

IN THE SUPREME COURT OF THE STATE OF NEVADA

VANCE TAYLOR,

Appellant,

v.

TRUCKEE MEADOWS FIRE  
PROTECTION DISTRICT; AND  
ALTERNATIVE SERVICE CONCEPTS,  
LLC

Respondents.

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) Supreme Court 78971

) District Case No. CV18-00673

Electronically Filed  
Nov 08 2019 11:53 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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APPENDIX TO  
APPELLANT'S OPENING BRIEF  
VOLUME II of III

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HUTCHISON & STEFFEN, PLLC

Michael K. Wall (2098)  
Peccole Professional Park  
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*Attorney for Appellant*

### Chronological Index

Doc No.	Description	Vol.	Bates Nos.
1	Petition for Judicial Review; filed 03/03/18	I	AA000001- AA000018
2	Notice of Intent to Participate in Petition for Judicial Review; filed 04/11/18	I	AA000019- AA000021
3	Letter transmitting Record on Appeal; transmitted 05/01/18	I	AA000022- AA000024
4	Record of Appeal; filed 05/03/18	I, II	AA000025- AA000388
5	Order for Briefing Schedule; filed 05/04/18	II	AA000389- AA000391
6	Respondents' Motion to Dismiss Petition for Judicial Review; filed 06/04/18	II	AA000392- AA000428
7	Opposition to Motion to Dismiss Petition for Judicial Review; filed 06/14/18	II	AA000429- AA000457
8	Request for Submission of Motion to Dismiss Petition for Judicial Review; filed 07/02/18	II	AA000458- AA000460
9	Petitioner's Opening Brief; filed 07/10/18	II	AA000461- AA000482
10	Order re Motion to Dismiss Petition for Judicial Review; filed 09/05/18	II	AA000483- AA000488
11	Supplemental Affidavit; filed 09/28/18	III	AA000489- AA000493

12	Respondents' Supplement in Support of Motion to Dismiss Petition for Judicial Review and Reply in Support of Motion to Dismiss; filed 10/05/18	III	AA000494-AA000536
13	Notice of Submission of Supplement in Support of Motion/Reply to Dismiss Petition for Judicial Review; and Request for Final Decision on Motion to Dismiss Petition for Judicial Review; filed 10/10/18	III	AA000537-AA000539
14	Order re Motion to Dismiss Petition for Judicial Review; filed 12/10/19	III	AA000540-AA000548
15	Respondent's Answering Brief; filed 02/07/19	III	AA000549-AA000570
16	Petitioner's Reply Brief; filed 03/06/19	III	AA000571-AA000583
17	Request for Submission; filed 03/07/19	III	AA000584-AA000585
18	Order re Petition for Judicial Review; filed 05/10/19	III	AA000586-AA000595
19	Notice of Entry of Order; filed 05/15/19	III	AA000596-AA000609
20	Notice of Appeal; filed 06/07/19	III	AA000610-AA000612
21	Respondents' Reply to Taylor's Opposition to Motion to Dismiss Petition for Judicial Review; filed 06/29/18	III	AA000613-AA000621

### Alphabetical Index

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**CERTIFICATE OF SERVICE**

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this date the **APPENDIX TO APPELLANT'S OPENING BRIEF VOLUME II of III** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Robert Balkenbush, Esq. (1246)  
THORNDAL, ARMSTRONG, DELK,  
BALKENBUSH & EISINGER  
6590 S McCarran Blvd., Ste. B  
Reno, NV 89509  
T: 775-786-2882  
F: 775-786-8004  
[rfb@thorndal.com](mailto:rfb@thorndal.com)

*Attorney for Respondents*

DATED this 9<sup>th</sup> day of November, 2019.

  
An employee of Hutchison & Steffen, PLLC

Flowsheet Data by Day (4/19/16 2044-4/19/16 22:31:00) (continued)

Discharge Assessment - Tue April 19, 2016

2207  
Discharge Assessment  
Readiness to Learn Yes  
-MH at 04/19/16 2207  
Willingness to Learn Yes  
-MH at 04/19/16 2207  
Ability to Learn Yes  
-MH at 04/19/16 2207  
Cultural Barriers? No  
-MH at 04/19/16 2207  
Condition Upon Leaving ER Good  
-MH at 04/19/16 2207  
Discharge to, Self  
-MH at 04/19/16 2207

NARxCheck - Tue April 19, 2016

21:24:30  
OTHER  
No Value Found No Data Found.  
Value from NarxCheck  
System.  
-LS at 04/19/16 2124

Travel History - Tue April 19, 2016

2044  
Travel History  
WEST AFRICA- No  
-Are you a resident of or  
-MJ at 04/19/16 2044  
have you travelled to  
(within the last  
three weeks)  
any of the  
following  
countries in  
West Africa  
where Ebola is  
present?  
\*Guinea  
\*Liberia \*Sierra  
Leone  
Within the last  
three weeks,  
-MJ at 04/19/16 2044  
have you had  
contact with  
blood or other  
bodily fluids or  
human remains  
of a patient  
known to have  
or suspected to

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Renown.

Pt.Name: Taylor, Vance (MRN:3052191) Page

Flowsheet Data by Day (4/19/16 2044-4/19/16 22:31:00) (continued)

Travel History - Tue April 19, 2016 (continued)

2044	
have Ebola?	
Within the last three weeks, have you had close contact with someone who recently travelled to any of the West African areas listed above and was ill.	No -MJ at 04/19/16 2044
Within the last three weeks, have you had any direct handling of bats or non-human primates from any of the West African areas listed above?	No -MJ at 04/19/16 2044

LACE+ Score - Tue April 19, 2016

2207		2231
OTHER		
LACE+ Score	27 -MH at 04/19/16 2207	27 -MH at 04/19/16 2231

User Key

(r) = User Recd, (t) = User Taken, (c) = Us  
Cosign

Initials	Name	Effective Dates	Provider Type
MJ	Michelle Johnson	05/16/13 -	Patient Access Rep
CC	Corri Callahan, R.N.	11/16/09 -	Registered Nurse
LS	Leland T Sullivan, M.D.	08/14/06 -	Physician
MH	Michelle C Hampton, R.N.	05/13/13 -	Registered Nurse

Encounter-Level Documents - 04/19/2016:

Discharge Instruction - Scan on 4/21/2016 11:13 AM (below)

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PLName:Taylor, Vance (MRN:3052191) Page



RENOWN SOUTH MEADOWS MEDICAL CENTER  
10101 DOUBLE R BLVD  
RENO NV 89521-3149  
Abstract/Part Pa

M. TAYLOR/VANCE  
MR: 3052191  
DOB: 4/19/2016  
10101 Double R Blvd  
Reno NV 89521-3149

After Visit Summary

**Renown™**  
**HEALTH**

Vance Taylor Department: Renown South Meadows Medical Center, Emergency Dept  
MRN: 3052191 Date of Visit: 4/19/2016

Renown South Meadows Medical Center, Emergency Dept  
10101 Double R Blvd  
Reno NV 89521-3149  
Phone: 775-982-7144

You were seen by  
Leland T Sullivan, M.D.

Your Diagnosis Was  
Shoulder strain, left, initial encounter (926182)

Follow-up Information

1. Follow up with Renown Occupational Health in 5 days.

Contact Information  
875 RYLAND  
Reno NV 89502  
775-982-4754

2. Follow up with Renny R Uppel, M.D. in 1 week.

Specialty: Orthopaedics  
Contact Information  
555 N Arlington Ave  
F10  
Reno NV 89503  
775-786-3040

ED Discharge Follow Up Questions

1. In order to provide you with very good care, we would like to follow up with a phone call in the next few days. May we have your permission to contact you? YES / NO

2. What is the best phone number to call you? ( ) - - - - -

3. What is the best time to call you? Morning / Afternoon / Evening

Medication Information

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Review all of your home medications and newly ordered medications with your primary doctor and/or pharmacist as soon as possible. Follow medication instructions as directed by your doctor and/or pharmacist.

Please keep your complete medication list with you and share with your physician. Update the information when medications are discontinued, doses are changed, or new medications (including over-the-counter products) are added; and carry medication information at all times in the event of emergency situations.

#### Medication List:

##### START taking these medications:

oxycodone-acetaminophen 5-325 MG Tabs  
Commonly known as: PERCOCET

Instructions:  
Take 1-2 Tabs by mouth every four hours as needed.  
Dose: 1-2 Tab

##### ASK your doctor about these medications:

citalopram 20 MG Tabs  
Commonly known as: CELEXA

Instructions:  
Take 20 mg by mouth every day.  
Dose: 20 mg

##### Discharge Instructions

### Joint Sprain

A sprain is a tear or stretch in the ligaments that hold a joint together. Severe sprains may need as long as 3-6 weeks of immobilization and/or exercises to heal completely. Sprained joints should be rested and protected. If not, they can become unstable and prone to re-injury. Proper treatment can reduce your pain, shorten the period of disability, and reduce the risk of repeated injuries.



#### TREATMENT

- Rest and elevate the injured joint to reduce pain and swelling.
- Apply ice packs to the injury for 20-30 minutes every 2-3 hours for the next 2-3 days.
- Keep the injury wrapped in a compression bandage or splint as long as the joint is painful or as instructed by your caregiver.
- Do not use the injured joint until it is completely healed to prevent re-injury and chronic instability. Follow the instructions of your caregiver.
- Long-term sprain management may require exercises and/or treatment by a physical therapist. Taping or special braces may help stabilize the joint until it is completely better.

#### SEEK MEDICAL CARE IF:

- You develop increased pain or swelling of the joint.
- You develop increasing redness and warmth of the joint.
- You develop a fever.
- It becomes stiff.
- Your hand or foot gets cold or numb.

Document Released: 01/15/2008 Document Revised: 03/11/2013 Document ID: 0104/2010

ExitCare® Patient Information ©2014 ExitCare, LLC.

Patient Information

Patient Information

Following emergency treatment, all patient requiring follow-up care must return either to a private physician or a clinic if your condition worsens before you are able to obtain further medical attention, please return to the emergency room.

Billing Information

At Renown Health, we work to make the billing process streamlined for our patients. Our Representatives are here to answer any questions you may have regarding your hospital bill. If you have insurance coverage and have supplied your insurance information to us, we will submit a claim to your insurer on your behalf. Should you have any questions regarding your bill, we can be reached online or by phone as follows:

Online: You are able pay your bills online or live chat with our representatives about any billing questions you may have. We are here to help Monday - Friday from 8:00am to 7:30pm and 8:00am - 12:00pm on Saturdays. Please visit <https://www.renown.org/in-tract/paying-for-your-care/> for more information.  
Phone: 775-882-4130 or 1-866-891-0264

Please note that your emergency physician, surgeon, pathologist, radiologist, anesthesiologist, and other specialists are not employed by Renown and will therefore bill separately for their services. Please contact them directly for any questions concerning their bills at the numbers below:

Emergency Physician Services: 1-800-225-0953  
Reno Radiological Associates: 775-856-2132  
Associated Anesthesiology: 775-348-1900  
Sierra Pathology Associates: 775-334-3450

1. Your final bill may vary from the amount quoted upon discharge if all procedures are not complete at that time, or if your doctor has additional procedures of which we are not aware. You will receive an additional bill if you return to the Emergency Department at Renown Health for suture removal regardless of the facility of which the sutures were placed.
2. Please arrange for settlement of this account at the emergency registration.
3. All self-pay accounts are due in full at the time of treatment. If you are unable to meet this obligation then payment is expected within 4-5 days.
4. If you have had radiology studies (CT, X-ray, Ultrasound, MRI), you have received a preliminary result during your emergency department visit. Please contact the radiology department (775) 882-2780 to receive a copy of your final result. Please discuss the Final result with your primary physician or with the follow up physician provided.

Crisis Hotline:

National Crisis Hotline: 1-800-SUICIDE or 1-800-784-2433  
Nevada Crisis Hotline: 1-800-992-5757 or 775-784-8080

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RENOWN SOUTH MEADOWS MEDICAL CENTE  
10101 DOUBLE R BLV  
RENO NV 89521-314  
Abstract/Perf Pax

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... Patient Signature: [Signature]

Date: 19 APR 11



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## FORM C-4: EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT

First Name Vance		Last Name Taylor		Birthdate Age 45 y.o.	Sex male	Claim Number
Home Employee Address 2919 ASPEN MEADOWS CT City Reno State Nevada				Zip 89519	Height 1.829 m (6')	Weight 102.089 kg (228 lb)
Mailing Employee Address 2919 ASPEN MEADOWS CT City Reno State Nevada				Zip 89519	Telephone 776-830-3873 (home) 776-328-3805 (work)	Primary Language Spoken ENGLISH
Insurer ***		Third Party Administrator HOMETOWN HEALTH		Employee's Occupation (Job Title) When Injury or Occupational Disease Occurred Fire Captain		
Employer's Name SIERRA FIRE PROTECTION DISTRICT				Telephone 776-849-1109		
Employer Address 3905 Old Highway 395 North				City Washoe Valley	State Nevada [29]	Zip 89704
Date of Injury 4/19/2016	Hour of Injury 4:30 PM	Date Employer Notified 4/19/2016	Last Day of Work after Injury or Occupational Disease 4/18/2016		Supervisor to Whom Injury Reported Albert Hyde	
Address or Location of Accident (if applicable)						
What were you doing at the time of accident? (if applicable) Hazardous Materials Monthly Triad Evolution						
How did this injury or occupational disease occur? Be specific and answer in detail. Use additional sheet if necessary. While participating in the Triad's monthly Haz-Mat training I injured my left shoulder during one of the exercises. Drill in turnouts and SCBA (with partner) Rescue a downed firefighter (Haz-Mytech) in a level A suit on the second floor using asked device. While carrying the 200 pound mannequin down the stairs. I was holding the Sked with my left hand and the handrail with my right felt a "pop" followed by intense pain in my left shoulder. Pain did not subside.						
If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment? N/A					Witnesses to the Accident Capt. Brian Bunn (TMFPD)	
Nature of Injury or Occupational Disease Sprain				Part(s) of Body Injured or Affected Shoulder (L), N/A, N/A		
I certify that the above is true and correct to the best of my knowledge and that I have provided this information in order to obtain the benefits of Nevada's Industrial Insurance and Occupational Diseases Acts (NRS 818A to 818D, inclusive or Chapter 817 of NRS). I hereby authorize any physician, chiropractor, surgeon, practitioner, or other person, any hospital, including Veterans Administration or government hospital, any medical service organization, any insurance company, or other institution or organization to release to each other, any medical or other information, including benefits paid or payable, pertinent to this injury or disease, except information relative to diagnosis, treatment and/or counseling for AIDS, psychological conditions, alcohol or controlled substances, for which I must give specific authorization. A photocast of this authorization shall be as valid as the original.						
Date 04/19/2016		Place Renown South Meadows		Employee's Signature 		
THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 7 WORKING DAYS OF THE INJURY						
Place RENOWN SOUTH MEADOWS MEDICAL CENTER, EMERGENCY DEPT				Name of Facility RENOWN SOUTH MEADOWS MEDICAL CENTER		
Date 4/19/2016	Diagnosis (S46.912A) Shoulder strain, left, initial encounter		Is there evidence the injured employee was under the influence of alcohol and/or another controlled substance at the time of accident? No			
Hour 9:42 PM	Description of Injury or Disease Shoulder strain, left, initial encounter		Have you advised the patient to remain off work five days or more? No			
Treatment Anti-Inflammatories and Ice		X-Ray Findings		If Yes From Date To Date		
From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job incurred? Yes				If No, is the employee capable of: Full Duty No Modified Duty Yes		
Is additional medical care by a physician indicated? Yes				If Modified Duty, Specify any Limitations/Restrictions No lifting greater than 5 pounds with the left upper extremity		
Do you know of any previous injury or disease contributing to this condition or occupational disease? No						asc

Date 4/19/2016		Print Doctor's Name Sullivan, Leland T		I certify the employer's copy of this form was mailed on:	
Address 10101 Double R Blvd Reno NV 89521-3149 775-982-7289				Insurer's Use Only	
City Reno	State Nevada	Zip 89521-3149			
Provider's Tax ID Number		Telephone Dept: 775-982-7144			
Doctor's Signature SULLIVAN, LELAND T M.D.		Degree MD			
Original - TREATING PHYSICIAN OR CHIROPRACTOR Pg 2-Insurer/TPA Pg 3-Employer Pg 4-Employee					

(rev01/03)

Form C-4

### BRIEF DESCRIPTION OF RIGHTS AND BENEFITS (Pursuant to NRS 616C.050)

**Notice of Injury or Occupational Disease (Incident Report Form C-1):** If an injury or occupational disease (OD) arises out of and in the course of employment, you must provide written notice to your employer as soon as practicable, but no later than 7 days after the accident or OD. Your employer shall maintain a sufficient supply of the required forms.

**Claim for Compensation (Form C-4):** If medical treatment is sought, the form C-4 is available at the place of initial treatment. A completed "Claim for Compensation" (Form C-4) must be filed within 90 days after an accident or OD. The treating physician or chiropractor must, within 3 working days after treatment, complete and mail to the employer, the employer's insurer and third-party administrator, the Claim for Compensation.

**Medical Treatment:** If you require medical treatment for your on-the-job injury or OD, you may be required to select a physician or chiropractor from a list provided by your workers' compensation insurer, if it has contracted with an Organization for Managed Care (MCO) or Preferred Provider Organization (PPO) or providers of health care. If your employer has not entered into a contract with an MCO or PPO, you may select a physician or chiropractor from the Panel of Physicians and Chiropractors. Any medical costs related to your industrial injury or OD will be paid by your insurer.

**Temporary Total Disability (TTD):** If your doctor has certified that you are unable to work for a period of at least 6 consecutive days, or 6 cumulative days in a 20-day period, or places restrictions on you that your employer does not accommodate, you may be entitled to TTD compensation.

**Temporary Partial Disability (TPD):** If the wage you receive upon reemployment is less than the compensation for TTD to which you are entitled the insurer may be required to pay you TPD compensation to make up the difference. TPD can only be paid for a maximum of 24 months.

**Permanent Partial Disability (PPD):** When your medical condition is stable and there is an indication of a PPD as a result of your injury or OD, within 30 days, your insurer must arrange for an evaluation by a rating physician or chiropractor to determine the degree of your PPD. The amount of your PPD award depends on the date of injury, the results of the PPD evaluation and your age and wage.

**Permanent Total Disability (PTD):** If you are medically certified by a treating physician or chiropractor as permanently and totally disabled and have been granted a PTD status by your insurer, you are entitled to receive monthly benefits not to exceed 66 2/3% of your average monthly wage. The amount of your PTD payments is subject to reduction if you previously received a PPD award.

**Vocational Rehabilitation Services:** You may be eligible for vocational rehabilitation services if you are unable to return to the job due to a permanent physical impairment or permanent restrictions as a result of your injury or occupational disease.

**Transportation and Per Diem Reimbursement:** You may be eligible for travel expenses and per diem associated with medical treatment.

**Reopening:** You may be able to reopen your claim if your condition worsens after claim closure.

**Appeal Process:** If you disagree with a written determination issued by the insurer or the insurer does not respond to your request, you may appeal to the Department of Administration, Hearing Officer, by following the instructions contained in your determination letter. You must appeal the determination within 70 days from the date of the determination letter at 1050 E. William Street, Suite 400, Carson City, Nevada 89701, or 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada 89102. If you disagree with the Hearing Officer decision, you may appeal to the Department of Administration, Appeals Officer. You must file your appeal within 30 days from the date of the Hearing Officer decision letter at 1050 E. William Street, Suite 460, Carson City, Nevada 89701, or 2200 S. Rancho Drive, Suite 220, Las Vegas, Nevada 89102. If you disagree with the decision of an Appeals Officer, you may file a petition for judicial review with the District Court. You must do so within 30 days of the Appeals Officer's decision. You may be represented by an attorney at your own expense or you may contact the NAIW for possible representation.

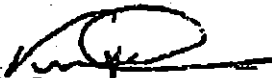
**Nevada Attorney for Injured Workers (NAIW):** If you disagree with a hearing officer decision, you may request that NAIW represent you without charge at an Appeals Officer Hearing. For information regarding denial of benefits, you may contact the NAIW at: 1000 E. William Street, Suite 201 Carson City, NV 89701, (775) 684-7555, or 2200 S. Rancho Drive, Suite 230, Las Vegas, NV 89102, (702) 486-2830.

**To File a Complaint with the Division:** If you wish to file a complaint with the Administrator of the Division of Industrial Relations (DIR), please contact the Workers' Compensation Section, 400 West King Street, Suite 400, Carson City, Nevada 89703, telephone (775) 684-1270, or 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074, telephone (702) 486-9080.

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For assistance with Workers' Compensation issues: you may contact the Office of the Governor Consumer Health Assistance, 656 E. Washington Avenue, Suite 4800, Las Vegas, Nevada 89101, Toll Free 1-888-933-1697, Web site: <http://govcha.state.nv.us>, E-mail: [cha@govcha.state.nv.us](mailto:cha@govcha.state.nv.us)



Employee Name / Signature

04/19/2016

Date

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**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

**Chief Complaint:** SHOULDER left

**History of Present Illness:**

Disclaimer: Parts of this note may have been dictated by speech recognition. Minor errors in transcription may be present.

Vance Taylor is a 45 male who presents for : SHOULDER left .

Patient reports a left shoulder injury when he was attempting to assist with lifting and extracting the patient on April 19, 2016. The patient was assisting when there is an abrupt stop with the retrieval and his shoulder moved anteriorly with an associated pop. The patient felt immediate pain and weakness in his shoulder. He subsequently presented for evaluation in the emergency room and conservative care was recommended patient reports left shoulder pain, posterior, moderate to severe, worse with movement and lifting, no associated symptoms

**Med / Fam / Social History:**

**MEDICAL HISTORY:** HTN, Hyperlipidemia, OSA Tobacco use: Non-smoker.

**Review of Systems:**

**GENERAL:** Negative

**MUSCULOSKELETAL:** Joint pain,

**NEUROLOGICAL:** weakness

**Medications & Allergies:**

Current Medication & Dosage	SIG	PRN?	Indication
Banicar HCT 40 mg-25 mg oral tablet	1	No	
omeprazole 40 mg oral delayed release capsule	1	No	
citalopram 20 mg oral tablet	1	No	

Allergy	Reaction
foods	
ACE inhibitor	Cough

**Physical Exam:**

Pulse	Blood Pressure	Respiratory Rate	Oxygen Saturation
65 bpm	122/60	14 rpm	97.00%

[Page 1]

E-signed by Dr. Scott Hall, MD on 04/20/2016 1:58PM

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By SHMCO at 2:57 pm, Apr 21, 2016

Scanned: 04/22/2016

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225 AA000254 020





SpecialtyHealth

SPECIALTY HEALTH MANAGED HEALTHCARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

Weight	Pain	Smoking Status	
225.00 lbs	7/10	Never smoker	

CONST: well-appearing, NAD

EYES: EOMI, normal conjunctiva

EARS: grossly normal hearing

RESP: normal respiratory effort

MS: normal gait and station

SKIN: no observed rash/erythema/jaundice

PSYCH: euthymic mood, reactive affect, AO x 3, intact memory, good judgment and insight

Right shoulder -normal

Left shoulder-normal inspection, mild posterior tenderness to palpation, abduction 90, flexion 90, external rotation 50, internal rotation to the pelvis, decreased strength testing supraspinatus and external rotation, intact sensation distally, patient is unable to lift his arm above shoulder level either actively or passively

**Assessment:**

Type	Code	Description
ICD-10-CM Condition	S43.402A	Unspecified sprain of left shoulder joint, initial encounter

**Plan:**

Imaging: X-ray ordered, MRI ordered.

Education: Discussed differential diagnosis and treatment options, Patient agreeable to treatment plan and instructions

Work status: Light duty

History and exam are concerning for rotator cuff tear, recommend MRI early because of weakness on exam and history. Follow up with me in 2 days to monitor his progress, continue anti-inflammatories and pain medications as prescribed by the emergency room, home exercise program prescribed and discussed

Type	Code	Modifiers	Quantity	Description
CPT	99214		1.00 UN	OFFICE/OUTPATIENT VISIT EST

[Page 2]

E-signed by Dr. Scott Hall, MD on 04/20/2016 1:58PM

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KAREN BARBEE

226 AA000255 021



**SpecialtyHealth**  
SPECIALIZED IN MANAGED HEALTHCARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

**RADIOLOGY ORDERS:**

SpecialtyHealth, 330 E. Liberty St. #100, Reno, NV 89501  
Phone #: 775-398-3630, Fax #: 775-322-2663

Special instructions: Please send a copy of report to our office

**Patient:** Vance Taylor

**Date:** 04/20/2016

**Date of Injury if applicable:**

**claim # if applicable:**

**Insurer:**

**Insurance #:**

**Ordering physician/provider:** Scott Hall, MD

**Indication:** left shoulder strain  
concern for supraspinatous tear

**Diagnosis / ICD 9 code:** s43.402a

**MRI:** Left, Shoulder

**Insurance adjuster for work related injury:**

ASC

1755 E. Plumb Ln. #148

Reno, NV 89502

**RENO DIAGNOSTIC CENTER**

Please call (775) 323-5083

**Locations:**

590 Eureka Ave., Reno NV 89512

625 Sierra Rose Dr., Reno NV 89511

**\*\*\*RETURN TO WORK:**

[Page 3]

E-signed by Dr. Scott Hall, MD on 04/20/2016 1:58PM

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KAREN BARBEE

227AA000256 022



**SpecialtyHealth**  
SPECIALIST • MANAGER • HEALTHCARE • PATIENT • IN

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

**RETURN TO WORK FOR:** Vance Taylor

**DATE OF APPOINTMENT:** 04/20/2016 01:45PM

**BODY PART:** SHOULDER left

**EMPLOYER:** TMFPD

**Date of injury:**

It is the injured worker's responsibility to inform the employer of current work status.

