17 That's the single commissioner's order, finding
18 of fact number 11, conclusion of law number 7,
19 and the order and award.

20 **THE COURT:** And let me interrupt you, sir. Is that
21 part of your submission, so I would have that
22 order?

23 **MR. BAREFOOT:** Yes, ma'am. APA page 365 and 367.

24 **THE COURT:** Thank you. All right, sir. Go ahead.

25 **MR. BAREFOOT:** The commissioner ordered the



1 Claimant's not entitled to temporary disability
2 for the time she, quote, was and is on light
3 duty, unquote. That's APA page 367. The
4 Claimant appealed to full commission. The full
5 commission affirmed the single commissioner in
6 full. That's APA page 375. So the law of the
7 case is the Claimant's not entitled to
8 temporary disability benefits for the time
9 period she was and is on light duty. Now the
10 Claimant was treating with Dr. Leak. Dr. Leak
11 did surgery that did not correct the Claimant's
12 situation. The Defendants sent her to Dr.
13 Young for another opinion. The Claimant would
14 not see Dr. Young for follow up. She was
15 supposed to see Dr. Young for a follow up on
16 December 3rd, 2018. She did not go. As a
17 result, the Defendants filed a form 21. That
18 form 21 was resolved on a consent order, in
19 which the parties agreed that the authorized
20 treating physician would be Dr. Kimberly Young.
21 That's APA page 377. The Defendants have
22 agreed to resume temporary total as of that
23 date, and that's what they did. Now the
24 Claimant went to see Dr. Young, but she was not
25 very compliant. Dr. Young released her on May



1 31st, 2019, and sent a letter saying she was
2 being discharged, due to noncompliance. That's
3 APA page 191, I believe. She also, at that
4 point, released her to work light duty, with no
5 use of the right hand. That was when the
6 Defendants stopped paying temporary disability
7 benefits, based on the prior full commission
8 order, but out of an abundance of caution filed
9 a form 21. We ask the Commission to find that
10 the Claimant had refused treatment with Dr.
11 Young, because she was discharged for
12 noncompliance, and also that she, in compliance
13 with the full commission -- or she was now
14 released to light duty work and was no longer
15 entitled to temporary disability benefits.
16 Now, keep in mind the Claimant had already been
17 discharged by another doctor, Dr. Gayton, for
18 being belligerent and difficult. That's APA
19 page 419. So in the fall of 2019, because the
20 Claimant had now been discharged by the
21 authorized treating physician she had agreed
22 to, because she had been noncompliant, we sent
23 her to Dr. Barrie as we previously discussed.
24 Dr. Barrie went to med school at Tufts
25 University, an internship at Yale University,



1 and a fellowship at the Mayo Clinic. The
2 Claimant refused to go. The company rep even
3 offered transportation and overnight hospital -
4 - hotel stay, if needed, and food
5 reimbursement, and the Claimant still would not
6 go. Those were APA page 413 and page 416. So
7 keep in mind, as far as the hearings go, we
8 noted that on the form 21 that we had filed in
9 December of 2018, that was resolved in the
10 consent order that's March 5th, 2019. When we
11 filed the form 21 in June of 2019, a hearing
12 was set for September 4th, 2019. The Claimant
13 appeared pro se, and said she wanted to get an
14 attorney. She was given 30 days. She did not
15 get an attorney within those 30 days, but the
16 hearing -- I'm sorry.

17 **THE COURT:** No, no, no.

18 **MR. BAREFOOT:** Okay.

19 **THE COURT:** And I hate to interrupt your train of
20 thought, but when was that second 21 filed?
21 You said there was a 21 filed in December ---

22 **MR. BAREFOOT:** I think the second one was June 4th,
23 2019.

24 **THE COURT:** Okay. All right. Thank you, sir.

25 **MR. BAREFOOT:** Okay. We had a hearing set for



1 September 4th, 2019. The Claimant appeared.
2 She told Commissioner Wilkerson she wanted to
3 get an attorney. So he gave her 30 days. We
4 didn't hear from an attorney, but right before
5 the hearing was rescheduled for November 13th,
6 Mr. Maguire made an appearance and said he
7 needed more time. The Commissioner then
8 rescheduled the hearing for December 10th. The
9 Claimant then asked to mediate the claim. We
10 had a mediation scheduled in February and in
11 March. Right before then, the Claimant said
12 you know what, I don't think we need to mediate
13 this claim. That's when the hearing was reset
14 for June 24th, 2020, before you, Commissioner
15 Barden. We've talked about you issued an order
16 August 6th, 2020, requiring the Claimant to go
17 see Dr. McFadden for an evaluation of her left
18 shoulder. Dr. Friedman has found her at
19 maximum medical improvement and says she has no
20 impairment and no restrictions.

21 **THE COURT:** And that's for the shoulder?

22 **MR. BAREFOOT:** Yes, ma'am. Dr. Woolf, W-O-O-L-F,
23 with MUSC -- one of her prior attorneys sent
24 her to see him. He said the only thing he
25 thought he could offer may be some additional



1 injections. But he did not think surgery was
2 warranted. And now Dr. McFadden has seen her
3 and says that he doesn't think she has any
4 problems, and she is at maximum medical
5 improvement with no impairment. The Claimant
6 says well, Dr. Chambers found a problem. He
7 wants to do surgery. So we have three doctors
8 who say no surgery, and Dr. Chambers who says,
9 okay, I think she needs surgery. All right.
10 Now, you issued the order August 6th. In the
11 meantime, September 8th the Claimant filed a
12 motion to compel authorization for a CMC
13 arthroplasty surgery by Dr. Leak. We
14 responded, and you issued an order dated
15 September 21st, 2020 denying the motion, and
16 specifically setting forth that Dr. Barrie is
17 an eminently qualified physician with excellent
18 credentials. And you noted that the authorized
19 treating physician, agreed to by the parties,
20 discharged the Claimant, and Dr. Barrie
21 believes the Claimant needs surgery. So the
22 Claimant was scheduled for pre-op, pre-
23 operative visit with Dr. Barrie on October
24 12th, 2020. She did not appear. We then filed
25 our motion and rule to show cause, saying that



1 we believe that she has not complied with your
2 previous order.

3 **THE COURT:** And that's in part what brings us here
4 today.

5 **MR. BAREFOOT:** Yes, ma'am.

6 **THE COURT:** Okay. So were there no other
7 appointments scheduled after the pre-op when
8 she ---

9 **MR. BAREFOOT:** Well, we got it scheduled again.
10 They said oh, we're not gonna go. So we
11 rescheduled it for February.

12 **THE COURT:** Okay.

13 **MR. BAREFOOT:** Our concern is very straightforward,
14 Commissioner.

15 **THE COURT:** All right.

16 **MR. BAREFOOT:** If we keep scheduling appointments
17 and she doesn't go, Dr. Barrie is gonna
18 discharge her just like Dr. Young did and just
19 like Dr. Gayton did.

20 **THE COURT:** Okay.

21 **MR. BAREFOOT:** And we -- for the record, we believe
22 that's what's going on here. We think the
23 Claimant is manipulating the medical situation
24 to get what she wants.

25 **THE COURT:** All right, sir.



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1 MR. BAREFOOT: In addition to the -- I've pointed
2 out the situation with the left shoulder. We
3 have Dr. Friedman finding maximum medical
4 improvement and zero percent impairment.
5 That's APA page 195. You sent her to see Dr.
6 McFadden. She saw him August 10th, 2020.
7 That's APA page 422 to 425. He says the MRI is
8 basically normal, cannot find any cause for her
9 shoulder pain, maximum medical improvement with
10 no impairment, can return to work regular duty.
11 And, as I touched on earlier, one of the
12 Claimant's prior attorneys sent her to Dr.
13 Woolf, W-O-O-L-F, at MUSC. He didn't believe
14 that there was anything that was preventing her
15 from working. He found no rotator cuff
16 pathology or capsulolabral issues. And these
17 are all APA page 298. He said it was difficult
18 to tell where her pain was coming from, APA
19 page 299. He said that, giving her the benefit
20 of the doubt. He didn't think it was
21 unreasonable to try an injection, but short of
22 that he had nothing further to offer, that's
23 APA page 299. In regards to what I was talking
24 about with the manipulation, the Claimant has
25 presented to numerous physicians with



1 inconsistent and out-of-proportion findings.
2 Dr. Friedman found that for the left shoulder,
3 APA page 194. Dr. Robert Moore saw her for her
4 wrist, and found symptom magnification. That's
5 APA page 50. Dr. Woodbury, W-O-O-D-B-U-R-Y --
6 the doctor she saw on her own for right carpal
7 tunnel, the Defendants had nothing to do with
8 that -- found that she had, quote, secondary
9 gain issues, unquote, APA page 147. And Dr.
10 Kimberly Young also found that she was
11 presenting with problems that were way out of
12 proportion to what was justified, APA page 189.
13 So we're seeking an order to find that the
14 Claimant's not entitled to temporary disability
15 benefits after May 31st, 2019, primarily for
16 four reasons. First, the full commission
17 indicated she's not entitled to temporary
18 disability benefits while she is on light duty,
19 and she had been released to light duty.
20 Second, she refused medical treatment with Dr.
21 Young, and was discharged for, quote,
22 noncompliance, unquote. That's what Dr. Young
23 wrote in her letter. Three, in the fall of
24 2019, the Claimant refused evaluation or
25 treatment with Dr. Barrie. And I guess those



1 are the reasons.

2 **THE COURT:** Okay. So those three?

3 **MR. BAREFOOT:** Yes, ma'am.

4 **THE COURT:** All right.

5 **MR. BAREFOOT:** Now, we're also seeking an order
6 requiring the Claimant to submit to treatment
7 with Dr. Barrie. Dr. Barrie has recommended a
8 surgery, the exact same surgery Dr. Young was
9 contemplating in her final report.

10 **THE COURT:** All right. And Mr. Barefoot, if the
11 Claimant doesn't -- and of course no
12 commissioner, and no full commission, and no
13 one can force the Claimant to have a surgery
14 that she doesn't wish to have -- then what
15 would be your, you know, if she decides she
16 doesn't want the surgery from Dr. Barrie and
17 she tells us that here today, or whatever she
18 tells us then, what would you have me do?

19 **MR. BAREFOOT:** Alternatively, what I've written next
20 ---

21 **THE COURT:** Okay. Sorry I interrupted.

22 **MR. BAREFOOT:** No, you nailed it. That's excellent.
23 Maximum medical improvement and address
24 extended permanent disability to the right
25 wrist. We also are asking you to find maximum



1 medical improvement in regards to the left
2 shoulder, based on the findings of Dr. Friedman
3 and Dr. McFadden, with no impairment and no
4 restrictions.

5 **THE COURT:** All right, sir. Anything else before I
6 hear from Mr. Maguire?

7 **MR. BAREFOOT:** I think that covers it all for now.

8 **THE COURT:** Thank you so much. Mr. Maguire.

9 **POSITION STATEMENT:**

10 **MR. MAGUIRE:** Thank you, Commissioner. As Defense
11 counsel pointed out, back in October 2017 there
12 was an order from Commissioner Campbell where
13 many of these issues regarding prior doctors
14 and other doctors was addressed, so I think,
15 you know, at the very least ---

16 **THE COURT:** And I have all these prior orders in
17 here from one or both of y'all? Okay, great.
18 Just makes it easier.

19 **MR. MAGUIRE:** And then in March there was a consent
20 order, which I think was mentioned, where they
21 talked about Dr. Young being a treating
22 physician which we consented to.

23 **THE COURT:** And that would be March of what year
24 that you're talking about?

25 **MR. MAGUIRE:** March of 2019 ---



1 THE COURT: Okay.

2 MR. MAGUIRE: --- with Dr. Young.

3 THE COURT: When Dr. Young was named by consent
4 order. Okay.

5 MR. MAGUIRE: Right.

6 THE COURT: Thank you, sir.

7 MR. MAGUIRE: And at that time, TTD checks were
8 supposed to start, and briefly, apparently,
9 started. There was no 15, there was no 17.
10 The checks were just stopped, and without
11 really any reason. I'll try to run through,
12 without going through things prior to that 2017
13 order, because I think it is somewhat
14 irrelevant. But on 12/20/2017 there was the
15 right wrist proximal row carpectomy that Dr.
16 Leak, the authorized treating physician,
17 performed. Claimant was experiencing pain in
18 her thumb after that, and it collapsed into her
19 radial styloid, which is somewhat unusual, but
20 a complication of the proximal row carpectomy.
21 Dr. Leak immediately recommended the
22 arthroplasty, and that's as early as July of
23 2018, maybe even prior to that. Despite a
24 previous order directing Defendants to
25 authorize causally-related medical treatment,



1 the physician of the Defendants' choosing,
2 which was Dr. Leak, they didn't do that.
3 Instead, they sent our client to see Dr. Young.
4 On 10/17/2018, a second opinion was performed
5 by Dr. Young, and in those notes it states that
6 the patient wants to discuss treatment with Dr.
7 Leak, of course, who had been her treating
8 physician, and who she trusted and had reason
9 to trust. Dr. Young notes that wrist fusion
10 may be necessary, but before proceeding with
11 wrist fusion, Claimant would need to position
12 the thumb in an abducted position for six
13 weeks. It also says there is an important
14 condition, continue medication reported as
15 directed by the ordering provider, i.e. Dr.
16 Leak. Dr. Young was very aware of Dr. Leak,
17 and his deposition also confirms that he
18 continued to give medication to our client
19 while surgery was imminent, because clearly,
20 surgery was imminent.

21 **THE COURT:** And let me ask you this, you mentioned
22 that the thumb was supposed to be in a certain
23 position, I think you said for six weeks. Did
24 that ever occur? And maybe it will have to be
25 explored through testimony. That's fine.



1 MR. MAGUIRE: I think that'll be explored, but I
2 don't think that was ever -- she ever got to
3 that.

4 THE COURT: Okay.

5 MR. MAGUIRE: On 1/25/2019, patient re-evaluated by
6 Dr. Young. Dr. Young notes the patient is a
7 patient of Dr. Leak, the patient is very happy
8 with her care with Dr. Leak, and very happy
9 with her surgical plan, I'm always happy to be
10 of assistance, but I would recommend continuing
11 care with her surgeon that she is very happy
12 with, is much closer to home, and should she
13 wish to transfer care, not out of refusal, but
14 because, again, the relationship she has built
15 with her surgeon, she is very happy with the
16 care she has been receiving. At that point,
17 Dr. Young is very understanding and of course
18 ---

19 MR. BAREFOOT: I'm sorry, what's the date on that
20 one?

21 MR. MAGUIRE: 1/25/2019. At that point ---

22 MR. BAREFOOT: So that's before the consent order?

23 MR. MAGUIRE: Yeah.

24 MR. BAREFOOT: Okay.

25 MR. MAGUIRE: And so, at that point care was never



1 brought back to Dr. Leak for no good reason,
2 because he was the authorized treating
3 physician that performed the surgery, that she
4 had gained trust in. So at that point in
5 January, Dr. Young states that Dr. Leak -- she
6 recommended they go back to Dr. Leak. A
7 hearing was scheduled on March 12th, and of
8 course we talked about this earlier, about the
9 agreement that Claimant shall accept Dr. Young
10 as an authorized treating physician. The
11 parties never agreed that Dr. Young would
12 replace Dr. Leak or that Dr. Young would be the
13 sole authorized treating physician. There was
14 never any agreement to that. And, of course,
15 there also was an agreement to start the TTD
16 checks. April 17th of 2019, Claimant returned
17 to Dr. Young, who reiterated that Claimant was
18 referred back to Dr. Leak. Also of importance
19 -- I don't want to jump over to the shoulder,
20 I'm gonna talk about the shoulder -- but Dr.
21 Young referred Claimant to Dr. Brett Young for
22 a shoulder evaluation. Defendants never did
23 that. Dr. Young referred Claimant for pain
24 management. The Defendant never did that. Dr.
25 Young referred the Claimant back to Dr. Leak,



1 and of course the Defendant never did that
2 either. The Defendant is doing everything just
3 to make this, as you'll see as we go through
4 this, as difficult as possible for this woman.
5 Dr. Young referred Claimant to pain management
6 and was ignored. Dr. Leak continues to
7 prescribe medication. She was an imminent
8 surgery patient. On May 31st, 2019, Dr. Young
9 had a 30 minute ex parte discussion with the
10 nurse case manager without providing notice of
11 an opportunity for Claimant to be available in
12 clear evaluation of ---

13 **MR. BAREFOOT:** I will take exception with that, Your
14 Honor.

