STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
FT. MYERS DISTRICT OFFICE

Maria Isabel Delgado,
Employee/Claimant,

vs.

Westree Financial, Inc. d/b/a Westree Marina/Gallagher Bassett Services, Inc.,
Employer/ Carrier/Servicing Agent.

OJCC Case No. 12-001094KAS

Accident date: 11/9/2011

FINAL COMPENSATION ORDER

After proper notice to the parties the above captioned workers' compensation case came for final hearing before the undersigned on- February 21, 2013 via video teleconference between Miami, Dade County and Fort Myers, Lee County, Florida, on Claimant's 9/7/12 petition for benefits. The Claimant was represented by William Haro, Esq. and the Employer/Carrier ("E/C") was represented by Andrew Borah Esq. The evidence closed on February 21, 2013.

CLAIMS

The following claims were the subject of this hearing:

1. Temporary partial disability benefits ("TPD");
2. Authorization of chiropractic therapeutics per Dr. Osborne (Claimant's IME);
3. Costs and attorney's fees. No penalties and interest were claimed in the petition for benefits but Claimant's counsel listed PICA on pretrial stipulation, and E/C responded to same on pretrial stipulation by stating, "no PICA due or owing".

DEFENSES

The defenses to the above claims were:

1. Claimant is at maximum medical improvement ("MMI");
2. Employer terminated Claimant for misconduct;
3. Claimant voluntarily limited her income;
4. Treatment recommended by Dr. Osborne is not medically necessary;

5. No penalties, interest, costs and attorney fees due or owing.

EXHIBITS

The exhibits listed on Exhibit A attached hereto were received into evidence without objection except as noted.

LIVE WITNESS TESTIMONY

The Claimant, Maria Isabel Delgado, and employer representatives, Jean Pierre Louis and Sandra Russell Goergen, all testified live at the merits hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In making findings of fact and conclusions of law regarding these claims and defenses, I carefully considered and weighed all the evidence, however, but did not specifically reference each piece nor summarize in detail the all testimony and documentary evidence. I observed the witnesses testifying in person assessing their candor and demeanor and resolving any conflicts in the testimony and evidence. Based upon testimony, stipulations and exhibits and after careful consideration of the arguments of counsel, it is found that:

FINDINGS OF FACT

1. I have jurisdiction over the subject matter and parties.

2. Venue is properly in Miami-Dade County, Florida

3. I adopt as findings of fact the stipulations of the parties as set forth in the pre-trial stipulation and their stipulations at hearing as follows: Date of accident is 11/9/11; period of indemnity claimed is from 1/24/12 forward.

4. It is undisputed that Maria Delgado, the Claimant, sustained compensable injuries to her neck, low back and left foot while working for the Employer at their Crandon Bait and Tackle Shop on Key Biscayne pulling in a catamaran. The date of injury was disputed but the parties stipulated to the 11/9/11 date of accident in the Amendment to Pretrial stipulation filed 12/4/12. Claimant continued to work for Employer until she was terminated on January 24, 2012 and has not worked since. Claimant testified she has applied for many jobs

but has not found work. She spends time volunteering, reading, and on the computer, in physical activities including: swimming in the ocean, kayaking, bicycle riding, motorcycle riding, and racquetball. She purchased her Harley after the work injury. She testified she does not engage in the physical activities as frequently as before but acknowledges she has in fact done all of those activities multiple times since her work injury.

MEDICAL FINDINGS

5. Claimant reported the work injury to Mr. Louis around three days afterwards. E/C authorized Concentra for medical care for her neck and low back. Claimant went to Concentra on 11/12/11 complaining of **low back** pain traveling down her left foot. And a clicking noise in the back of her neck. The pain diagram completed by Claimant circles the lumbar spine only. The Concentra physician diagnosed lumbar and cervical strain, prescribed physical therapy and medication, and returned to her work that day with restrictions of: no lifting, pushing, pulling over 30 lbs, no bending more than 10 times an hour, sitting 50% of the time. Claimant followed up as directed three days later, and her restrictions increased to 20lbs (instead of 30). The medical records show Claimant missed several physical therapy appointments and was counseled about the importance of compliance with scheduled therapy and medical appointments (11/22/11 PT note).The medical records from Concentra show Claimant exhibited a normal gait (11/22/11,11/15/11,12/12/11).