**CURRENT RESTRICTIONS:** Light duty with the following restrictions

no use left arm

**CONDITION STABLE?** NO

**CONDITION RATABLE:** NO

**RETURN VISIT:** 2 days

**SIGNED:** Scott Hall, MD

**RADIOLOGY ORDERS 2:**

SpecialtyHealth, 330 E. Liberty St #100, Reno, NV 89501

Phone #: 775-398-3630, Fax #: 775-322-2663

**Special Instructions:** Please send a copy of report to our office

**Patient:** Vance Taylor

**Date:** 04/20/2016

**Date of Injury if applicable:** ,

**claim # If applicable:** ,

**Insurer:**

**Insurance #:**



**SpecialtyHealth**

SPECIALLY DESIGNED SERVICES FOR PHYSICIAN & PATIENT

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

Ordering physician/provider: Scott Hall, MD

Indication: left shoulder strain

Diagnosis / ICD code: s43.402a

Upper extremity radiograph(s) : Left, Shoulder - 3 view (AP, axillary, Y view)

Insurance adjuster for work related injury:

ASC

1755 E. Plumb Ln. #148

Reno, NV 89502

**RENO DIAGNOSTIC CENTER**

Please call (775) 323-5083

Locations:

590 Eureka Ave., Reno NV 89512

625 Sierra Rose Dr., Reno NV 89511



SpecialtyHealth

PHYSICIAN GROUP

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/20/2016 1:45PM

**Chart:** TAVA000001

**\*\*\*RETURN TO WORK:**

RETURN TO WORK FOR: Vance Taylor

DATE OF APPOINTMENT: 04/20/2016 01:45PM

BODY PART: SHOULDER left

EMPLOYER: TMFPD

Date of Injury: 4/16/16

It is the injured worker's responsibility to inform the employer of current work status.

CURRENT RESTRICTIONS: Light duty with the following restrictions

no use left arm

CONDITION STABLE? NO

CONDITION RATABLE: NO

RETURN VISIT: 2 days

SIGNED: Scott Hall, MD

*Ordered an MRI - LAC*

[Page 1]

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By Karen Barbee at 11:16 am, Apr 21, 2016

Scanned: 04/22/2016

230 0000250 025



RDC SIERRA ROSE  
625 Sierra Rose Drive  
Reno, NV 89511  
Phone: (775) 323-5083  
Fax: (775) 333-2776

C 143-16-07765-01

Exam requested by:  
Scott Hall MD  
330 E Liberty St Ste 100  
RENO NV 89501

Patient: Taylor, Vance  
Date of Birth:  
Phone: (775) 674-8441  
MRN: 585226 Acc: 5138663  
Date of Exam: 04-20-2016

XR-Shoulder Left 3PlusV Internal Rotation, External Rotation,  
Scapular Y, Axillary [26840] - SHOULDER\_L - L

**CLINICAL INDICATION:** Sprain. Severe pain. Work-related injury yesterday.

**TECHNIQUE:** Four views of the left shoulder.

**COMPARISON:** None.

**FINDINGS:**

There is no visible fracture. Glenohumeral and acromioclavicular alignment are within normal limits. There is severe glenohumeral osteoarthritis, with prominent marginal osteophyte formation at the inferior margin of the humeral head articular surface. There is a 5 mm soft tissue calcification along the greater tuberosity, presumably hydroxyapatite deposition.

**IMPRESSION:**

1. Severe glenohumeral osteoarthritis.
2. Hydroxyapatite deposition along the greater tuberosity.
3. No visible fracture or dislocation.

*Thank you for referring your patient to RDC SIERRA ROSE*  
*Electronically Signed by Hastings, Robert MD 04-20-2016 5:49 PM*

Washoe

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Copies of this report and DICOM exam images may be available to participating Nevada Health Information Exchange members for a minimum of 12 months, based on the patient's health information access preferences.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the individual or entity named as recipient. If the reader is not the intended recipient, be hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you!

EMPLOYER'S REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE		Please Type or Print	
EMPLOYER	Employer's Name <b>Truckee Meadows Fire Protection District</b>	Nature of Business (mfg., etc.) <b>Fire and EMS Service</b>	FEIN OSHA Log #
	Office Mail Address <b>P.O. Box 11130</b>	Location ... If different from mailing address <b>1001 E 8th St., Reno, NV 89512</b>	Telephone <b>775-326-6000</b>
	City <b>Reno</b> State <b>NV</b> Zip <b>89520</b>	INSURER	THIRD-PARTY ADMINISTRATOR <b>Alternative Service Concepts</b>
EMPLOYEE	First Name <b>Vance</b> M.I. <b>A</b> Last Name <b>Taylor</b>	Social Security	Birthdate
	Home Address (Number and Street) <b>2919 Aspen Meadows Court</b>	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Martial Status <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed
	City <b>Reno</b> State <b>NV</b> Zip <b>89519</b>	Was the employee paid for the day of injury? (if applicable) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How long has this person been employed by you in Nevada? <b>19.5 Years</b>
ACCIDENT OR DISEASE	In which state was employee hired? <b>Nevada</b>	Employee's occupation (job title) when hired or disabled <b>Fire Captain</b>	Department in which regularly employed: <b>Operations, B Shift, Station 15</b>
	Telephone <b>775-830-3873</b>	Is the injured employee a corporate officer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was employee in your employ when injured or disabled by occupational disease (O/D)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Date of injury (if applicable) <b>04/19/2016</b>	Time of injury (Hours; Minute AM/PM) (if applicable) <b>4:30 PM</b>	Date employer notified of injury or O/D <b>04/19/2016</b>
INJURY OR DISEASE	Address or location of accident (Also provide city, county, state) (if applicable) <b>Regional Training Center, Reno, Washoe Nevada</b>		Accident on employer's premises? (if applicable) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	What was this employee doing when the accident occurred (loading truck, walking down stairs, etc.)? (if applicable) <b>HazMat Training Drill</b>		
	How did this injury or occupational disease occur? Include time employee began work. Be specific and answer in detail. Use additional sheet if necessary. <b>Employee was lowering a mannequin down a staircase when felt a pop in his shoulder</b>		
IMPORTANT LOST TIME INFO	Specify machine, tool, substance, or object most closely connected with the accident (if applicable)	Witness <b>Brian Bunn</b>	Was there more than one person injured in this accident? (if applicable) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Part of body injured or affected <b>Shoulder Left</b>	If fatal, give date of death <b>N/A</b>	Witness <b>N/A</b>
	Nature of injury or Occupational Disease (scratch, cut, bruise, strain, etc.) <b>Strain</b>	Witness <b>N/A</b>	Did employee return to next scheduled shift after accident? (if applicable) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If validity of claim is doubted, state reason		Location of Initial Treatment	
Treating physician/chiropractor name		Emergency Room <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Hospitalized <input type="checkbox"/> Yes <input type="checkbox"/> No
How many days per week does employee work? <b>Varies</b>		From <b>8:00</b> <input checked="" type="checkbox"/> am <input type="checkbox"/> pm To <b>8:00</b> <input checked="" type="checkbox"/> am <input type="checkbox"/> pm	Last day wages were earned <b>04/19/2016</b>
Scheduled days off: <input type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> T <input type="checkbox"/> F <input type="checkbox"/> S Rotating <input type="checkbox"/>		Are you paying injured or disabled employee's wages during disability? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Date employee was hired <b>01/26/1997</b>		Last day of work after injury or disability <b>unknown</b>	Date of return to work <b>unknown</b>
Was the employee hired to work 40 hours per week? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Number of work days lost <b>TBD</b>	
If not, for how many hours a week was the employee hired? <b>56</b>		Did the employee receive unemployment compensation any time during the last 12 months? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
For the purpose of calculation of the average monthly wage, indicate the employee's gross earnings by pay period for 12 weeks prior to the date of injury or disability. If the injured employee is expected to be off work 5 days or more, attach wage verification form (D-8). Gross earnings will include overtime, bonuses, and other remuneration, but will not include reimbursement for expenses. If the employee was employed by you for less than 12 weeks, provide gross earnings from the date of hire to the date of injury or disability.			
Pay period <input checked="" type="checkbox"/> SUN <input type="checkbox"/> TUE <input type="checkbox"/> THUR <input type="checkbox"/> BAT ends on: <input type="checkbox"/> MON <input type="checkbox"/> WED <input type="checkbox"/> FRI		Employee is paid: <input checked="" type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER <input type="checkbox"/> BI-WKLY <input type="checkbox"/> SEMI-MONTHLY	
On the date of injury or disability the employee's wage was \$ <b>6,741</b> . per <input type="checkbox"/> Hr <input type="checkbox"/> Day <input checked="" type="checkbox"/> Wk <input type="checkbox"/> Mo			
For assistance with Workers' Compensation Issues you may contact the Office of the Governor Consumer Health Assistance Toll Free: 1-888-333-1597 Web site: <a href="http://govcha.state.nv.us">http://govcha.state.nv.us</a> E-mail <a href="mailto:cha@govcha.state.nv.us">cha@govcha.state.nv.us</a>			
★	I affirm that the information provided above regarding the accident and injury or occupational disease is correct to the best of my knowledge. I further affirm the wage information provided is true and correct as taken from the payroll records of the employee in question. I also understand that providing false information is a violation of Nevada law.		Employer's Signature and Title <i>[Signature]</i> <b>Account No</b>
	Date <b>4-21-16</b>		Class Code
	Claims Examiner's Signature		Date
Claims: <input type="checkbox"/> Accepted <input type="checkbox"/> Denied <input type="checkbox"/> Deferred <input type="checkbox"/> 3 <sup>rd</sup> Party		Deemed Wage	Status Clerk
Date		Date	Date

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Scanned: 04/2

By Karen Barbee at 11:16 am, Apr 21, 2016

AP000261

027



**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/22/2016 2:45PM

**Chart:** TAVA000001

**Chief Complaint:** LEFT SHOULDER

**History of Present Illness:**

Disclaimer: Parts of this note may have been dictated by speech recognition. Minor errors in transcription may be present.

Vance Taylor is a 45 male who presents for : LEFT SHOULDER .

Patient reports a left shoulder injury when he was attempting to assist with lifting and extracting the patient on April 19, 2016. The patient was assisting when there is an abrupt stop with the retrieval and his shoulder moved anteriorly with an associated pop. The patient felt immediate pain and weakness in his shoulder. He subsequently presented for evaluation in the emergency room and conservative care was recommended currently, patient reports left shoulder pain, posterior, moderate, worse with movement and lifting, associated stiffness.

**Med / Fam / Social History:**

MEDICAL HISTORY: HTN, Hyperlipidemia, OSA Tobacco use: Non-smoker.

**Medications & Allergies:**

Current Medication & Dosage	SIG	PRN?	Indication
Benicar HCT 40 mg-25 mg oral tablet	1	No	
omeprazole 40 mg oral delayed release capsule	1	No	
citalopram 20 mg oral tablet	1	No	

Allergy	Reaction
foods	
ACE inhibitor	Cough

**Physical Exam:**

Pulse	Blood Pressure	Respiratory Rate	Oxygen Saturation	Pain	Smoking Status
66 bpm	118/58	14 rpm	96.00 %	6/10	Never smoker

CONST: well-appearing, NAD

EYES: EOMI, normal conjunctiva

EARS: grossly normal hearing

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[Page 1]

E-signed by Dr. Scott Hall, MD on 04/22/2016 4:19PM

APR 25 2016

ASC





**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/22/2016 2:45PM

**Chart:** TAVA000001

**RESP:** normal respiratory effort

**MS:** normal gait and station

**SKIN:** no observed rash/erythema/jaundice

**PSYCH:** euthymic mood, reactive affect, AO x 3, intact memory, good judgment and insight

**Right shoulder -normal**

**Left shoulder-normal** inspection, mild posterior tenderness to palpation, abduction 90, flexion 90, external rotation 50, internal rotation to the pelvis, decreased strength testing supraspinatus and external rotation, intact sensation distally, patient is unable to lift his arm above shoulder level either actively or passively

**Assessment:**

Type	Code	Description
ICD-10-CM Condition	S43.402A	Unspecified sprain of left shoulder joint, Initial encounter

**Plan:**

Reviewed and discussed x-ray report and imaging, it documents severe osteoarthritis of the left glenohumeral joint, patient still has persistent weakness and suspected rotator cuff tear, recommend proceeding with MRI and an orthopedic opinion. Patient does have a history in the past of body building and the osteoarthritis is pre-existing.

Type	Code	Modifiers	Quantity	Description
CPT	99214		1.00 UN	OFFICE/OUTPATIENT VISIT EST

**\*\*\*RETURN TO WORK:**

**RETURN TO WORK FOR:** Vance Taylor

**DATE OF APPOINTMENT:** 04/22/2016 02:45PM

**BODY PART:** LEFT SHOULDER

**EMPLOYER:** TMFPD

**Date of Injury:** 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.

**CURRENT RESTRICTIONS:** Light duty with the following restrictions



**SpecialtyHealth**  
SPECIALIZED IN MANAGED HEALTHCARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/22/2016 2:45PM

**Chart:** TAVA000001

no use left arm

CONDITION STABLE? NO

CONDITION RATABLE: NO

RETURN VISIT: 2 weeks

SIGNED: Scott Hall, MD

**REFERRAL SHEET 2:**

Referral from:

SpecialtyHealth, 330 E. Liberty st. #100, Reno, NV 89501

Ph # (775) 398-3630, Fax # (775) 322-2663

Patient name: Vance Taylor

Home phone #:

Cell Phone #: 775-830-3873

Insurer:

Insurance #:

Date of injury if applicable: 04/19/2016

Claim # if applicable:

Referral to: Orthopedics

Notes: dr. Malcarnay by pt preference

Left shoulder strain

Referral from: Dr. Scott Hall, MD

[Page 3]

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KAREN BARBEE

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**SpecialtyHealth**

SPECIALISTS IN MANAGED HEALTHCARE & PERFORMANCE

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 04/22/2016 2:45PM

**Chart:** TAVA000001

**REFERRAL SHEET 2:**

**Referral from:**

SpecialtyHealth, 330 E. Liberty st. #100, Reno, NV 89501

Ph # (775) 398-3630, Fax # (775) 322-2663

**Patient name:** Vance Taylor

**Home phone #:**

**Cell Phone #:** 775-830-3873

**Insurer:**

**Insurance #:**

**Date of injury if applicable:** 04/19/2016

**Claim # if applicable:**

**Referral to:** Orthopedics

**Notes:** dr. Malcarney by pt preference

Left shoulder strain

**Referral from:** Dr. Scott Hall, MD

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**By SHMCO at 4:11 pm, Apr 22, 2016**

[Page 1]

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**APR 25 2016**

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Scanned: 04/25/2016

KAREN BARBEE

- AA000265

**031**



SpecialtyHealth

SPECIALTY HEALTH CLINIC &amp; HOSPITAL

12B

C143-16-09745-01

## SPECIALTY HEALTH CLINIC

Patient: Vance Taylor

DOB:

Sex: M

Provider: Dr. Scott Hall, MD

Visit: 04/22/2016 2:45PM

Chart: TAVA000001

## \*\*\*RETURN TO WORK:

RETURN TO WORK FOR: Vance Taylor

DATE OF APPOINTMENT: 04/22/2016 02:45PM

BODY PART: LEFT SHOULDER

EMPLOYER: TMFPD

Date of Injury: 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.

CURRENT RESTRICTIONS: Light duty with the following restrictions

no use left arm

CONDITION STABLE? NO

CONDITION RATABLE: NO

RETURN VISIT: 2 weeks

SIGNED: Scott Hall, MD

F/U apt 05/06/16 @ 1pm

[Page 1]

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APR 25 2016

Scanned: 04/25/2016

KAREN BARBEE

237  
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032

# EMPLOYER'S WAGE VERIFICATION FORM

(Pursuant to NRS 616C.045(2)(d))

Please provide the following information for the employee named below by completing this form. The information is needed so that the amount of disability compensation to which your employee is entitled may be calculated. Prompt completion and return of this form will ensure the timely payment of any compensation due this injured worker. Please answer all questions and sign the form where indicated.

## EMPLOYER: PLEASE PROVIDE THE FOLLOWING INFORMATION ANSWERING ALL QUESTIONS

Date: 4-25-16 Injured Employee's Name (Last/First/MI): Scalor Vance A Social Security # \_\_\_\_\_  
 Claim No.: \_\_\_\_\_ Date of Injury: 4-19-16 Date of Hire: 1-26-97  
 Was employee hired to work 40 hours per week: ☐ Yes ☒ No If no, # of hours per week: 56 # of days per week: varies  
 On the date of injury, the employee's wage was: \$6.71 per ☐ Hour ☐ Day ☐ Week ☒ Month Date the wage became effective: \_\_\_\_\_  
 Was vacation paid during the applicable twelve week period? yes If so, during what pay period? see spreadsheet  
 Was sick leave paid during the applicable twelve week period? yes Was the injured employee paid for any holidays during the applicable twelve week period? no Did employee receive payment for overtime during the applicable twelve week period? yes Did employee receive termination pay during the applicable twelve week period? NO  
 Provide prior wage if current wage was in effect less than 12 weeks prior to date of injury: \$ \_\_\_\_\_ per ☐ Hour ☐ Day ☐ Week ☐ Month  
 During this 12-week period did employee change to a job with different (1) duties, (2) hours of employment, (3) rate of pay? ☐ Yes ☒ No  
 If so, date: \_\_\_\_\_ Explain: \_\_\_\_\_  
 Does the employee receive commissions? ☐ Yes ☒ No Period of commission earned \_\_\_\_\_ to \_\_\_\_\_  
 Indicate the amount of commission received over the last 6 months, or since date of hire: \$ \_\_\_\_\_  
 Does the employee receive bonuses/incentive pay? ☐ Yes ☒ No Period of bonuses/incentive pay earned \_\_\_\_\_ to \_\_\_\_\_  
 Indicate the amount of bonuses received over last 12 months, or since date of hire: \$ \_\_\_\_\_  
 Are the commission and bonus amounts included in GROSS EARNINGS below? ☐ Yes ☒ No  
 Does the employee declare tips for the purpose of worker's compensation? ☐ Yes ☒ No See payroll declaration below. Attach declaration forms.  
 Does the employee receive meals or lodging (excluding reimbursement for travel per diem)? ☒ Yes ☐ No (Do not include in gross earnings)  
 How many meals per day? 3 Monetary value of meals \$ \_\_\_\_\_ per ☐ Day ☐ Week ☐ Month  
 Lodging \$ \_\_\_\_\_ per ☐ Day ☐ Week ☐ Month

## TWELVE WEEK VERIFICATION FROM PAYROLL RECORDS. Report GROSS EARNINGS, include overtime payment and any other remuneration (except reimbursement for expenses). (See NAC 616C.423)

Give payroll information from \_\_\_\_\_ through \_\_\_\_\_. If employed less than twelve weeks, give gross earnings from date of hire to date of injury.

If absent from work for the following reasons, please specify the date(s) absent and the number code for the reason of absence. 1. Certified illness or disability; 2. Institutionalized in a hospital, or other institution; 3. Enrolled as full-time student, not employed on days of attendance; 4. In military service other than training duty conducted on weekends; 5. Absent because of officially sanctioned strike; 6. Absence because of leave approved pursuant to Family and Medical Leave Act.							
Payroll Period Beginning	Payroll Period Ending	Gross Salary (Excluding Tips)	Declared Tips	Payroll Period Beginning	Payroll Period Ending	Gross Salary (Excluding Tips)	Declared Tips
1-1-16	1-24-16	6,503.52					
1-25-16	2-7-16	3,213.48					
2-8-16	2-21-16	4,775.52					
2-22-16	3-6-16	4,255.80					
3-7-16	3-20-16	5,545.26					
3-21-16	4-3-16	3,620.12					

Dates of Absence		Reason	Dates of Absence		Reason	Dates of Absence		Reason
Begin	End		Begin	End		Begin	End	

Pay period ends on (check one) ☐ Sunday ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday  
 Employee is paid: ☐ Weekly ☐ Bi-Weekly ☐ Semi-Monthly ☐ Monthly ☐ Other  
 Employee scheduled day(s) off: ☐ Sunday ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday ☐ Other  
 Explain "other": \_\_\_\_\_  
 Date the employee last worked AFTER injury occurred: \_\_\_\_\_ Date returned to work: \_\_\_\_\_

This information is true and correct as taken from the employee's payroll records.

Print Name: Celeste Wallick

Signature: C Wallick

Date: 4-25-16

Employer: TMFP

Insurer: POOL/PACT

Third-Party Administrator: \_\_\_\_\_

**RECEIVED**

By Karen Barbee at 9:04 am, Apr 25, 2016

Scanned: 04/25/2016

KAR

2000267 033

WAGE VERIFICATION

EE# 7019

Above Total hours are for: TAYLOR, VANCE A.  
Time period requested: 12 Weeks prior to 4/19/2016

PP #	PP Dates	Regular	Overtime Callback	Holiday	Worked	Vacation	Sick	Comp	Personal
PP # 3	1/11/16 - 1/24/16	112.32	76						
PP # 4	1/25/16 - 2/07/16	112.32							
PP # 5	2/08/16 - 2/21/16	112.32	36						
PP # 6	2/22/16 - 3/06/16	112.32	24						
PP # 7	3/07/16 - 3/20/16	96.32	48			24			
PP # 8	3/21/16 - 4/03/16	0.32	5			64	48		
Total Hours:		545.92	189	0	0	88	48	0	0

| 870.92 should equal 480 hours

PP # 3	2016	\$6,503.52
PP # 4	2016	\$3,213.48
PP # 5	2016	\$4,775.52
PP # 6	2016	\$4,255.80
PP # 7	2016	\$5,545.26
PP # 8	2016	\$3,620.12
Total Wages:		\$27,913.70

**RECEIVED**

By Karen Barbee at 9:05 am, Apr 25, 2016

Scanned: 04/25/2016

KAREN BARBEE

239 AA000268

04/25/2016

034



# Alternative Service Concepts

Flexibility · Expertise · Integrity

TO:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NEVADA 89519

RE: Claim No: C1431609765 01  
Employer: Truckee Meadows FPD  
Insurer: PACT  
TPA: Alternative Service Concepts, L.L.C.  
Date of Injury: 4/19/2016  
Date of Notice: 4/25/2016  
Body Part: Left Shoulder Strain

## **NOTICE OF CLAIM ACCEPTANCE**

(Pursuant to NRS 616C.060)

Dear Mr. Taylor:

The above referenced claim has been accepted on your behalf by the Public Agency Compensation Trust. Liability is limited as stated per Body Part above. Please check the information contained on this notice. If you find any of the information to be incorrect, please notify the insurer handling the claim.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Treating Physician: SHC

Form D-12, Request for Hearing  
Form D-2, Brief Description of Rights and Benefits  
Form D-52, Alternative Choice of Physician or Chiropractor & Referral to a Specialist

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 04/26/2016

KAREN BARBEE

2/16 AA000269 035



# Alternative Service Concepts

Flexibility • Expertise • Integrity

April 26, 2016

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

RE: Claim #: C1431609765 01

Injured: 4/19/2016

Employer: TRUCKEE MEADOWS FPD

Dear Mr. Taylor:

We have been advised that you were off work for five (5) consecutive days or five (5) days within a twenty (20) day period and certified disabled, qualifying you for Temporary Total Disability (TTD) compensation, or determined that you are eligible for other compensation under this claim. Please take notice that returning to work with any employer, including self-employment, terminates your eligibility for TTD and must be reported immediately to our office. Please review the attached **IMPORTANT NOTICE ON YOUR WORKERS' COMPENSATION CHECK DISTRIBUTION** for further information. Initial payment has been processed and sent in C/O your employer for your endorsement to them in accordance with NRS 281.390 to reimburse your sick leave usage. Further payments require submission of a fully completed, signed D6 form [sent herewith] on receipt of this letter and every 14 days thereafter when disabled.