15 **MR. MAGUIRE:** Okay.

16 **MR. BAREFOOT:** Where's the evidence of that? Can
17 you point me to that?

18 **MR. MAGUIRE:** I'm gonna -- well, that she talked to
19 the nurse case manager ---

20 **MR. BAREFOOT:** The nurse case manager didn't send
21 notification to the prior attorney that was
22 gonna take place.

23 **MS. BUFFKIN:** I've asked for that to be provided to
24 me if there was any type of notice ---

25 **MR. BAREFOOT:** I can't control what the other



1 attorney sent you.

2 MS. BUFFKIN: --- given and we had no notice, the
3 attorney had no notice who was representing ---

4 MS. MCKNIGHT: I didn't have an attorney.

5 THE COURT: We can't -- we can't do it this way.

6 MS. MCKNIGHT: I didn't have an attorney.

7 MR. BAREFOOT: Sorry.

8 MR. MAGUIRE: I'm gonna ask.

9 MS. MCKNIGHT: Okay.

10 THE COURT: You can ask.

11 MR. BAREFOOT: But there's nothing in the APAs that
12 show that, that's what I'm asking.

13 MS. BUFFKIN: How would I prove an absence of notice
14 given? There was no communication.

15 MR. MAGUIRE: I'm gonna -- she's gonna testify.

16 THE COURT: Okay. Let's let her testify when she's
17 under oath, and just put your positions on the
18 record.

19 MR. MAGUIRE: What Dr. Young in -- Dr. Young's May
20 31st, 2019 notes does state that there was a 30
21 minute discussion with the nurse case manager,
22 and I would say that's a clear violation of 42-
23 15-95. And, of course, after that ---

24 THE COURT: And do you have a page number for that
25 that you could cite?



1 **MR. MAGUIRE:** --- and after that everything with Dr.
2 Young seems to change. At that point Dr. Young
3 recommends that she see a different physician,
4 which is the whole time she's saying go back to
5 Dr. Leak and she certainly knew she was on
6 medications with -- through Dr. Leak, and she's
7 referring her to the other Dr. Young for her
8 shoulder. And then all this stopped after this
9 communication. Dr. Leak -- and then so what
10 happens is she releases her from care, and at
11 that point, which is incredible to me, she says
12 I'm releasing you from care. Remember, all of
13 these different times that she met with Dr.
14 Young, she never wrote her out on light duty,
15 okay? But the day she meets with the case
16 manager, the nurse case manager, the day that
17 she releases our client as her patient, all of
18 a sudden she says oh, and by the way, she's on
19 light duty. It's laughable, actually, how
20 ridiculous it is. And at that point TTD got
21 stopped. So, you see, this whole -- how this
22 whole thing is being orchestrated and working,
23 and it's really, it's really unfair to this
24 woman. And the checks just stop at that point.
25 9/24/2019 -- excuse me, June 27th, 2019, Dr.



1 Leak evaluated the Claimant and notes she's not
2 getting any better. She needs the same
3 correction. She's out of work. So he has her
4 out of work. And she needs that same simple
5 thing done. Two and a half years ago, this
6 could have been done. We could have been fine,
7 but no, no, we're just gonna -- for whatever
8 reason, for whatever reason, whatever this
9 woman has done to make her be treated this way,
10 I don't know, but that's what happened. She
11 never was able to get that simple surgery done.
12 9/24/2019, Dr. Leak writes a note to the
13 Carrier explaining the Claimant needs the
14 surgery. She has an impingement between her
15 wrists causing pain, and causing her to
16 continue to take pain medication. A wrist
17 fusion could be performed, but she would lose
18 her wrist range of motion, which, of course, is
19 why a fusion is something that we don't feel is
20 appropriate, 'cause she's gonna lose her
21 motion. November 2019 Defendants authorized an
22 appointment with Dr. Barrie in North Carolina,
23 instead of authorizing Claimant to return to
24 Dr. Leak as recommended by Dr. Young. At this
25 point, Claimant still doesn't -- she does not



1 have an attorney. If we can go back to May
2 31st of 2019, Claimant did not have an attorney
3 at that point, if I'm not mistaken.

4 **MR. BAREFOOT:** At least she's represented by
5 Attorney Barr. At what point did his
6 representation end? You were looking at me,
7 that's why I'm speaking.

8 **THE COURT:** Again, you'll just have to -- you'll
9 have to explore this through testimony. She
10 can't, she can't give your summation.

11 **MR. MAGUIRE:** November 2019, Defendants authorized an
12 appointment with Dr. Barrie instead of Dr.
13 Leak. And there was, you know, there was
14 statements that she's a no-show. However,
15 there was a hearing, an upcoming hearing. She
16 already knew she was gonna have the less
17 invasive surgery with Dr. Leak, which she
18 wanted to have. As it turned out, it ended up
19 being a less invasive surgery. And, of course,
20 that takes us to at least somewhat of the
21 present, Commissioner, where a June 24th, 2020
22 hearing was scheduled. At that point,
23 treatment was directed to Dr. Barrie, which
24 certainly ---

25 **THE COURT:** And that appointment was attended.



1 **MR. MAGUIRE:** She did attend. At that point she was
2 told that the recommendation was for a number
3 of things, including a fusion, which she's
4 already been told by an authorized treating
5 physician of the Defendants' choosing that that
6 would not -- that would be a last resort,
7 because you're gonna lose, you're gonna lose
8 motion, and I don't think there's any question
9 that a fusion is gonna do that. But she went
10 to that appointment. She also went to the
11 appointment with, you know, with Dr. McFadden.
12 So, you know, at that point, in regards to the
13 shoulder -- I'm jumping around a little bit --
14 but in regards to the shoulder, you had Dr.
15 Young -- sent her to the other Dr. Young, who
16 they refused to send her to for whatever
17 reason. Dr. Woolf recommended injections,
18 which they never did. Dr. Chambers -- I refer
19 you to his deposition which is in the APAs, but
20 ---

21 **THE COURT:** And where did Dr. Chambers figure in?
22 Is he an IME? Was he original treating? Was
23 he -- who is Dr. Chambers?

24 **MR. MAGUIRE:** My understanding is it was long before
25 we were involved in this case, I think, back in



1 2017, Claimant went and saw Dr. Chambers. It
2 may have been an IME, original IME, and then
3 she went back. My understanding, if I'm not
4 mistaken, the Defense paid for one of the ---

5 **MR. BAREFOOT:** My understanding is he's an IME from
6 the Claimant's attorney, which led to us
7 getting our own opinion from Dr. Friedman.

8 **THE COURT:** Okay.

9 **MR. MAGUIRE:** But Dr. Chambers, as he'll say in
10 there, he says, I have a lot of respect for Dr.
11 McFadden, he's a good doctor. I know him, my
12 partner used to work with him. But Dr.
13 Chambers is a sports doctor who does knees. He
14 represents all the sports teams in the area.
15 He does knees and shoulders. And, he says, you
16 never hear a doctor say anything even remotely
17 -- I won't call it negative, but questionable,
18 about another doctor -- but the only thing he
19 says about Dr. McFadden is he's really a hand
20 doctor. That's his thing. I do shoulders, he
21 does hands. He does some shoulders, but that's
22 not his concentration. I do, and I'm a sports
23 doctor. He came right out in the record and
24 said that, which I thought was refreshing in
25 the sense that most doctors won't do that.



1 Again, he didn't say anything at all negative
2 about him, other than this is my area of
3 expertise, and not Dr. McFadden. So that being
4 said, Dr. Chambers, after -- at the beginning
5 recommended the surgery, and at the end,
6 recommended the surgery. And you know she
7 wants to get that fixed and get better, and I
8 don't think that's anything out of the
9 ordinary, especially when prior treatment has
10 been denied until they found doctors that said
11 oh, she's fine. So in regards to the shoulder
12 -- which is a big part of this, because the
13 shoulder is causing her a lot of pain and
14 difficulty, and it's really been ignored for
15 all these years for the most part except when
16 she went to Dr. Chambers -- so in regards to
17 the shoulder, I think there's been a number of
18 times where there was an opportunity for her to
19 get treatment, and it was -- unfortunately it
20 was denied. And, you know, we talked about the
21 shoulder. As far as the wrist and the upper
22 extremity, all she wanted to do was the least,
23 or the less invasive care, which hopefully
24 would put her on the right track and allow her
25 to still have motion after she had care. And



1 there was really no good reason, or no reason
2 at all, that, you know, for Dr. Leak not to be
3 -- continue as a treating physician, other than
4 he said he wanted to do the surgery. And then
5 he sent them other places, and it turned out
6 the surgeries the other people were
7 recommending were more invasive, and more
8 detail, and more involved than the surgery that
9 he was hoping to perform. And he says in his
10 deposition that, you know, there's a
11 possibility after that happens that in the
12 future she might need the more invasive fusion.
13 But the hope is, and he believes, based on his
14 expertise, that that one -- I don't want to
15 call it a simple surgery, but compared to a
16 fusion, it's an easier, or less involved
17 surgery -- would fix her problems.

18 **MS. BUFFKIN:** The note, by the way, that you asked
19 about is page 319 of the Claimant's APAs.

20 **THE COURT:** And I did not -- and this is on me, and
21 I apologize to you, would you state for the
22 court reporter your name on the record, because
23 you are a participating attorney and I should
24 have included you when I mentioned ---

25 **MS. BUFFKIN:** You're fine.



1 THE COURT: --- Mr. Maguire. Could you ---

2 MR. MAGUIRE: Sorry, I didn't ---

3 THE COURT: No, that's on me.

4 MS. BUFFKIN: It's okay, no worries. But it's
5 Tiffany Buffkin.

6 THE COURT: And could you spell that for her,
7 please?

8 MS. BUFFKIN: Yes, it's B-U-F-F-K-I-N.

9 THE COURT: Thank you so much. All right.

10 MR. MAGUIRE: So essentially what we are requesting,
11 Your Honor, is, first and foremost, for TTD to
12 be started, and to get payment back to March,
13 since she has been out of work ever since that
14 time. You know, we think the checks were
15 improperly stopped, and she'd be entitled to
16 sanctions for that. We think any negative
17 statement that can be negative towards the
18 Claimant regarding Dr. Young after that ex
19 parte communication should be excluded. There
20 also was a nurse case manager who sent a letter
21 to Dr. McFadden with ex parte, sent it out, you
22 know, before contacting us, and it was supposed
23 to be an IME, and we think that was
24 inappropriate and improper as well. In
25 fairness, I did raise that in front of you on



1 one of the phone calls, and you said well, you
2 could send your own letter. But I truly don't
3 think that cures that. It's not an independent
4 medical exam at that point. But you know we
5 request that surgery with Dr. Leak be provided
6 and the less invasive surgery, the
7 arthroplasty, and care with Dr. Chambers be
8 resumed. And if not care with Dr. Chambers, an
9 independent shoulder doctor.

10 **THE COURT:** All right. And I'd like to amend my
11 earlier, when I opened the record to include
12 Ms. Tiffany Buffkin, Attorney Tiffany Buffkin,
13 as far as representing Ms. McKnight. All
14 right. Mr. Barefoot, would you like to respond
15 to any or all of that?

16 **MR. BAREFOOT:** A few short things, Your Honor. In
17 regards to Dr. Leak, we would note that Dr.
18 Leak did not see the Claimant between July
19 21st, 2018 and June 27, 2019. And yet monthly
20 he continues prescribing narcotic medications.
21 That's his testimony. If you look at his
22 deposition pages 13 -- page 13, line 1-9, Dr.
23 Leak also acknowledged in his deposition that
24 the surgery he is recommending is, quote,
25 definitely out of the ordinary, unquote, APA



1 page 12, lines 13-25. I'm sure you're gonna
2 read it. You'll see. He did not dispute Dr.
3 Barrie's credentials, and indicated he would
4 not question anything that she recommended. We
5 believe to continue to prescribe narcotic
6 medication for almost a year without seeing a
7 patient is a huge red flag, especially in 2020
8 and 2021 when we have an opioid crisis in this
9 country. Now, as far as any notion that the
10 Defense has tried to prevent treatment, we have
11 done everything we can to get treatment for the
12 Claimant. Dr. Leak did a surgery, didn't help
13 her. That's why we felt we needed another
14 opinion. We now have Dr. Young and Dr. Barrie
15 both agreeing on the surgery that needs to be
16 done. We've tried to authorize and tried to
17 make it happen, and the Claimant will not
18 comply. You had asked earlier about the thumb
19 splint that Dr. Young had recommended for the
20 Claimant. That was one of the refusals that led
21 to a form 21 being filed in December of 2018.
22 The Claimant would not go back to Dr. Young's
23 office and get the thumb splint. It's called
24 a spica splint, S-P-I-C-A, if you see it in the
25 records. And the attorney that I negotiated



1 the consent order with for March 5th, 2019,
2 that was our agreement. Authorized treating
3 physician was going to become Dr. Young. That
4 was the purpose of the consent order. We were
5 going to a hearing over that issue. The
6 consent order resolved the need for that
7 hearing and we agreed to reinstate temporary
8 disability benefits, which were done. In
9 regards to any improper communication, the
10 nurse case managers had provided the attorneys
11 with notice in advance. I'm going to be going
12 to the appointments. I'm going to be asking
13 the doctors about maximum medical improvement,
14 restrictions, treatment, every single time. We
15 don't believe there's been any improper
16 communications.

17 **THE COURT:** Okay.

18 **MR. BAREFOOT:** And I believe that's all I have to
19 add.

20 **THE COURT:** All right. Are you ---

21 **MR. MAGUIRE:** Briefly, just ---

22 **THE COURT:** Yes, sir.