6. Subsequently E/C authorized Dr. Elliott Lang, orthopedic surgeon, upon referral from Concentra (Ex. 8 and Dr. Lang's initial report to Concentra) for orthopedic consultation for Claimant's neck and back. Dr. Lange reviewed MRI's of her cervical and lumbar spine which showed degenerative joint disease of the cervical and lumbar spine, with disk osteophyte complexes and osteoarthritis throughout with no acute findings (Ex. 10 P6). On physical examination he checked her cervical range of motion, and for spasm and triggering. She had full range of motion and no spasm or triggering. Her lumbar examination revealed point tenderness with no spasm or triggering or other objective findings. Dr. Lang diagnosed Claimant with **cervical and lumbar sprain/strain superimposed on preexisting osteoarthritis** (Ex, 10 P 7-8). He prescribed a lumbosacral brace, medication and additional physical therapy and assigned light duty work restrictions (20 lbs. lifting 40 lbs. push/pull), no heights or climbing. He placed Claimant at MMI on March 28, 2012 with no work restrictions and 0% permanent impairment rating for cervical and lumbar spine (Ex. 10 P 11 and 3/28/12 report). He opined that Claimant's cervical and lumbar strains/sprains from the work injury had resolved and that remaining symptoms were related to her preexisting osteoarthritis. He fully

explained the degenerative and preexisting nature of her osteoarthritis and how the objective testing showed it **was not related to** her work accident and injuries (Ex. 10 P 14).

7. Nehemie Legrand, the adjuster, indicated from adjuster notes that Monica from Dr. Lang's office told her Ms. Delgado complaining about foot on 3/6/12 and Dr. Lang referred her to foot doctor. E/C authorized podiatrist, Dr. Dominic Lewis for Claimant's left foot complaints. Dr, Lewis first saw Claimant on 3/13/12 assigning work restrictions of: no climbing or jumping, which continued through 5/8/12. At her 5/8/12 visit Dr. Lewis completed the DWC-25 indicating 'no functional limitations'. Dr. Lewis placed Claimant at MMI for her left foot on 7/17/12 with a 2% permanent impairment rating and no functional limitations or work restrictions.

8. Claimant saw Dr. Kenneth Osbourne her Independent Medical Expert ("IME) chiropractor, on May 30, 2012. Dr. Osbourne is a board certified chiropractor. He took a history from the Claimant and performed a physical examination. He had none of the medical records from the authorized medical providers who had been or were treating Claimant at the time he examined her. His opinions were based solely on the medical history Claimant gave him, his training and experience, and his physical examination of Claimant. That physical examination revealed no limitation of range of motion in the cervical, lumbar, and thoracic spine (Ex. 7 P 21 L 26 – P 22 L2). In deposition Dr. Osbourn acknowledged osteoarthritis (which was diagnosed by Dr. Lang) would be shown on an x-ray, but he took no x-rays and did not review x-rays or MRI's previously done in the course of Claimant's treatment for the work injuries.

9. The only objective findings Dr. Osbourne noted were mild muscular spasm in the cervical and lumbar regions. He opined Claimant needed chiropractic treatment for her work injuries and that she was not at MMI. The medical history Dr. Osbourne based his opinions on is contradicted by records of the authorized treating providers. Claimant did not complain of cervical pain or thoracic pain initially; her initial complaints were solely lumbar. Claimant did not tell him she treated with a podiatrist on her own prior to seeking same from workers' compensation in March, 2012. She told Dr. Osbourne she had physical therapy. Although Claimant told him she'd had physical therapy from November through May, he did not know of her missed physical therapy appointments. He did not have the records from Concentra for the weeks immediately following the work injury which showed a normal gait. He assumed all of her prior treatment had been at the 'Workers' Comp Clinic' (Ex. 7 P16).

Dr. Osbourne did not have Dr. Lang's records showing normal cervical range of motion and the absence of cervical and lumbar spasm or triggering, and her significant pre-existing degenerative joint disease, osteophytes, and osteoarthritis. Dr. Osbourne testified that an x-ray would have told him if Claimant had osteoarthritis, but he did not have any of her prior x-rays or MRIs, and took none of his own. He had no medical records from any of authorized providers giving him medical information about the treatment Claimant received before he saw her and wrote his report. His opinions are inconsistent with objective findings shown in x-rays and MRI's addressed by the authorized physicians. Dr. Osbourne's opinions were based on insufficient medical data and an inaccurate, incomplete medical history, and are rejected. I find Dr. Osbourne's testimony as a whole insufficient to support a determination his opinions and recommendations were made within a reasonable degree of medical certainty.