Please be advised that we have calculated your Average Monthly Wage (AMW) based on a twelve (12) week wage history provided by your employer. The AMW forms the basis for the amount of all disability compensation payable to you under this claim. It also forms the basis for allocation of supplemental hours (if provided by your employer to eligible employees), to make up the difference to your full wage. As a result of the calculation, your AMW is \$10,115.39 for a daily rate for TTD of \$118.84. Your biweekly TTD compensation will be in the amount of \$1,663.76 during the period that you remain eligible. Enclosed are a computer calculation worksheet and a D-7 form explaining the wage calculation.

The maximum AMW allowed by statute, based upon your date of injury, is \$5,426.25. If you were employed by two or more employers when you were injured, concurrent wages for employment may also apply to your entitlement up to the maximum allowed by statute. If you had concurrent employment, submit a written request for recalculation of your AMW to our office prior to the expiration of the appeal time referenced below, including contact information for your other employer(s) enabling us to obtain your payroll information. Please note that NRS 616A.065 excludes remuneration from employment not subject to the Nevada Industrial Insurance Act and employment for which coverage is elective but has not been elected.

If you disagree with the insurer determination, you have the right to appeal by completing and filing with the Hearing Officer, Department of Administration, the enclosed Request for Hearing form within seventy (70) days from the date of this letter.

For questions or further information about the AMW calculation or other aspects of your claim, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Claims Adjuster

Enc.: Compensation Check Distribution Notice  
Physician's Progress Report (Form D-39)  
cc: File TRUCKEE MEADOWS FPD

Request for Compensation (Form D-6)  
Explanation of Wage Calculation (D-7 form)

Computer Calculation Worksheet  
Request for Hearing (D-12a form)

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 04/26/2016

KAREN BARBEE

2A000270 036



# WAGE CALCULATION FORM FOR CLAIMS AGENT'S USE

RE Injured Employee Vance Taylor Date of Injury 4/19/2016  
 Social Security No \_\_\_\_\_ Claim No. C1431608783 01  
 Employer: Truckee Meadows FPD Insurer: PACT  
 Third-Party Administrator NSC

Average Monthly Wage is defined in NAC 616C.420 through 616C.447.

The priorities for determining wage history will be:

1. A 12-week history of earnings (84 days)
  2. If a 12-week period of earnings is not representative of the injured employee's average monthly wage, or upon injured employee's request, a period of one year or the full period of employment, if it is less than one year, may be used. Divide by the number of days in the period.
  3. If period of employment is more than four weeks, but less than twelve weeks, earnings from the date of hire will be used. divide by the number of days in the period.
  4. If period of employment is less than four weeks, average monthly wage will be calculated by multiplying rate of pay on the date of the accident or disease, by hours in employee's projected working schedule, divide by 7 and multiply by 30.44.
- If other circumstances apply, see NAC 616C.435.

## AVERAGE MONTHLY WAGE - Calculate AMW in the following manner:

Period of earnings beginning date 01/11/2016 end date 04/03/2016  
 Gross earnings \$ 27,813.70 plus tips 0 divide by number of days  
 in wage history 84 X 30.44 equal Average Monthly Wage: \$ 10,115.39

**HOURLY RATE** - Hourly rate of pay \$ 0.00 x number of hours  
 projected to work per week 0 divide by 7 x 30.44 equal Average Monthly Wage: \$ 0.00

## VALUE OF ROOM AND/OR BOARD

Room (Monthly Value) \_\_\_\_\_ \$ 0.00  
 Board (Monthly Value) \_\_\_\_\_ \$ 0.00

**VALUE OF MEALS** - If meals are provided by the employer, see NAC 616C 423(l)(p) and use the following formula:

Amount for meals per day \_\_\_\_\_ x number of days hired  
 to work per week \_\_\_\_\_ equals \_\_\_\_\_ divide by 7 x 30.44 equal Meals per Month: \$ 0.00

ADD applicable lines to obtain total \_\_\_\_\_ Average Monthly Wage: \$ 10,115.39

**DAILY RATE** - is to be calculated in the following manner: the lesser of:

Average Monthly Wage  $\frac{\$10,115.39}{7} = \$1,459.78$  x 8 divide by 12 divide by 30.44 Daily Rate: \$ 221.54  
 x 14 = \$ 3,101.62  
 Statutory Maximum Wage= \$5,426.25 Statutory Maximum Daily Rate: \$ 118.84 <<<<  
 7/1/2015 6/30/2016 x 7 = \$831.89 x 14 1,863.76 <<<<

Date: April 26, 2016 Signature: Karen Barbée Title: Claims Adjuster



**Reno  
Diagnostic  
Centers**

WASHOE COUNTY

**RDC SIERRA ROSE**  
625 Sierra Rose Drive  
Reno, NV 89511  
Phone: (775) 323-5083  
Fax: (775) 333-2776

C143-16-09765-01

KB

Exam requested by:  
Scott Hall MD  
330 E Liberty St Ste 100  
RENO NV 89501

Patient: Taylor, Vance  
Date of Birth:  
Phone: (775) 674-8441  
MRN: 585226 Acc: 5139642  
Date of Exam: 04-29-2016

MR-Shoulder without contrast Left [16720] - SHOULDER\_L - L

**CLINICAL INDICATION:** Severe left shoulder pain after injury, decreased range of motion.

**TECHNIQUE:** Multiple acquisition parameters to evaluate the left shoulder utilizing the Siemens Espree Wide Bore 1.5 T MRI.

**COMPARISON:** None.

**FINDINGS:**

**Acromioclavicular joint:** There is no os acromiale. Moderate capsular hypertrophy of the acromioclavicular joint. There is lateral downsloping of the acromion process with small subacromial osteophyte. Type 1 acromion process morphology. Minimal subacromial subdeltoid bursitis.

**Rotator cuff:** Low signal intensity lesion is noted at the supraspinatus tendon insertion (sagittal series 7 image 15; coronal series 101 image 12), consistent with calcific tendinitis. Calcification measures 9 mm in maximal diameter. Moderate insertional tendinopathy of the supraspinatus tendon without evidence tear. Mild insertional tendinopathy of the infraspinatus and subscapularis tendons without evidence of tear. The teres minor tendon is intact. There is no evidence of muscle atrophy.

**Biceps, labrum and glenohumeral joint:** There is a large loose body in the subcoracoid space (sagittal series 7 image 7; axial series 3 image 10). It measures 1.4 cm in maximal diameter. Severe degenerative changes are present at the glenohumeral joint with full-thickness large areas of chondromalacia along the posterior glenoid and posterior articular surface of the humeral head. Extensive subchondral cystic change is noted along the posterior aspect of the humeral head (axial series 2 image 12). There is a prominent tear of the posterior labrum with associated cartilage delamination (axial series 2 image 14). There is a degenerative type tear of the superior labrum, extending into the biceps anchor. Tendinopathy of the intra-articular biceps tendon (sagittal series 7 image 9; axial series 2 image 11). Moderate tenosynovitis of the extra-articular biceps tendon without evidence of tear.

**Surrounding structures:** No cystic or solid masses.

**IMPRESSION:**

1. Severe glenohumeral joint degenerative changes posteriorly with large areas of full-thickness chondromalacia, bulky osteophytes, and subchondral cysts.
2. Large tear of the posterior labrum with associated cartilage delamination.
3. Large loose body in the subcoracoid space.
4. Calcific tendinitis of the supraspinatus tendon insertion without evidence of rotator cuff tear.
5. Degenerative type tear of the superior labrum extending into the biceps anchor.

*Thank you for referring your patient to RDC SIERRA ROSE*  
Electronically Signed by Sekhon, Vijay S MD 04-29-2016 1:08 PM

Washoe

Copies of this report and DICOM exam images may be available to participating Nevada Health Information Exchange members for a minimum of 12 months based on the patient's health information access preferences.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the individual or entity named as recipient. If the reader is not the intended recipient, he hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you!



SpecialtyHealth

SPECIALTYHEALTH MANAGED HEALTHCARE & PREVENTION

KB  
C143-16-09765-01

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/02/2016 10:45AM

**Chart:** TAVA000001

**Chief Complaint:** SHOULDER INJURY

**History of Present Illness:**

Disclaimer: Parts of this note may have been dictated by speech recognition. Minor errors in transcription may be present.

Vance Taylor is a 45 male who presents for : SHOULDER INJURY.

Patient reports a left shoulder injury when he was attempting to assist with lifting and extracting the patient on April 19, 2016. The patient was assisting when there is an abrupt stop with the retrieval and his shoulder moved anteriorly with an associated pop. The patient felt immediate pain and weakness in his shoulder. He subsequently presented for evaluation in the emergency room and conservative care was recommended currently, patient reports left shoulder pain, posterior, severe, worse with movement and lifting, associated stiffness, transient improvement with pain meds but very limited mobility.

**Med / Fam / Social History:**

**MEDICAL HISTORY:** HTN, Hyperlipidemia, OSA Tobacco use: Non-smoker.

**Medications & Allergies:**

Current Medication & Dosage	SIG	PRN?	Indication
Benicar HCT 40 mg-25 mg oral tablet	1	No	
omeprazole 40 mg oral delayed release capsule	1	No	
citalopram 20 mg oral tablet	1	No	
Percocet 5/325 oral tablet	0	No	

Allergy	Reaction
foods	
ACE Inhibitor	Cough

**Physical Exam:**

Pulse	Blood Pressure	Respiratory Rate	Oxygen Saturation	Pain	Smoking Status
57 bpm	110/70	14 rpm	97.00 %	7/10	Never smoker

CONST: well-appearing, NAD

EYES: EOMI, normal conjunctiva

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[Page 1]

E-signed by Dr. Scott Hall, MD on 05/02/2016 3:48PM

MAY 04 2016

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By SHMCO at 3:00 pm, May 03, 2016

Scanned: 05/04/2016

KAREN BARBEE

24  
AA000273 039

**SPECIALTY HEALTH CLINIC**

<b>Patient:</b> Vance Taylor	<b>DOB:</b>	<b>Sex:</b> M
<b>Provider:</b> Dr. Scott Hall, MD	<b>Visit:</b> 05/02/2016 10:45AM	<b>Chart:</b> TAVA000001

**EARS:** grossly normal hearing  
**RESP:** normal respiratory effort  
**MS:** normal gait and station  
**SKIN:** no observed rash/erythema/jaundice  
**PSYCH:** euthymic mood, reactive affect, AO x 3, intact memory, good judgment and insight

**Assessment:**

Type	Code	Description
ICD-10-CM Condition	S43.402A	Unspecified sprain of left shoulder joint, Initial encounter

**Plan:**

Reviewed and discussed MRI findings and images with the patient, copy of radiology interpretation was provided, orthopedic referral pending on April 20th, patient has significant osteoarthritis requiring pain medications and a refill was provided, we had a long discussion about treatment options and a significant issue with his left shoulder, work restrictions were just to recommend against driving on pain medications, physical therapy referral was initiated with close follow-up in 2 weeks

Type	Code	Modifiers	Quantity	Description
CPT	99213		1.00 UN	OFFICE/OUTPATIENT VISIT EST

Medications Prescribed	SIG	PRN?	Indication
Percocet 5/325 oral tablet	1 oral 2 times a day as needed	No	

**\*\*\*RETURN TO WORK:**

**RETURN TO WORK FOR:** Vance Taylor  
**DATE OF APPOINTMENT:** 05/02/2016 10:45AM  
**BODY PART:** SHOULDER INJURY  
**EMPLOYER:** TMFPD

**Date of Injury:** 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.



**SpecialtyHealth**  
SPECIALISTS IN MANAGED HEALTHCARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/02/2016 10:45AM

**Chart:** TAVA000001

**CURRENT RESTRICTIONS:** Light duty with the following restrictions

no use left arm

**MEDICATIONS PRESCRIBED:** Pain medications

Driving not recommend while on pain meds

**CONDITION STABLE?** NO

**CONDITION RATABLE:** NO

**RETURN VISIT:** 2 weeks

**SIGNED:** Scott Hall, MD

**REFERRAL SHEET 2:**

**Referral from:**

SpecialtyHealth, 330 E. Liberty st. #100, Reno, NV 89501

Ph # (775) 398-3630, Fax # (775) 322-2663

**Patient name:** Vance Taylor

**Home phone #:**

**Cell Phone #:** 775-830-3873

**Insurer:**

**Insurance #:**

**Date of injury if applicable:** 04/19/2016

**Claim # if applicable:**

**Referral for:** Physical therapy, evaluate and treat - 6 visits

**Referred to:** Premier physical therapy

**Notes:** left shoulder strain

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[Page 3]

E-signed by Dr. Scott Hall, MD on 05/02/2016 3:48PM

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Scanned: 05/04/2016

KAREN BARBEE

248A000275 041



**SpecialtyHealth**

SPECIALTY HEALTH MANAGED HEALTHCARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/02/2016 10:45AM

**Chart:** TAVA000001

Referral from: Dr. Scott Hall, MD

[Page 4]

E-signed by Dr. Scott Hall, MD on 05/02/2016 3:48PM

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KAREN BARBEE

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**SpecialtyHealth**

SPECIALTIES IN HANDLED OF ANATOMY &amp; PHYSIOLOGY

**SPECIALTY HEALTH CLINIC****Patient:** Vance Taylor**DOB:****Sex:** M**Provider:** Dr. Scott Hall, MD**Visit:** 05/02/2016 10:45AM**Chart:** TAVA000001**\*\*\*RETURN TO WORK:****RETURN TO WORK FOR:** Vance Taylor**DATE OF APPOINTMENT:** 05/02/2016 10:45AM**BODY PART:** SHOULDER INJURY**EMPLOYER:** TMFPD**Date of Injury:** 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.

**CURRENT RESTRICTIONS:** Light duty with the following restrictions

no use left arm

**MEDICATIONS PRESCRIBED:** Pain medications

Driving not recommend while on pain meds

**CONDITION STABLE?** NO**CONDITION RATABLE:** NO**RETURN VISIT:** 2 weeks**SIGNED:** Scott Hall, MD

F/U 05/16/16 @ 10:45 am

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MAY 03 2016

[Page 1]

E-signed by Dr. Scott Hall, MD on 05/02/2016 3:48PM

HSC



## **PREMIER PHYSICAL THERAPY & SPORTS PERFORMANCE**

Tim Kuhn, DPT, CSCS, CAFS   Chris Amundson, DPT, CAFS   Austin Aranda, DPT   Megan Pieters, DPT   Jared Pugmire, DPT

*Now Offering Women's  
Health Services*

**Patient Name:** TAYLOR, VANCE  
**DOB:**  
**Physician:** Scott Hall, MD  
**Diagnosis:** Shoulder pain.  
**Date:** 05/10/16

### **Subjective Findings:**

**History:** Mr. Taylor presents to Physical Therapy today with complaints of left shoulder pain. On 04/19/16, Vance was performing an activity at work in which he was working hazmat. He had a heavy suit on. He had to go into the building and remove the mannequin/dummy as quickly as possible. While extracting the dummy and coming down an exterior flight of stairs, he was on the downhill side and his partner was above. The partner went to move the mannequin/dummy, yanked Vance's shoulder. He has had significant increases in pain and complaints since that time.

**Pain Profile:** Pain is 7 out of 10 in severity and notes symptoms occur frequently.

**Pre-Injury Status/Activity Level:** Able to do all activities without limitations.

**Functional Limitations/ADL deficiencies:** He now has difficulty scoring an 8/10 for reaching behind his back, 7/10 for putting an object on a high shelf, 6/10 for washing his hair, 5/10 for reaching in his back pocket on the Shoulder Pain and Disability Index.

**Prior Surgical History:** Not relevant.

**Quality of Overall Health:** Good.

**Comorbidities and Complexities:** High blood pressure. MRI revealed severe glenohumeral joint degeneration changes posteriorly, full thickness chondromalacia, osteophytes and cysts, large tear of the posterior labrum, large loose body in the subcoracoid space, calcific tendonitis of the supraspinatus tendon without evidence of rotator cuff tear, degenerative type tear of superior labrum extending into the biceps anchor.

**Patient Goals:** To reduce the pain levels that he is having and increase strength to allow for improved range of motion, use and function.

### **Objective Findings:**

**Observation/Palpation:** The patient presents to Physical Therapy exhibiting no outward signs of acute distress. With sitting, the patient was noted to have a slightly forward shoulder girdle complex and with movements he has anterior scapular elevation, which would appear to be secondary to reduced rotator cuff activation and strength. With palpation, he had pain over the insertional point of the supraspinatus tendon and the biceps tendon.

**Range of Motion:** Active range of motion 110 degrees forward flexion on the involved side. Full range of motion on the left side. Hand behind back was limited to T10 on the uninvolved side and L4 on the involved side. Passive range of motion was limited to external rotation 30 degrees, forward flexion 120 degrees.

**Strength:** Was reduced for abduction 4-/5 at 30 degrees, abduction at 80 degrees was 3+/5. External rotation 4-/5, periscapular musculature 4-/5.

**Neurological:** Sensation was intact.

**Special Tests:** Positive Hawkins-Kennedy impingement.

**Functional Capacity:** Scored 34/80 on the disability portion of the SPADL.

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MAY 25 2016  
FAXED  
5/13/16



**Significant Findings/Functional Limitations:**

The patient presents to Physical Therapy today with signs and symptoms consistent with the aforementioned diagnosis. During examination, the patient was noted to have the above-mentioned deficits. In particular, elevated pain complaints, restrictions in available range of motion, both actively and passively, reductions in strength, leading to reduced functional capacities as noted above.

**Justification Statement/Plan/Prognosis:**

Therefore, physical therapy will need to address these issues in order to reduce patient's pain and increase function. We will go about doing so by increasing active and passive range of motion to tolerance. By increasing active and passive range of motion, this will allow for improvements in usage of the shoulder, increased reaching, pushing, pulling, reaching behind his back, and putting things on a high shelf. We will also work on increasing strength to the rotator cuff periscapular musculature. This will allow for increased glenohumeral mechanics and increased normalization of shoulder movements. All activities will focus on the reduction of pain and improvements in mobility.

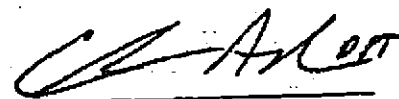
**Goals:**

	<b>GOALS FOR EPISODE OF CARE</b>	<b>CURRENT CAPABILITY</b>
Goal #1	Independent with initiation and progression of a home exercise program.	At the current time, the patient is not doing a specific home exercise program. The initiation of one will allow for improvements in range of motion, strength and function.
Goal #2	Reduce pain down to 3 out of 10.	At the current time, it is 7 out of 10. This reduction in pain will allow for increased reaching, pushing, pulling, putting things on a high shelf and reaching in his back pocket.
Goal #3	Reduce SPADI down to 24 or less.	At the current time, it is 34/80. This reduction in score will translate into the patient's increased ability to reach behind his back, put objects on a high shelf, doing his hair, putting things in his back pocket.
Goal #4	Increase strength in the above mentioned deficit areas by 1/2 to 1 grade. By increasing strength, this will allow for increased glenohumeral mechanics, thus increasing reaching ability, pushing, pulling and carrying.	

**FUNCTIONAL PLAN OF CARE**

**Frequency/Duration:** Patient will be seen two to three times a week for four to six weeks.

Thank you.

  
Chris Amundson, DPT, MS, CMP

  
Date

CA/BPG  
t. 05/12/16

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MAY 25 2016

asc

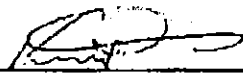
# **INJURED EMPLOYEE'S REQUEST FOR COMPENSATION** (Pursuant to NRS 616C.475(6))

**ANSWER ALL QUESTIONS, DATE, SIGN AND RETURN TO YOUR CLAIMS AGENT**

1. Name: VANCE TAYLOR Social Security # \_\_\_\_\_ Phone No: (715) 832-3573
2. Physical address: 2919 Aspen Meadows Ct. Reno NV 89519  
Street City State Zip  
 Mailing address: Same  
Street/P.O. Box City State Zip  
 Is this a change of address? ☐ Yes ☒ No
3. Employer at time of injury: TMFPD
4. Supervisor's name: ALBERT HIDE
5. Name of your attending physician or chiropractor: Mark Carney
6. Date on which you were last examined by attending physician or chiropractor: 12 May 16 - PT.
7. Date of next appointment with physician or chiropractor: 20 May 16
8. a. Have you been released to return to work by your attending physician or chiropractor? ☐ Yes ☒ No  
 b. If so, give the date of release: \_\_\_\_\_
9. a. Have you returned to work with another employer? ☐ Yes ☒ No  
 b. Are you receiving payment from any employer? ☒ Yes ☐ No  
 c. Date on which you returned to work: \_\_\_\_\_  
 d. Name of employer for whom you returned to work: \_\_\_\_\_  
 e. Address: \_\_\_\_\_
10. Have you been disabled and unable to work in any occupation for at least 5 consecutive days, or 5 cumulative days within a 20 day period? ☒ Yes ☐ No
11. Date on which you last worked: 19 APR 16 For Whom: TMFPD
12. When do you expect to be able to return to your regular occupation? Six weeks from surgery
13. Would you be able to work at a light duty type job now? ☒ Yes ☐ No  
 Comment: On light duty now.
14. Has your employer offered you a light duty type job? ☒ Yes ☐ No  
 a. If yes, when was the light duty job offered? May 8, 2016

Per NRS 616D.300, I understand that the reporting of false information may disqualify me from receiving workers' compensation benefits. Further, I understand falsification may subject me to civil and criminal penalties. I certify the above information is correct to the best of my knowledge.

13 May 16  
Date

  
 Signature  
Reno WASHOE NV  
 CITY COUNTY STATE

NOTE: An explanation of the methods used to calculate your average monthly wage and compensation benefits should accompany your first compensation check. If you did not receive this, please contact your claims agent.

## **FOR CLAIMS AGENT'S USE ONLY**

PAY: From \_\_\_\_\_ To \_\_\_\_\_  
 From \_\_\_\_\_ To \_\_\_\_\_

Rev. date \_\_\_\_\_  
 TT Final TT TP

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

D-6 (Rev. 7/99)

**RECEIVED**

By Karen Barbee at 11:40 am, May 20, 2016

A800280 046



**SpecialtyHealth**

SPECIALISTS IN MANAGING METABOLIC & PREVENTION



**RECEIVED**

By SHMCO at 2:18 pm, May 18, 2016

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/17/2016 1:00PM

**Chart:** TAVA000001

**Chief Complaint:** FOLLOW UP LEFT SHOULDER

**History of Present Illness:**

Disclaimer: Parts of this note may have been dictated by speech recognition. Minor errors in transcription may be present.

Vance Taylor is a 45 male who presents for : FOLLOW UP LEFT SHOULDER .

Patient reports a left shoulder injury when he was attempting to assist with lifting and extracting the patient on April 19, 2016. The patient was assisting when there is an abrupt stop with the retrieval and his shoulder moved anteriorly with an associated pop. The patient felt immediate pain and weakness in his shoulder. He subsequently presented for evaluation in the emergency room and conservative care was recommended currently, patient reports left shoulder pain, diffuse, worse with movement and lifting, associated stiffness, significant improvement in pain with physical therapy.

**Med / Fam / Social History:**

MEDICAL HISTORY: HTN, Hyperlipidemia, OSA Tobacco use: Non-smoker.