23 **MR. MAGUIRE:** As far as the medications, Dr. Young
24 knew Dr. Leak was prescribing the medications,
25 and had no problem with it during that time



1 period, until she talked to the nurse case
2 manager. But through each note, each time that
3 Dr. Young saw Claimant, it's actually in the
4 notes that -- I wanted her exact language, but
5 I want to find where she wrote it -- but
6 essentially, she was very aware that Dr. Leak
7 -- yeah, medication report as directed by the
8 ordering provider, continue medications report
9 as directed by the ordering provider. It says
10 it on every one of her notes. This one's on
11 page 302 at the top, but it's on every one of
12 her notes. So, you know, as far as that goes
13 -- and, of course, we took Dr. Leak's
14 deposition, and there was no cross examination
15 saying what did you do that for, you know.

16 **MR. BAREFOOT:** That's not true. We actually did ask
17 him about that.

18 **MR. MAGUIRE:** Okay, well.

19 **MR. BAREFOOT:** He said, because surgery was
20 imminent. For 12 months, surgery was imminent
21 was his answer.

22 **MR. MAGUIRE:** It was raised, but not in a
23 disputable, you-did-something-wrong way.

24 **MR. BAREFOOT:** All right. APA -- excuse me, his
25 deposition, page 24, line 5, to page 25, line



1 8, we had him acknowledge that hydrocodone is
2 an opioid, that he was prescribing it on a
3 monthly basis, and his excuse was surgery is
4 imminent ---

5 **THE COURT:** Okay.

6 **MR. BAREFOOT:** --- for 12 months. We did ask him.

7 **THE COURT:** And I -- as I told you in the prehearing
8 conference, or maybe when I opened the record,
9 I'm at a decided disadvantage, not having read
10 any of these records. But I will attempt to
11 read all of it in its entirety, and so I really
12 can't answer which one of you is correct, or
13 maybe you both are.

14 **MR. MAGUIRE:** And, you know, the referral of the
15 pain management was denied, and so he was
16 continuing -- he certainly didn't feel he ---

17 **THE COURT:** Okay.

18 **MR. MAGUIRE:** --- did anything wrong.

19 **MR. BAREFOOT:** One thing I want to add to that,
20 Commissioner, and I apologize, Dr. Leak said
21 now because he's prescribed her for narcotics
22 for so long, she's probably going to have to
23 have pain management to get weaned off all
24 those narcotics he gave her. That was his
25 testimony.



1 **MR. MAGUIRE:** Right, because the surgery was denied
2 for three years. He had to keep giving her
3 medication. It's unbelievable to me, but
4 anyway.

5 **MR. BAREFOOT:** Agreed, it's unbelievable he gave the
6 medication.

7 **MR. MAGUIRE:** And the other thing it says is, out of
8 the ordinary. Yeah, that the result is out of
9 the ordinary, but it is a side effect of that
10 surgery. That's what he's saying. I think the
11 ---

12 **MR. BAREFOOT:** No, he's referring to the procedure
13 is out of the ordinary that he's recommending.

14 **THE COURT:** Okay.

15 **MR. BAREFOOT:** And you can read it. I gave you the
16 page numbers.

17 **THE COURT:** Okay. All right. I think we -- and
18 y'all are very well versed in these records.
19 I applaud you both. You both did an excellent
20 job in your summations. But I think at this
21 point y'all have made it abundantly clear to me
22 what your respective positions are, so I'm
23 ready to hear from the witness, or the
24 witnesses. All right. Ms. -- are you -- or
25 unless there is something else I need to know.



1 Okay.

2 **MELISSA MCKNIGHT**, having been duly sworn, testifies
3 as follows:

4 **THE COURT:** Please state your full name for the
5 record.

6 **MS. MCKNIGHT:** Melissa Rhondell McKnight.

7 **THE COURT:** Is Rydell, is that R-Y-D-E-L-L?

8 **MS. MCKNIGHT:** R-H-O-N-D-E-L-L.

9 **THE COURT:** I got that wrong completely. Thank you,
10 ma'am. Please answer any questions Mr. Maguire
11 has first.

12 **MR. MAGUIRE:** Commissioner, I won't go through all
13 the background, is that -- or would you prefer
14 me to?

15 **THE COURT:** I do like a little background.

16 **MR. MAGUIRE:** Okay.

17 **THE COURT:** Just a little bit, you know, age,
18 educational, prior jobs, and then you can move
19 on from there.

20 **MR. MAGUIRE:** Okay. I'll do that.

21 **THE COURT:** Thank you, sir.

22 **MR. MAGUIRE:** Thank you.

23 **MS. MCKNIGHT - DIRECT EXAMINATION BY MR. MAGUIRE:**

24 **Q:** Can you please state your full name, your age?

25 **A:** My name is Melissa Rhondell McKnight, and I'm



1 50 years old.

2 Q: Are you married?

3 A: Yes, I am.

4 Q: How long have you been married?

5 A: Over 12 years.

6 Q: And do you have children?

7 A: Yes.

8 Q: How many children do you have?

9 A: Four.

10 Q: And just give me the range of their ages.

11 A: 40, 40, 38, and 30.

12 Q: And Melissa, can you please just give us sort
13 of a summary of before you had this particular
14 job, what kind of work did you do?

15 A: I did housekeeping, where I used my physical
16 labor.

17 Q: Okay.

18 A: I did machine operator, and I also used
19 physical labor. The majority of my jobs have
20 been physical labor where I depended on my
21 limbs to perform my tasks. And also, I had a
22 little bit of inventory control. I had about
23 three years of that.

24 **THE COURT:** Did you say inventory control?

25 **MS. MCKNIGHT:** Inventory control, yes.



1 THE COURT: Okay.

2 MS. MCKNIGHT: And that was my last job.

3 THE COURT: And where was the inventory control?

4 MS. MCKNIGHT: At McCall Farms.

5 THE COURT: Okay. Is that what you were doing when
6 this happened to you?

7 MS. MCKNIGHT: Yes.

8 THE COURT: Okay.

9 Q: And just briefly tell us about your job at
10 McCall, what you did on a daily basis.

11 A: I labeled, put labels on -- well, I made labels
12 for the cans. The cans were cooked product,
13 and they had to be labeled. Once they got put
14 in the can, they had to be labeled throughout
15 the duration of them being stored in the
16 warehouse, and I produced the labels. I went
17 to the computer and I produced orders. I put
18 quantity of the product. I allocated the rows
19 that the products was in. And I did that
20 pretty much every day, the majority of my
21 shift. If cans were to go in damage, I had to
22 label those. The cans had to be labeled at all
23 times. And I was pretty much in charge of
24 labeling them.

25 Q: Okay. What's your educational background?



1 A: I have -- I started ninth, but I completed
2 eighth.

3 Q: Okay. And so after ninth, when you left in
4 ninth grade, did you start working?

5 A: Not right after, but I did, yeah.

6 Q: Eventually, okay. All right. I'm gonna move
7 ahead and talk about after you had -- do you
8 remember you had your first surgery, or your
9 surgery, excuse me, with Dr. Leak? Do you
10 remember that?

11 A: Yes.

12 Q: Okay. And do you remember meeting with Dr.
13 Leak a number of times after you had the
14 initial surgery?

15 A: Yes.

16 Q: Okay. And I -- I'm gonna try to not put you in
17 a position where you said what somebody else
18 said, okay, because we're not supposed to do
19 that, okay? But what was your -- what was your
20 understanding of the care that you needed after
21 you had that first surgery, as time went by?

22 A: I was experiencing pain that I shouldn't have
23 been experiencing, and it was fixable. That
24 was my understanding.

25 Q: Okay. And was it your desire to have Dr. Leak



1 fix it?

2 A: Yes.

3 Q: All right. And at some point, it's my
4 understanding that you ended up seeing Dr.
5 Young; is that right?

6 A: Yes.

7 Q: Okay. And there was a couple of things that
8 were raised I wanted to ask you about. Do you
9 recall a time when Dr. Young wanted you to have
10 a splint? Do you remember that?

11 A: Yes.

12 Q: Tell me what happened, to your recollection.

13 A: My recollection was I had a second opinion with
14 Dr. Young. And at the very first opinion, she
15 didn't have my records in front of her, so it
16 wasn't a full opinion, because it was a problem
17 with the communication being sent over from Dr.
18 Leak's office to there. They hadn't received
19 it. And subsequent to that I was -- had
20 appointment to come in. I was supposed to turn
21 back to Dr. Leak, and based on everything we
22 were talking about in the IME ---

23 **MR. BAREFOOT:** Objection as to hearsay.

24 **THE COURT:** Sustained as to any hearsay. You can
25 certainly tell what -- say what you told. And



1 let me explain. I'm going to follow up on what
2 Mr. Maguire was saying earlier, just so you'll
3 understand. If you say the doctor said this,
4 the doctor's not here for either one of them to
5 question, to say yeah, I absolutely said what
6 she said I said, or no, I didn't say that. So
7 he's gonna object when you say what the doctor
8 said. And so, that's why. I just want you to
9 understand the reason why you can't say what
10 the doc- -- what the doctor said.

11 **MS. MCKNIGHT:** I understand.

12 **THE COURT:** Okay. I just want to make sure you
13 understand.

14 **MR. MAGUIRE:** Thanks, Commissioner.

15 **Q:** I'll help you, try to help you at least. How
16 about what was your understanding after seeing
17 Dr. Young, what was gonna happen?

18 **A:** When I received a -- my understanding was that
19 I was going to return back to Dr. Leak. That
20 was my understanding. And subsequent to that,
21 I received notification from the doctor's
22 office that I had an appointment to see Dr.
23 Young again. I thought it was a error, and I
24 found out that it wasn't. It was new
25 recommendations that I was supposed to be put



1 in a splint. I had a appointment the same day.
2 They made their appointment after I already had
3 one with my OB/G doctor. And I asked for it to
4 be rescheduled, and it wasn't rescheduled and
5 I missed it. But I did attend the appointment
6 in January.

7 Q: Uh-huh.

8 A: And I never received a splint. Subsequent to
9 that, I had been several times in October,
10 January. And then, before the consent order --
11 the consent order was done in March -- my
12 checks had been stopped. In December, when I
13 missed the appointment, my checks were stopped.
14 And my checks was stopped through December ---

15 Q: Is that December 2017?

16 A: 2018.

17 Q: 2018.

18 A: Through March of 2019, once we did the consent
19 order.

20 Q: I apologize. Yeah.

21 A: And when I went to the Dr. Young then -- when
22 I went to Dr. Young after we did the consent
23 order, I was put into the brace that I'm
24 wearing now.

25 Q: Okay.



1 A: So this is the brace that she put me in on that
2 April appointment, where she referred Dr. Young
3 for the shoulder and pain management.

4 Q: And that's April of 2019; is that right?

5 A: Yes, yes.

6 Q: Okay. And that was my next question. Did you
7 ever actually get treated for your shoulder by
8 Dr. Young?

9 A: No.

10 Q: And of course I'm talking about ---

11 A: The Defense denied it.

12 Q: --- the referral to Dr. Young.

13 A: They denied it. They didn't approve it. They
14 didn't approve that on my pain management.

15 Q: Okay. In regards to -- do you recall, and if
16 you don't it's okay, do you recall whether or
17 not -- at what juncture, what time did you and
18 your second attorney part ways; do you remember
19 when that was?

20 A: It was, it was after the consent order, and it
21 was after the consent order. I don't remember.

22 Q: And so March -- if March 12th -- if March 2019
23 was the consent order ---

24 A: On the 31st, I didn't have an attorney. The
25 31st of May, I did not have an attorney.



1 Q: Okay. That's my question. So in May of 2000
2 -- at the end of May of 2019, you don't believe
3 you had an attorney; is that right?

4 A: No, I didn't have -- I was not represented.

5 Q: Okay.

6 A: I didn't have representation on the 31st of
7 May.

8 Q: Okay. Did you go to that -- did you go to an
9 appointment on that day with Dr. Young?

10 A: Yes.

11 Q: And did you -- were you aware that the nurse
12 case manager was gonna be speaking with Dr.
13 Young on that day?

14 A: Not after I left, no.

15 Q: Okay. So was there a conversation with the
16 nurse case manager, and you, and the doctor?

17 A: Yes, before I left. Well, not the doctor, but
18 with the nurse case manager and the nurse.

19 Q: And the nurse?

20 A: Yes.

21 Q: But not the doctor?

22 A: No.

23 Q: When you saw Dr. -- did you see Dr. Young on
24 May 31st?

25 A: Yes.



1 Q: And was the nurse case manager with you when
2 you saw ---

3 A: After the initial her seeing me, the nurse case
4 manager was brought back in, or brought in,
5 after the visit was over with.

6 Q: And were you there for that interaction?

7 A: Yes.

8 Q: For how long?

9 A: It would have been about, I guess, roughly 20
10 or 30 -- 20, 30, 25 minutes. I'm not ---

11 **THE COURT:** Did you say 20 to 25?

12 **MS. MCKNIGHT:** 20 to 30 minutes.

13 **THE COURT:** Okay.

14 A: I'm not exactly -- I don't remember how long we
15 were, how long the nurse case manager was
16 sitting in the room with me after we all --
17 after I talked with the doctor.

18 Q: Okay. But did the nurse case manager talk to
19 the doctor without you being present?

20 A: Yes.

21 Q: How do you know that?

22 A: I read the medical report.

23 Q: Okay. Well, what if she said, well, that was
24 when you were standing there?

25 A: She wasn't there when I was standing there. We



1 were not in the room together: And also, it
2 was subsequent to reading the report, I
3 received a bill from the doctor's office, two
4 bills, and one bill was for the examination,
5 and the other bill was for the meeting that the
6 nurse case manager had with the doctor.

7 Q: And you were not present at that meeting?

8 A: No.

9 Q: Okay.

10 A: And they billed for it.

11 Q: Okay. So I just want to be clear, because it
12 is what it is, as they say, but when you -- you
13 had an appointment with the doctor, was there
14 a time when the doctor, you, and the nurse case
15 manager were speaking together, or did that
16 never happen, you were never there with them?

17 A: Can you repeat?

18 Q: Yes. Were you, and the doctor, and the nurse
19 case manager speaking together, or was it just
20 the nurse case manager speaking with the
21 doctor?

22 A: I spoke with them one on one. I had the
23 appointment -- I spoke with the doctor one on
24 one and then the nurse case manager one on one.
25 We were never in the room together.



1 Q: Okay. And so, when you said 20, 25, that's
2 talking, you talked to the nurse case manager
3 yourself for 20, 25 minutes; is that what
4 you're saying?

5 A: We were just having small talk.

6 Q: Okay.

7 A: And that was pretty much it.

8 Q: Okay.

9 A: Waiting for the doctor to come back in the
10 room.

11 Q: Okay. Had you exp- -- and again, I'll remind
12 you not to say what Dr. Young said to you --
13 but did you express to Dr. Young anything
14 regarding Dr. Leak ---

15 A: Yes.

16 Q: --- or his treatment? What was that?

17 A: That I was comfortable with Dr. Young and ---

18 Q: With Dr. ...

19 A: I'm sorry, with Dr. Leak. I'm sorry. I was
20 comfortable with Dr. Leak, and that he was the
21 doctor that the Defense chose. And I was
22 embracing her second -- her opinion, because
23 this is my body, and I wanted to know the best
24 treatment for my body. So I embraced what she
25 had to say, and she was helpful with what she



1 said. And subsequent to the meeting, the
2 visit, I went back to get the opinion from Dr.
3 Leak, based on what her recommendations were,
4 and they were in agreeance.