10. Dr. Lang, the authorized orthopedic surgeon for Claimant's cervical and lumbar spine opined Dr. Osbourne's recommendations were not reasonably medically necessary and that Claimant did not need chiropractic care for her work related injuries. Dr. Lang's opinions were based upon objective findings shown on x-ray and MRI as well as his training and experience as a board certified orthopedic surgeon. His opinions regarding Claimant's neck and back and chiropractic treatment, MMI, and further treatment are consistent with logic and reason, and the objective medical evidence and are accepted.

EMPLOYMENT AND TERMINATION RELATED FINDINGS.

11. After the work injury Claimant returned to work at the Crandon store, except for one day a week when she was sent to work at the Haulover Marina another of Employer's marina stores. It is undisputed that Claimant's assignment to the Haulover Marina was due to Claimant's allegation that Ms. Leal, the store manager, physically attacked her as she was leaving her work. Although the police were allegedly called there was no police investigation or report placed in evidence. The alleged altercation was investigated by Employer's HR department. E/C's representatives testified that moving Ms. Delgado to Haulover one day a week was precautionary while the internal investigation into the allegation was pending. Wednesdays were the only days both Claimant and Ms. Leal, the store manager, were scheduled to work the same store. Due to her managerial duties and family medical matters Ms. Leal remained at the original store location and Ms. Delgado was assigned to Haulover for Wednesdays. Claimant testified she disliked working at Haulover Marina because: it was farther from her home than Crandon; she had to sit all day with a smoking woman; it was humid; and she had to do a lot of dusting and cleaning by herself.

12. About two months prior to the work injury Employer took formal disciplinary action against the Claimant for excessive tardiness or absenteeism. A 9/13/11 written Notice of Disciplinary Action was prepared, and a meeting with Claimant, an interpreter, Mr. Louis, and another Employer representative - Dale Snyder, took place. Claimant acknowledges that this meeting took place. The Notice of Disciplinary Action details the infraction as, "Failure to call manager or reginal (sic) manager when not reporting to work. This is final warning.' Both the written Notice and Mr. Louis' testimony confirm that this was a final warning and that Claimant had received previous warnings for this offense or other infractions. Claimant did not remember that. Her testimony in this regard was evasive, and waffling. Claimant acknowledged her signature on the Notice and her handwritten comments (in English), "May I have some Sundays off? Thank you." The Notice indicates that her progress would be re-assessed in 30 days. Mr. Louis acknowledged that no formal re-assessment was done, but that Claimant did not miss work with a no-call-no-show in the 30 days following, but did miss several days thereafter. The Notice also contains language,

"Your employment remains at will. If corrective action is not immediately taken and sustained or any further reprimands occur, further disciplinary actions will be taken up to and including termination. Under appropriate circumstances, immediate termination may be warranted. This notice will be placed in your personnel file."

After 11/9/11 Claimant missed work around Thanksgiving and testified that her daughter in law called the manager and left a message. Claimant also called in sick 2 days in a row, a Saturday and Sunday. Claimant testified she was sick, not that she was hurting from her work injury. She was told to bring in a doctor's note for missing 2 consecutive days but did not do so.

13. Claimant did not show up for work at Haulover on January 4, and 11, 2012. Claimant testified she called Jean Louis on his cell phone prior to missing work on 1/4/12 and he told her she did not have to go in. She stated she did not go to work on 1/11/12 (the next day she was scheduled to work at Haulover) because she thought they were sending her to another location. All of the foregoing was expressly contradicted by the Employer representatives. Mr. Louis was out of the country and out of cell phone contact from 12/23/11 – 1/9/12 on a family cruise. He testified he did not receive a call from the Claimant or speak with her in January, 2012 prior to her absences. Ms. Goergen was informed of Claimant's no call/no shows on 1/4/12 and 1/11/12 by VP for Florida operations Gary Grunwold, who was covering for Mr. Louis while he was on vacation.