**Medications & Allergies:**

Current Medication & Dosage	SIG	PRN?	Indication
Benicar HCT 40 mg-25 mg oral tablet	1	No	
omeprazole 40 mg oral delayed release capsule	1	No	
citalopram 20 mg oral tablet	1	No	
Percocet 5/325 oral tablet	1 oral 2 times a day as needed	No	
Percocet 5/325 oral tablet	0	No	

Allergy	Reaction
foods	
ACE inhibitor	Cough

**Physical Exam:**

Pulse	Blood Pressure	Respiratory Rate	Oxygen Saturation	Pain	Smoking Status
61 bpm	100/64	14 rpm	97.00 %	2/10	Never smoker

CONST: well-appearing, NAD

[Page 1]

E-signed by Dr. Scott Hall, MD on 05/17/2016 1:14PM

**RECEIVED**

By Karen Barbee at 3:32 pm, May 18, 2016

Scanned: 05/19/2016

KAREN BARBEE

AA000281

252

047



**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/17/2016 1:00PM

**Chart:** TAVA000001

**EYES:** EOMI, normal conjunctiva

**EARS:** grossly normal hearing

**RESP:** normal respiratory effort

**MS:** normal gait and station

**SKIN:** no observed rash/erythema/jaundice

**PSYCH:** euthymic mood, reactive affect, AO x 3, intact memory, good judgment and insight

Left shoulder -normal inspection, nontender to palpation, flexion 90 degrees, abduction 90 degrees, IR strength 5/5 throughout

**Assessment:**

Type	Code	Description
ICD-10-CM Condition	S43.402A	Unspecified sprain of left shoulder joint, initial encounter

**Plan:**

Reviewed and discussed imaging and treatment options, it is very encouraging the patient has noticed reduction in pain with physical therapy, pending orthopedic opinion and transfer of care, follow up with us as needed

Type	Code	Modifiers	Quantity	Description
CPT	99213		1.00 UN	OFFICE/OUTPATIENT VISIT EST

**\*\*\*RETURN TO WORK:**

**RETURN TO WORK FOR:** Vance Taylor

**DATE OF APPOINTMENT:** 05/17/2016 01:00PM

**BODY PART:** FOLLOW UP LEFT SHOULDER

**EMPLOYER:** TMFPD

**Date of injury:** 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.

**CURRENT RESTRICTIONS:** Light duty with the following restrictions

**RECEIVED**

Scanned: 05/19/2016

By Karen Barbee at 3:32 pm, May 18, 2016

AA000282

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**SpecialtyHealth**  
SPECIALISTS IN MANAGED HEALTH-CARE & PREVENTION

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/17/2016 1:00PM

**Chart:** TAVA000001

limit use of left arm

**MEDICATIONS PRESCRIBED:** Pain medications

Driving not recommend while on pain meds

**CONDITION STABLE?** NO

**CONDITION RATABLE:** NO

**RETURN VISIT:** 2 weeks

**SIGNED:** Scott Hall, MD

**RECEIVED**

*By Karen Barbee at 3:33 pm, May 18, 2016*

MAY. 18. 2016 7:46AM

SPECIALTY HEALTH CL

NO. 0364 P. 2/3

KE



SpecialtyHealth

SPECIALTY HEALTH CLINIC & PREVENTION

C143-16-09765-01

**SPECIALTY HEALTH CLINIC**

**Patient:** Vance Taylor

**DOB:**

**Sex:** M

**Provider:** Dr. Scott Hall, MD

**Visit:** 05/17/2016 1:00PM

**Chart:** TAVA000001

**\*\*\*RETURN TO WORK:**

**RETURN TO WORK FOR:** Vance Taylor

**DATE OF APPOINTMENT:** 05/17/2016 01:00PM

**BODY PART:** FOLLOW UP LEFT SHOULDER

**EMPLOYER:** TMFPD

**Date of Injury:** 04/19/2016

It is the injured worker's responsibility to inform the employer of current work status.

**CURRENT RESTRICTIONS:** Light duty with the following restrictions

limit use of left arm

**MEDICATIONS PRESCRIBED:** Pain medications

Driving not recommend while on pain meds

**CONDITION STABLE?** NO

**CONDITION RATABLE:** NO

**RETURN VISIT:** 2 weeks

**SIGNED:** Scott Hall, MD

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MAY 18 2016

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[Page 1]

E-signed by Dr. Scott Hall, MD on 05/17/2016 1:14PM

**RECEIVED**

By SHMCO at 3:00 pm, Jun 07, 2016

14:33

#462 P.001/006

Nevada Orthopedics  
10635 A Professional Ctr Reno, NV 89521  
(775) 852-0606 Fax:

June 7, 2016  
Page 1  
Office Visit

KB

Vance A Taylor  
Male DOB:

11605

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

06/20/2016 - Office Visit: Office Visit  
Provider: Hilary Malcarney  
Location of Care: Nevada Orthopedics

**History of Present Illness:**

Right-hand dominant, fire captain. Vance reports an injury to his left shoulder at work during a heavy physical training. Date of injury was April 19, 2016. He sustained a traction injury to his left shoulder, and subsequently felt a pop and has had more pain in his left shoulder since then. Notably, he has felt some stiffness and ache when he works out for the last few years, what he has felt over the last month with limited motion and more pain. He's been treated thus far with physical therapy. He denies any injury in the past.

Patient rates the pain at a 3/10 currently and patient rates the pain at a 9/10 at its worst.

**Past Medical History:**

Hypertension  
Sleep Apnea

**Past Surgical History:**

Right Hand 1991

**Family History Summary:**

Other family member - Has Family History of Stroke - Entered On: 5/20/2016  
Other family member - Has Family History of Hypertension - Entered On: 5/20/2016  
Other family member - Has Family History of Heart Disease - Entered On: 5/20/2016

**General Comments - FH:**

FH High Cholesterol  
FH Heart Attacks  
FH Prostate Disease

**Risk Factors:**

Tobacco use: Never smoker  
Alcohol use: yes

**Vital Signs:**

Patient Profile: 46 Years Old Male  
Height: 72 inches  
Weight: 220 pounds  
BMI: 29.83

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Nevada Orthopedics  
10835 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

June 7, 2016

Page 2

Office Visit

**Vance A Taylor**

Male DOB:

11605

Home: (775) 830-3873

Ins: WC All Service Concepts

BP sitting: 114 / 72 (right arm)

Vitals Entered By: Breanna Lehman (May 20, 2016 8:43 AM)

**Review of Systems**

**General:** Good general health lately, denies: recent weight change, fever, fatigue, headaches, loss of appetite

**Eyes:** denies blurring, diplopia, irritation, discharge

**Ear/Nose/Throat:** denies ear pain or discharge, nasal obstruction or discharge, sore throat

**Cardiovascular:** denies chest pain, palpitations, paroxysmal nocturnal dyspnea, orthopnea, edema

**Respiratory:** denies coughing, wheezing, dyspnea, hemoptysis

**Gastrointestinal:** denies abdominal pain, dysphagia, nausea, vomiting, diarrhea, constipation

**Genitourinary:** denies hematuria, frequency, urgency, dysuria, discharge, impotence, incontinence

**Musculoskeletal:** denies back pain, joint swelling, joint stiffness, joint pain

**Skin:** denies rashes, itching, lumps, sores, lesions, color change

**Neurologic:** denies syncope, seizures, transient paralysis, weakness, paresthesias

**Psychiatric:** denies depression, anxiety, mental disturbance, difficulty sleeping, suicidal ideation, hallucinations, paranoia

**Endocrine:** denies polyuria, polydipsia, polyphagia, weight change, heat or cold intolerance

**Heme/Lymphatic:** denies easy or excessive bruising, history of blood transfusions, anemia, bleeding disorders, adenopathy, chills, sweats

**Allergic/Immunologic:** denies urticaria, hay fever, frequent UTIs; denies HIV high risk behaviors

**Physical Exam****LEFT SHOULDER EXAM**

Cervical spine - Gross inspection and range of motion are within normal limits given the patient's history.

Negative Spurling's sign bilaterally.

Contralateral shoulder exam is grossly within normal limits given the patient's history.

Inspection is grossly normal, without obvious atrophy. Skin intact without signs of infection.

PROM - FF 130, ER 10.

Rotator cuff strength testing is within normal limits.

Impingement signs are moderately positive.

No tenderness over AC joint.

Moderate tenderness over proximal biceps tendon.

Negative apprehension signs.

**General**

Alert, oriented, no acute distress. Cooperative.

HEENT: no evidence trauma, vision and hearing WNL.

Lungs: regular respiratory effort, no oxygen supplementation

CV: regular rate and rhythm

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**Nevada Orthopedics**  
10636 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

June 7, 2016  
Page 3  
Office Visit

**Vance A Taylor**  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

Neurologic: no movement disorder, no paralysis  
Extremities: WNL except as above

#### Impression

#### Recommendation and Plan

Osteoarthritis, left shoulder.  
Strain, left shoulder.  
Labral tear, left shoulder.  
Rotator cuff calcific tendinopathy, left shoulder.

#### Imaging:

XRAYS Left Shoulder reviewed from RDC-4/20/16

MRI Left Shoulder reviewed from RDC-4/29/16

#### Medications added:

VALCYTE 450 MG ORAL TABS (VALGANCICLOVIR HCL)  
CITALOPRAM HYDROBROMIDE 20 MG ORAL TABS (CITALOPRAM HYDROBROMIDE)  
BENICAR 40 MG ORAL TABS (OLMESARTAN MEDOXOMIL)

#### Orders:

99203-Ofc Vet-New Level III [CPT-99203]

Joint Injection, Major [CPT-20610]

Kenalog 10mg [CPT-J3301]

#### Medications Added to Medication List This Visit:

- 1) Valcyte 450 Mg Oral Tabs (Valganciclovir hcl)
- 2) Citalopram Hydrobromide 20 Mg Oral Tabs (Citalopram hydrobromide)
- 3) Benicar 40 Mg Oral Tabs (Olmesartan medoxomil)

#### Plan:

I had a long discussion today with Vance about his left shoulder. He has some underlying arthritis, which is moderate. He also has calcific tendinopathy of the rotator cuff as well as labral pathology evident on his recent MRI. Certainly, in this arthritic shoulder, I do not feel as if a labral repair is indicated as this will increase his stiffness and further limit his range of motion.

We decided to proceed with a left glenohumeral joint steroid injection today. He will continue in physical therapy for a stretching and strengthening program. He is aware that he is a potential future candidate for arthroscopy, if today's steroid injection does not substantially improve his symptoms.

Follow up 1 month. Light duty restrictions given.

#### Procedure Note: LEFT

Glenohumeral Joint Injection: After explaining the risks and benefits, the shoulder was palpated the soft

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**Nevada Orthopedics**

10835 A Professional Ctr Reno, NV 89521

(775) 852-0505 Fax:

June 7, 2016

Page 4

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873

Ins: WC Alt Service Concepts

spot at the posterior aspect of the shoulder in the region of the GH-joint articulation. This area was prepped with betadine and anesthetized with topical ethyl chloride spray. Next, a 20-gauge needle was used to inject a mixture of 4 ml of 0.5% Marcaine and 1 ml of Kenalog (40mg/ml) into the joint. The needle was withdrawn, and a sterile band-aid was applied. The patient tolerated the procedure well.

.....electronically signed by Hilary L. Malcarney, MD May 20, 2016 2:04 PM

This note was generated using voice recognition software which has a small chance of producing errors of grammar and possibly content. I have made every reasonable attempt to find and correct any obvious errors, but expect that some may not be found prior to finalization of this note.

Electronically signed by Hilary Malcarney on 06/07/2016 at 2:07 PM

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**Nevada Orthopedics**10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

329-7118

May 20, 2016

Page 1

Work Status

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

KB

C143-16-09765-01

05/20/2016 - Work Status: PPR

Provider: Hilary Malcarney

Location of Care: Nevada Orthopedics

**Physicians and Chiropractor's****Progress Report**

Claim Number: C143160976501

**Certificate of Disability**

Social Security Number:

Patient's Name: Taylor, Vance		Date of Injury:
Employer:		Name of MCO
Patient's Job Description/Occupation:		
Previous Injuries/Diseases/Surgeries Contributing to the Condition:		
Diagnosis:		
Related to the Industrial Injury? Explain:		
Objective Medical Findings:		
<input type="checkbox"/> None - Discharged      Stable <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      Retable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<input type="checkbox"/> Generally Improved <input type="checkbox"/> Condition Worsened <input type="checkbox"/> Condition Same		
May Have Suffered a Permanent Disability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Treatment Plan: 10 LB lifting restriction, no overhead use of arm		

☐ No Change in Therapy☐ PT/OT Prescribed☐ Medication May be Used  
While Working☐ Case Management☐ PT/OT Discontinued☐ Consultation☐ Further Diagnostic Studies☐ Prescription(s)

<input type="checkbox"/> Released to FULL DUTY/No Restrictions on (Date):			
<input type="checkbox"/> Certified TOTALLY TEMPORARILY DISABLED (Dates): From: To:			
<input checked="" type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: 5/20/16 To: 6/27/2016			
Restrictions Are: Permanent <input checked="" type="checkbox"/> Temporary			
<input type="checkbox"/> No Sitting	<input type="checkbox"/> No Standing	<input type="checkbox"/> No Pulling	<input type="checkbox"/> Other:
<input type="checkbox"/> No Bending at Waist	<input type="checkbox"/> No Stooping	<input type="checkbox"/> No Lifting	
<input type="checkbox"/> No Carrying	<input type="checkbox"/> No Walking	<input type="checkbox"/> Lifting Restricted to (10lbs.):	
<input type="checkbox"/> No Pushing	<input type="checkbox"/> No Climbing	<input type="checkbox"/> No Reaching Above Shoulders	
Date of Next Visit: 6/27/16 @ 3:10 PM	Date of this Exam: May 20, 2016	Physician/Chiropractor Name: Hilary L. Malcarney, MD	Physician/ Signature: + 58

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**Nevada Orthopedics**10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:C143160976501  
KB

June 21, 2016

Page 1

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873

Ins: WC All Service Concepts

06/13/2016 - Office Visit: Other FAJ Office Visit

Provider: Hilary Maltamey

Location of Care: Nevada Orthopedics

Status: ON HOLD DOCUMENT. Contents are preliminary

**History of Present Illness:**

Right-hand dominant, fire captain. Vance reports an injury to his left shoulder at work during a heavy physical training. Date of injury was April 19, 2016. He sustained a traction injury to his left shoulder, and subsequently felt a pop and has had more pain in his left shoulder since then. Notably, he has felt some stiffness and ache when he works out for the last few years, what he has felt over the last month with limited motion and more pain. He's been treated thus far with physical therapy. He denies any injury in the past.

He was treated with a left glenohumeral joint steroid injection last visit, and has continued to participate in physical therapy. He has ongoing pain in the left shoulder and has developed some muscular stiffness. Working light duty.

Patient rates the pain at a 3/10 currently and patient rates the pain at a 9/10 at its worst.

**Current Problems (prior to this update):**

Other sprain of left shoulder joint, Initial encounter (ICD-840.8) (ICD10-S43.492A)

Calcific tendinitis of left shoulder (ICD-726.11) (ICD10-M76.32)

OA of left shoulder (ICD-715.11) (ICD10-M19.012)

**Current Medications (prior to this update):**

MOBIC 15 MG TABS (MELOXICAM) 1 PO QD PRN

VALCYTE 450 MG ORAL TABS (VALGANCICLOVIR HCL)

CITALOPRAM HYDROBROMIDE 20 MG ORAL TABS (CITALOPRAM HYDROBROMIDE)

BENICAR 40 MG ORAL TABS (OLMESARTAN MEDOXOMIL)

**Current Problems:****Medical Problems:**

- 1) Dx of Other Sprain of Left Shoulder Joint, Initial Encounter (ICD-840.8)
- 2) Dx of Calcific Tendinitis of Left Shoulder (ICD-726.11)
- 3) Dx of OA of Left Shoulder (ICD-715.11)

**Current Medications:**

- 1) Mobic 15 Mg Tabs (Meloxicam) .... 1 po qd prn
- 2) Valcyte 450 Mg Oral Tabs (Valganciclovir hcl)

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**Nevada Orthopedics**10635 A Professional Cir. Reno, NV 89521  
(775) 852-0505 Fax:

June 21, 2016

Page 2

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873

Ins: WC Alt Service Concepts

- 3) Citalopram Hydrobromide 20 Mg Oral Tabs (Citalopram hydrobromide)  
4) Benicar 40 Mg Oral Tabs (Olmesartan medoxomil)

**Physical Exam****LEFT SHOULDER EXAM**

Cervical spine - Gross inspection and range of motion are within normal limits given the patient's history.

Negative Spurling's sign bilaterally.

Contralateral shoulder exam is grossly within normal limits given the patient's history.

Inspection is grossly normal, without obvious atrophy. Skin intact without signs of infection.

PROM - FF 130, ER 10.

Rotator cuff strength testing is within normal limits.

Impingement signs are moderately positive.

No tenderness over AC joint.

Moderate tenderness over proximal biceps tendon.

Negative apprehension signs.

**General**

Alert, oriented, no acute distress. Cooperative.

HEENT: no evidence trauma, vision and hearing WNL.

Lungs: regular respiratory effort, no oxygen supplementation

CV: regular rate and rhythm

Neurologic: no movement disorder, no paralysis

Extremities: WNL except as above

**Assessments & Plans:****Impression****Recommendation and Plan**

Osteoarthritis, left shoulder.

Strain, left shoulder.

Labral tear, left shoulder.

Rotator cuff calcific tendinopathy, left shoulder.

**Imaging:**

XRAYs Left Shoulder reviewed from RDC-4/20/16

MRI Left Shoulder reviewed from RDC-4/29/16

**Orders:**

99214-Ofc Vst-Est Level IV [CPT-99214]

**Plan:**

I spoke with Vance and his wife at length today. He has significant osteoarthritis in the left shoulder.

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Scanned: 06/22/2016

BARBIE SMITH

AA000291 057

**Nevada Orthopedics**

10635 A Professional Cir Reno, NV 89521  
(775) 852-0506 Fax:

June 21, 2016

Page 3  
Office Visit**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

also has labral pathology as well as a small calcific deposit. The GH joint steroid injection and physical therapy helped to some degree, but he still has ongoing pain and feels unable to return to work full duty as a firefighter.

We have decided to proceed with arthroscopy. He is aware that he is unlikely to be pain-free with normal range of motion after an arthroscopic procedure, and may be a future candidate for arthroplasty.

The recommended procedure was discussed at length with the patient today. The details of the operative plan were reviewed. The anticipated preoperative and postoperative course was outlined, including timeline of activity restrictions following surgery. The patient understands the treatment plan and wishes to proceed.

Follow-up at preoperative appointment to discuss surgery in more detail and answer any remaining questions.

Left shoulder arthroscopy, subacromial decompression, decompression calcific deposit, labral debridement, chondroplasty, possible proximal biceps tenodesis

Flexeril and Mobic prescribed. He will maintain his current light duty work restrictions in anticipation of upcoming arthroscopy.

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Scanned: 06/22/2016

BARBIE SMITH

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**Nevada Orthopedics**  
 10635 A Professional Cir Reno, NV 89521  
 (775) 852-0505 Fax:

C143-16-09765-01 KB

June 13, 2016

Page 1

Work Status

**Vance A Taylor**

Male DOB:

11505

 Home: (775) 830-3873  
 Ins: WC All Service Concepts

06/13/2016 - Work Status: PPR  
 Provider: Hilary Malcamey  
 Location of Care: Nevada Orthopedics

**Physicians and Chiropractor's****Progress Report**

Claim Number: C143160976501

Social Security Number:

**Certificate of Disability**

Patient's Name: Taylor, Vance		Date of Injury:
Employer:		Name of MCO
Patient's Job Description/Occupation:		
Previous Injuries/Diseases/Surgeries Contributing to the Condition:		
Diagnosis:		
Related to the Industrial Injury? Explain:		
Objective Medical Findings:		
<input type="checkbox"/> None - Discharged      Stable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      Reliable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Generally Improved      Condition Worsened      Condition Same <input type="checkbox"/> May Have Suffered a Permanent Disability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Treatment Plan:		

☐ No Change in Therapy      ☐ PT/OT Prescribed      ☐ Medication May be Used While Working  
☐ Case Management      ☐ PT/OT Discontinued  
☐ Consultation      ☐ Further Diagnostic Studies      ☐ Prescription(s)

10 LB LIFTING RESTRICTION. NO OVERHEAD.			
Released to FULL DUTY/No Restrictions on (Date):			
Certified TOTALLY TEMPORARILY DISABLED (Dates): From: To:			
<input checked="" type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: 6-13-16 To: PENDING SURGERY			
Restrictions Are: Permanent Temporary			
<input type="checkbox"/> No Sitting	<input type="checkbox"/> No Standing	<input type="checkbox"/> No Pulling	<input type="checkbox"/> Other:
<input type="checkbox"/> No Bending at Waist	<input type="checkbox"/> No Stopping	<input type="checkbox"/> No Lifting	
<input type="checkbox"/> No Carrying	<input type="checkbox"/> No Walking	<input type="checkbox"/> Lifting Restricted to (lbs.):	
<input type="checkbox"/> No Pushing	<input type="checkbox"/> No Climbing	<input type="checkbox"/> No Reaching Above Shoulders	
Date of Next Visit: PENDING SURGERY	Date of this Exam: June 13, 2016	Physician/Chiropractor Name: Hilary L. Malcamey, MD	Physician/Signature: + [Signature]

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# Alternative Service Concepts

Flexibility • Expertise • Integrity

June 16, 2016

Hillary Malcarney, M.D.  
10635 A Professional Cir  
Reno, NV 89521

RE: Employee: Vance Taylor  
Claim No: C143-16-09765 -01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Dr. Malcarney:

Thank you for your reports regarding Vance Taylor.

Mr. Taylor's workers compensation claim was accepted for a left shoulder strain. We note the additional diagnoses of osteoarthritis, left shoulder; labral tear, left shoulder; rotator cuff calcific tendinopathy, left shoulder. Are any of these three additional diagnoses causally related to the work injury of 4/19/16? If so, please explain.

Thank you for your additional time given to this matter. We look forward to receiving your reply.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Employee: Vance Taylor

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

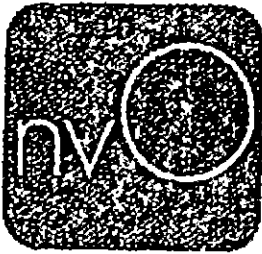
Scanned: 06/16/2016

KAREN BARBEE

AA000294 060

265





# nevada orthopedics

10635A Professional Circle, Reno, NV 89521 • Phone (775) 852-0505 • Fax (775) 852-0508

## AUTHORIZATION REQUEST FOR SURGERY

Today's Date: 06/29/2016

Adjuster: Deanna Butler

Insurance carrier: Alt. Service Concepts

Adjuster Fax: 775-398-3681

Patient: Vance Taylor

DOI: 04/19/2016

Claim #: C143160976501

Requesting Authorization: Stephanie Spencer Telephone: 775-852-0505 x11

Diagnosis: Strain of muscle, Fascia & Tendon @ shoulder, and upper arm level of left arm

ICD-10 Code: S46.921A

Procedure Requested: Left shoulder scope, SAD, decompression calcific deposit, labral deb't, Chondroplasty, possible proximal BT

CPT codes: 29828, 29826, 29822

"Provider" Facility: Surgery Center of Reno OR Renown South Meadows

Date of Procedure (If Known): To be scheduled

In Patient: \_\_\_\_\_ Outpatient: X Surgical Assist: John Brophy

Authorized: _____	Denied: <u>PENDING RESPONSE TO ADJUSTER'S LETTER OF 6-16-16</u>
Name of person authorizing: _____ (Please Print)	
Signature of <sup>ADJUSTER</sup> person authorizing: <u>Karen Barbee</u>	Date: <u>6/29/16</u>

\* Please complete authorization information above and FAX to 775-852-0508 Attn: Stephanie\*

**RECEIVED**

By Karen Barbee at 10:03 am, Jun 29, 2016

Scanned: 06/29/2016

**RECEIVED**

By SHMCO at 9:45 am, Jun 29, 2016

KAREN BARBEE

AA000295 061



**Nevada Orthopedics**  
10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

C143160976501

July 21, 2016  
Page 1  
Office Visit

**Vance A Taylor**  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC All Service Concepts

07/18/2016 - Office Visit: Office Visit  
Provider: Hilary Malmoney  
Location of Care: Nevada Orthopedics

**History of Present Illness:**

Right-hand dominant, fire captain. Vance reports an injury to his left shoulder at work during a heavy physical training. Date of injury was April 19, 2016. He sustained a traction injury to his left shoulder, and subsequently felt a pop and has had more pain in his left shoulder since then. Notably, he has felt some stiffness and ache when he works out for the last few years, what he has felt over the last month with limited motion and more pain. He's been treated thus far with physical therapy. He denies any injury in the past.

He was treated with a left glenohumeral joint steroid injection last visit, and has continued to participate in physical therapy. He has ongoing pain in the left shoulder and has developed some muscular stiffness. Working light duty.

Patient rates the pain at a 3/10 currently and patient rates the pain at a 9/10 at its worst.