5 Q: Okay.

6 A: I was under the impression that no surgery is
7 a quick solution to fix me, because of what the
8 surgery I already had done, the proximal row
9 carpectomy that Dr. Leak performed. So no
10 surgery nobody recommends is gonna be the cure
11 or guarantee my pain will go away. It could be
12 worse or I could get better.

13 Q: Yeah. And then you were subsequently released
14 by Dr. Young; is that right, from care?

15 A: Yes.

16 Q: Did Dr. Young ever talk to you about you being
17 released? Without saying what was said, did
18 you understand from Dr. Young that you were
19 released? Or how did you find out, is a better
20 way for me to put it?

21 A: When Dr. Young gave me her second opinion, and
22 when she asked -- when she wanted to pick up
23 care, excuse me, I assumed everything was okay
24 with which she changed her recommendations.
25 She changed it from, I'm thinking about doing



1 this for you ---

2 **MR. BAREFOOT:** Your Honor, I think we're getting
3 into hearsay.

4 **THE COURT:** Sustained.

5 A: --- changing it through another course of
6 treatment, and I was -- I agreed to proceed.
7 And then I received a letter in the middle of
8 that, in the middle of the -- for her -- my
9 four-week follow up May 31st, I was -- I
10 received a letter. Well, a certified letter
11 was coming to me but I didn't get it until
12 after the visit with her. And then I knew
13 something was coming, so I inquired about it
14 from her office, and then that's when I was
15 told.

16 **MR. BAREFOOT:** Objection, Your Honor, to hearsay.

17 **THE COURT:** Sustained as to hearsay.

18 A: That's when I was ---

19 Q: Okay. You can't say what you were told, but
20 you can say when you became aware.

21 A: That's when I became aware.

22 Q: Okay. All right. And up until that day, where
23 subsequently you found the nurse case manager
24 had spoken to the doctor, up until that day,
25 how would you describe your relationship with



- 1 Dr. Young?
- 2 A: It's -- it appeared to be stressful.
- 3 Q: And why?
- 4 A: Without saying what was said, I was encouraged
5 to go back to Dr. Leak ---
- 6 Q: Okay.
- 7 A: --- at that environment.
- 8 Q: And let me ask you this, do you have any
9 problem with going back to Dr. Leak?
- 10 A: No, no I don't. No problems at all.
- 11 Q: Okay. And did you have any problem going to
12 see pain management, as it was recommended by
13 Dr. Young?
- 14 A: No, I didn't have a problem with that.
- 15 Q: Did you -- would you have a problem going to
16 see Dr. Young for your shoulder?
- 17 A: No.
- 18 Q: So then after you were released by Dr. Young,
19 your checks are stopped; is that right?
- 20 A: Yes..
- 21 Q: And eventually you are referred to a Dr.
22 Barrie; is that right?
- 23 A: Not right away. It was months before I was
24 referred to any new physician. It was over
25 five months.



1 Q: And you were, you were pro se, as they said,
2 right? You had no attorney ---

3 A: Correct.

4 Q: --- at that particular time. And what was
5 going on from your end during that time? What
6 were you doing, or trying to do?

7 A: I was trying to get treatment.

8 Q: For both your shoulder and your ---

9 A: Wrist.

10 Q: --- wrist. And what, if any -- what, if any,
11 roadblocks or problems were you having getting
12 treatment?

13 A: I was being denied.

14 Q: Okay. And was that both for your shoulder and
15 your wrist?

16 A: Yes.

17 Q: In regard to the shoulder, you saw Dr. Woolf.
18 Did you ever -- I know he made some
19 recommendations. Did you ever get any care
20 after seeing Dr. Woolf that one time for your
21 shoulder?

22 A: The pain medicine. That's all I received, was
23 pain medicine.

24 **THE COURT:** And just a question, who sent you to Dr.
25 Woolf? How did you ---



1 MS. MCKNIGHT: My attor- -- former attorney.

2 THE COURT: Okay.

3 Q: And to your under- -- was it your understanding
4 with those, was the treatment for injections
5 accepted or denied by the Defense?

6 A: I never received them.

7 Q: Okay. That's all you know?

8 A: Yes. That's all I know. I never received
9 them.

10 Q: Okay. So eventually you ---

11 A: Can I say one thing? Only one, only -- the
12 recommendations from Dr. Gayton, the only thing
13 that was done was the MRI with contrast. That
14 was all that was done with his recommendation,
15 and that's why I had to -- was seeing further,
16 other doctors to see if they agreed with his
17 recommendations.

18 Q: Okay.

19 A: The only thing I got was the -- because I had
20 treatment with Dr. Gayton. I had therapy and
21 I had injections. I had injections with him,
22 prior to him releasing me.

23 Q: I know this goes back awhile, but what if any
24 -- what were your feelings about Dr. --
25 treatment with Dr. Gayton?



1 A: I expected to be seen. I expected to be
2 treated, based on what was wrong with me, and
3 I didn't get that. I got something else.

4 Q: And is that to your shoulder?

5 A: Yes.

6 Q: And how did you believe you were treated?

7 A: Bad. I was treated as if it didn't -- my
8 treatment didn't really matter.

9 **THE COURT:** Is this Dr. Gayton you're speaking of,
10 or is this a different doctor?

11 **MS. MCKNIGHT:** Dr. Gayton.

12 **THE COURT:** Okay. All right. Go ahead.

13 A: I didn't -- my treatment didn't -- getting me
14 to the best of my ability didn't matter. It
15 wasn't a priority. And that's what I got out
16 of the doctor.

17 Q: That's how he made you feel?

18 A: Yes.

19 Q: What about Dr. Friedman? Do you remember
20 seeing Friedman?

21 A: Yes.

22 Q: The Defense doctor? What do you remember about
23 that?

24 A: With Dr. Friedman, he -- my, my complaint
25 wasn't relevant with Dr. Friedman. My



1 complaint was irrelevant.

2 Q: Do you feel like you were not being heard?

3 A: Exactly.

4 Q: Were you able even to have a conversation with
5 Dr. Friedman?

6 A: I asked questions and I never got the answers,
7 so that's as far as that went. I was just told
8 they'd be in a report.

9 Q: How do you distinguish or compare that to when
10 you saw Dr. Chambers?

11 A: When I saw Dr. Chambers, I got the impression
12 that he wanted to fix me, or get to the -- to
13 find out what was wrong with me, to order
14 tests, and to follow up with what the previous
15 doctors recommended, what Dr. Gayton
16 recommended. He was just trying to follow up
17 what the last doctor recommended. That's what
18 I got out of ---

19 Q: Okay.

20 A: --- to see if he could help me or if he could
21 see anything to help it.

22 Q: Let's talk a little about your shoulder, and if
23 you had to describe the pain on a daily basis,
24 how would you describe it?

25 A: I would describe it as, as a pain that hinders



1 you from being your normal self, doing your
2 normal activities, and having to feel like
3 you're depending on people because of the pain,
4 or the lack of not being able to do tasks
5 because of the pain, not being able to sleep,
6 just -- it's just not a normal, good feeling
7 that I would want anybody to have.

8 Q: Is the pain constant, or does it get worse
9 during different times of the day, or doing
10 different activities?

11 A: It feels aggravated without me doing anything.
12 Or, if I do something like try to lay down, if
13 it gets compressed, my fingers will go numb.
14 If I'm sleeping, it will wake me up out my
15 sleep, feeling like something is jumping out of
16 place, or jumping out of joint, in my shoulder.
17 I've been through it so long that I can't
18 really pronounce it, because I've been going
19 through it for these years.

20 Q: Can you -- do you try to lift things with it,
21 and if so, what? What amount of weight?

22 A: I try to do hygiene. That's a challenge.
23 Getting dressed. Overcompensating for where --
24 I only have where this arm is more stronger,
25 but not necessarily strong. It's stronger than



1 my right hand.

2 Q: Okay.

3 A: So I overcompensate, I feel like.

4 Q: Because of your right wrist?

5 A: 'Cause I'm depending on it.

6 Q: Because of your wrist?

7 A: Yes.

8 Q: Okay. And when you do that, what does that
9 cause?

10 A: Spasms, increased pain. I'm taking medicine,
11 and I can feel the pain through the medicine.
12 So the medicine's not taking all my pain away.
13 I still feel the pain, with taking the
14 medicine.

15 Q: Okay. And are you still taking the medications
16 prescribed by Dr. Leak?

17 A: The one. My family doctor prescribes the
18 shoulder medicine, and Dr. Leak was prescribing
19 the wrist medicine.

20 Q: Okay.

21 A: So originally, Dr. Leak was prescribing both
22 medicines. But I couldn't afford it. I can't
23 afford the Lyrica. So I had to get the family
24 doctor to prescribe that.

25 Q: Okay.



1 THE COURT: So Leak -- you go to Dr. Leak for your
2 wrist medicines ---

3 MS. MCKNIGHT: Yes.

4 THE COURT: --- and your family doctor does your
5 shoulder? Am I right?

6 MS. MCKNIGHT: Yes.

7 THE COURT: Okay. So Dr. Leak continues to
8 prescribe meds for your wrists?

9 MS. MCKNIGHT: Yes.

10 THE COURT: Okay.

11 Q: Okay. I'm gonna jump over to the -- before I
12 move from the shoulder, are there any other
13 activities that cause you problems with your
14 shoulder?

15 A: Just trying to do overhead lifting, I find
16 myself using my right hand to help for my left
17 shoulder.

18 Q: Okay. In other words, if you try to lift with
19 your left shoulder, you use your right hand?

20 A: Yes.

21 Q: Okay. And ---

22 A: And that's not -- and that's limited, so I
23 can't go all the way up with my right one, but
24 it's -- I can go more with my right one than my
25 left one. I find myself using -- and I'm left



1 handed.

2 Q: Okay.

3 A: So I find myself using my right hand to
4 compensate. But I compensate more with my
5 left.

6 Q: Do you try to avoid lifting over your head, or
7 you just do it carefully?

8 A: It's just my reaction to my body being hurt, if
9 that makes sense, like my body will let me know
10 that you can't do that.

11 Q: Okay.

12 A: You can't lift this arm. It's just a reflex
13 that I find myself using my right hand ---

14 Q: Okay.

15 A: --- when I should be using my left.

16 Q: Which doctor would you like to continue to get
17 care with in regards to your shoulder?

18 A: Dr. Chambers, that's the only one that I've
19 been sent to for treatment. I haven't been --
20 I haven't had the opportunity to see -- to have
21 been given someone else besides Dr. Chambers.

22 Q: Well, you were sent to Dr. McFadden. How did
23 that go?

24 A: Dr. McFadden?

25 Q: Yes. How much time were you there? Tell us a



1 little about what happened.

2 A: I was -- I want to say I was in the waiting
3 room longer than actually with the doctor. It
4 was a long wait, and I didn't get what I
5 expected. I expected to get evaluations and
6 recommendations, and not incomplete prognosis
7 and contradicting science. I just didn't
8 expect for that to happen from a doctor. I
9 wasn't expecting that to be the scope of my
10 visit, contradictory and incomplete paperwork
11 resulting in some of the contradictory.

12 Q: Let's ---

13 A: And also, already -- and also the
14 recommendations wasn't for that doctor. It was
15 for someone else's opinion. So it wasn't for
16 the doctor that -- it wasn't for Dr. McFadden.
17 It was for another doctor. He was basing his
18 opinions off of another doctor ---

19 Q: Okay.

20 A: --- because the nurse case manager pretty much
21 asked him, did he agree with Dr. Friedman. .

22 Q: Okay. Now when you left there that day, how
23 did you feel?

24 A: That I was -- that I'm supposed to believe that
25 it's all in my head, and nothing's wrong with



1 me. I'm just delusional.

2 Q: How did that make you feel?

3 A: Frustrated.

4 Q: Moving on back to the wrist -- so you had all
5 that time where you were on your own, you
6 didn't have representation. But you eventually
7 -- it became clear that you were going to go to
8 Dr. Barrie; is that right?

9 A: Can you repeat that?

10 Q: Yeah, so in let's say in June, July ---

11 **THE COURT:** Could you give years, just so I can make
12 sure the record's clear?

13 **MR. MAGUIRE:** Sorry.

14 **THE COURT:** No, you're doing great.

15 **MR. MAGUIRE:** June, July, 2019.

16 **THE COURT:** Thank you.

17 **MR. MAGUIRE:** Sorry.

18 **THE COURT:** No, no, you're great.

19 **MR. MAGUIRE:** I was pausing 'cause I was trying to
20 think of the year.

21 **THE COURT:** Okay.

22 **MR. MAGUIRE:** It was 2019.

23 Q: You did not have an attorney at that point; is
24 that right?

25 A: In what month?



1 Q: June, July of 2019.

2 A: No.

3 Q: August?

4 A: No.

5 Q: But at some point in those, in those coming
6 months, you were set to see Dr. Barrie; is that
7 right?

8 A: Yes.

9 Q: Okay. And how did that come to be, for you to
10 go see Dr. Barrie? What is your recollection
11 of that?

12 A: That -- from my recollection with that, when I
13 filed for the hearing, filed for my own 50 to
14 get my body parts treated that -- subsequent to
15 that the doctor, the doctor was -- the nurse
16 case manager approached me that the doctor,
17 that the adjustor was going to get a new doctor
18 to treat me, or to be a new treating doctor,
19 and that she was looking. Then she
20 subsequently notified me again that she was
21 having problems with getting me a new doctor.
22 Because of the surgery that I had with Dr.
23 Leak, nobody wanted to treat me.

24 Q: Is this in South Carolina?

25 A: Yes, in South Carolina.



1 Q: And so -- and that was with the nurse case
2 manager?

3 A: Yes.

4 Q: Okay. And what happened next?

5 A: And then she reached back out to me again and
6 said that she found one, but it was only for my
7 wrist and not my shoulder. And I explained to
8 her that we wasn't in agreeance with -- 'cause
9 I wanted to see Dr. Leak, and we wasn't in
10 agreeance, and that I had it going through the
11 courts, so I wouldn't have been interested in
12 seeing no doctor, no doctor until I got to the
13 courts. And that it was also my shoulder that
14 was injured, not just my wrists, and that she
15 didn't know anything -- well, that wasn't, that
16 wasn't brought up, or that wasn't ...

17 Q: So in your mind, you were going to the court to
18 get an opinion regarding treatment?

19 A: Yes.

20 Q: Okay. And, of course, thereafter, we did go to
21 court -- well, we almost did, and then you did,
22 in fact, go see Dr. Barrie; is that right?

23 A: Yes.

24 Q: And is it your understanding that Dr. Barrie
25 wanted to perform a fusion?



1 A: It was my understanding that the doctor was in
2 agreeance with Dr. Leak and Dr. Young at the
3 time of the appointment, or at the August 10th
4 -- August 5th appointment. She was in
5 agreeance with Dr. Leak and Dr. Chambers'
6 proposed surgery.