14. Both Ms. Goergen and Mr. Louis spoke separately to Claimant about her two January, 2012 absences, giving her the opportunity to explain her inaction (not calling and not showing up for work). Mr. Louis testified Claimant's explanation made no sense; not that he

was unable to understand her. His testimony is logical and reasonable in light of Claimant's rambling, stream of consciousness, non-responsive answers to questioning at both deposition and trial. To the extent of conflicts between the testimony of the Claimant and that of the Employer representatives regarding Claimant's Fall, 2011 through January, 2012 absences and/or no-call-no-shows, the testimony of Mr. Louis, and Ms. Goergen is accepted over Claimant's based on their candor and demeanor while testifying, as well as their testimony being more consistent with logic, reason, and the evidence as a whole.

15. The Employer terminated Claimant's employment on January 24, 2012 citing violation of company policy and failure to report – no call – no show on January 4, and 11, 2012 after a previous written (final) warning. Ms. Goergen testified that she checked off the 'violation of company policy' box on the separation report as it was more comprehensive than 'absenteeism/tardiness'. Ms. Goergen and Mr. Louis testified about the September, 2011 final warning for no-call-no-show and excessive absenteeism/tardiness. Claimant's two no-call-no-shows in January, 2012 were exactly what she was disciplined for in September.

16. Claimant has not worked since she was terminated by Employer on January 24, 2012. She testified she has been applying for jobs, primarily online. She has looked for work as a teacher with the School District as well as with other retail type employers. She stated she has not received any offers of employment.

17. Claimant testimony at trial was at times evasive and non-responsive to questioning. More frequently her responses were lengthy, and animated and still non-responsive to the questions. An interpreter was present throughout the witness testimony portion of the trial. Claimant indicated at deposition she felt more comfortable having an interpreter, even though Claimant speaks, reads, and writes in English and attended teacher training college courses in the United States in English. It is understandable that the presence of an interpreter could increase her comfort level. Claimant's facility with the English language was shown by her actions and demeanor at trial. She displayed understanding of what was said prior to translation by consistently reacting to statements by E/C witnesses and counsel prior to any translation. Claimant's deposition testimony also contained numerous instances where she responded to questions in English. In one instance her attorney reminded her to answer in Spanish. Claimant's manner and demeanor while testifying at trial was inconsistent with the veracity of her statements, and to the extent of conflicts between her testimony and that of Ms. Goergen and Mr. Louis, Claimant's testimony is rejected.

MEDICAL FINDINGS

18. E/C authorized Concentra for medical care for her neck and low back. Claimant went to Concentra on 11/12/11 complaining primarily of **low back** pain. The Concentra physician diagnosed lumbar and cervical strain, prescribed physical therapy and medication, and returned to her work that day with restrictions of: no lifting, pushing, pulling over 30 lbs, no bending more than 10 times an hour, sitting 50% of the time. Claimant followed up as directed three days later, and her restrictions increased to 20lbs (instead of 30).

19. E/C authorized Dr. Elliott Lang, orthopedic surgeon, upon referral from Concentra (Ex. 8 and Dr. Lang's initial report to Concentra) for orthopedic consultation for Claimant's neck and back. Dr. Lang diagnosed Claimant with cervical and lumbar sprain/strain superimposed on preexisting osteoarthritis (Ex, 10). Dr. Lang prescribed a lumbosacral brace, medication and physical therapy and work restrictions of light duty (20 lbs. lifting 40 lbs. push/pull), no heights or climbing. He placed Claimant at MMI on March 28, 2012 with no work restrictions and 0% permanent impairment rating for cervical and lumbar spine (Ex. 10 – 3/28/12 report). He opined that Claimant's strain/sprain

20. In deposition the adjuster noted that Monica from Dr. Lang's office indicated Ms. Delgado came in on 3/6/12 complaining about foot and Dr. Lang referred her to foot doctor. E/C then authorized podiatrist, Dr. Dominic Lewis for Claimant's left foot complaints who first saw Claimant on 3/13/12. That day he assigned Claimant work restrictions of: no climbing or jumping, which continued through 5/8/12. At her 5/8/12 visit Dr. Lewis completed the DWC-25 indicating 'no functional limitations'. Dr. Lewis placed Claimant at MMI for her left foot on 7/17/12 with a 2% permanent impairment rating and no functional limitations or work restrictions.