**Past Medical History:**

Reviewed history from 05/20/2016 and no changes required:  
Hypertension  
Sleep Apnea

**Past Surgical History:**

Reviewed history from 05/20/2016 and no changes required:  
Right Hand 1991

**Family History Summary:**

Reviewed history and no changes required: 07/20/2016  
Other family member - Has Family History of Heart Disease - Entered On: 5/20/2016  
Other family member - Has Family History of Hypertension - Entered On: 5/20/2016  
Other family member - Has Family History of Stroke - Entered On: 5/20/2016

**General Comments - FH:**

FH High Cholesterol  
FH Heart Attacks  
FH Prostate Disease

**Social History:**

Reviewed history and no changes required:

**Risk Factors:**

Tobacco use: Never smoker  
Alcohol use: yes

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**Nevada Orthopedics**  
10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

July 21, 2016  
Page 2  
Office Visit

**Vance A Taylor**  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

**Vital Signs:**

Patient Profile: 45 Years Old Male  
Height: 72 inches  
BP sitting: 129 / 89 (left arm)

Vitals Entered By: Kallin Shonnard (July 19, 2016 9:16 AM)

**Current Problems:**

**Medical Problems:**

- 1) Dx of Strain of Unspecified Muscle, Fascia and Tendon At Shoulder and Upper Arm Level, Left Arm, Initial Encounter (ICD-840.9)
- 2) Dx of Other Sprain of Left Shoulder Joint, Initial Encounter (ICD-840.8)
- 3) Dx of Calcific Tendinitis of Left Shoulder (ICD-726.11)
- 4) Dx of Oa of Left Shoulder (ICD-715.11)

**Current Medications:**

- 1) Mobic 15 Mg Tabs (Meloxicam) .... 1 po qd prn
- 2) Valcyle 450 Mg Oral Tabs (Valganciclovir hcl)
- 3) Citalopram Hydrobromide 20 Mg Oral Tabs (Citalopram hydrobromide)
- 4) Benicar 40 Mg Oral Tabs (Olmesartan medoxomil)

**Allergies:**

- 1) Ace Inhibitors (critical)

**Review of Systems**

**General:** Good general health lately, denies: recent weight change, fever, fatigue, headaches, loss of appetite

**Eyes:** denies blurring, diplopia, irritation, discharge

**Ear/Nose/Throat:** denies ear pain or discharge, nasal obstruction or discharge, sore throat

**Cardiovascular:** denies chest pain, palpitations, paroxysmal nocturnal dyspnea, orthopnea, edema

**Respiratory:** denies coughing, wheezing, dyspnea, hemoptysis

**Gastrointestinal:** denies abdominal pain, dysphagia, nausea, vomiting, diarrhea, constipation

**Genitourinary:** denies hematuria, frequency, urgency, dysuria, discharge, impotence, incontinence

**Musculoskeletal:** denies back pain, joint swelling, joint stiffness, joint pain

**Skin:** denies rashes, itching, lumps, sores, lesions, color change

**Neurologic:** denies syncope, seizures, transient paralysis, weakness, paresthesias

**Psychiatric:** denies depression, anxiety, mental disturbance, difficulty sleeping, suicidal ideation, hallucinations, paranoia

**Endocrine:** denies polyuria, polydipsia, polyphagia, weight change, heat or cold intolerance

**Heme/Lymphatic:** denies easy or excessive bruising, history of blood transfusions, anemia, bleeding

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**Nevada Orthopedics**  
10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

July 21, 2016  
Page 3  
Office Visit

**Vance A Taylor**  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

disorders, adenopathy, chills, sweats

Allergic/immunologic: denies urticaria, hay fever, frequent UTIs; denies HIV high risk behaviors

### **Radiograph Interpretation**

AP views IR/ER show moderate degenerative change in the glenohumeral joint with a small calcific deposit. Moderate AC joint arthrosis.

### **Physical Exam**

#### **LEFT SHOULDER EXAM**

Cervical spine - Gross inspection and range of motion are within normal limits given the patient's history.

Negative Spurling's sign bilaterally.

Contralateral shoulder exam is grossly within normal limits given the patient's history.

Inspection is grossly normal, without obvious atrophy. Skin intact without signs of infection.

PROM - FF 130, ER 10.

Rotator cuff strength testing is within normal limits.

Impingement signs are moderately positive.

No tenderness over AC joint.

Moderate tenderness over proximal biceps tendon.

Negative apprehension signs.

### **General**

Alert, oriented, no acute distress. Cooperative.

HEENT: no evidence trauma, vision and hearing WNL.

Lungs: regular respiratory effort, no oxygen supplementation

CV: regular rate and rhythm

Neurologic: no movement disorder, no paralysis

Extremities: WNL except as above

### **Impression**

#### **Recommendation and Plan**

Osteoarthritis, left shoulder.

Strain, left shoulder.

Labral tear, left shoulder.

Rotator cuff calcific tendinopathy, left shoulder.

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### **Imaging:**

XRAYS Left Shoulder reviewed from RDC-4/20/16

MRI Left Shoulder reviewed from RDC-4/29/16

#### **Orders:**

Pre-Op Exam [CPT-0000001]

RADEX SHO COMPL MINIMUM 2 VIEWS [CPT-73030]

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**Nevada Orthopedics**  
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July 21, 2016  
Page 4  
Office Visit

**Vance A Taylor**  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC All Service Concepts

**Plan:**

The planned surgical procedure was explained in detail. The expected postoperative course was reviewed. The risks and benefits of surgery were discussed, which may include but are not limited to, cardiopulmonary problems associated with anesthesia, adverse medication reactions, blood clots, death, infection, nerve or vessel injury, failure of hardware/implants, recurrent tear/fracture/dislocation, malunion/nonunion, persistent pain and/or swelling, poor skin healing and/or scar formation.

The patient/guardian understands the proposed surgical treatment plan, as well as its risks and benefits, and wishes to proceed. All questions were answered. I will see the patient next on the day of surgery in the preoperative holding area, at which time I will briefly review the surgical plan and answer any remaining questions.

LEFT shoulder arthroscopy, SAD, labral debridement, chondroplasty, possible biceps tenodesis - DOS  
7/21/16, SCOR

.....electronically signed by Hilary L. Malcarney, MD July 18, 2016 8:49 AM

This note was generated using voice recognition software which has a small chance of producing errors of grammar and possibly content. I have made every reasonable attempt to find and correct any obvious errors, but expect that some may not be found prior to finalization of this note.

Electronically signed by Hilary Malcarney on 07/20/2016 at 8:50 AM

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Nevada Orthopedics  
10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

July 18, 2016

Page 1

Work Status

Vance A Taylor

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

07/18/2016 - Work Status: PPR  
Provider: Hilary Malcarney  
Location of Care: Nevada Orthopedics

Physicians and Chiropractor's

Progress Report

Claim Number: C143160976501

Certificate of Disability


Social Security Number:

Patient's Name: Taylor, Vance	Date of Injury:
Employer:	Name of MCO
Patient's Job Description/Occupation:	
Previous Injuries/Diseases/Surgeries Contributing to the Condition:	
Diagnosis:	
Related to the Industrial Injury? Explain:	
Objective Medical Findings:	
<input type="checkbox"/> None - Discharged      Stable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      Ratable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/> Generally Improved <input type="checkbox"/> Condition Worsened <input type="checkbox"/> Condition Same	
May Have Suffered a Permanent Disability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Treatment Plan:	

☐ No Change in Therapy      ☐ PT/OT Prescribed      ☐ Medication May be Used While Working

☐ Case Management      ☐ PT/OT Discontinued

☐ Consultation      ☐ Further Diagnostic Studies      ☐ Prescription(s)

completely off of work until 8/3/16			
<input type="checkbox"/> Released to FULL DUTY/No Restrictions on (Date):			
<input checked="" type="checkbox"/> Certified TOTALLY TEMPORARILY DISABLED (Dates): From: 7/18/16 To: 8/3/16			
<input type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: To:			
Restrictions Are: Permanent Temporary			
<input type="checkbox"/> No Sitting	<input type="checkbox"/> No Standing	<input type="checkbox"/> No Pulling	<input type="checkbox"/> Other:
<input type="checkbox"/> No Bending at Waist	<input type="checkbox"/> No Stooping	<input type="checkbox"/> No Lifting	
<input type="checkbox"/> No Carrying	<input type="checkbox"/> No Walking	<input type="checkbox"/> Lifting Restricted to (lbs.):	
<input type="checkbox"/> No Pushing	<input type="checkbox"/> No Climbing	<input type="checkbox"/> No Reaching Above Shoulders	
Date of Next Visit: 8/3/16	Date of this Exam: July 18, 2016	Physician/Chiropractor Name: Hilary L. Malcarney, MD	Physician/ Signature: 

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By Karen Barbee at 7:56 am, Jul 20, 2016

Scanned: 07/20/2016

KAREN BARBEE

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C143160976501  
SURGERY CENTER OF RENO, L.L.C.  
343 Elm Street, Suite 100 - Reno, Nevada 89503  
(775) 336-6900 - FAX (775) 336-6920

OPERATIVE REPORT

PATIENT NAME: TAYLOR, VANCE A.  
DATE OF OPERATION: 07/21/16  
MEDICAL RECORD NUMBER: 139027  
SURGEON: HILARY MALCARNEY, M.D.

PREOPERATIVE DIAGNOSES: Left shoulder impingement syndrome, labral tear, and arthritis.

POSTOPERATIVE DIAGNOSES: Left shoulder impingement syndrome, acromioclavicular joint arthritis, global labral tear, moderate-to-severe glenohumeral joint arthritis, proximal biceps tendinopathy, and loose bodies.

PROCEDURES PERFORMED: Left shoulder arthroscopy, subacromial decompression, arthroscopic distal clavicle excision, labral debridement, chondroplasty, proximal biceps tenodesis (arthroscopic) removal of loose bodies.

ASSISTANT: John Brophy, CFA

ANESTHESIA: General with preoperative interscalene block.

ANESTHESIOLOGIST: Eric John Mortensen, M.D.

IV FLUIDS: 1 liter of crystalloid.

ESTIMATED BLOOD LOSS: Minimal.

DRAINS: None.

SPECIMENS: None.

COMPLICATIONS: None.

IMPLANTS: Arthrex FiberTak anchors x2.

REASON FOR PROCEDURE: The patient is a 45-year-old firefighter who injured his shoulder at work and had persistent symptoms despite nonoperative treatment measures. He decided to proceed with arthroscopy.

DESCRIPTION OF PROCEDURE: The patient was given a left interscalene block by the anesthesiologist before surgery. Once back in the operating room, a breathing tube was placed.

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07/27/2016 9:58AM (GMT-07:00)

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RE: TAYLOR, VANCE A.  
OPERATIVE REPORT  
PAGE 2

He was given 2 grams of IV Ancef. He was then placed in the lateral decubitus position. Care was taken to pad his axilla as well as all bony prominences. The left upper extremity was then prepped with Chloraprep and draped in a standard sterile fashion. The posterior portal was established. The arthroscope was then inserted. An anterosuperior cannula was then placed into the rotator interval, just beneath the biceps tendon. There were significant degenerative changes noted in the glenohumeral joint. There was a large labral tear. This appeared to involve most of the circumferential labrum as well as most significantly the biceps anchor. There were just a few remaining fibers of the proximal biceps tendon with some mild irritation noted to the tendon. The decision was made at that point to perform a global labral debridement as well as a proximal biceps tenodesis in the suprapectoral region. The 4.0 aggressive shaver was then used to perform a labral debridement as well as chondroplasty. There were grade 4 changes noted in locations on the glenoid fossa as well as humeral head. The undersurface of the rotator cuff was inspected and noted to be normal. Interestingly, there were two large loose bodies. One of the bodies was 15 mm in length and the other was 5 mm in length. These were removed from the glenohumeral joint with a grasper. The arthroscope was then placed into the subacromial space. It was noted to be quite tight. Borders of the acromion were defined. The 5.5-mm resector was used to remove the anterior curve as well as lateral edge. The portals were switched. Using a standard cutting-block technique from posterior to anterior a subacromial decompression was completed. It was nicely smoothed of the undersurface of the acromion.

Attention was then turned to the distal clavicle. The previously established anterior portal was noted to be an excellent position to allow for removal of approximately 8 mm of bone off of the distal clavicle. There were significant degenerative changes here noted and a distal claviclectomy was felt to treat and alleviate the AC joint discomfort. Next, the lateral edge of the acromioplasty was completed. The rotator cuff was inspected below. There was mild scuffing, but no obvious calcific deposit on the superficial surface or rotator cuff tear. The arthroscope was then placed into the anterosuperior portal. The lateral humerus was visualized. The upper border of the pectoralis major tendon was visualized. The Bovie was then used and layer-by-layer the lateral aspect of the transverse humeral ligament securing the biceps tendon was incised.

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RE: TAYLOR, VANCE A.  
OPERATIVE REPORT  
PAGE 3

The biceps tendon was then identified. An Arthrex Fibertak anchor was filled and tapped into place with the tendon on the lateral aspect of the sutures. Suture was grasped. The Scorpion needle punch device was then used to pass a suture with a Cinch stitch. This was held free out of the anterior portal. A second Arthrex Fibertak anchor was drilled and tapped into place. A single strand of FiberWire from the anchor was then grasped out of the lateral cannula. Again, the Scorpion needle punch device was used to pierce through the tendon. These were tied down sequentially using arthroscopic knot. This nicely secured the proximal biceps tendon in the suprapectoral region. The tendon was then removed from the superior glenoid tuberosity. There were only a few remaining fibers and this was done with scissors. The long Bovie tip was then used to release it from just superior to the tenodesis site. Next, a kingfisher was used to go in and remove segment of biceps tendon. It was degenerated. All instruments were then removed. The portals were closed with 3-0 nylon suture. A sterile dressing was applied and all drapes were removed. The arm was carefully placed into a shoulder abduction sling. The patient was then placed supine on a stretcher and taken to the recovery room, in stable condition.

HILARY MALCARNEY, M.D.  
HM/SN/endovmt122/FST-19385834  
D: 07/21/16 01:48 P  
T: 07/22/16 04:08 A

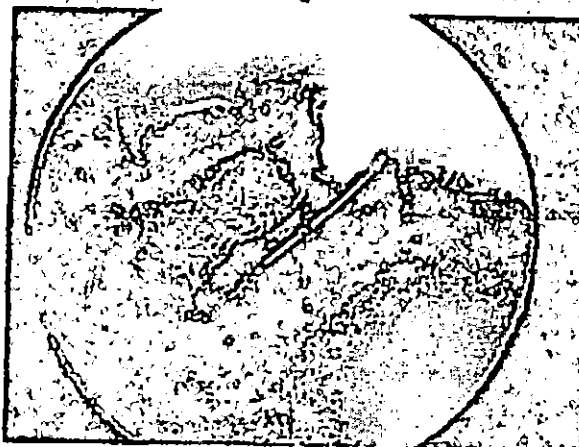
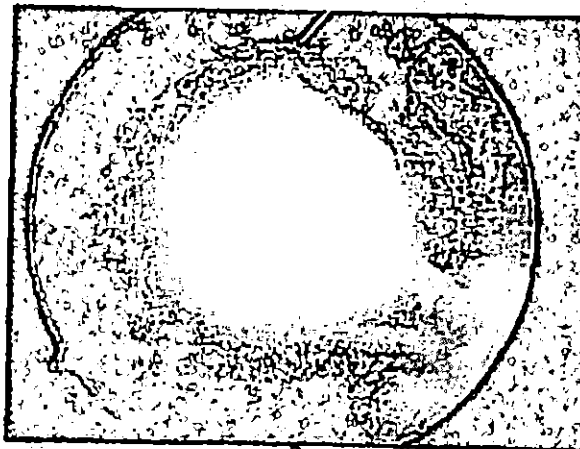
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07/21/2016



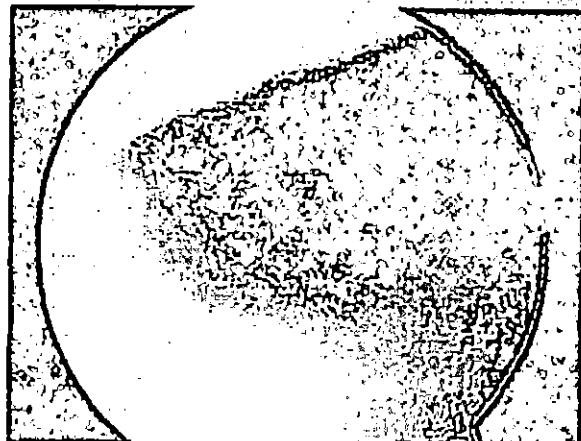
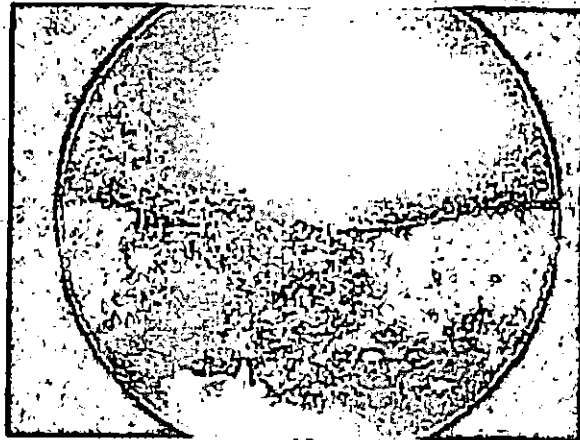
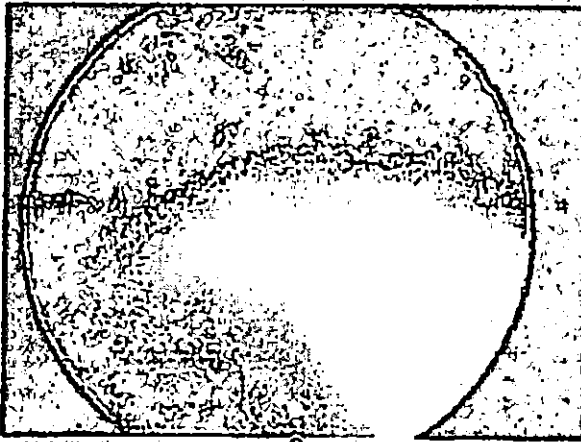
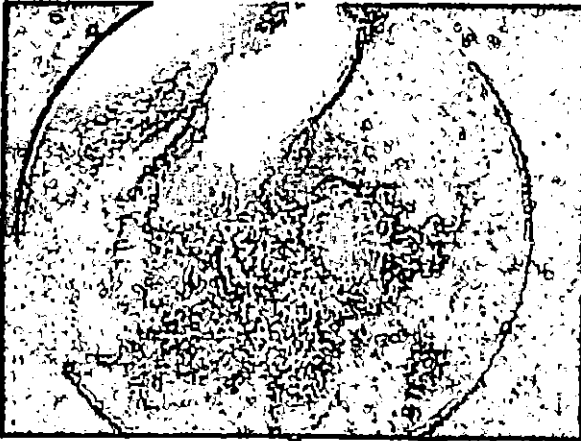
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Patient: Vance Taylor  
Procedure: Shoulder Arthroscopy

Page: 1 of 1

07/21/2016



Patient: Vance Taylor  
Procedure: Shoulder Arthroscopy

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Page: 2 of 2

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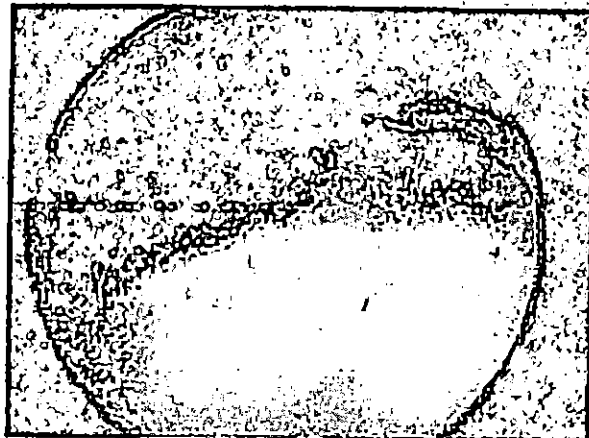
07/21/2016



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Patient: Vance Taylor  
Procedure: Shoulder Arthroscopy

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Page: J asc

**Nevada Orthopedics**

10835 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

August 8, 2016

Page 1  
Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC All Service Concepts

**08/03/2016 - Office Visit: Other F/U Office Visit****Provider: Hilary Malcarney****Location of Care: Nevada Orthopedics****Status: ON HOLD DOCUMENT. Contents are preliminary**

Here for first post-op visit following shoulder surgery. Some expected discomfort. No new complaints. Doing pendulums and elbow/wrist/hand ROM exercises on own, in anticipation of physical therapy.

**Current Problems (prior to this update):**

S/p LI SH Scope, SAD, DCE, LD, chondrplasty, PB Tenodesis, Rmvl loose bodies - DOS 07/21/16 (ICD-V54.9) (ICD10-Z51.89)

Strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, left arm, initial encounter (ICD-840.9) (ICD10-S46.912A)

Other sprain of left shoulder joint, Initial encounter (ICD-840.8) (ICD10-S43.492A)

Calcific tendinitis of left shoulder (ICD-726.11) (ICD10-M75.32)

OA of left shoulder (ICD-715.11) (ICD10-M19.012)

**Current Medications (prior to this update):**

PERCOCET 10-325 MG ORAL TABS (OXYCODONE-ACETAMINOPHEN) 1-2 PO Q 4-6 HRS PRN PAIN

MOBIC 15 MG TABS (MELOXICAM) 1 PO QD PRN

VALCYTE 450 MG ORAL TABS (VALGANCICLOVIR HCL)

CITALOPRAM HYDROBROMIDE 20 MG ORAL TABS (CITALOPRAM HYDROBROMIDE)

BENICAR 40 MG ORAL TABS (OLMESARTAN MEDOXOMIL)

**Current Problems:****Medical Problems:**

1) Dx of S/p LI Sh Scope, Sad, Dce, Ld, Chondrplasty, Pb Tenodesis, Rmvl Loose Bodies - Dos 07/21/16 (ICD-V54.9)

2) Dx of Strain of Unspecified Muscle, Fascia and Tendon At Shoulder and Upper Arm Level, Left Arm, Initial Encounter (ICD-840.9)

3) Dx of Other Sprain of Left Shoulder Joint, Initial Encounter (ICD-840.8)

4) Dx of Calcific Tendinitis of Left Shoulder (ICD-726.11)

5) Dx of Oa of Left Shoulder (ICD-715.11)

**Current Medications:**

1) Percocet 10-325 Mg Oral Tabs (Oxycodone-acetaminophen) .... 1-2 po q 4-6 hrs prn pain

2) Mobic 15 Mg Tabs (Meloxicam) .... 1 po qd prn

3) Valcyte 450 Mg Oral Tabs (Valganciclovir hcl)

4) Citalopram Hydrobromide 20 Mg Oral Tabs (Citalopram hydrobromide)

5) Benicar 40 Mg Oral Tabs (Olmesartan medoxomil)

**RECEIVED****By Karen Barbee at 8:14 am, Aug 09, 2016**

Scanned: 08/09/2016

KAREN BARBEE

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**Nevada Orthopedics**

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August 8, 2016

Page 2

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873

Ins: WC Alt Service Concepts

**Allergies:**

- 1) Ace Inhibitors (critical)

Operative shoulder - mild diffuse swelling. Portals/incisions dcl. Sutures removed. Good sensation in axillary nerve distribution. Good grip strength.

**General**

Alert, oriented, no acute distress. Cooperative.

HEENT: no evidence trauma, vision and hearing WNL.

Lungs: regular respiratory effort, no oxygen supplementation

CV: regular rate and rhythm

Neurologic: no movement disorder, no paralysis

Extremities: WNL except as above

**Assessments & Plans:****Impression**

S/p Lt SH Scope; SAD; DCE; LD; chondroplasty; PB Tenodesis; Rmvl loose bodies - DOS 07/21/16

**Imaging:****Orders:**

Post-op Exam [CPT-99024]

**Plan:**

The procedure was explained as were the operative findings. Wound care was discussed. Sutures removed. Arthroscopy photos / x-rays reviewed. Continue shoulder sling / immobilizer which should be removed at least twice daily for pendulum exercises and active range-of-motion exercises to elbow/wrist/hand. Physical therapy was prescribed, with immobilization and specific range-of-motion restrictions specified.

We talked about his arthritic change and potential need for a total shoulder replacement at some point in the future.

Follow-up one month.

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By Karen Barbee at 8:14 am, Aug 09, 2016

Nevada Orthopedics  
10835 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

K-B  
C143160978501 329-7418  
August 3, 2016  
Page 1  
Work Status

Vance A Taylor  
Male DOB:

11505

Home: (775) 830-3873  
Ins: WC All Service Concepts

08/03/2016 - Work Status: PFR  
Provider: Hilary Malcarney  
Location of Care: Nevada Orthopedics

Physicians and Chiropractor's  
Progress Report

Claim Number: C143160978501

## Certificate of Disability

Social Security Number:

Patient's Name: Taylor, Vance	Date of Injury:
Employer:	Name of MCO
Patient's Job Description/Occupation:	
Previous Injuries/Diseases/Surgeries Contributing to the Condition:	
Diagnosis:	
Related to the Industrial Injury? Explain:	
Objective Medical Findings:	
<input type="checkbox"/> None - Discharged      Stable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      Retable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/> Generally Improved <input type="checkbox"/> Condition Worsened <input type="checkbox"/> Condition Same	
May Have Suffered a Permanent Disability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Treatment Plan: Follow up one month, patient must wear sling, no use of left arm, cannot work on pain meds.	