7 Q: Until, of course, you got her report; is that
8 what you ...

9 A: Correct.

10 Q: Okay. So in other words, when you left that
11 office, you didn't realize that she wanted to
12 do a fusion? Is that what you're saying?

13 A: Correct.

14 Q: Thereafter, you realized that, in fact, she
15 wanted to do a fusion; is that fair, once you
16 read the medical records?

17 **THE COURT:** Mr. Maguire, I know you are not
18 intending it, but please don't suggest the
19 answer with your head.

20 **MR. MAGUIRE:** Oh gosh, I'm sorry.

21 **THE COURT:** That's okay.

22 **MR. MAGUIRE:** I apologize.

23 **THE COURT:** Thank you.

24 A: Could you repeat that?

25 Q: Yeah, I apologize.



1 A: I didn't get what you were -- could you repeat
2 that?

3 Q: Did you first realize that you needed a fusion
4 surgery when you read the records of Dr.
5 Barrie? Or did you realize you needed the
6 fusion surgery when you saw her that day?

7 A: When I saw the report, that's when I saw what
8 she wanted to do, like her plan, 'cause we
9 didn't have a plan. Well, it was no plan told
10 to me at the appointment ---

11 Q: Okay.

12 A: --- from Dr. Barrie.

13 Q: What is -- what, if any, would your objection
14 be to having a fusion surgery?

15 A: I was -- my objection would be, why would I
16 have a surgery that I was told might not work?
17 If a authorized doctor -- if I had, if I had
18 recomenda- -- if I had com- -- I asked about my
19 complications and what would be the outcome,
20 what would be my outcome from this surgery.
21 And I saw where in evidence that it might not
22 work, then why would I have something that
23 would leave me permanently handicapped and I
24 would still be in pain?

25 Q: When you say handicapped with the fusion, is it



1 your understanding that you lose mobility in
2 that wrist?

3 A: I wouldn't be able to bend my wrist. I
4 wouldn't have motion. The little I have now --
5 I would gain motion and less pain with one
6 surgery, and I would lose motion and probably
7 still be in pain with the fusion.

8 Q: Okay. So just so we're clear, what -- is it
9 your, is it your interest to do the less
10 invasive surgery that Dr. Leak had offered?

11 A: Yes. I want to make a correction, because I
12 wasn't represented and -- I wasn't represented
13 when my TT checks were stopped. They were
14 stopped June 10th of 2019, '19. The Defense
15 filed a motion, a 21, July 2nd. I was three
16 weeks behind on my checks when the motion 21
17 was filed.

18 Q: Okay. Did you ever receive a form 15 or a form
19 17 from the Defense?

20 A: No.

21 Q: You did -- I assume you did receive a -- and
22 I'm sorry, I -- a form 21 from the Defense?

23 A: Yes.

24 **THE COURT:** And ma'am, what did you say the date was
25 that -- July?



1 MS. MCKNIGHT: July 2nd is when I was notified from
2 the ---

3 THE COURT: Okay.

4 MS. MCKNIGHT: --- that the 21 was filed.

5 THE COURT: Thank you.

6 Q: In regards to your checks, when the consent
7 order was reached in March of 2019, was it your
8 understanding that you were gonna get TTD
9 checks each week?

10 A: After -- yes, when I did the consent order
11 starting them up, I assumed that I would get
12 the -- I would've -- I was expecting to get my
13 TTD checks at least after I'd been to the
14 rescheduled appointment with Dr. Young, the
15 rescheduled from December 3rd. I rescheduled
16 -- they rescheduled it January 25th. I was
17 expecting to receive those TT checks. And
18 further, with the consent order, I was
19 expecting that it would remain, I would have
20 been still getting my TT checks. And it
21 doesn't reflect on the form 18 that they were
22 even stopped the first time. Well, I'm missing
23 checks for two months. It's not reflected in
24 that form 18 that my TT checks were only
25 stopped one time. That's what it reflects.



1 But it was withheld more than one time. Like
2 I still have outstanding checks I hadn't
3 received, and I was still under doctor's care.

4 Q: 'Cause in December '18, December 2018, were you
5 receiving TTD checks?

6 A: Yes.

7 Q: And did they stop at some point?

8 A: They stopped when I missed the -- the only
9 appointment I ever missed with Dr. Leak -- I
10 mean, I'm sorry, that I ever missed, it was
11 with Dr. Young, December 3rd. And December
12 10th, my checks were stopped. And they were
13 started back up when we did the consent order
14 in March of 2019. And I did not ever receive
15 those checks for those periods, and no
16 commissioner has heard ---

17 Q: Okay.

18 A: --- why they should -- they were allowed to be
19 stopped.

20 Q: So there was one appointment that you missed
21 that I think I asked you about earlier.

22 A: And it was rescheduled in January.

23 Q: Okay. And ---

24 A: And I attended.

25 Q: And then, after signing that consent order,



1 which -- so my understanding is you signed a
2 consent order to see Dr. Young with the
3 understanding that you would -- your TTD checks
4 would start; is that right?

5 A: Yes. But I was -- I had been seeing her before
6 the consent order.

7 Q: Uh-huh.

8 A: I saw her, and I told her in January. The
9 consent order wasn't 'til March. So I already
10 saw her on my free will. Nobody had to make
11 me. I already -- without a consent order, I
12 saw her. And my checks wasn't started back up,
13 not started back up, my checks wasn't -- the
14 ones in arrear were never ...

15 Q: So those ones in arrear were never started, and
16 your TTD checks from March going forward, were
17 they started?

18 A: Yes.

19 Q: For how long?

20 A: 'Til June -- to May 31st, and then June 10th
21 was out of the court up, so June the 10th was
22 my last check.

23 Q: Okay.

24 A: If I, if I have that right, it was June the
25 10th.



1 Q: Okay. Now, to your knowledge, while Dr. Young
2 was an authorized treating physician before she
3 decided she wasn't gonna treat you anymore, had
4 she found you at light duty at any time before
5 that?

6 A: Not before May 31st though. She gave me a note
7 to be out of work ---

8 Q: Okay.

9 A: --- for the -- after the consent order, when I
10 saw her in April, she gave me a out-of-work
11 excuse. And she put me in this brace that day
12 also, the one I'm wearing today.

13 Q: All right. Melissa, this has been a long, a
14 long journey of sorts for you. But as you sit
15 here today, what is it that you want from
16 workers' comp?

17 A: To be treated, and have the rights that any
18 other injured worker would have. That's what
19 I want today. That's what I've been wanting.

20 Q: And I ask you specifically, if you could have
21 anything you want, like as far as your doctors,
22 just so we're clear for the record, which
23 doctors do you want to see and why?

24 A: I want to see Dr. Chambers. Dr. Chambers has
25 a plan. I want to see Dr. Leak. Dr. Leak has



1 a plan. Their plan hasn't changed. They've
2 been consistent. And I feel like I'm entitled
3 to treatment, because that's what my order says
4 I'm entitled to, treatment with doctors that
5 specialize in the body parts that's injured.

6 Q: Okay. And lastly, as far as your -- if you
7 could describe for us your upper -- your wrist
8 and upper extremity, how it's affected on a
9 daily basis. Your arm, how is it -- just like
10 you told us about your shoulder, tell us about
11 your wrist, please.

12 A: Not having -- not having the mobility, my thumb
13 is in a position -- looks deformed. Not being
14 able to do normal activities, what I could do
15 before I got injured that's normal, and being
16 able to work. Being able to groom myself
17 without having help, or not getting it down
18 'cause I can't do it. Not being able to
19 perform my wifely duties like I used to. Or
20 just have a normal life, being able to do what
21 I used to do before I got hurt. I had a life.
22 This is not life. This is not. And I know
23 better than anybody what's wrong with me, and
24 how I feel. No one can tell me that I'm not
25 hurting, 'cause I know I'm hurting. I wouldn't



1 be taking pain medicine and going through this.
2 My life has been turned upside down. And I was
3 a good worker. I was a good worker. I had a
4 recommendation that -- I had recommendations
5 that I was excellent in my job duties. And if
6 I hadn't got hurt, I would still be at work.
7 I would still have a job. I lost my job
8 because I got injured.

9 Q: Okay.

10 A: No fault of my own.

11 Q: Thank you, Melissa. Please answer any
12 questions Defense has.

13 **THE COURT:** Thank you, Mr. Maguire. Please answer
14 any questions that Mr. Barefoot has for you
15 next.

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

17 **MS. MCKNIGHT - CROSS EXAMINATION BY MR. BAREFOOT:**

18 Q: To start with, ma'am, I want to make sure we've
19 got a few things straight on the record. You
20 are left handed; isn't that right?

21 A: Correct.

22 Q: And you're about 5'7" tall?

23 A: Yes.

24 Q: And you don't remember how much you weigh?

25 A: A little less than 300.



1 Q: When I took your deposition back on June 19th,
2 2020, you told me you didn't remember; didn't
3 you, ma'am?

4 A: That's -- if that's what I said under oath,
5 that I testified to.

6 **MR. MAGUIRE:** Objection. Relevance of a woman's
7 weight?

8 **THE COURT:** I'm not sure, but this is cross
9 examination, so I imagine that Mr. Barefoot
10 will let us know the ---

11 **MR. BAREFOOT:** I think that I find it a question of
12 credibility when someone tells you they can't
13 remember how much they weigh.

14 **THE COURT:** Okay, sir. All right. You may move on.

15 Q: And while we're talking about that, ma'am, you
16 just testified earlier that you started ninth
17 grade but only completed the eighth grade;
18 isn't that right?

19 A: Correct.

20 Q: So you did not get a high school diploma; isn't
21 that right?

22 A: Correct.

23 Q: In the past, you represented on at least one
24 job application that you have a high school
25 diploma; hadn't you, ma'am?



1 A: I testified under oath in regards to that back
2 in 2017, when I had my hearing. So I stand
3 behind the testimony that I gave, and the
4 reason why I gave in my hearing in 2017. I
5 already went over that question.

6 Q: Yes, ma'am. I want to make sure I've got this
7 clear. You lied on a job application about
8 having a high school diploma, didn't you,
9 ma'am?

10 A: I want to also ---

11 **THE COURT:** Just answer his question, then you can
12 explain any answer you give in here.

13 A: I did, I did put on a application -- I believe
14 that it was brought up that I wasn't truthful
15 with completing my -- completing high school on
16 my, on my job application, that didn't qualify
17 me to have a high school diploma to do the job.

18 Q: Yes, ma'am. I'm looking at APA page 157. This
19 is an application for a job. And on here, it
20 asks type of degree or diploma received. Next
21 to high school, you wrote diploma, didn't you,
22 ma'am?

23 A: I did. I testified with that already.

24 Q: Yes, ma'am. I'm asking you to testify today.
25 Commissioner Barden wasn't there before, ma'am.



1 A: It's under, it's under my deposition. I'm
2 sorry, it's under my testimony, my sworn
3 testimony. It's already been documented.

4 **THE COURT:** Yes, ma'am. If you'll just answer the
5 question, then you can explain any answer.
6 Answer his question.

7 Q: You lied on a job application about having a
8 high school diploma; didn't you, ma'am?

9 A: Yes.

10 Q: Okay. You also weren't truthful about the
11 skills that you have, in regards to computer
12 skills. You lied about those too, didn't you,
13 ma'am?

14 A: Yes.

15 Q: And in November, 2015 the South Carolina
16 Department of Employment and Workforce Fraud
17 Investigation Recovery Unit was garnishing your
18 wages at McCall Farms, weren't they?

19 A: No, that's not correct.

20 Q: APA page 135.

21 A: My gar- -- my wages have never been garnished
22 from -- my wages have never been garnished from
23 McCall Farms. No, that's not correct.

24 Q: Are you aware of this wage withholding notice
25 dated November 9th, 2015 from the Fraud



1 Investigation Recovery Enforcement Unit, ma'am?

2 A: That never happened. My wages were never
3 garnished from -- that was cleared, and my
4 wages were never garnished from McCall Farm.

5 Q: Okay. And ma'am, you told McCall Farms on the
6 application for them that you'd never been
7 convicted for committing a crime; isn't that
8 right?

9 A: I don't have no recollection of that.

10 Q: All right. Let's go to APA page 102, ma'am.

11 MS. BUFFKIN: Walt, do you have a copy of your
12 previous APAs?

13 MR. BAREFOOT: I did not bring an extra copy for
14 y'all. I thought y'all would have it. I'm
15 more than happy to let you look at them, but
16 I've got to show her first.

17 MS. BUFFKIN: Yeah.

18 MR. BAREFOOT: I copied y'all's to bring as well,
19 so.

20 Q: All right. First of all, ma'am, I'm gonna ask
21 you to look at page 105 of the APAs.

22 THE COURT: I'll tell you what. Since you don't
23 have this with you -- is that what you don't --
24 -

25 MS. BUFFKIN: Not from the previous hearing. I only



1 have what was submitted for this hearing.

2 **THE COURT:** Oh.

3 **MS. MCKNIGHT:** Can you slide that down for me?

4 **MR. BAREFOOT:** This is what I have.

5 **MS. MCKNIGHT:** Can you slide that? Can you slide
6 that?

7 **MR. BAREFOOT:** This is what ---

8 **MS. BUFFKIN:** The only thing I received was ---

9 **MS. MCKNIGHT:** Oh, excuse me.

10 **MS. BUFFKIN:** --- starts at like page 200.

11 **MR. BAREFOOT:** Okay. Well, this is page 105. Look
12 at page 105 in what you have.

13 **THE COURT:** Is it 105 of mine?

14 **MR. BAREFOOT:** Yes, ma'am.

15 **THE COURT:** Okay. Thank you.

16 **Q:** What does it say at the very top that I've
17 highlighted?

18 **A:** I certify ---

19 **Q:** Please read that sentence.

20 **A:** ---, that the information set forth in this
21 application is true and complete.

22 **Q:** Is that your signature at the bottom?

23 **A:** It appears to be.

24 **Q:** I'm sorry?

25 **A:** It appears to be.



1 Q: Would you have any reason to think it's not
2 your signature?

3 A: Is this -- I don't think this is the original
4 document.

5 Q: Ma'am, is that your signature on 105, at the
6 bottom of the application?

7 A: It appears to be.

8 Q: Okay, so you won't say yes or no. Well, let's
9 look at page 102, ma'am.

10 **MR. MAGUIRE:** She already says it appears to be.

11 Q: Will you read the top question? I'll read it
12 for you. Have you ever been convicted of
13 admitted, committing, or are awaiting trial for
14 any crime, and what box did you check, ma'am?

15 A: No.

16 Q: That's not true, is it?

17 A: Say that again?

18 Q: That's not true, is it?

19 A: What is not true?

20 Q: You had committed a crime.

21 A: Can I see that again?

22 Q: Sure thing, ma'am.

23 A: I just want to make sure.

24 Q: Read the top paragraph, page 102.

25 A: You can read it, if you don't mind reading it



1 again.