21. Claimant saw chiropractor, Dr. Kenneth Osbourne, as her IME physician on May 30, 2012. Dr. Osbourne is a board certified chiropractor. He took a history from the Claimant and performed a physical examination. He acknowledged osteoarthritis (which was diagnosed by Dr. Lang) would be shown on an x-ray, but took no x-rays and did not review x-rays or MRI's previously done in the course of Claimant's treatment for the work injuries. He had none of the medical records from the authorized medical providers who had been or were treating Claimant at the time he examined her. His opinions were based solely on the medical history Claimant gave him, his training and experience, and his physical examination of Claimant. That physical examination revealed no limitation of range of motion in the cervical, lumbar, and thoracic spine (Ex. 7 P 21 L 26 – P 22 L2).

The only objective findings Dr. Osbourne noted were mild muscular spasm in the cervical and lumbar regions. He opined Claimant needed chiropractic treatment for her work injuries and that she was not at MMI. I find the medical history Dr. Osbourne based his opinions on is contradicted by the records of the authorized treating providers. Dr. Osbourne had no knowledge of the extensive physical therapy and other authorized treatment Claimant received before his evaluation and report. His opinions are inconsistent with objective findings shown in x-rays and MRI's addressed by the authorized physicians. Dr. Osbourne's opinions were based on insufficient medical data and an inaccurate, incomplete medical history, and are rejected. I find Dr. Osbourne's testimony as a whole insufficient to support a determination his opinions and recommendations were made within a reasonable degree of medical certainty and are rejected.

22. Dr. Lang, the authorized orthopedic surgeon for Claimant's cervical and lumbar spine opined Dr. Osbourne's recommendations were not reasonably medically necessary and that Claimant did not need chiropractic care for her work related injuries. Dr. Lang's opinions were based upon objective findings shown on x-ray and MRI as well as his training and experience as a board certified orthopedic surgeon. His opinions regarding Claimant's neck and back and chiropractic treatment, MMI, and further treatment are consistent with logic and reason, and the objective medical evidence and are accepted.

23. Any and all issues raised in the petition for benefits described above which were to be the subject matter of the final hearing, but which issues were not tried at the hearing are presumed resolved or, in the alternative, deemed abandoned by the employee/claimant and therefore denied. See Betancourt v. Sears Roebuck & Co., 693 So.2d 253 (Fla. 1st DCA 1997).

CONCLUSIONS OF LAW

Claimant seeks payment of TPD benefits from the date of her termination to the present and continuing. Claimant contends Dr. Osbourne's chiropractic recommendations show she is not at overall MMI. Claimant also contends she was not placed at MMI by Concentra; the clinic where she was first treated for her work injury before she was referred out to specialists for her neck, back, and foot. At a minimum Claimant seeks TPD through the date of MMI from Dr. Lewis, the podiatrist treating her left foot.

E/C maintains that Claimant is not entitled to any TPD benefits pursuant to Section 440.14 (4) (e) because she was terminated by the Employer for misconduct." Misconduct" for workers' compensation purposes is defined in Section 440.02 (18):

"'Misconduct' includes, but is not limited to the following, which shall not be construed in pari materia with each other:
(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of the employee; or
(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligation to the employer."

E/C argues excessive absenteeism/tardiness is misconduct, citing Tallahassee Housing Authority v. Florida Unemployment Appeals Commission, 483 So. 2d 413 (Fla. 1986). That case interpreted an identical definition of "misconduct" in Section 443.036 (24 (Fla. Stat. 2011)] the Florida unemployment compensation statute. Claimant argues that unemployment case is not applicable to workers; compensation case. Claimant's argument was rejected in Thorkelson v. NY Pizza & Pasta, 956 So.2d 542, (1st DCA 2007). In Thorkelson the First District addressed the 2003 changes to Section 440.02 (18) inserting a definition of 'misconduct' virtually identical to the unemployment compensation statute stating "the legislature must be presumed to have continued its approval "of the meaning of "misconduct" that has developed in the case law, "else it would have stated the contrary" or chosen to define "misconduct in a different way". Although a JCC is not bound by determinations made in an unemployment compensation proceeding, "This does not mean, however, that a judge of compensation claims is free to ignore to ignore the judicial construction of the definition of "misconduct" in the case law of which the Legislature was presumptively aware when it amended the Worker's Compensation Law".