☐ No Change in Therapy      ☐ PT/OT Prescribed      ☐ Medication May be Used While Working  
☐ Case Management      ☐ PT/OT Discontinued  
☐ Consultation      ☐ Further Diagnostic Studies      ☐ Prescription(s)

Released to FULL DUTY/No Restrictions on (Date):			
Certified TOTALLY TEMPORARILY DISABLED (Dates): From: To:			
<input checked="" type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: 8/3/16 To: 9/7/16			
Restrictions Are: Permanent <input type="checkbox"/> Temporary <input checked="" type="checkbox"/>			
<input type="checkbox"/> No Sitting	<input type="checkbox"/> No Standing	<input type="checkbox"/> No Pulling	<input type="checkbox"/> Other:
<input type="checkbox"/> No Bending at Waist	<input type="checkbox"/> No Stopping	<input type="checkbox"/> No Lifting	
<input type="checkbox"/> No Carrying	<input type="checkbox"/> No Walking	<input type="checkbox"/> Lifting Restricted to (lbs.):	
<input type="checkbox"/> No Pushing	<input type="checkbox"/> No Climbing	<input type="checkbox"/> No Reaching Above Shoulders	
Date of Next Visit: 09/07/2016, 3:40	Date of this Exam: August 3, 2016	Physician/Chiropractor Name: Hilary L. Malcarney, MD	Physician/Signature: + 58

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Tim Kuhn, DPT

Chris Amundson, DPT

Austin Aranda, DPT

Megan Pieters, DPT

Shane Collins, DPT

Jared Pugmire, DPT

Marc Magstadt, MPT

Reno Office

615 Sierra Rose Dr

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Reno, NV 89511

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Sparks Office

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Suite 210

Sparks, NV 89431

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F: (775) 674-8907

## PREMIER PHYSICAL THERAPY & SPORTS PERFORMANCE

Now Offering Women's Health Services  
Monday - Friday at our Reno Clinic

**FAKED**

Patient Name: TAYLOR, VANCE

DOB:

Physician: Hillary Malcarney, MD

Diagnosis: Status post subacromial decompression, distal clavicle excision, labral debridement, chondroplasty, and biceps tenodesis with removal of loose bodies on 07/21/16.

Date: 08/08/16

### Subjective Findings:

**History:** Mr. Taylor presents to Physical Therapy today with complaints of left shoulder pain. Vance initially injured the shoulder on 04/19/16, while performing work related tasks on a hazmat type expedition. He was moving a mannequin when he felt a pop in his arm. Vance was seen preoperatively in May 2016 for activities to increase mobility and strength. He recently had the above mentioned surgery on 07/21/16, secondary to persistent pain and dysfunction.

**Pain Profile:** Pain is 7 out of 10 in severity and notes symptoms occur frequently.

**Pre-Injury Status/Activity Level:** Able to do all activities.

**Functional Limitations/ADL deficiencies:** He now continues to have difficulties scoring a 10/10 for putting objects on a high shelf, 9/10 for reaching behind his back or carrying objects of 10 pounds or more.

**Prior Surgical History Relevant to Condition being Treated:** Relevant for the above mentioned surgery.

**Quality of Overall Health:** Good.

**Patient Goals:** To eliminate the pain he is having to restore full range of motion and strength to allow him to return back to work without limitations.

### Objective Findings:

**Observation/Palpation:** The patient presents to Physical Therapy exhibiting outward signs of acute distress. Vance is wearing an abduction pillow and sling on the left shoulder. Well healing incision sites with no abnormal redness or tenderness noted.

**Range of Motion:** Passive range of motion measurements were taken at this time. He had 40 degrees passive external rotation, forward flexion 115 degrees. Vance is able to begin active assisted range of motion activities at this time, per physician protocol.

**Strength:** No strength measurements were taken at this time.

**Functional Capacity:** Scored 61/80 on the disability portion of the SPADI.

### Significant Findings/Functional Limitations:

The patient presents to Physical Therapy today with signs and symptoms consistent with the aforementioned diagnosis. During examination, the patient was noted to have the above-mentioned deficits. In particular, elevated pain complaints, reductions in range of motion passively and active assisted. At this time, no strength measurements were taken, but based on general movements, strength was reduced as well.

OCT 17 2016

### Justification Statement/Plan/Prognosis:

Therefore, physical therapy will need to address these issues in order to reduce patient's pain and increase function.

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TAYLOR, VANCE

We will go about doing so by increasing passive and active assisted range of motion of 0 to 6 weeks postoperatively. By increasing passive and active assisted range of motion, this will allow for the shoulder to be ready for the transitional phase to strengthening and increases in range of motion will help reduce pain complaints. At 6 to 12 weeks, we will begin some light strengthening. per physician protocol, not to stress the biceps tendon, thus progressively increasing functional usage of the shoulder, ultimately leading to full range of motion and increases in strength to allow for lifting, pushing, and pulling. All activities will focus on the reduction of pain, and improvements in mobility.

### Goals:

	GOALS FOR EPISODE OF CARE	CURRENT CAPABILITY
Goal #1	Patient will be independent with initiation and progression of a home exercise program.	At the current time, the patient is not doing a specific home exercise program. The initiation of one will allow for increased available range of motion, at this time passive and active assisted.
Goal #2	Reduce pain down to 2 out of 10.	At the current time, it is 7 out of 10. This reduction in pain will allow for improvements in passive movements of the arm and active assisted movements for the first 6 weeks.
Goal #3	Reduce SPADI down to 30 or less.	At the current time it is 61/80. This reduction in score will translate into patient's increased ability to use the arm, reach, push, pull when deemed appropriate by physician protocol.
Goal #4	Increase strength to 4+/5 or more for shoulder movements, abduction, external rotation, periscapular musculature. At this time, we are to do no shoulder strengthening, but when deemed appropriate by physician protocol the increase in strength will allow for increased usage of the arm, pushing, pulling, lifting, and carrying, thus allowing Vance to progress back to work when deemed appropriate.	

### FUNCTIONAL PLAN OF CARE

Frequency/Duration: Patient will be seen 2 times a week for 4 to 6 weeks.

  
Chris Amundson, DPT, MS, CMP

8-9-16  
Date

CA/gpg  
L 08/09/16

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**INJURED EMPLOYEE'S REQUEST FOR COMPENSATION**  
(Pursuant to NRS 616C.475(6))

**ANSWER ALL QUESTIONS. DATE, SIGN AND RETURN TO YOUR CLAIMS AGENT**

1. Name: VANCE TAYLOR Social Security # \_\_\_\_\_ Phone No: (715) 830-3873
2. Physical address: 2919 Fern Meadows Ct Reno NV. 89519  
Street City State Zip  
 Mailing address: same \_\_\_\_\_  
Street/P.O.Box City State Zip  
 Is this a change of address? ☐ Yes ☒ No
3. Employer at time of injury: TNFPD
4. Supervisor's name: ALBERT HYDE
5. Name of your attending physician or chiropractor: HILLARY MCKINNEY
6. Date on which you were last examined by attending physician or chiropractor: 03 AUG 16
7. Date of next appointment with physician or chiropractor: 07 SEPT 16
8. a. Have you been released to return to work by your attending physician or chiropractor? ☐ Yes ☒ No  
 b. If so, give the date of release: \_\_\_\_\_
9. a. Have you returned to work with another employer? ☐ Yes ☒ No  
 b. Are you receiving payment from any employer? ☒ Yes ☐ No  
 c. Date on which you returned to work: N/A  
 d. Name of employer for whom you returned to work: N/A  
 e. Address: N/A
10. Have you been disabled and unable to work in any occupation for at least 5 consecutive days, or 5 cumulative days within a 20 day period? ☒ Yes ☐ No
11. Date on which you last worked: 20 APR 16 For Whom: TNFPD
12. When do you expect to be able to return to your regular occupation? \_\_\_\_\_
13. Would you be able to work at a light duty type job now? ☐ Yes ☒ No  
 Comment: TN A SLING (SHOULDER) FOR 6 WEEKS POST-OP. CURRENTLY ON PAIN MEDICATION - UNABLE TO DRIVE. NO USE OF LEFT ARM. 100% WEIGHT RESTRICTION
14. Has your employer offered you a light duty type job? ☒ Yes ☐ No  
 a. If yes, when was the light duty job offered? DESK

Per NRS 616D.300, I understand that the reporting of false information may disqualify me from receiving workers' compensation benefits. Further, I understand falsification may subject me to civil and criminal penalties. I certify the above information is correct to the best of my knowledge.

09 AUG 16  
Date

  
 Signature \_\_\_\_\_  
RENO WASHOE NV.  
 CITY COUNTY STATE

NOTE: An explanation of the methods used to calculate your average monthly wage and compensation benefits should accompany your first compensation check. If you did not receive this, please contact your claims agent.

**FOR CLAIMS AGENT'S USE ONLY**

PAY: From \_\_\_\_\_ To \_\_\_\_\_  
 From \_\_\_\_\_ To \_\_\_\_\_

Rev. date \_\_\_\_\_  
 TT Final TT TP

\_\_\_\_\_  
 Date

Sign: **RECEIVED** (Rev. 7/99)  
 By Karen Barbee at 12:32 pm, Aug 12, 2016 284

**Nevada Orthopedics**10635 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

August 10, 2016

Page 1

Work Status

**Vance A Taylor**

Male DOB:

11605

Home: (775) 830-3873

Ins: WC All Service Concepts

08/10/2016 - Work Status: PPR

Provider: Hilary Malcarney

Location of Care: Nevada Orthopedics

**Physicians and Chiropractor's****Progress Report**


Claim Number: C143160976501

**Certificate of Disability**

Social Security Number:

Patient's Name: Taylor, Vance	Date of Injury:
Employer:	Name of MCO
Patient's Job Description/Occupation:	
Previous Injuries/Diseases/Surgeries Contributing to the Condition:	
Diagnosis:	
Related to the Industrial Injury? Explain:	
Objective Medical Findings:	
<input type="checkbox"/> None - Discharged      Stable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      Reliable <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Generally Improved <input type="checkbox"/> Condition Worsened <input type="checkbox"/> Condition Same <input type="checkbox"/> May Have Suffered a Permanent Disability <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Treatment Plan:	

☐ No Change in Therapy      ☐ PT/OT Prescribed      ☐ Medication May be Used While Working  
☐ Case Management      ☐ PT/OT Discontinued  
☐ Consultation      ☐ Further Diagnostic Studies      ☐ Prescription(s)

PATIENT IS TO WORK 4 HOURS A DAY BEGINNING 9-22-2016. MUST WEAR SLING. NO USE LEFT ARM. PATIENT WILL BE OFF WORK UNTIL 9-22-16.			
PATIENT MAY RETURN 9-8-16 8 HOURS A DAY. NO USE LEFT ARM. MUST WEAR SLING.			
Released to FULL DUTY/No Restrictions on (Date): <input checked="" type="checkbox"/> Certified TOTALLY TEMPORARILY DISABLED (Dates): From: 7/21/16 To: 9-22-16 <input checked="" type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: 9-22-16 To: 9-5-16			
Restrictions Are: Permanent Temporary			
<input type="checkbox"/> No Sitting <input type="checkbox"/> No Bending at Waist <input type="checkbox"/> No Carrying <input type="checkbox"/> No Pushing	<input type="checkbox"/> No Standing <input type="checkbox"/> No Stopping <input type="checkbox"/> No Walking <input type="checkbox"/> No Climbing	<input type="checkbox"/> No Pulling <input type="checkbox"/> No Lifting <input type="checkbox"/> Lifting Restricted to (lbs.): <input type="checkbox"/> No Reaching Above Shoulders	<input type="checkbox"/> Other:
Date of Next Visit: 09/07/2016, 3:40 PM	Date of this Exam: August 10, 2016	Physician/Chiropractor Name: Hilary L. Malcarney, MD	Physician/Signature: 

**RECEIVED**

By Karen Barbee at 2:38 pm, Aug 16, 2016

285



Devon T. Reese  
Susanna Truax Kintz  
Jason D. Guinasso

D. Geno Menchetti  
Kimberly Marsh Guinasso  
Eric C. Werner

Alan R. Kusler  
Matthew J. Curti  
\* Yvonne L. Murphy

\* Licensed in Nevada  
§ Licensed in Nevada and California  
^ Licensed in Illinois  
Ω Of Counsel  
\* Non-Attorney/Government Affairs  
Director

August 16, 2016

1CB

SENT VIA U.S. MAIL

Karen Barbee  
Alternative Service Concepts  
639 Isbell Road, Suite 390  
Reno, NV 89509

Re: Claimant: Vance Taylor  
DOI: 04/19/2016  
Claim No.: C143-16-09765-01  
Employer: Truckee Meadows

Dear Ms. Barbee,

I have been retained by Mr. Taylor to represent him in all aspects of the above-referenced claim. I have enclosed a power of attorney form, which authorizes me to discuss his claim, and to review any and all documents held by you that pertain to his claim.

Please send me a complete copy of Mr. Mills' claim file, including but not limited to copies of all claim notes, Form C-1, Form C-3, Form C-4, claim documents, determinations, correspondence, copies of your average monthly wage calculations and any material relied upon to reach your AMW determination, all medical reporting, diagnostic test reports, surgical reports, logs of oral and written communication with health care providers, reports, claim reserves data sheet, health care and benefit payment history, and other documents recording official acts by you concerning his claim. Please consider this request an ongoing request and be sure to regularly supplement the production of your claim file until this claim is closed.

Additionally, please send a letter outlining exactly what Mr. Taylor's current work restrictions are as soon as possible.

I look forward to working with you on this matter. Please feel free to contact me any time if there are any issues you would like to discuss regarding this claim.

Very Truly Yours,

Jason D. Guinasso, Esq.

RECEIVED

936 Southwood Blvd., Suite 301, Incline Village, Nevada 89451 AUG 18 2016

190 W. Huffaker Lane, Suite 402, Reno, Nevada 89511

2300 W. Sahara Ave., Suite 800, Las Vegas, NV 89102

ASC 286

Phone: 775.832.6800 • 775.832.6801 • info@rkglawyers.com • www.rkglawyers.com

Scanned: 08/18/2016 KAREN BARBEE

AA000315 081



# Alternative Service Concepts

Flexibility • Expertise • Integrity

August 18, 2016

Jason Guinasso  
RKG  
190 W. Huffaker Lane, #402  
Reno, NV 89511

RE: Employee: Vance Taylor  
Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Guinasso:

We have received your letter of August 16, 2016. Enclosed are documents that you requested regarding Mr. Taylor. (The body of your letter makes reference to "Mr. Mills" and I assume that is a typo.)

The written work statuses are enclosed. We sought clarification with Dr. Malcarney's because of the conflicting reports and were told on 8/17/16 that the 8/3/16 note is correct: must wear sling, no use of left arm, minimal work on pain meds. We were also told that Mr. Taylor had a phone consult on 8/15/16 and had an extensive talk with Dr. Malcarney about pain med use. He should be off the pain meds shortly and the meds will not be refilled. Follow-up is set for 9/7/16. The return to work note from 8/5/16 is not applicable.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

287

Scanned: 08/18/2016

KAREN BARBEE

AA000316 082

Claim Number C1431609745

**INJURED EMPLOYEE'S REQUEST FOR COMPENSATION**  
(Pursuant to NRS 616C.475(6))


KB

**ANSWER ALL QUESTIONS. DATE, SIGN AND RETURN TO YOUR CLAIMS AGENT**

1. Name: VANCE TAYLOR Social Security # \_\_\_\_\_ Phone No: (775) 830-3873
2. Physical address: 2919 Aspen Meadows CT. Reno NV. 89519  
Street City State Zip  
 Mailing address: SAME  
Street/P.O. Box City State Zip  
 Is this a change of address? ☐ Yes ☒ No
3. Employer at time of injury: TMEPD
4. Supervisor's name: ALBERT HYOIE
5. Name of your attending physician or chiropractor: HILLARY MALCANEY
6. Date on which you were last examined by attending physician or chiropractor: 03 AUG 16
7. Date of next appointment with physician or chiropractor: 07 SEPT 16
8. a. Have you been released to return to work by your attending physician or chiropractor? ☐ Yes ☒ No  
 b. If so, give the date of release: \_\_\_\_\_
9. a. Have you returned to work with another employer? ☐ Yes ☒ No  
 b. Are you receiving payment from any employer? ☐ Yes ☒ No  
 c. Date on which you returned to work: \_\_\_\_\_  
 d. Name of employer for whom you returned to work: \_\_\_\_\_  
 e. Address: \_\_\_\_\_
10. Have you been disabled and unable to work in any occupation for at least 5 consecutive days, or 5 cumulative days within a 20 day period? ☒ Yes ☐ No
11. Date on which you last worked: \_\_\_\_\_ For Whom: \_\_\_\_\_
12. When do you expect to be able to return to your regular occupation? 21 JAN 17
13. Would you be able to work at a light duty type job now? ☐ Yes ☒ No  
 Comment: ON WEEK 4 OF 6 IN AN ARM SLING. UNABLE TO USE LEFT ARM. ON NARCOTICS FOR PAIN. UNABLE TO DRIVE. MUST ICE SHOULDER FREQUENTLY THROUGHOUT THE DAY TO MINIMIZE DRUG INTAKE.
14. Has your employer offered you a light duty type job? ☒ Yes ☐ No  
 a. If yes, when was the light duty job offered? 15 AUG 16

Per NRS 616D.300, I understand that the reporting of false information may disqualify me from receiving workers' compensation benefits. Further, I understand falsification may subject me to civil and criminal penalties. I certify the above information is correct to the best of my knowledge.

21 AUG 16  
Date

  
 Signature  
RENO WASHOE NEVADA  
 CITY COUNTY STATE

NOTE: An explanation of the methods used to calculate your average monthly wage and compensation benefits should accompany your first compensation check. If you did not receive this, please contact your claims agent.

**FOR CLAIMS AGENT'S USE ONLY**

PAY: From \_\_\_\_\_ To \_\_\_\_\_  
 From \_\_\_\_\_ To \_\_\_\_\_

Rev. date \_\_\_\_\_  
 TT Final TT **RECEIVED**  
SEP 9 2016

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature ASC D-6 (Rev. 7/99)

**INJURED EMPLOYEE'S REQUEST FOR COMPENSATION**  
(Pursuant to NRS 616C.475(6))

KB

**ANSWER ALL QUESTIONS. DATE, SIGN AND RETURN TO YOUR CLAIMS AGENT**

1. Name: VANCE TAYLOR Social Security # \_\_\_\_\_ Phone No: (725) 830-3873
2. Physical address: 2919 Aspen Meadows Ct. Reno NV 89519  
Street City State Zip  
 Mailing address: Same  
Street/P.O. Box City State Zip  
 Is this a change of address? ☐ Yes ☒ No
3. Employer at time of injury: TJMFPO
4. Supervisor's name: ALBERT HYDE
5. Name of your attending physician or chiropractor: HILLARY MILCARENEY
6. Date on which you were last examined by attending physician or chiropractor: 03 Aug 16
7. Date of next appointment with physician or chiropractor: 07 SEPT 16
8. a. Have you been released to return to work by your attending physician or chiropractor? ☐ Yes ☒ No  
 b. If so, give the date of release: \_\_\_\_\_
9. a. Have you returned to work with another employer? ☐ Yes ☒ No  
 b. Are you receiving payment from any employer? ☒ Yes ☐ No  
 c. Date on which you returned to work: \_\_\_\_\_  
 d. Name of employer for whom you returned to work: \_\_\_\_\_  
 e. Address: \_\_\_\_\_
10. Have you been disabled and unable to work in any occupation for at least 5 consecutive days, or 5 cumulative days within a 20 day period? ☒ Yes ☐ No
11. Date on which you last worked: 18 JULY 16 For Whom: TJMFPO
12. When do you expect to be able to return to your regular occupation? Nov 2016
13. Would you be able to work at a light duty type job now? ☐ Yes ☒ No  
 Comment: \_\_\_\_\_
14. Has your employer offered you a light duty type job? ☒ Yes ☐ No  
 a. If yes, when was the light duty job offered? PRE-OP.

Per NRS 616D.300, I understand that the reporting of false information may disqualify me from receiving workers' compensation benefits. Further, I understand falsification may subject me to civil and criminal penalties. I certify the above information is correct to the best of my knowledge.

04 SEPT 16  
Date

Vance Taylor  
Signature  
Reno Washoe NV.  
CITY COUNTY STATE

NOTE: An explanation of the methods used to calculate your average monthly wage and compensation benefits should accompany your first compensation check. If you did not receive this, please contact your claims agent.

**FOR CLAIMS AGENT'S USE ONLY**

PAY: From \_\_\_\_\_ To \_\_\_\_\_  
 From \_\_\_\_\_ To \_\_\_\_\_

Rev. date \_\_\_\_\_  
 TT Final TT

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 TP SEP 19 2016

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature ase D 6 (Rev. 7/99)



C143-14-09765-01

**Nevada Orthopedics**10835 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:

October 12, 2016

Page 1

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts09/07/2016 - Office Visit: Other F/U Office Visit  
Provider: Hilary Malcarney  
Location of Care: Nevada Orthopedics**History of Present Illness:**

Vance has been immobilized in his sling. He has been participating in physical therapy. He has just started to see some relief from the surgical procedure although is still stiff and sore.

**Current Problems:****Medical Problems:**

- 1) Dx of S/p Lt Sh Scope, Sad, Dce, Ld, Chondroplasty, Pb Tenodesis, Rmvl Loose Bodies - Dos 07/21/16 (ICD-V64.9)
- 2) Dx of Strain of Unspecified Muscle, Fascia and Tendon At Shoulder and Upper Arm Level, Left Arm, Initial Encounter (ICD-840.9)
- 3) Dx of Other Sprain of Left Shoulder Joint, Initial Encounter (ICD-840.8)
- 4) Dx of Calcific Tendinitis of Left Shoulder (ICD-726.11)
- 5) Dx of Oa of Left Shoulder (ICD-715.11)

**Current Medications:**

- 1) Percocet 10-325 Mg Oral Tabs (Oxycodone-acetaminophen) .... 1-2 po q 4-6 hrs prn pain
- 2) Mobic 15 Mg Tabs (Meloxicam) .... 1 po qd prn
- 3) Valcyte 450 Mg Oral Tabs (Valganciclovir hcl)
- 4) Citalopram Hydrobromide 20 Mg Oral Tabs (Citalopram hydrobromide)
- 5) Benicar 40 Mg Oral Tabs (Olmesartan medoxomil)

**Allergies:**

- 1) Aca Inhibitors (critical)

**Physical Exam**

Left shoulder allows for passive forward elevation to 100°, external rotation to 5. Rotator cuff strength testing 4 out of 5. Incisions are healed.

**General**Alert, oriented, no acute distress. Cooperative.  
HEENT: no evidence trauma, vision and hearing WNL.  
Lungs: regular respiratory effort, no oxygen supplementation  
CV: regular rate and rhythm  
Neurologic: no movement disorder, no paralysis  
Extremities: WNL except as above**Impression****RECEIVED**

By SHMCO at 8:50 am, Oct 12, 2016

Scanned: 10/17/2016

KAREN BARBEE

RECEIVED

OCT 17 2016

asc290

AA000319 085

**Nevada Orthopedics**

10636 A Professional Cir Reno, NV 89521  
(775) 852-0605 Fax:

October 12, 2016

Page 2

Office Visit

**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3873  
Ins: WC Alt Service Concepts

S/p LI SH Scope; SAD; DCE; LD; chondroplasty; PB Tenodesis; Rmvl loose bodies - DOS 07/21/16

**Imaging:****Orders:**

Post-op Exam [CPT-99024]

**Plan:**

Vance will continue to participate in physical therapy 3 times per week for the next 4 weeks. He will progress both range of motion and strength. I've given him a 5 pound lifting injection for work purposes. I refilled his Mobic and also gave him a new prescription for Norco today.

He is aware the he has subsustantial glenohumeral joint arthritis that may in the future require a total shoulder arthroplasty.

Follow up 1 month.

.....electronically signed by Hilary L Malcarney, MD September 07, 2016 2:14 PM

This note was generated using voice recognition software which has a small chance of producing errors of grammar and possibly content. I have made every reasonable attempt to find and correct any obvious errors, but expect that some may not be found prior to finalization of this note.