2 Q: I can't read upside down. I have it in front
3 of you.

4 MR. MAGUIRE: Do you want me to read it?

5 MS. MCKNIGHT: Yes, please.

6 MR. MAGUIRE: Have you ever been convicted of
7 admitting -- excuse me, admitted, committing,
8 or are you awaiting trial for any crime,
9 excluding minor traffic violations, not
10 involving any allegations of drug or alcohol
11 impairment? You must answer yes if the matter
12 was later dismissed. If you answer yes, you
13 must provide dates of proceedings, the court
14 where the proceedings occurred, and a filed
15 disposition of the case.

16 Q: And you checked no; is that correct? Ma'am,
17 did you check the no box?

18 A: I'm trying -- I'm trying to -- I don't see
19 where this is, where this is from.

20 Q: It's from the application that you signed when
21 you came to McCall Farms, ma'am.

22 A: Okay.

23 Q: You see page 101, McCall Farms?

24 A: Okay.

25 Q: You checked the no box, right?



- 1 A: Correct, correct.
- 2 Q: That's not true, is it?
- 3 A: Correct.
- 4 Q: You pleaded guilty to receiving stolen goods,
5 didn't you, ma'am?
- 6 A: Yes. I was not under oath when I put that. I
7 was not under oath.
- 8 Q: That's why you lied, 'cause you weren't under
9 oath?
- 10 A: No. I just was saying I wasn't under oath. I
11 just wanted to clarify that.
- 12 Q: What do you mean by saying you weren't under
13 oath, ma'am?
- 14 A: I just want to clarify that I wasn't -- I
15 didn't lie to the courts. That's what I want
16 to clarify.
- 17 Q: You just lied to McCall Farms?
- 18 A: No, I'm just saying I -- I didn't lie to the
19 courts. That's all I'm saying.
- 20 Q: But you did lie to McCall Farms; is that right?
- 21 A: Yes.
- 22 Q: And you also signed a line certifying that the
23 information set forth was true and complete.
24 So you lied then, too, didn't you, ma'am?
- 25 A: Yes.



- 1 Q: Now you also told McCall Farms that you left
2 your previous job with Lake City Scranton
3 Healthcare because you were seeking
4 advancement; isn't that right, ma'am? Do you
5 remember, ma'am?
- 6 A: I don't remember. If you can, refer me to
7 that?
- 8 Q: Sure. I'm looking at APA page 102 again, at
9 the bottom this time.
- 10 A: Okay.
- 11 Q: Employment experience, you listed Lake City
12 Scranton, correct?
- 13 A: Yes.
- 14 Q: And down here, in reason for leaving, you wrote
15 seeking advancement; isn't that correct?
- 16 A: Yes.
- 17 Q: And you were actually fired from Lake City
18 Scranton, weren't you, ma'am?
- 19 A: Yes.
- 20 Q: For falsifying information?
- 21 A: Yes.
- 22 Q: You also told McCall Farms that you had never
23 been discharged from any previous job, didn't
24 you, ma'am?
- 25 A: Can I see that?



1 Q: Sure.

2 A: Okay.

3 Q: Have you ever been dis- -- this is APA page
4 103. Have you ever been discharged from any
5 job, or resigned at the request of your
6 employer? You checked the no box, right?

7 A: Okay.

8 Q: Is that right?

9 A: That's what it appears.

10 Q: So you lied about that too, didn't you, ma'am?

11 A: Yes.

12 Q: And you lied about that because you wanted to
13 get a job, right?

14 **THE COURT:** If you could answer the question, you
15 can explain any answer that you give in here.

16 A: I had a interview subsequent to the
17 application, and I went over my negatives, and
18 I presented why I should be in that job
19 performance. And it wasn't requiring for me to
20 have experience, or ---

21 Q: Ma'am, my question is you lied to get the job;
22 didn't you, ma'am?

23 **MR. MAGUIRE:** Your Honor, I object again at this
24 line of questioning. This has all been prior
25 to an order. We already had an order back in



1 2017 on this, and we're past that.

2 **THE COURT:** Again, I'm at a disadvantage. But this
3 is cross examination, and you know how the
4 rules are very relaxed here, and it's a very
5 broad right to cross examine. But you have a
6 running objection, just like Mr. Barefoot does,
7 to this objection, that he's made with regard
8 to documents that you've introduced, about
9 which I have not made a decision yet. But you
10 have the same running objection to his line of
11 testimony, and any answers relating thereto.

12 **MR. MAGUIRE:** Thank you, Your Honor.

13 **THE COURT:** Overruled. Mr. Barefoot.

14 **MR. BAREFOOT:** Thank you, Your Honor.

15 **Q:** Ma'am, you lied on the job at McCall Farms to
16 get the job, didn't you?

17 **A:** I already had the job.

18 **Q:** You had the job before you completed the
19 application?

20 **A:** Yes.

21 **Q:** Then why would you lie?

22 **A:** I do not remember why I put that down there.

23 **Q:** Okay. Have you worked anywhere since October
24 2nd, 2017?

25 **A:** No.



1 Q: Have you done anything for which anybody paid
2 you anything of value?

3 A: No.

4 Q: Could be money, could be anything else.

5 A: No.

6 Q: Have you been with your husband on his over the
7 road trucking job?

8 A: I don't remember.

9 Q: All right. Now I want to make sure -- you
10 talked about your temporary disability
11 benefits, and you talked about reading a bunch
12 of stuff. Ma'am, you read the full commission
13 order from your previous hearing, didn't you,
14 ma'am?

15 A: It was -- someone went over it with me, also.

16 Q: It said you are not entitled to temporary
17 disability benefits while you are on light duty
18 work; isn't that right?

19 A: For the carpal -- for the repetitive trauma,
20 yes.

21 Q: No, ma'am. The repetitive trauma was denied in
22 full.

23 A: No, it was not. It wasn't denied in full.

24 Q: Okay.

25 A: It was -- the order -- I don't have the order.



1 in front of me, but that's not what I was
2 believed, that it was denied in full. It was
3 only denied for one month, and that was in the
4 order. And when I fell, I aggravated it, and
5 I reported it. And that was admitted.

6 Q: That was ---

7 A: It was only for the light duty, for the
8 repetitive trauma, for the one month.

9 Q: Yes, ma'am. Well, it says what it says. And
10 the Commissioner is gonna read it. All right.
11 I want to make sure I've got this clear. Dr.
12 Leak did a surgery on your right wrist; isn't
13 that correct?

14 A: Yes.

15 Q: And your testimony was that after the first
16 surgery, you had pain that you should not have
17 been experiencing.

18 A: Correct.

19 Q: That's not a good result from the surgery, is
20 it, ma'am?

21 A: I cannot say that.

22 Q: Okay. Now, you did not see Dr. Leak, according
23 to the records, between July 26th, 2018 and
24 June 27th, 2019, almost a year; isn't that
25 right?



1 A: Can you repeat the dates?

2 Q: Between July 26th, 2018 and June 27, 2019?

3 A: I would have to have something in front of me,
4 'cause I'm not sure of -- I can't say that
5 without seeing it, because I don't remember.

6 Q: Well, you went almost a year without seeing Dr.
7 Leak, didn't you?

8 A: What period?

9 Q: July 26th, 2018 to June 27, 2019.

10 A: Okay. July of 2018 I saw Dr. Leak after Dr.
11 Young, after Dr. Young did her evaluation
12 between October -- I'm sorry, January and when
13 she dismissed me, because I testified that I
14 asked, I asked what would be my complication
15 based on what her surgery, what she was saying.

16 Q: Ma'am, I'm just asking if you saw Dr. Leak for
17 about a year.

18 A: Without seeing -- did I see ---

19 Q: Did you go about a year without seeing Dr.
20 Leak?

21 **THE COURT:** If you'll just answer the question, and
22 then you can give an explanation. But just
23 answer the question, if you would. Did you go
24 without approximately -- you don't have to know
25 how many months or how many days. Did you --



1 just answer the question, if you would. Then
2 you can explain any answer.

3 **MS. MCKNIGHT:** I don't remember. I don't remember.

4 **MR. BAREFOOT:** I'd refer the Commissioner to Dr.
5 Leak's deposition, page 13, line 1, dash 9.

6 **Q:** Well, the bottom line is you were getting
7 narcotic medication from Dr. Leak every month,
8 weren't you, ma'am?

9 **A:** Some days it would be over a month. Some
10 months it would be -- not consistent every
11 month.

12 **MR. BAREFOOT:** I'd just refer the Commissioner to
13 Dr. Leak's deposition page 24, line five, to
14 page 25, line eight.

15 **Q:** Ma'am, have you had any sort of drug screening
16 about the drugs since you started taking the
17 narcotics?

18 **A:** What do you mean, drug screening?

19 **Q:** Has anybody tested to see if you have the
20 narcotics in your system?

21 **A:** I don't know.

22 **Q:** Have you gone to give a urine sample or a blood
23 sample?

24 **A:** I have.

25 **Q:** To whom?



- 1 A: My family doctor.
- 2 Q: And was that -- do you do that every year?
- 3 A: Well, it's my physical.
- 4 Q: Has Dr. Leak sent you for a drug screen to see
5 what medicines you're taking?
- 6 A: No.
- 7 Q: You talked about Dr. Friedman. You saw him,
8 and he examined your left shoulder; isn't that
9 right?
- 10 A: He did a test on my shoulder.
- 11 Q: He examined your shoulder, didn't he?
- 12 A: He performed a test.
- 13 Q: Okay. A test, I guess we can call it that.
14 Now you talked about Dr. Gayton earlier. Dr.
15 Gayton, you saw him. Was he the first doctor
16 you saw for your left shoulder?
- 17 A: No.
- 18 Q: Well, when you saw Dr. Gayton, he sent you for
19 the MRI, and you had a nerve conduction study,
20 and all that kind of stuff, didn't you?
- 21 A: Not with Dr. Gayton. I had injections and
22 therapy with Dr. Gayton.
- 23 Q: Well, you'd already had a nerve conduction
24 study before you saw Dr. Gayton; is that right?
- 25 A: I believe so.



1 Q: That's APA page 135. The last time you saw Dr.
2 Gayton was August 18th, 2016; does that sound
3 right?

4 A: 2018?

5 Q: Yes.

6 A: '17, 2017.

7 Q: 2016, 2016.

8 A: '16.

9 Q: Okay. And have you read his report?

10 A: Not entirely, no.

11 Q: He wrote, I'm still not convinced there's any
12 pathol- -- true pathology, and whether some of
13 this is not for secondary gain, in his report,
14 ma'am. Isn't that right?

15 MR. BAREFOOT: Objection. She said she didn't read
16 it.

17 THE COURT: If she hasn't read it, she hasn't read
18 it. I don't know if she has. You can show
19 anything to her.

20 Q: We'll show it to you. It's page 196 of the
21 submissions from your attorney. I am still not
22 convinced that there is any true pathology, and
23 whether some of this is for -- not for
24 secondary gain; is that what you wrote?

25 A: That's not what he told me.



1 Q: Was that what he wrote in his report?

2 A: That's what it says.

3 Q: Okay.

4 A: That's not what he told me.

5 Q: Did he also discharge you for being difficult
6 and belligerent in your exam?

7 A: Can I elaborate?

8 Q: Did he discharge you?

9 **THE COURT:** Just answer the question. Then you can
10 -- like I said, any answer you give, you can
11 offer an explanation. When did he discharge
12 you? If you'll repeat the question.

13 Q: And then he discharged you for being
14 belligerent and difficult; isn't that right?

15 A: That's what he said. That's not what he told
16 my party why he discharged me.

17 Q: Yes, ma'am. I'm not asking what somebody told
18 you. I'm saying he discharged you because you
19 were difficult and belligerent; isn't that
20 right?

21 A: If that's what he has in his report.

22 Q: Okay. All right. So you've seen Dr. Friedman
23 for your left shoulder. You've seen Dr. Gayton
24 for your left shoulder. You also saw Dr.
25 Woolf, I think, that your attorney mentioned



1 earlier. That's where your prior attorney sent
2 you, right?

3 A: Correct.

4 Q: In his report, he indicated he doesn't think
5 there's anything that could be offered other
6 than possibly some injections; isn't that
7 right?

8 A: I did hear something about injections. I guess
9 that was all that he said.

10 Q: Okay. And you never asked the commission to
11 send you back to Dr. Woolf, did you?

12 A: No.

13 Q: And I believe the Commissioner sent you to Dr.
14 McFadden; isn't that right, for your left
15 shoulder?

16 A: She picked him, yes.

17 Q: Okay. So you've seen Dr. Gayton, Dr. Friedman,
18 Dr. Chambers, Dr. Woolf, and Dr. McFadden; is
19 that right?

20 A: Yes.

21 Q: Five doctors for your left shoulder, and the
22 only one you want to go back to is Dr.
23 Chambers?

24 A: I had an evaluation that I was denied to be
25 sent to three, for three examinations, and I



1 was denied from the Defense.

2 Q: Well, you've seen five doctors now for your
3 left shoulder; is that right?

4 A: Costly ones, yes. They were costly. This
5 evaluation wasn't costly. It was just for
6 evaluations, and I was denied ---

7 Q: Okay.

8 A: --- by the Defense.

9 Q: All right. Now in regards to your right wrist,
10 you already said that you didn't get a good
11 result from your surgery with Dr. Leak. And
12 when the Defendants asked ---

13 **THE COURT:** Is that a question to her or is that a
14 statement?

15 **MR. BAREFOOT:** I'm sorry. I thought that was -- I
16 was about --

17 **THE COURT:** Okay. Go ahead.

18 **MR. BAREFOOT:** I apologize. My train of thought was
19 ---

20 **THE COURT:** Just try not to make it compound. Go
21 ahead.

22 **MR. BAREFOOT:** I'll try not to make it compound.

23 Q: So after you had your surgery with Dr. Leak,
24 then the Defendants sent you to see Dr. Young
25 for another opinion on your right wrist, didn't



1 they?

2 A: Yes.

3 Q: And Dr. Young wanted you to come back to get a
4 splint for your thumb to see if that would
5 help, and you didn't go to that appointment,
6 did you?

7 A: Yes.

8 Q: You went?, I thought you just testified you did
9 not go to the appointment December 2018?

10 A: You didn't say what month just now.

11 Q: Well, that's the appointment for the splint,
12 the spica splint.

13 A: No, the January was the appointment for the
14 splint, also. It was a rescheduling for the
15 December 3rd. So I did go for the splint.
16 This is what she gave me. I have it on now.

17 Q: Yes, ma'am. But you didn't go in December, did
18 you?

19 A: I went in January.

20 Q: You didn't go in December, did you?

21 A: No.

22 Q: So ma'am, you said you already had another
23 regular maintenance exam with your
24 gynecologist. At this point, your injury is
25 three years old, and you can't reschedule an



1 appointment to go get treatment for your right
2 wrist?

3 A: I couldn't be two places at one time.

4 Q: Yes, ma'am. You couldn't reschedule your
5 maintenance appointment to get treatment for
6 the injury that's keeping you out of work?

7 A: It was for a splint. That was not treatment.
8 It was a splint that I never got. So she never
9 gave me the splint that she recommended. In
10 multiple medical records, she said she wanted
11 to put me in a splint. And she is the doctor.
12 She did not put me in the splint that ---

13 Q: Yes, ma'am. My question is, you didn't try to
14 reschedule ---

15 **THE COURT:** Let her finish and then -- let her
16 finish.