In Tallahassee Housing Authority, the Florida Supreme Court viewed excessive unauthorized absenteeism as inherently detrimental to an employer and presumptively hampering the operation of a business holding, "a finding of misconduct under section 443.036 (24) is justified when an employer presents substantial competent evidence of an employee's excessive unauthorized absenteeism. Once excessive unauthorized absenteeism is established the burden is on the employee to rebut the presumption that his absenteeism can be characterized as "misconduct" within the meaning of the statute." Thorkelson is instructive that whether a claimant committed work related misconduct is a legal question determined on factual findings supported by competent substantial evidence, adding that intentional disobedience, flagrant disregard of a supervisor's order, or an employee willfully and repeatedly acting in her own perceived interest disregarding her employer's express directives can constitute misconduct.

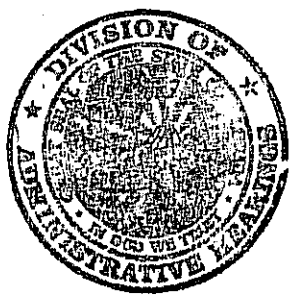
Employer testimony established Ms. Delgado was hired to work weekend days. Claimant testified she worked 3 to 4 days a week. When Claimant was disciplined for excessive absenteeism and no-call-no show in September, 2011, her handwritten comment, and testimony

show her main concern was that she be given some Sundays off. The Employer accommodated that request despite having hired Claimant to work weekends. Claimant was absent 'around Thanksgiving'. Subsequently she called in sick for an entire weekend but did not produce the doctor's note requested by the Employer. Finally, she was a no-call-no show for two consecutive Wednesdays in January, 2012. Ms. Delgado is an intelligent, educated, independent woman, and in light of that her explanations regarding her work absences and disciplinary actions were simply not credible. Claimant's testimony and demeanor at trial, and her no-call-no shows in January, 2012 after a final disciplinary action a few months prior, reflect that she repeatedly acted in her own self interest in disregard of her employer. The E/C presented sufficient evidence to support a finding that Claimant was terminated for work related misconduct. Claimant did not establish that her action or her inaction in failing to call or show up for work should not be considered misconduct. I find Claimant was terminated for misconduct and that she is not entitled to receive TPD benefits from the E/C.

IT IS HEREBY ORDERED AND ADJUDGED THAT

1. Claimant's claim for TPD benefits is DENIED.
2. Claimant's claim for chiropractic care is DENIED.
3. Claimant claim for attorney's fees and costs from the E/C is DENIED.

DONE AND ORDERED in Fort Myers, Lee County, Florida on the 25 day of March, 2013



Kathy A. Sturgis, Judge of Compensation Claims
4379 Colonial Boulevard Suite 200
Fort Myers, Florida 33966
(239) 938-1159

CERTIFICATE OF ENTRY AND MAILING OF ORDER

THIS IS TO CERTIFY that the above Order was entered in the Office of the Judge of Compensation Claims and a copy was served by mail or email on each party shown below and their respective attorneys, if represented, this 25 day of March, 2013

Shirley Rank
Secretary to Judge Sturgis

William Haro
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Maria Isabel Delgado
OJCC#12-001094KAS

EXHIBIT A

Exhibit #1: 9/07/2012 Petition for benefits and 09/28/2012 response.
Exhibit #2: 11/26/2012 Mediation Report and Mediation Settlement Agreement
Exhibit #3: 12/04/2012 Pretrial Stipulation and E/C's amendment, 12/10/2012 Order Approving Pretrial Stipulation, 12/12/2012 Order Requiring Additional Documentation, and E/C's 12/13/2012 Amendment to Pretrial Stipulation
Exhibit #4: Claimant's trial memorandum for purposes of argument only.
Exhibit #5: Employer/Carrier's trial memorandum for purposes of argument only.
Exhibit #6: Medical Records filed 04/26/2012
Exhibit #7: Dr. Kenneth Osbourne's deposition transcript
Exhibit #8: Nehemie Legrand's deposition transcript
Exhibit #9: Medical Records of Dr. Lewis,
Exhibit #10: Dr. Elliott Lang deposition transcript w/exhibits
Exhibit #11: Claimant's deposition transcripts
Exhibit #12: Employee Separation Report, Claimant initially objected but later withdrew it and introduced it into evidence herself
Exhibit #13: Written warning, admitted into evidence over Claimant's authentication and hearsay objections, once authenticated and testified to by both Claimant and the E/C witnesses at trial. The content of the warning, and Claimant's handwritten comments were testified to at trial.