Electronically signed by Hilary Malcarney on 09/21/2016 at 2:14 PM

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OCT 17 2016

asc

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**Nevada Orthopedics**10835 A Professional Cir Reno, NV 89521  
(775) 852-0505 Fax:329-7418  
C14316-0976501 September 7, 2016  
Page 1  
Work Status**Vance A Taylor**

Male DOB:

11505

Home: (775) 830-3673  
Ins: WC All Service Concepts

09/07/2016 - Work Status: PPR

Provider: Hilary Malcarney

Location of Care: Nevada Orthopedics

**Physicians and Chiropractor's  
Progress Report****Certificate of Disability**

Patient's Name: Taylor, Vance

Claim Number: C143160976501

Social Security Number:

Date of Injury:

Employer:

Name of MCO

Patient's Job Description/Occupation:

Previous Injuries/Diseases/Surgeries Contributing to the Condition:

Diagnosis:

Related to the Industrial Injury? Explain:

Objective Medical Findings:


☐ None - DischargedStable ☐ Yes ☐ NoReliable ☐ Yes ☐ No☐ Generally Improved☐ Condition Worsened☐ Condition SameMay Have Suffered a Permanent Disability ☐ Yes ☐ No

Treatment Plan: 0 LB Lifting restriction; no use of left arm overhead s:

☐ No Change in Therapy☐ PT/OT Prescribed☐ Medication May be Used

While Working

☐ Case Management☐ PT/OT Discontinued☐ Consultation☐ Further Diagnostic Studies☐ Prescription(s)

<input type="checkbox"/> Released to FULL DUTY/No Restrictions on (Date): Certified TOTALLY TEMPORARILY DISABLED (Dates): From: _____ To: _____ <input checked="" type="checkbox"/> Released to RESTRICTED/Modified Duty on (Date): From: 9/7/16 To: 10/10/16 Restrictions Are: Permanent <input checked="" type="checkbox"/> Temporary <input type="checkbox"/>			
<input type="checkbox"/> No Sitting <input type="checkbox"/> No Bending at Waist <input type="checkbox"/> No Carrying <input type="checkbox"/> No Pushing	<input type="checkbox"/> No Standing <input type="checkbox"/> No Stooping <input type="checkbox"/> No Walking <input type="checkbox"/> No Climbing	<input type="checkbox"/> No Pulling <input type="checkbox"/> No Lifting <input checked="" type="checkbox"/> Lifting Restricted to (5 lbs.): <input checked="" type="checkbox"/> No Reaching Above Shoulder	<input type="checkbox"/> Other:
Date of Next Visit: 10/10/2016, 11:20 AM	Date of this Exam: September 7, 2016	Physician/Chiropractor Name: Hilary L. Malcarney, MD	Physician/Signature: 

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SEP 08 2016

asc

Amy Ray  
Fire Marshal



Tim Leighton  
Deputy Fire Chief

Charles A. Moore  
Fire Chief

September 9, 2016

Vance Taylor  
2919 Aspen Meadows Court  
Reno, NV 89519

Re: Offer of Temporary Light Duty Employment Pursuant to NRS 616C.475 (8)

Dear Vance,

Your treating physician/medical facility has released you to light duty employment. The purpose of this communication is to document an offer of temporary light duty employment immediately available that is compatible with the physical limitations imposed by your treating physician or chiropractor.

Light duty may be performed with a modification of your current duties and current work location. Your gross wage will either be equal to the gross wage you were earning at the time of your injury, or substantially similar to the gross wage you were earning at the time of your injury, should you be working in a different classification of employment. This position has the same employment benefits as the position you held at the time of your injury.

You will be assigned to the administrative office and your scheduled hours will be Monday Through Friday 8am to 5pm with an hour lunch. To align the schedule change with the beginning of the FLSA cycle, you will report to the administrative offices on Monday, September 12, 2016 at 8am.

You remain subject to all of Truckee Meadows Fire Protection District's terms and conditions of employment and are to follow procedures and policies related to your employment as you would if you were not working a light duty assignment.

Please complete the Acknowledgement by Workers' Compensation Claimant attached to this letter and return to me no later than.

Sincerely,

A handwritten signature in cursive script that reads "Sandy Francis".

Sandy Francis  
Administrative Assistant  
Human Resources Representative

TRUCKEE MEADOWS FIRE PROTECTION DISTRICT  
1001 E. Ninth St. Bldg D 2nd Floor • Reno, Nevada 89512 • PO Box 11130 • Reno, Nevada 89520  
Office 775.326.6000 Fax 775.326.6003

293

AA000322 088

**ACKNOWLEDGEMENT BY WORKERS' COMPENSATION CLAIMANT**

I acknowledge that my employer is providing temporary administrative light duty employment within the physical restrictions outlined by my treating physician or chiropractor.

I understand my physical restrictions and acknowledge that I will work within those restrictions, at all times.

I acknowledge that my doctor may change my physical restrictions and this may affect the ability of Truckee Meadows fire Protection District to provide a temporary light duty assignment.

I acknowledge it is my responsibility to advise the District of my restrictions following each doctor's visit and that my failure to do so could affect my workers compensation claim adversely and could result in disciplinary action.

I understand this offer of temporary light duty employment is not a guarantee of continued employment, nor does it constitute an employment contract. Assignments may be changed or terminated based on employer needs. The offer of temporary light duty employment may also be terminated when the treating physician or chiropractor determines I have reached maximal medical improvement, determines a change in work ability status, or determines I may return to unrestricted duty.

I understand that declining this offer of temporary light duty employment may affect my Workers' Compensation benefits.

Please indicate below if you are accepting or declining this offer of temporary light duty employment.

ACCEPTED \_\_\_\_\_

DECLINED \_\_\_\_\_

Signed \_\_\_\_\_

Dated \_\_\_\_\_

Print Name \_\_\_\_\_

**Karen J. Barbee**

---

**From:** Wallick, Celeste <CWallick@washoecounty.us>  
**Sent:** Monday, September 12, 2016 7:59 AM  
**To:** Karen J. Barbee  
**Subject:** FW: Taylor Light-Duty Response

---

**From:** Francis, Sandy  
**Sent:** Friday, September 09, 2016 3:33 PM  
**To:** Watts-Vial, David  
**Cc:** Knight, Patricia; Wallick, Celeste; Moore, Charles  
**Subject:** FW: Taylor Light-Duty Response

Chief,

I received this response to an email I sent Vance Taylor this AM regarding the District offering him light duty for a shoulder injury/surgery he is currently recovering from. His Doctor has cleared him for light duty. I will forward the email I sent him this morning following this email.

Sandy Francis  
Truckee Meadows Fire Protection District  
775-328-6124  
775-326-6003 (fax)

---

**From:** Taylor, Vance  
**Sent:** Friday, September 09, 2016 3:15 PM  
**To:** Francis, Sandy  
**Subject:** Taylor Light-Duty Response

Sandy,

In response to your light duty job offer dated September 9, 2016, offering me light duty as a clerical office assistant at the administrative office from 8:00 am to 5:00 pm Monday through Friday, I hereby respectfully reject your offer of light-duty as written and expected because it does not satisfy the requirements of NRS 616C.475(8) and related case law. I have been in contact with my lawyer as well as the union and have been instructed to address your request as such.

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As a 25-year veteran of the Fire Service, I have worked extremely hard to achieve the rank of Captain for the Truckee Meadows Fire Protection District (TMFPD). I feel that your current offer of light duty or TMFPD's current expectations of light duty do not follow the law as outlined in NRS 616C.475(8). Your expectations as set forth in your letter are as follows:

- Dramatically change my work schedule from a 48/96 pay scale which includes FLSA pay to an 8 to 5 Monday thru Friday administration schedule with no FLSA pay and no ability to bank Holiday Comp Time.
- Instead of performing light duties that reflect the position and duties of our normal position, you expect me to complete tasks and duties that reflect that of an office secretary which is humiliating and unlawful. See Dillard Dept. Stores, Inc. v. Beckwith, 115 Nev. 372, 989 P.2d 882 (1999)(Court awarded claimant \$2,496,112 in damages and \$518,455 in attorney fees and costs for constructive discharge claims because employer placed employee in entry level position, which included document filing, rather than being returned to her management position with the company.)
- You replaced my normal supervising Battalion Chief with an appointed office secretary, which in turn, breaks the normal chain of command established by the fire department.

NRS 616C.475(8) provides as follows:

"Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) **Is substantially similar to the employee's position at the time of his or her injury in relation to the location of the employment and the hours the employee is required to work;**

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his or her injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and

(c) Has the same employment benefits as the position of the employee at the time of his or her injury."

Your light duty job offer does not comply with the requirements of Nevada law. Moreover, I further object to your light duty job offer for the following reasons:

- By unlawfully changing my normal work schedule from a 48/96 pay scale to the admin's 40 hour scale you are imposing a hardship on me and my family by causing us to incur increased day care expenditures for childcare, increased fuel and maintenance costs for daily commutes, and increase stress on my family due to an unfamiliar, unforgiving, and inconvenient work schedule. This light duty job-offer amounts to harassment while I am recovering from a work-related injury and places a burden on me and my family that the statute specifically prohibits.

- The change of schedule also eliminates LSA pay and the ability to bank 12 hours of Holiday Comp Time by me. This will result in a decrease in pay over an extended or lengthy injury recovery period. In my case, my recovery from the medical treatment for my work-related shoulder injury is expected to take several months.
- By changing the job description expected to be performed while I am on light-duty from my normal position to that of an office secretary is humiliating, demoralizing and degrading which, in turn, creates a hostile work environment making me feel as if I am being punished by my employer for sustaining a work-related injury and filing a workers' compensation claim related thereto. Consequently, I feel pressured to either try to push my doctor for a premature full-duty release that will subject me to further injury or to resign and consider a medical retirement.
- By changing my supervisor from my duty Battalion Chief to an appointed office secretary not only breaks the established chain of command, but is extremely confusing and restrictive for me and my Battalion Chief. Moreover, this break in the chain of command adds to the humiliating feeling that I am being punished because I sustained a work-related injury and filed a workers' compensation claim.

Sandy, please do not misconstrue this letter as me saying I won't accept a valid light duty job offer that conforms to my rights under the statute. If you would let me to return to my regular schedule, at my assigned station, working under my duty Battalion Chief, I would be more than happy to do so. I cannot lift more than 5 pounds, but I do feel I could still offer some assistance in a capacity that better reflects the duties of my assigned position.

Sincerely,

Vance Taylor

Captain 15B

Truckee Meadows Fire Protection District

(775) 830-3873



143-16-09765-01

# PREMIER PHYSICAL THERAPY & SPORTS PERFORMANCE

Coming soon to Carson City! Call our Reno office for details - (775) 828-9724

Patient Name: TAYLOR, VANCE  
DOB:  
Physician: Hilary Malcarney, MD  
Diagnosis: Status post subacromial decompression, distal clavicle excision, labral debridement, chondroplasty, and biceps tenodesis with removal of loose bodies on 07/21/16.  
Date: 09/12/16

## PROGRESS NOTE

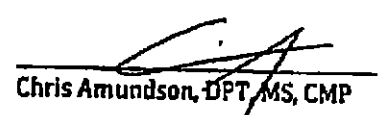
Interval Period: 08/08/16 to 09/12/16

Mr. Taylor has been seen for multiple physical therapy visits regarding the above-mentioned condition. With Vance, we have been focusing on increasing available range of motion both active and passive, and improvements in functional outputs. Pain has been reduced down to 3 out of 10 when he was initially 7 out of 10.

Initial Evaluation Status	Comment & Action Plan
1. Patient will be independent with initiation and progression of a home exercise program.	Met.
2. Reduce pain down to 2 out of 10.	Progressing toward as noted above.
3. Reduce SPADI down to 30 or less.	Progressing toward based on clinical judgment.
4. Increase strength to 4+/5 or more for shoulder movements, abduction, external rotation, periscapular musculature. At this time, we are to do no shoulder strengthening, but when deemed appropriate by physician protocol the increase in strength will allow for increased usage of the arm, pushing, pulling, lifting, and carrying, thus allowing Vance to progress back to work when deemed appropriate.	Progressing toward.

**Assessment/Justification/Plan of Action:** With regard to range of motion, Initially Vance had passive measurements of 40 degrees external rotation, now 70 degrees. Passive forward flexion 115 degrees, now 135 degrees. Continuation of physical therapy services would benefit Vance so that we can further increase his range of motion, both actively and passively, as well as increase strength to allow for continued advancement of functional activities, lifting, pushing, and pulling.

Thank you for the referral.

  
Chris Amundson, DPT, MS, CMP

CA/kjl  
t. 09/13/16

RECEIVED  
OCT 17 2016

FAXED  
9/13/16

RECEIVED  
By SHMCO at 4:44 pm, Oct 11, 2016

298



# Alternative Service Concepts

Flexibility • Expertise • Integrity

September 26, 2016

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

RE: Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Taylor:

We have been informed that you were offered light duty work consistent with the restrictions imposed by Dr. Malcarney, and to begin 9/12/2016. At the present time, no further payments of temporary total disability (TTD) will be paid beyond 9/11/2016.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 09/26/2016

KAREN BARBEE

AA000328 094

299



# Alternative Service Concepts

Flexibility • Expertise • Integrity

September 26, 2016

Hillary Malcarney, M.D.  
Nevada Orthopedics  
10635 A Professional Cir  
Reno, NV 89521

RE: Employee: Vance Taylor  
Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Dr. Malcarney:

A recent review of the operative report of 7/21/16 indicates that you performed an arthroscopic distal clavicle excision along with other procedures. The surgery that was requested and approved by us did not include the distal clavicle excision.

Please advise whether or not the distal clavicle excision was performed because there was actual damage to the clavicle caused by the industrial injury, or if it was done merely for "best treatment practices" to assure that it did not interfere with Mr. Taylor's recovery from the injury and the approved procedures related thereto.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 09/26/2016

KAREN BARBEE

300  
AA000329 095

Claim Number C1431609765

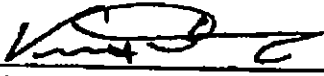
**INJURED EMPLOYEE'S REQUEST FOR COMPENSATION**  
(Pursuant to NRS 616C.475(6))

**ANSWER ALL QUESTIONS. DATE, SIGN AND RETURN TO YOUR CLAIMS AGENT**

1. Name: VANCE TAYLOR Social Security # \_\_\_\_\_ Phone No: (775) 930-3873
2. Physical address: 2919 Aspen Meadows Ct. Reno NV. 89519  
Street City State Zip  
 Mailing address: SAME  
Street/P.O. Box City State Zip  
 Is this a change of address? ☐ Yes ☒ No
3. Employer at time of injury: TREPD
4. Supervisor's name: ALBERT HYDE
5. Name of your attending physician or chiropractor: Hillary Malcomsey
6. Date on which you were last examined by attending physician or chiropractor: SEPT 7, 2016
7. Date of next appointment with physician or chiropractor: OCTOBER 31, 2016
8. a. Have you been released to return to work by your attending physician or chiropractor? ☐ Yes ☒ No  
 b. If so, give the date of release: \_\_\_\_\_
9. a. Have you returned to work with another employer? ☐ Yes ☒ No  
 b. Are you receiving payment from any employer? ☒ Yes ☐ No  
 c. Date on which you returned to work: \_\_\_\_\_  
 d. Name of employer for whom you returned to work: ?  
 e. Address: \_\_\_\_\_
10. Have you been disabled and unable to work in any occupation for at least 5 consecutive days, or 5 cumulative days within a 20 day period? ☒ Yes ☐ No
11. Date on which you last worked: \_\_\_\_\_ For Whom: TREPD
12. When do you expect to be able to return to your regular occupation? DECEMBER 2016
13. Would you be able to work at a light duty type job now? ☒ Yes ☐ No  
 Comment: A LIGHT-DUTY JOB THAT IS IN ACCORDANCE TO NEVADA STATE STATUTES.
14. Has your employer offered you a light duty type job? ☒ Yes ☐ No  
 a. If yes, when was the light duty job offered? SEPT. 13, 2016

Per NRS 616D.300, I understand that the reporting of false information may disqualify me from receiving workers' compensation benefits. Further, I understand falsification may subject me to civil and criminal penalties. I certify the above information is correct to the best of my knowledge.

29 SEPT 16  
Date

  
 Signature \_\_\_\_\_  
Reno WASHOE NV.  
 CITY COUNTY STATE

NOTE: An explanation of the methods used to calculate your average monthly wage and compensation benefits should accompany your first compensation check. If you did not receive this, please contact your claims agent.

FOR CLAIMS AGENT'S USE ONLY

PAY: From \_\_\_\_\_ To \_\_\_\_\_  
 From \_\_\_\_\_ To \_\_\_\_\_

Rev. date \_\_\_\_\_  
 TT Final TT TP

RECEIVED

OCT 25 2016

\_\_\_\_\_  
Date

Signature

ASC  
D-6 (Rev. 7/99)



# PREMIER PHYSICAL THERAPY & SPORTS PERFORMANCE

Coming soon to Carson City! Call our  
Reno office for details - (775) 828-9724

Patient Name: TAYLOR, VANCE

DOB:

Physician: Hilary Malcarney, MD

Diagnosis: Status post subacromial decompression, distal clavicle excision, labral debridement, chondroplasty, and biceps tenodesis with removal of loose bodies on 07/21/16.

Date: 10/24/16

## PROGRESS NOTE

Interval Period: 09/12/16 to 10/24/16

Mr. Taylor has been seen for multiple physical therapy visits regarding his above-mentioned condition. Vance was seen on 10/24/16 with his previous visit on 10/10/16. He had a gap in physical therapy secondary to being out of town. On return to physical therapy on 10/24/16, he noted some increases in stiffness of the shoulder. However, that being said, he has had an increase in range of motion. His initial passive range of motion measurements were 40 and 115 degrees for external rotation and forward flexion. They are now 75 degrees and 145 degrees, respectively. I think the range of motion has improved to 130 degrees forward flexion, but he still lacks hand behind back by 4 vertebral levels.

Initial Evaluation Status	Comment & Action Plan
1. Patient will be independent with initiation and progression of a home exercise program.	Met.
2. Reduce pain down to 2 out of 10.	Progressing toward as he has 3 to 4 out of 10 pain.
3. Reduce SPADI down to 30 or less.	Progressing toward.
4. Increase strength to 4+/5 or more for shoulder movements, abduction, external rotation, periscapular musculature. At this time, we are to do no shoulder strengthening, but when deemed appropriate by physician protocol the increase in strength will allow for increased usage of the arm, pushing, pulling, lifting, and carrying, thus allowing Vance to progress back to work when deemed appropriate.	Progressing toward.

**Assessment/Justification/Plan of Action:** Continuation of physical therapy services would benefit Vance so that we can further increase range of motion, both active and passive, as well as improve upon the strength in his shoulder to allow for normalization of glenohumeral mechanics leading to improvements in reaching, grasping, pushing, and pulling activities.

Thank you for the referral.

  
Chris Amundson, DPT, MS, CMP

CA/kjl  
t 10/26/16

RECEIVED

OCT 28 2016

FAKED  
(11/10/16)

302

AA000331 097



# Alternative Service Concepts

Flexibility • Expertise • Integrity

September 26, 2016

*October 24, 2016 Second Request, Please*

Hillary Malcarney, M.D.  
Nevada Orthopedics  
10635 A Professional Cir  
Reno, NV 89521

RE: Employee: Vance Taylor  
Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Dr. Malcarney:

A recent review of the operative report of 7/21/16 indicates that you performed an arthroscopic distal clavicle excision along with other procedures. The surgery that was requested and approved by us did not include the distal clavicle excision.

Please advise whether or not the distal clavicle excision was performed because there was actual damage to the clavicle caused by the industrial injury, or if it was done merely for "best treatment practices" to assure that it did not interfere with Mr. Taylor's recovery from the injury and the approved procedures related thereto.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 09/26/2016  
Scanned: 10/24/2016

KAREN BARBEE  
KAREN BARBEE

303  
AA000332 098



# Alternative Service Concepts

Flexibility · Expertise · Integrity

September 26, 2016

*October 24, 2016 Second Request, Please*

Hillary Malcarney, M.D.  
Nevada Orthopedics  
10635 A Professional Cir  
Reno, NV 89521

RE: Employee: Vance Taylor  
Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Dr. Malcarney:

A recent review of the operative report of 7/21/16 indicates that you performed an arthroscopic distal clavicle excision along with other procedures. The surgery that was requested and approved by us did not include the distal clavicle excision.

Please advise whether or not the distal clavicle excision was performed because there was actual damage to the clavicle caused by the industrial injury, or if it was done merely for "best treatment practices" to assure that it did not interfere with Mr. Taylor's recovery from the injury and the approved procedures related thereto.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

*Karen Barbée*  
KAREN BARBEE  
Sr. Claims Adjuster

*best treatment practices*

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso

*Malcarney,  
Hillary  
11/9/16*

RECEIVED

NOV 10 2016

ASC

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

Scanned: 09/26/2016

KAREN BARBEE

304  
AA000333 099



# Alternative Service Concepts

Flexibility • Expertise • Integrity

RECEIVED

November 16, 2016

NOV 18 2016

RECEIVED  
BANK

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

RE: Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Taylor:

Please refer to the attached 9/28/16 letter to Dr. Malcarney with her handwritten response dated 11/9/16. As part of the "best treatment practices" for your industrial injury, excision of the distal clavicle was performed to assure that it did not interfere with your recovery from the injury. On that basis, we will approve payment of the distal clavicle excision as part of the surgery, however, any other compensation related strictly thereto is excluded from liability from the claim since the distal clavicle is not a body part injured in the accident and the surgery thereto was pre-emptive in nature.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorneys: Jason Guinasso; Robert Balkenbush

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

305

AA000334 100



ORIGINAL

Robert F. Balkenbush, Esq.

State Bar No. 1246

Thorndal Armstrong Delk Balkenbush & Eisinger

6590 S. McCarran, Suite B

Reno, Nevada 89509

T: (775) 786-2882

F: (775) 786-8004

Attorneys for: Truckee Meadows Fire Protection District, Employer and  
Public Agency Compensation Trust, Insurer

**NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER**

In the Matter of the  
Industrial Insurance Claim

Of

VANCE TAYLOR

Claim No. C143-16-09765-01

Hearing No. 1700937-SA

Appeal No. 1701567-SYM

**INSURER'S AND EMPLOYER'S  
SECOND DOCUMENTARY EXHIBIT**

ENTERED INTO  
DE AS EXHIBIT

4

INDEX TO INSURER'S AND EMPLOYER'S  
SECOND DOCUMENTARY EXHIBIT

<u>PAGE(S)</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1-2	01/04/17	Letter from Insurer's and Employer's legal counsel to Claimant's legal counsel requesting all correspondence and documentary exhibits prior to hearing

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk,  
Balkenbush & Eisinger, and that on this day I deposited for mailing at Reno, Nevada, a true and  
correct copy of the foregoing document, addressed to:

Jason Guinasso, Esq.  
Reese Kintz Guinasso, LLC  
190 West Huffaker, Suite 402  
Reno, NV 89511

DATED this 4 day of January, 2017.

  
NATALIE L. STEINHARDT

**AFFIRMATION**  
**Pursuant to NRS 239B.030(4)**

The undersigned hereby affirms that the preceding document filed with the Appeals Officer  
does not contain the social security number of any person.

DATED this 4 day of January, 2017.

By: 

JOHN L. THORNDAL  
JAMES G. ARMSTRONG  
CRAIG R. DELK  
STEPHEN C. BALKENBUSH  
PAUL F. EISINGER  
CHARLES L. DURCHAM  
BRIAN K. TERRY  
ROBERT F. BALKENBUSH  
PHILIP GOODHART  
CHRISTOPHER J. CURTIS  
KATHERINE F. PARKS  
KEVIN R. DIAMOND  
MICHAEL C. HETTY  
BRIAN M. BROWN

BRENT T. KOLVET\*\*  
THERRY V. BARKLEY\*  
JOHN D. HOOKS  
KEVIN A. PICK  
MEGHAN M. GOODWIN  
GREGORY M. SCHULMAN\*  
ALEXANDRA B. MCLEOD  
JOSEPH E. BALKENBUSH  
DOUGLAS J. DEESMAN  
CURTIS R. RAWLINGS\*  
KIRBY R. WELLS\*  
HEATHER L. TRUJILLO  
SEAN D. COONEY  
MADISON N. GREGOR  
DANIEL J. MCCAIN  
KEITH B. GIBSON\*

Of Counsel\*  
Special Counsel\*\*



**THORNDAL  
ARMSTRONG**  
DELK BALKENBUSH & EISINGER

A PROFESSIONAL CORPORATION  
ATTORNEYS  
www.thorndal.com

**Robert F. Balkenbush, Esq.**  
RENO OFFICE  
[rbalkenbush@thorndal.com](mailto:rbalkenbush@thorndal.com)

January 4, 2017

**Sent by facsimile: (775) 201-9611**

Jason D. Guinasso, Esq.  
Reese Kintz Guinasso, LLC  
190 W. Huffaker Lane, Suite 402  
Reno, NV 89511

**RE:** *Claimant: Vance Taylor*  
*Employer: Truckee Meadows Fire Protection District*  
*Insurer: Public Agency Compensation Trust*  
*Third Party Administrator: Alternative Service Concepts*  
*Claim No.: C143-16-09765-01*  
*Appeal No.: 1701567-SYM*

Dear Mr. Guinasso,

As you are aware, our office has been retained to represent the Insurer, Public Agency Compensation Trust and the Employer, Truckee Meadows Fire Protection District, in the above-referenced matter.

Please supply our office with copies of any and all records or correspondence pertaining to Temporary Light Duty Employment from your office or from the Claimant to the Employer or any other related party. Please consider this request an ongoing request and supplement the production of all your written communications to such parties and their responses to same, until this contested case is resolved. We want to ensure that our clients have adequate time to initiate an inquiry, if necessary, regarding information and/or opinions contained in such documentation.