17 A: The abduction splint that she said I needed,
18 she never put me in it. She put me in a
19 different splint.

20 Q: Yes, ma'am. You didn't try to reschedule your
21 regular appointment so you could see Dr. Young
22 in December of 2018, did you?

23 A: Repeat that.

24 Q: You didn't try to reschedule whatever
25 appointment you had that conflicted with your



1 visit with Dr. Young in December of 2018, did
2 you?

3 A: I didn't make the appointment with Dr. Young.
4 I thought it was a mistake, because she had
5 already gave her opinion, and it wasn't to
6 treat me or see me back. So when I saw by mis-
7 -- I thought it was a mistake when it came
8 across my phone that I had a appointment with
9 her. And the appointment was for -- to put me
10 in an abductive splint. But that wasn't
11 discussed at my IME with her.

12 Q: Ma'am, you ---

13 A: I'm sorry. That wasn't discussed ---

14 Q: You didn't ---

15 **THE COURT:** Let her finish.

16 A: That wasn't -- well, the second opinion that
17 she -- that I was told, that I was led to
18 believe, that she was a second opinion, was a
19 transfer of care. She was not a second -- that
20 appointment was not intended, as I was advised,
21 for a second opinion. It was a transfer of
22 care. And she didn't offer me a splint that
23 day. She referred me back to Dr. Leak. And
24 subsequent to that, in December was when she
25 wanted me to -- I saw where she wanted me to



1 get the abductive splint, and not surgery. It
2 was a splint she wanted to put me in. And I
3 have on the splint that she said she wanted me
4 to have.

5 **THE COURT:** Is that the brace you were referring to
6 earlier?

7 **MS. MCKNIGHT:** Yes.

8 **THE COURT:** Okay.

9 **MS. MCKNIGHT:** Yes.

10 **THE COURT:** All right.

11 **MS. MCKNIGHT:** This is the one I have on now. This
12 is the splint I have on now.

13 **THE COURT:** Okay. Can you, can you have it -- can I
14 ---

15 **MS. MCKNIGHT:** Well, it goes up to my ---

16 **THE COURT:** Okay. Your -- is your -- you're having
17 trouble raising your whole arm? Is this in
18 your hand, or your arm, or where is the
19 problem?

20 **MS. MCKNIGHT:** It's in my wrist.

21 **THE COURT:** Okay.

22 **MS. MCKNIGHT:** But it has my forearm weak.

23 **THE COURT:** Okay.

24 **MS. MCKNIGHT:** And the splint goes up to here.

25 **THE COURT:** Up to your -- to the top of your



1 forearm, the brace goes up to the top of your
2 forearm?

3 MS. MCKNIGHT: Yes.

4 THE COURT: Okay.

5 MS. MCKNIGHT: So this is where my thumb is.

6 THE COURT: So you, you can lift your arm. Okay.

7 MS. MCKNIGHT: I don't know what abduction -- what
8 other brace I was supposed to have. I only
9 know what they gave me, to answer your
10 question.

11 THE COURT: Okay.

12 Q: You submitted some records, some emails between
13 you and your former attorney, Andrea Roche,
14 about that appointment. And this is my
15 question ---

16 MR. BAREFOOT: Commissioner, that's APA page 40 --
17 468 to 470.

18 Q: Here's my question, ma'am. Did you or did you
19 not try to reschedule whatever appointment you
20 had that conflicted with your follow-up visit
21 with Dr. Young in December 2018?

22 A: I asked -- my attorney handled that with the
23 rescheduling before she was relieved. She
24 handled ---

25 Q: Ma'am, did you try to reschedule whatever



1 appointment you had that conflicted with your
2 follow up with Dr. Young in December 2018?

3 A: It was out of my authority, because I didn't
4 make it, and I didn't want to be argumentative,
5 or I didn't want to be disruptive, because I
6 was already demeaned from that with Dr. Gayton.
7 So I didn't make the appointment. I feel like
8 I didn't have the authority to cancel it. And
9 I went through my attorney.

10 Q: I'm not talking about the appointments with Dr.
11 Young. I'm talking about the other appointment
12 you had that conflicted with Dr. Young. You
13 didn't try to change that appointment, did you,
14 ma'am?

15 A: I don't remember if I tried to change it or
16 not.

17 Q: Okay.

18 A: I tried to -- that appointment was made, that
19 appointment was made well before Dr. Young's
20 brace appointment, abduction appointment. And
21 I'm not sure if -- I don't remember if I tried
22 to change that appointment. But I had
23 something going on that was an emergency with
24 my OB/GYN doctor, that was concerning my
25 health, immediate health.



- 1 Q: All right. Now, let's talk about Dr. Young.
2 After you didn't show up for that hearing ---
- 3 A: Oh, I'm sorry. Can I please clarify that? I
4 had been to my family doctor and they referred
5 me, so they thought it was important enough for
6 me to see the OB/GYN, also.
- 7 Q: Yes, ma'am.
- 8 A: Okay.
- 9 Q: So did you follow up with your OB/GYN after
10 December 2018?
- 11 A: It had resolved.
- 12 Q: Okay. All right. So they stopped your
13 temporary disability benefits when you didn't
14 go to the doctor in December 2018. And they
15 resumed them when we entered into the consent
16 order. They cancelled a hearing that was
17 scheduled in March of 2018; isn't that right?
- 18 A: You mean '19?
- 19 Q: Yes, I'm sorry. '19, that's right.
- 20 A: They stopped at 2000 -- December ---
- 21 Q: Right, and ---
- 22 A: My checks was stopped at 2000 -- my checks was
23 stopped December, 2018 and I went to see Dr.
24 Young as scheduled, without a consent order.
25 And I had to -- when a consent order was



1 entered, subsequent after two evaluations with
2 her, then it was ordered that my checks start
3 back up.

4 Q: Yes, ma'am. Did you read the consent order?

5 A: Yes.

6 Q: Number three says, the Defendants will resume
7 payment of temporary disability benefits to the
8 Claimant as of the date this order is executed
9 by this Commissioner; isn't that right?

10 A: It was -- it started back up.

11 Q: That's what I'm saying. You -- I thought you
12 testified earlier that you were surprised they
13 didn't pay you before then.

14 A: No, for my back money, I didn't -- I was
15 supposed to have been reimbursed at least up --
16 at least since I've been to the second opinion.

17 Q: That's not what the consent order says, though,
18 is it, ma'am?

19 A: That's not what?

20 Q: That's not what the consent order says, though,
21 is it, ma'am?

22 A: I thought that was the law.

23 Q: Ma'am, that's not what the consent order says,
24 is it?

25 A: That consent order was for March moving for- --



1 March -- it was from March, and after March.
2 That was for March, and not before March.
3 Q: Okay. But you agree, we didn't go to a hearing
4 over this issue because you agreed to a consent
5 order; isn't that right?
6 A: Yes.
7 Q: Okay. Now, let's talk about more refusal of
8 medical treatment. They scheduled you to see
9 Dr. Barrie in November of 2019; isn't that
10 right?
11 **MR. MAGUIRE:** Object to the form of the question,
12 Your Honor.
13 **MR. BAREFOOT:** I'll make it simple, Your Honor.
14 **THE COURT:** All right.
15 Q: They had scheduled you to see Dr. Barrie in
16 November, 2019, hadn't they, ma'am?
17 A: Yes.
18 Q: And you texted them and told them you would not
19 go; isn't that right?
20 A: That was prior. Excuse me. That was -- I had
21 made -- I had communicated with the nurse case
22 manager prior to her making any appointment
23 with -- and she still went on and made it
24 anyway, disregarding my concerns, and I also
25 let her know that it was in court. And she



1 subsequently asked me did I have an attorney,
2 and I told her no, I didn't have an attorney.

3 Q: Well, ma'am, we'd tried to go to court in
4 September, hadn't we?

5 A: Excuse me?

6 Q: We had tried to go to court in September of
7 2019, hadn't we?

8 A: But Dr. Barrie wasn't in the picture. It was
9 no appointment made for Dr. Barrie. Well, I
10 wasn't told about Dr. Barrie until when she
11 notified me of the email that I had an
12 appointment for November.

13 Q: And that's because it was your understanding we
14 were having a hard time finding another doctor
15 to look at your right wrist; isn't that right?

16 A: I was told that you couldn't -- yes, you
17 couldn't find a doctor. No one wanted to treat
18 me. They didn't want to see me. They didn't
19 want to -- they didn't want to treat a person
20 who already had surgery already, correct.

21 Q: So they set you up with Dr. Barrie and you
22 wouldn't go, right?

23 A: Prior to Dr. Barrie, I told them that we was
24 already in court. Correct.

25 Q: Yes, ma'am.



1 A: Yes, correct.

2 Q: And the adjustor even texted you, and let you
3 know she would provide transportation, a hotel
4 room, and reimburse you for food, if needed,
5 and you still wouldn't go; isn't that right?

6 A: Correct. I went in August.

7 Q: Ma'am, that's after the Commissioner orders
8 you. I'm talking about the fall of 2019.

9 A: We wasn't in agreeance.

10 Q: So you -- my question is you wouldn't go,
11 right?

12 **THE COURT:** Just answer the question, and then you
13 can explain.

14 A: No, I didn't go. I didn't go to the
15 appointment. I asked for -- I don't know if I
16 asked for it. But I didn't go, no.

17 Q: Now, you were talking about when your other
18 attorney stopped being your attorney. I pulled
19 up eCase a moment ago, and I apologize to the
20 court if it looked like I was playing on my
21 phone. I wasn't. According to eCase, Attorney
22 Barr was released on June 25th, 2019.

23 A: He wasn't -- it was something with the
24 paperwork, but he was not my acting attorney.
25 He hadn't did any correspondence with me. He



1 hadn't did anything. And it was something --
2 and it was in April, April of 2019 is when I
3 want to say he stopped physically doing my --
4 doing anything. He was notified in writing,
5 and he signed off on it. He hadn't submitted
6 it to the courts, but he had signed off on
7 being my attorney. It just wasn't through the
8 court. He hadn't paid whatever fee he had to
9 pay to sign, to relieve as counsel.

10 Q: All right.

11 A: He did -- that's what that was.

12 Q: And you don't know what communication the nurse
13 case manager -- what letter the nurse case
14 manager sent to Mr. Barr about the meeting she
15 was gonna have with the doctors, do you?

16 A: Well, I asked -- I know that he didn't do
17 anything as far as my case, because I talked to
18 him. I talked to the attorney, and I asked
19 him, since subsequent from me being in your
20 office, giving you release of counsel papers,
21 did you do anything in my case or anything on
22 behalf of my case, and he told me no.

23 Q: Gotcha.

24 A: He hadn't did anything in my case. So no,
25 nobody corresponded with him. I was -- I was



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Q: So you can testify under oath that you know that nobody corresponded with him about the nurse case manager meeting with a doctor?

A: Well, I believe that's what -- I can only go by what I was told. So if anything else happened, I don't have any recollection of that.

Q: Now, I want to make sure I've got this right. You've been saying that all you want to get is medical treatment, but when they set you up to see Dr. Young, you wouldn't go back to see her in December of 2018 'cause you had another appointment, right?

A: Say that again.

Q: When they sent you -- and here's my point. When they set you up to see Dr. Barrie in November of 2019, you wouldn't see her, right?

A: I wanted to see the doctor that the Defense authorized, the one that did my surgery. I wanted to -- I wanted for him to finish what he recommended when I was in his care. And that is what the courts allow for me to have. All I did was follow what the courts allow for me, for the Defense treating doctor, which y'all authorized. He did my surgery. He knows me.



1 He knows my anatomy. And I was comfortable
2 with his care. I've never had any ill problems
3 with him. I never had any -- we never had any
4 conflict and problems to where I wasn't going
5 to the appointments. If I had to reschedule,
6 I'd reschedule, and it was fine. The Defense
7 attorney didn't intervene. I was able to make
8 my own appointments, and with the nurse case
9 manager being there, there was no attorney
10 intervening with my appointment scheduling, and
11 interfering.

12 Q: Yes, ma'am. Speaking about getting along with
13 people, you had a problem with the therapist
14 that Dr. Young sent you to, didn't you?

15 A: I -- the therapist had -- I asked for therapy
16 because it was recommended I was supposed to
17 have therapy. And he didn't want to give me
18 therapy. So I didn't have a problem, he did.

19 Q: Okay.

20 A: And he relieved me for no reason. He dismissed
21 his own therapy.

22 Q: Ma'am, if you want to get treatment so much for
23 your right wrist, why didn't you go see Dr.
24 Barrie when they set you up to see him in 2019?

25 A: It was because I wanted to go to court, and let



1 the courts decide who would be my treating
2 doctor because it was -- I just followed what
3 the Defense sent me to, and that's the
4 treatment I wanted. And I wanted to continue
5 the treatment with the treating doctor who did
6 my surgery, who I was comfortable with. And he
7 wanted to give me surgery and fix me in 2018.
8 And I'd been denied since 2018 for a surgery
9 that Dr. Barrie agreed that I need. Also, in
10 her report, she said that it could be a
11 possibility that she would do that surgery
12 amongst the other surgeries.

13 Q: Have you looked at her last report? 'Cause in
14 her last report, she wrote that she thinks you
15 need the same surgery that Dr. Barrie's
16 recommended, hasn't she?

17 A: I only know of one report that she wrote.

18 Q: Okay.

19 A: I only saw her one time, so it could have only
20 been one report. It could have only been one
21 report.

22 Q: You only saw Dr. Young one time?

23 A: Dr. Barrie.

24 Q: I'm talking about Dr. Young, ma'am.

25 A: Can you repeat the question?



1 Q: That's okay. All right. You also went on your
2 own, back in 2016, to get a carpal tunnel
3 release on your right wrist, didn't you?

4 A: No, I didn't go on my own.

5 Q: Well you went -- all right, you went to get a
6 carpal tunnel release in 2016 with Dr.
7 Woodbury, correct?

8 A: A release surgery?

9 Q: Carpal tunnel release.

10 A: Yes, yes.

11 Q: Okay. You chose Dr. Woodbury, correct?

12 A: If I remember, I was referred. But I'm not
13 sure.

14 Q: Who referred you, ma'am?

15 A: I don't remember, but I think I was referred.
16 But I'm not absolutely sure.

17 Q: Well, it wasn't anything to do with your
18 workers' compensation claim, was it, ma'am?

19 A: The Defense hasn't sent me. The Defense denied
20 me treatment for my carpal tunnel.

21 Q: Yes, ma'am.

22 A: I was denied that, so.

23 Q: When he released you, he gave his opinion that
24 you have secondary gain issues, didn't he,
25 ma'am?



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1 MR. MAGUIRE: Object.

2 THE COURT: You have a running objection. I haven't
3 read any of these records. I think anything in
4 the medical records that were not objected to
5 today prior to going on the record are in play.
6 So I think he has the right to ask the
7 question. But you have a running objection to
8 the doc- -- well, you didn't object before, so
9 -- but you have a -- I'm not -- that I know of,
10 you didn't -- I don't believe you objected to
11 that document or any portion thereof. So I
12 guess I have to overrule your objection. Go
13 ahead, Mr. Barefoot.

14 Q: When Dr. Woodbury released you, he found that
15 you have secondary gain issues, didn't he,
16 ma'am?

17 A: When Dr. Woodbury released me, he released me
18 back to the doctor for my -- for the injury he
19 didn't -- for the injury he didn't address.
20 That was what, that was what was done. So he
21 released me -- he cleared me from the carpal
22 tunnel, and he referred me back to the doctor
23 for the other injury.

24 Q: Do you know that he wrote, her exam was
25 inconsistent, she would initially grip well,



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1 then relax her grip, which was somewhat
2 puzzling, I asked her to show me her flexion,
3 and she flexed to about 45 degrees, but then I
4 was able to passively flex her up to 80, I
5 started asking about ulterior motives, and it
6 turns out she's been terminated from her job
7 but is still drawing short term disability,
8 workers' compensation has set her up to see a
9 Greer somewhere, Dr. Greer somewhere, so she
10 has secondary gain issues?

11 **MR. MAGUIRE:** I object to the form of the question,
12 as well as the records itself. Anything before
13 2017 hearing should ---

14 **MR. BAREFOOT:** Commissioner, this is APA page 147.

15 **THE COURT:** Again, I didn't -- I'm not aware of any
16 objection that was made in the prehearing
17 conference to redact anything or to take it
18 out. So my hands feel like I'm kind of tied.
19 Now what kind of weight I give is entirely
20 different, Mr. Maguire, as far as that
21 information. But it's overruled. You still
22 have an objection.

23 **A:** I want to answer that. I had a proximal row
24 carpectomy December, 2017, and it should have
25 the medical records of what all my bone was



1 left looking like, and what Dr. Leak repaired.
2 And that was subsequent to Dr. Woodbury's
3 notes.

4 Q: Yes, ma'am. I'm more interested in your
5 presentation to Dr. Woodbury. All right.
6 Let's talk about Dr. Barrie. After
7 Commissioner Barden ordered you to go, you did
8 go to see Dr. Barrie? Didn't you?

9 A: Yes.

10 Q: Okay. And Dr. Barrie examined you, didn't she?

11 A: Yes.

12 Q: You said you wanted to see a doctor who
13 specializes in the body part that you have.
14 Did you know that she specializes in wrists?

15 A: I want -- I might have -- I don't -- I don't --
16 at the time that I saw her, I was just doing
17 what I was told to do as far as the courts, and
18 she gave her opinion and ---

19 Q: Well, she also ---

20 A: --- Dr. ---

21 **THE COURT:** Let her finish.

22 Q: Go ahead.

23 A: --- Dr. Leak -- no disrespect to Dr. Wood --
24 Dr. Kimberly Barrie -- but Dr. Young was the
25 Defense treating doctor, and I'm just following



1 what the workman comp law is, that you provide
2 the doctor, which you already did, and they
3 already did. And that's who I continue to
4 wish to treat with, who you chose.

5 Q: Yes, ma'am.

6 A: Not the third doctor, the first one.

7 Q: Well what if the third doctor is a better
8 doctor than the first one? Will you treat with
9 the third one then?

10 A: I prefer the doctor that is -- who was good
11 enough to do my first surgery, who was
12 authorized at my first surgery. That's the one
13 I want to do my surgery, no disrespect to Dr.
14 Kimberly Barrie.

15 Q: Okay. Well, Dr. Barrie gave you light duty
16 restrictions of no lifting greater than 20
17 pounds with your right wrist; isn't that right?

18 A: Can you repeat that?

19 Q: The doctor gave you -- Dr. Barrie gave you
20 light duty restrictions of no lifting greater
21 than 20 pounds with your right wrist; isn't
22 that correct?

23 A: That's what I think I saw it said.

24 Q: Okay. And you were scheduled for a pre-op
25 visit with her on October 12th, 2020, weren't



1 you?

2 A: Pre-op surgery.

3 Q: Yes, ma'am.

4 A: For when?

5 Q: October 12th, 2020.

6 A: I'm not sure the date, but it did follow her
7 wanting to do surgery. That was never
8 recommended. She never told me that she wanted
9 to do surgery on me.

10 Q: Yes, ma'am. I'm not asking what the doctor
11 told ---

12 A: She never asked me.

13 Q: --- you, ma'am. Please don't tell us what the
14 doctor told you. I just asked if you had a
15 pre-op visit scheduled for October 12th, 2020.

16 A: Yes.

17 Q: Okay. And you did not show up for that visit,
18 did you?

19 A: No.

20 Q: You now have a pre-op scheduled for February
21 5th, 2021, don't you, ma'am?

22 A: Yes.

23 Q: Do you plan to go?

24 A: You said when?

25 Q: February 5th, 2021.



1 A: No, I don't.

2 Q: You haven't been notified of that?

3 A: February 5th, no.

4 Q: Okay.

5 **THE COURT:** Wait a minute. You haven't been
6 notified, or you're not going?

7 **MS. MCKNIGHT:** I haven't been notified of a February
8 5th appointment.

9 **THE COURT:** Okay. Do you plan to go?

10 **MS. MCKNIGHT:** To ...

11 **THE COURT:** To the pre-op appointment with Dr.
12 Barrie on February 5th, 2021?

13 **MS. MCKNIGHT:** I wasn't notified.

14 **THE COURT:** I understand that. But are you planning
15 to go? You first said I'm not going, I
16 thought.

17 **MS. MCKNIGHT:** No, because -- I'm sorry, I
18 misunderstood.

19 **THE COURT:** Okay.

20 **MS. MCKNIGHT:** I didn't receive notice of February
21 the 5th. I received notice of February -- I'm
22 sorry, January the 12th -- I mean, the 15th,
23 not February the 5th.

24 **THE COURT:** Okay.

25 **MS. MCKNIGHT:** So I'm confused at what the



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appointments -- that's all I'm saying.

THE COURT: All right. Well, regardless of when it is, are you planning to go, or are you declining the pre-op appointment with Dr. Barrie?

MS. MCKNIGHT: I want to explore my, my ---

THE COURT: If you would, just answer, and then you can explain. Are you planning to go?

MS. MCKNIGHT: No.

THE COURT: Okay.

MS. MCKNIGHT: No.

THE COURT: Not planning to go. Okay.

MS. MCKNIGHT: And can I answer?

THE COURT: Yes, absolutely. I want you to.

MS. MCKNIGHT: I want to see the outcome of this hearing, if I'm compelled to who is going to be my treating doctor, because I haven't had that hearing to be heard, Your Honor. I would like to have that, results from that.

THE COURT: Okay. I'm not sure I understand. I understood the short answer, but I'm not sure I understand that with the explanation.

MS. MCKNIGHT: I'm waiting for the order to be ---

THE COURT: So you'll go if it's ordered?

MS. MCKNIGHT: No, I just want to know what is the -



1 - who is gonna be my treating doctor, who, who
2 is gonna be the treating doctor, because I
3 haven't had that argument on who -- which one
4 of his doctors is gonna be chosen out of all
5 these doctors. That's what I mean, if that
6 makes sense.

7 **THE COURT:** Okay.

8 Q: I want to be clear. We want Dr. Barrie to be
9 the treating physician. Will you go follow up
10 with Dr. Barrie?

11 A: I'm the patient. You're just the -- are you
12 speaking for the -- I'm the patient. Are you
13 speaking for the adjustor, or for yourself?
14 Because ---

15 Q: I'm speaking for the Defendants, ma'am.

16 A: 'Cause it's already approved. I saw where my
17 surgery's already approved for the CMC
18 arthroplasty, the surgery that I'm wanting. I
19 saw that that's approved, because there's
20 multiple surgeries that Dr. Barrie proposed in
21 the report, in her one report. She proposed
22 other -- she proposed the CMC compectom -- or
23 comparchment -- compossment -- compartment, I'm
24 sorry, compartment, CMC, and fusion. And the
25 adjustor approved all the surgeries.



1 Q: All right. Yes, ma'am. I want to talk about
2 your left shoulder. You told Mr. Maguire about
3 problems you have with your shoulder. You
4 reported those problems to the doctors that
5 you've seen, haven't you, ma'am?

6 A: Yes.

7 Q: Okay. And the problems you've described with
8 your right wrist, you've reported those to the
9 doctors you've seen, haven't you, ma'am?

10 A: Yes.

11 **MS. MCKNIGHT:** Excuse me, can I use the restroom?

12 **THE COURT:** Sure, we'll take a five minute break,
13 absolutely.

14 (Off the record from 1:56 p.m. to 2:01 p.m.)

15 **THE COURT:** We are back on the record, and I will
16 remind you that you are still under oath. Mr.
17 Barefoot.

18 **MR. BAREFOOT:** Commissioner, I think that's all the
19 questions I have at this time.

20 **THE COURT:** Okay. All right. Mr. Maguire, do you
21 have any on redirect, sir?

22 **MR. MAGUIRE:** Briefly, Your Honor.

23 **THE COURT:** Okay.

24 **MS. MCKNIGHT - REDIRECT EXAMINATION BY MR. MAGUIRE:**

25 Q: May 31st, 2019, you had -- it is my



1 understanding you had already, had terminated
2 or released your relationship with Mr. Barr; is
3 that correct?

4 A: Yes.

5 Q: Okay. Did anybody, anywhere contact you in
6 regards to the fact that the nurse case manager
7 was going to have a conversation outside your
8 presence with the doctor?

9 A: No. I had a -- I wanted to redirect something.

10 **MR. BAREFOOT:** Your Honor, I don't think this is
11 appropriate. If her attorney asks her
12 questions, I think that's appropriate.

13 **THE COURT:** You can certainly explain any answer
14 that you give.

15 **MS. MCKNIGHT:** Yes. When I was asked would I see
16 Dr. Kimberly Barrie ---

17 **THE COURT:** Yes, ma'am.

18 **MS. MCKNIGHT:** The reason why I said no is because
19 it was for pre-surgery. And we never had the
20 communication that she wanted to do anything to
21 me. So I thought it would be not appropriate
22 to proceed with the surgery, and I don't know
23 the risks. I don't know what she -- we never
24 had that communication. She never like
25 proposed to do anything to me. We just had the



1 one IME where she just said she -- well, I
2 can't say what she said, but we just had the
3 one IME, and for me to have a pre-surgery
4 appointment, that's following surgery, or the
5 expectation of following surgery after that.
6 That's why I said no.

7 Q: Do you want to have a fusion surgery?

8 A: No, I do not want to have a fusion. No. And
9 it was because I was told that it might not
10 work. I mean ---

11 **MR. BAREFOOT:** Objection.

12 **MS. MCKNIGHT:** --- that's my wrist, and ---

13 **THE COURT:** Sustained.

14 **MS. MCKNIGHT:** I wasn't told what ---

15 Q: Let me ask you -- instead of saying what you
16 were told, is it your understanding you would
17 have limitations in your movement in your
18 wrist?

19 A: And I might still have pain. That, not being
20 able to move or have motion, plus the surgery
21 might not be successful. I already know it's
22 a possibility that it's a risk, that it might
23 not be, you know, that it might not ---

24 **THE COURT:** So let me just make sure I understand,
25 'cause you brought this up, and I certainly



1 understand you're wanting to communicate what
2 you mean, and I want to know what that is. Are
3 you saying that if Dr. Barrie wants to perform
4 a fusion surgery -- and I don't know what the
5 outcome of this case will be, you see I've got,
6 and I added the pages up, 957 pages to read --
7 if Dr. Barrie is ordered to be the treating
8 physician, are you saying you don't want the
9 fusion surgery, are not having it? Would that
10 be accurate?

11 **MS. MCKNIGHT:** Not having it?

12 **THE COURT:** Yes, ma'am. Would you -- do you want to
13 undergo it?

14 **MS. MCKNIGHT:** No. I want to undergo CMC
15 Arthroplasty.

16 **THE COURT:** Okay. So are you saying you won't
17 under- -- I'm not trying to put words in your
18 mouth, I'm asking. So you're saying you're
19 absolutely not gonna have the fusion surgery,
20 or you might? If it were ordered, say, if it
21 were ordered, would you have it?

22 **MS. MCKNIGHT:** I want to have that -- I'm not gonna
23 say later down the line, which I hope I don't
24 have to have nothing else done -- but I want to
25 have the ---



1 THE COURT: Just ---

2 MS. MCKNIGHT: I want to try the less invasive one
3 and see if it works, and not the harsher one,
4 all because, because someone else wants me to
5 have it and not the ---

6 THE COURT: So ---

7 MS. MCKNIGHT: I don't know how I can make this ---

8 THE COURT: If -- obviously, if I agree with your
9 attorney and your position that Dr. Leak would
10 be the treating physician, my question is mute.
11 It doesn't -- it has no meaning. But if I
12 agree with the Defendants' position that Dr.
13 Barrie would provide the surgery, are you
14 saying you're not gonna have that? You're
15 gonna try something else first?

16 MS. MCKNIGHT: Yes. I want to try something else
17 first, yes.

18 THE COURT: Well, I know what you want to do. But
19 are you saying you are absolutely opposed to
20 the fusion right now?

21 MS. MCKNIGHT: Yeah, I'm opposed to the fusion right
22 now, is what I'm saying.

23 THE COURT: Okay.

24 MS. MCKNIGHT: That's correct. Yes, ma'am. Yes.

25 THE COURT: All right. Thank you.



1 MS. MCKNIGHT: Yes, Your Honor.

2 THE COURT: All right. Do either of you gentlemen -
3 - I just needed to get that clarified -- have
4 any follow up to anything that, what she said,
5 that I asked? You're certainly welcome to do
6 that. Mr. Maguire?

7 Q: Is there anything in regards to your care that
8 we haven't talked about that you'd like to
9 mention?

10 A: The pain management, I'm, I am paying for pain
11 management from my injury, and I'm not having
12 care for the reasons why we're here. But I'm
13 still ---

14 THE COURT: Is that with Dr. Leak and your family
15 doctor?

16 MS. MCKNIGHT: Yes, Your Honor.

17 THE COURT: Okay.

18 MS. MCKNIGHT: That's the pain management I'm
19 referring to, and pain management I was never
20 given. I mean, I'm having pain management, but
21 it's on me to pay for it, Your Honor. I want
22 to address that.

23 THE COURT: Okay. Mr. Barefoot, do you have any
24 follow ups?

25 MR. BAREFOOT: Nothing further, Your Honor.



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1 **THE COURT:** And I suppose when I opened the record I
2 should have asked you if you were deferring to
3 -- I assumed you were, because you didn't stop
4 me.

5 **MR. BAREFOOT:** For cross examination.

6 **THE COURT:** Right. Yes, sir. And I didn't do that.

7 **MR. BAREFOOT:** Yes, ma'am.

8 **THE COURT:** Do you have a rebuttal witness or a
9 witness?

10 **MR. BAREFOOT:** No, Defense rests.

11 **THE COURT:** Okay.

12 **MR. MAGUIRE:** That's all.

13 **THE COURT:** Okay. That concludes this proceeding.

14 And thanks, everybody, for your patience. And

15 I hope everybody has a good rest of the day.

16 (There being nothing further, the hearing concluded
17 at 2:08 p.m.)

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