Attorneys also licensed to practice in  
Arizona, California, Colorado, Maryland and North Carolina

LAS VEGAS

1100 E. BRIDGER AVENUE  
LAS VEGAS, NV 89101  
MAILING:  
P.O. BOX 2070  
LAS VEGAS, NV 89125-2070  
(702) 366-0622  
FAX: (702) 366-0327

RENO

6390 S. MCCARRAN BLVD., SUITE B  
RENO, NV 89509  
(775) 786-2892  
FAX: (775) 786-8004

ELKO

919 IDAHO STREET  
ELKO, NV 89801  
(775) 777-3011  
FAX: (775) 786-8004

JAMES J. JACKSON  
(1958-2014)


310

AA000339001

Finally, please serve our office with any and all documentary exhibits as soon as possible before the hearing scheduled to be heard on **February 9, 2017**. If you have any questions or concerns regarding the matter herein above discussed, please contact my office at your earliest convenience.

Thank you for your cooperation.

Very truly yours,

  
**ROBERT F. BALKENBUSH**  
RFB/mab  
cc: File

ORIGINAL

Robert F. Balkenbush, Esq.  
State Bar No. 1246

Thorndal Armstrong Delk Balkenbush & Eisinger  
6590 S. McCarran, Suite B  
Reno, Nevada 89509

T: (775) 786-2882

F: (775) 786-8004

Attorneys for: Truckee Meadows Fire Protection District, Employer and  
Public Agency Compensation Trust, Insurer

**NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER**

In the Matter of the  
Industrial Insurance Claim  
Of  
VANCE TAYLOR

Claim No. C143-16-09765-01

Hearing No. 1700937-SA

Appeal No. 1701567-SYM

**INSURER'S AND EMPLOYER'S  
CLAIM HISTORY PACKET**

ENTERED INTO  
EVIDENCE AS EXHIBIT

5

INDEX TO INSURER'S AND EMPLOYER'S  
CLAIM HISTORY PACKET

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<u>PAGE(S)</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1	09/26/16	Determination letter from TPA to Claimant discontinuing temporary total disability (TTD) after 09/11/16 due to light duty position offered
2-4	11/23/16	Hearing Officer Decision and Order for Hearing No. 1700937-SA
5	12/01/16	Request for Hearing before the Appeals Officer
6-7	12/06/16	Notice of Appeal and Order to Appear



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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk,  
Balkenbush & Eisinger, and that on this day I deposited for mailing at Reno, Nevada, a true and  
correct copy of the foregoing document, addressed to:

Jason Guinasso, Esq.  
Reese Kintz Guinasso, LLC  
190 West Huffaker, Suite 402  
Reno, NV 89511

DATED this 4 day of January, 2017.

  
\_\_\_\_\_  
NATALIE L. STEINHARDT

**AFFIRMATION**  
Pursuant to NRS 239B.030(4)

The undersigned hereby affirms that the preceding document filed with the Appeals Officer  
does not contain the social security number of any person.

DATED this 4 day of January, 20 17.

By: 

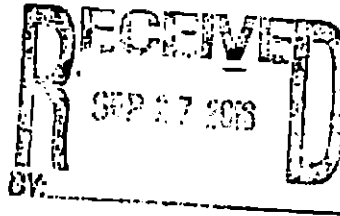


# Alternative Service Concepts

Flexibility · Expertise · Integrity

September 26, 2016

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519



RE: Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Taylor:

We have been informed that you were offered light duty work consistent with the restrictions imposed by Dr. Malcarnay, and to begin 9/12/2016. At the present time, no further payments of temporary total disability (TTD) will be paid beyond 9/11/2016.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso ✓

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

RECEIVED  
OCT 04 2016

316 asc  
AA000345 001

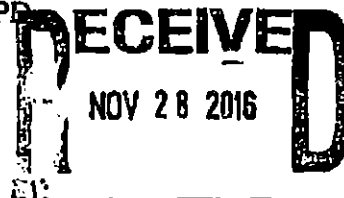
**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
**HEARINGS DIVISION**

In the matter of the Contested  
Industrial Insurance Claim of:

Hearing Number: 1700937-SA  
Claim Number: C143-16-09765-01

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520



**BEFORE THE HEARING OFFICER**

The Claimant's request for Hearing was filed on September 29, 2016, and a Hearing was scheduled for October 24, 2016 and continued to November 8, 2016. The Hearing was held on November 8, 2016, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present and represented by Jason Guinasso, Esquire. The Employer/Insurer was represented by Bob Balkenbush, Esquire, by telephone conference call.

**ISSUE**

The Claimant appealed the Insurer's determination dated September 26, 2016. The issue before the Hearing Officer is termination of temporary total disability effective September 11, 2016. At today's hearing the parties clarified the period of time in question is September 11, 2016 to November 1, 2016.

**DECISION AND ORDER**

The determination of the Insurer is hereby **REMANDED**.

On September 9, 2016 this Claimant was offered a temporary light duty job which he rejected. Based on said rejection, the Insurer terminated the Claimant's TTD benefits effective September 11, 2016. At today's hearing the Claimant's counsel based the Claimant's rejection of said job on the following:

- The Claimant's work schedule was changed from a "48/96" to a 40-hour work week which imposed undue hardship on the Claimant's family, increased day care, increased fuel and maintenance costs for daily commutes and "increase stress on the family due to an unfamiliar, unforgiving, and inconvenient work schedule which "amounts to harassment" while the Claimant is recovering.
- The change of schedule did not allow the Claimant to bank 12 hours of holiday comp time each month.
- The location changed by six miles.
- The "...job duties dramatically and effectively demotes Mr. Taylor from Captain to an office secretary, which is both humiliating and

unlawful...Changing the job duties expected to be performed...from his normal position to that of an office secretary is humiliating, demoralizing and degrading which, in turn, creates a hostile work environment."

- The light duty job offer replaced the Claimant's normal supervising from his duty Battalion Chief to an appointed office secretary which breaks the established chain of command and "...adds to the humiliating feeling that he is being punished because he sustained a work related injury and filed a workers' compensation claim."

At today's hearing, the Hearing Officer questioned the Claimant regarding the hardship placed on him and his family by not accepting the light duty job which paid him at his prior salary of approximately \$67/hour versus his TTD of \$118/daily. The Claimant essentially explained that he had worked the light job for three months prior to his surgery and he was not going to put himself or his family through that again. It appears the parties did meet and as long as the Battalion Chief gave instructions to the Claimant, he did return to work light duty for one week after which time he was released to work full duty and has since returned to work in said capacity.

The Hearing Officer, having reviewed the submitted evidence and in consideration of the representations made at today's hearing, finds the Insurer properly terminated TTD benefits. The Hearing Officer finds the light duty job offered by the pre-injury employer is a valid light duty job and, while the Claimant is a Fire Chief in his regular capacity, the light duty job is not considered humiliating and degrading and is an essential function in the work force. The Claimant's personal feeling with regard to the light duty job do not negate the statutes governing temporary light duty work and offer thereof.

#### **APPEAL RIGHTS**

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 23rd day of November, 2016.

  
Sondra L Amodci, Hearing Officer

**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519


JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD STE 390  
RENO, NV 89509

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 23rd day of November, 2016.

  
\_\_\_\_\_  
Karen Dyer  
Employee of the State of Nevada

Nevada Department of Administration, Appeals Division  
1050 E. William Street, Suite 450  
Carson City, Nevada 89701  
(775) 687-8420

ORIGINAL

DEC-1 11:00

REQUEST FOR HEARING BEFORE THE APPEALS OFFICER

CLAIMANT INFORMATION

Claimant: Vance Taylor
Address: 2919 Aspen Meadows Court
Reno, NV 89519
SSN:
Telephone: (775) 830-3873

EMPLOYER INFORMATION

Claim Number: C143-16-09765-01
Employer: Truckee Meadows FPD
Address: PO Box 11130
Reno, NV 89520
Telephone: (775) 326-6000

PERSON REQUESTING APPEAL: (circle one) CLAIMANT EMPLOYER INSURER

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: November 23, 2016

***YOU MUST ATTACH A COPY OF THE DETERMINATION LETTER  
PER NRS 616C.315(2)(a)(b)***

BRIEFLY EXPLAIN REASON FOR APPEAL: Disagree with Hearing Officer.

If you are represented by an attorney or other agent, please print the name and address below.

ATTORNEY/REPRESENTATIVE:

Name: Jason D. Guinasso, Esq.
Address: 190 West Huffaker Lane, Suite 402
Reno, Nevada 89511
Telephone: (775) 832-6800

INSURANCE COMPANY:

Name: Alternative Service Concepts
Address: 639 Isbell Road, Suite 390
Reno, NV 89509
Telephone: (775) 329-1181

Signature

Date

12/1/16

NOTICE

If the Hearing Officer decision is appealed, Claimants are entitled to free legal representation by the Nevada Attorney for Injured Workers (NAIW). If you want NAIW to represent you, please sign below:

Signature

Telephone Number

**\*\*If you are appealing the Hearing Officer's Decision, file this form and a copy of the Decision no later than thirty (30) days after the date of the Hearing Officer's Decision\*\***

1701367-541M 320

Thurs-2-9-17

AA000349

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1 RECEIVED

2 DEC 07 2016  
3 RNDAL, ARMSTRONG, DELK  
4 ALKENBUSH & EISINGER

BEFORE THE APPEALS OFFICER

FILED  
DEC - 6 2016  
DEPT. OF ADMINISTRATION  
APPEALS OFFICER

5 In the Matter of the Contested  
6 Industrial Insurance Claim of:

8 VANCE TAYLOR,

9 Claimant.

) Claim No: C143-16-09765-01  
) Hearing No: 1700937-SA  
) Appeal No: 1701567-SYM

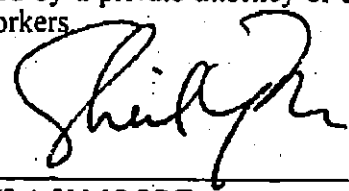
10 NOTICE OF APPEAL AND ORDER TO APPEAR

11 1. **ALL PARTIES IN INTEREST ARE HEREBY NOTIFIED** that a hearing will be held  
12 by the Appeals Officer, pursuant to NRS 616 and 617 on:

13 **DATE:** Thursday, February 9, 2017  
14 **TIME:** 10:00AM  
15 **PLACE:** DEPT OF ADMINISTRATION, APPEALS OFFICE  
1050 E. WILLIAMS STREET, SUITE 450  
CARSON CITY, NV 89701

- 16 2. The **INSURER** shall comply with NAC 616C.300 for the provision of documents in the  
17 Claimant's file relating to the matter on appeal.
- 18 3. **ALL PARTIES** shall comply with NAC 616C.297 for the filing and serving of information to  
be considered on appeal.
- 19 4. Pursuant to NRS 239B.030(4), any document/s filed with this agency must have all social  
20 security numbers redacted or otherwise removed and an affirmation to this effect must be  
attached. The documents otherwise may be rejected by the Hearings Division.
- 21 5. Pursuant to NRS 616C.282, any party failing to comply with NAC 616C.274-.336 shall be  
22 subject to the Appeals Officer's orders as are necessary to direct the course of the Hearing.
- 23 6. Any party wishing to reschedule this hearing should consult with opposing counsel or parties,  
and immediately make such a request to the Appeals Office in writing supported by an affidavit.
- 24 7. The injured employee may be represented by a private attorney or seek assistance and advice  
25 from the Nevada Attorney for Injured Workers

26 IT IS SO ORDERED.



27 SHEILA Y MOORE  
28 APPEALS OFFICER



**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **NOTICE OF APPEAL AND ORDER TO APPEAR** was duly mailed, postage prepaid OR placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Carson City, Nevada, to the following:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD #390  
RENO, NV 89509-4993

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 12 day of December, 2016.

Tasha Eaton  
Tasha Eaton, Supervising Legal Secretary  
Employee of the State of Nevada

2018 FEB -8 AM 11:12

RECEIVED  
AND  
FILED

1 Jason D. Guinasso, Esq.  
Nevada Bar No. 8478  
2 Hutchison & Steffen, PLLC  
500 Damonte Ranch Parkway, Suite 980  
3 Reno, NV 89521  
Attorney for Vance Taylor  
4

5 NEVADA DEPARTMENT OF ADMINISTRATION  
6 BEFORE THE APPEALS OFFICER

7 In the Matter of the  
8 Industrial Insurance Claim

9 of  
10

11 VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
12 RENO, NV 89519

Claim No.: C143-16-09765-01

Hearing No.: 1700937-SA

Appeal No.: 1701567-SYM

Employer: TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

TPA: ALTERNATIVE SERVICE  
CONCEPTS  
639 ISBELL ROAD, #390  
RENO, NV 89509

15  
16 **NOTICE OF RESETTING**

17 COMES NOW, the Claimant, Vance Taylor, by and through his attorney, Jason D.  
18 Guinasso, Esq., pursuant to an approved request for continuance hereby submits a notice of  
19 resetting of the In-Court Status Check, currently set for Monday, February 12, 2018, from  
20 10:00 a.m. to 10:30 p.m., to be reset to **Wednesday, February 14, 2018, at 2:30 p.m.**

21 DATED this 7<sup>th</sup> day of February, 2018

22  
23  
24 Jason D. Guinasso, Esq.  
Attorney for Vance Taylor  
25

**AFFIRMATION**

The undersigned does hereby affirm that the **NOTICE OF RESETTING** filed under Appeal No. 1701567-SYM:

☒ Does not contain the social security number of any person.

**-OR-**

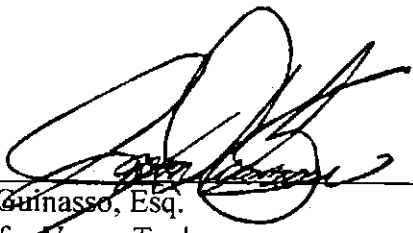
☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit: \_\_\_\_\_

**-or-**

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 7<sup>th</sup> day of February, 2018

  
\_\_\_\_\_  
Jason D. Guinasso, Esq.  
Attorney for Vance Taylor

**CERTIFICATE OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 500 Damonte Ranch Parkway, Suite 980, Reno, NV 89521.

On February 7<sup>th</sup>, 2018, I served the following:

**NOTICE OF RESETTING**

on the following in said cause as indicated below:

VANCE TAYLOR 2919 ASPEN MEADOWS CT RENO, NV 89519 (VIA U.S. MAIL)	TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89520 (VIA U.S. MAIL)
ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG, ET AL 6590 S MCCARRAN BLVD., SUITE B RENO, NV 89509 (VIA U.S. MAIL)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD SUITE 390 RENO, NV 89520 (VIA U.S. MAIL)
NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA U.S. MAIL)	

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 7<sup>th</sup>, 2018, at Reno, Nevada.

  
\_\_\_\_\_  
KATRINA A. TORRES

1 NEVADA DEPARTMENT OF ADMINISTRATION  
2 BEFORE THE APPEALS OFFICER

3 1050 E. WILLIAM, SUITE 450  
4 CARSON CITY, NV 89701

**FILED**

FEB 02 2018

DEPT. OF ADMINISTRATION  
APPEALS OFFICER

5  
6 In the Matter of the Contested  
7 Industrial Insurance Claim of:

8  
9 VANCE TAYLOR,

10 Claimant.

} Claim No: C143-16-09765-01

} Hearing No: 1700937-SA

} Appeal No: 1701567-SYM

11  
12 **ORDER**

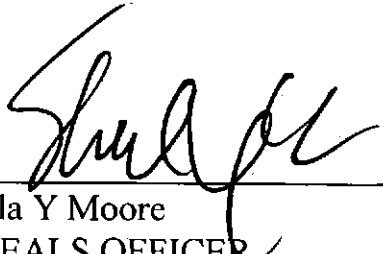
13 An **In-Court Status check** between the Appeals Officer and the  
14 parties' attorneys shall be held on:

15 DATE: Monday, February 12, 2018

16 TIME: **10:00AM- 10:30AM**

17 to discuss why the draft decision has not been filed, as was requested on March 14,  
18 2017.

19  
20 **IT IS SO ORDERED.**

21   
22 \_\_\_\_\_  
23 Sheila Y Moore

24 APPEALS OFFICER  
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1 NEVADA DEPARTMENT OF ADMINISTRATION  
2 BEFORE THE APPEALS OFFICER

3 1050 E. WILLIAM, SUITE 450  
4 CARSON CITY, NV 89701

**FILED**

FEB 14 2017

DEPT. OF ADMINISTRATION  
APPEALS OFFICER

5  
6 In the Matter of the Contested  
7 Industrial Insurance Claim of:

8  
9 VANCE TAYLOR,

10 Claimant.  
11

} Claim No: C143-16-09765-01

} Hearing No: 1700937-SA

} Appeal No: 1701567-SYM

12 **ORDER**

13 For good cause, the Motion for Continuance is granted. This matter is  
14 reset for hearing on:

15 DATE: Thursday, March 2, 2017

16 TIME: 2:30PM

17 **IT IS SO ORDERED.**

18  
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20 SHEILA Y MOORE  
21 APPEALS OFFICER  
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**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **ORDER** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Carson City, Nevada, to the following:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD #390  
RENO, NV 89509-4993

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 14 day of February, 2017.

Tasha Eaton  
Tasha Eaton, Supervising Legal Secretary  
Employee of the State of Nevada



ORIGINAL

1 Jason D. Guinasso, Esq.  
Nevada Bar No. 8478  
2 Reese Kintz Guinasso  
190 W. Huffaker Lane, Suite 402  
3 Reno, NV 89511  
Attorney for Vance Taylor  
4

2017 FEB -9 11:12:03

5 NEVADA DEPARTMENT OF ADMINISTRATION

6 BEFORE THE APPEALS OFFICER

7 In the Matter of the  
8 Industrial Insurance Claim

9 of  
10

11 VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
12 RENO, NV 89519

Claim No.: C143-16-09765-01

Hearing No.: 1700937-SA

Appeal No.: 1701567-SYM

Employer: TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

TPA: ALTERNATIVE SERVICE  
CONCEPTS  
639 ISBELL ROAD, #390  
RENO, NV 89509

13  
14  
15  
16 VANCE TAYLOR'S

17 MOTION FOR CONTINUANCE AND RESETTING

18 COMES NOW, the Claimant, Vance Taylor, by and through his attorney, Jason D.  
19 Guinasso, Esq., and submits a request for continuance in the above referenced matter,  
20 currently set for Thursday, February 9, 2017 at 10:00 a.m. to be reset to **Thursday, March**  
21 **2, 2017, at 2:30 p.m.**

22 ///

23 ///

24 ///

25 ///

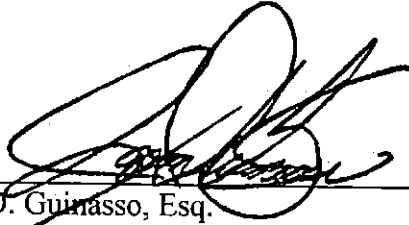


Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746

1 This Motion is based upon good faith and is not made for the purpose of delay.

2 This Motion is made upon the attached Affidavit of Jason D. Guinasso, Esq.

3 DATED this 8<sup>th</sup> day of February, 2017

4 

5  
6 Jason D. Guinasso, Esq.  
Attorney for Vance Taylor



23 Reese Kintz,  
Guinasso  
190 W. Huffaker Ln  
Suite 402  
Reno, NV 89511  
24 (775) 853-8746

**AFFIDAVIT**

STATE OF NEVADA       )  
                                  )ss:  
COUNTY OF WASHOE    )

I, Jason D. Guinasso, Esq., swear under penalty of perjury that the assertions of this affidavit are true.

1. That your Affiant is the attorney representing the Claimant, Vance Taylor, in this disputed claim.

2. That this case was previously set for hearing on Thursday, February 9, 2017 at 10:00 a.m. under Appeal No. 1701567-SYM.

3. That Robert Balkenbush, Esq.'s office, counsel for Alternative Service Concepts and Truckee Meadows Fire Protection District, the Appeals Office, and my office agreed to reset this matter to Thursday, March 2, 2017, at 2:30 p.m.

4. That this is the first continuance in this matter.

5. That this Motion for Continuance and Resetting is necessary because a calendar conflict arose for Mr. Taylor and he will not be able to appear in person for the currently scheduled appeal date.

For the reasons set forth above, Mr. Taylor respectfully requests that the Appeals Officer continue this matter to **Thursday, March 2, 2017, at 2:30 p.m.**

  
JASON D. GUINASSO, ESQ.

Subscribed and Sworn to before me

This 9th day of February, 2017

  
NOTARY PUBLIC



**AFFIRMATION**

The undersigned does hereby affirm that the **VANCE TAYLOR'S MOTION FOR CONTINUANCE & RESETTING** filed under Appeal No. 1701567-SYM:

☒ Does not contain the social security number of any person.

**-OR-**

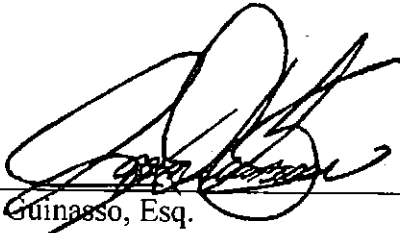
☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit: \_\_\_\_\_

**-or-**

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 8<sup>th</sup> day of February, 2017

  
\_\_\_\_\_  
Jason D. Guinasso, Esq.  
Attorney for Vance Taylor



Reese Kintz,  
Guinasso  
190 W. Huffaker Ln.  
Suite 402  
Reno, NV 89511  
(775) 853-8746

**CERTIFICATE OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 190 W. Huffaker Lane, Suite 402, Reno, Nevada, 89511.

On February 8<sup>th</sup>, 2017, I served the following:

**VANCE TAYLOR'S**

**MOTION FOR CONTINUANCE & RESETTING**

on the following in said cause as indicated below:

VANCE TAYLOR 2919 ASPEN MEADOWS CT RENO, NV 89519 (VIA U.S. MAIL)	TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89520 (VIA U.S. MAIL)
ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG, ET AL 6590 S MCCARRAN BLVD., SUITE B RENO, NV 89509 (VIA U.S. MAIL)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD SUITE 390 RENO, NV 89520 (VIA U.S. MAIL)
NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA U.S. MAIL)	

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 8<sup>th</sup>, 2017, at Reno, Nevada.

  
KATRINA A. TORRES



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746

STATE OF NEVADA  
DEPARTMENT OF ADMINISTRATION  
PERSONNEL DIVISION  
RECORDS OFFICE

ORIGINAL

Jason D. Guinasso, Esq.  
Nevada Bar No. 8478  
Reese Kintz Guinasso  
190 W. Huffaker Lane, Suite 402  
Reno, NV 89511  
Attorney for Vance Taylor

2017 FEB -6 AM 11:14

RECEIVED  
FILED

NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER

In the Matter of the  
Industrial Insurance Claim

of

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

Claim No.: C143-16-09765-01

Hearing No.: 1700937-SA

Appeal No.: 1701567-SYM

Employer: TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

TPA: ALTERNATIVE SERVICE  
CONCEPTS  
639 ISBELL ROAD, #390  
RENO, NV 89509

VANCE TAYLOR'S

PRE-HEARING STATEMENT

Pursuant to the Notice of Appeal and Order to Appear, which set this matter to be heard on **Thursday, February 9, 2017 at 10:00 a.m.**, comes now Jason Guinasso, Esq. of REESE KINTZ GUINASSO, LLC, on behalf of the Claimant, Vance Taylor, and hereby submits the following:

**I. STATEMENT OF ISSUES**

A. Whether the Hearing Officer's November 23, 2016, Decision and Order, remanding Alternative Service Concepts' September 26, 2016, determination that informed



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746

1 Mr. Taylor he would not be paid TTD any further and offered light duty employment, is  
2 supported by the evidence and Nevada law.

3 **II. SHORT STATEMENT OF MR. TAYLOR'S POSITION**

4 Mr. Taylor respectfully requests that the Appeal Officer REVERSE the Hearing  
5 Officer's Decision and Order and CCMSI's September 26, 2016, determination because the  
6 light duty job offered to Mr. Taylor does not satisfy the requirements of NRS 616C.475(8)  
7 and related case law.

8 **III. PROCEDURAL HISTORY**

9 The Claimant in this matter is Vance Taylor ("Mr. Taylor"). **DE#1 at Taylor0002.**  
10 The Employer in this matter is the Truckee Meadows Fire Protection District ("TMFPD").  
11 **DE#1 at Taylor0001.** The Third-Party Administrator ("TPA") in this matter is Alternative  
12 Service Concepts ("ASC"). **DE#1 at Taylor00029.**

13 **A. Hearing No. 1700937-SA**

14 On September 26, 2016, ASC rendered their determination discontinuing TTD  
15 benefits.

16 On September 29, 2016, Mr. Taylor filed his request for hearing before the Hearing  
17 Officer.

18 On September 30, 2016, the Hearings Division scheduled the hearing in this matter  
19 for Monday, October 24, 2016 at 1:00 p.m.

20 On October 6, 2016, the Hearings Division rescheduled the hearing in this matter for  
21 Tuesday, November 8, 2016 at 11:00 a.m., in Carson City, Nevada.

22 On November 23, 2016, the Hearing Officer rendered her Decision and Order,  
23 remanding CCMSI's September 26, 2016 determination.

24 **B. Appeal No. 1701567-SYM**

25 On December 1, 2016, Mr. Taylor requested an appeal of the Decision and Order.



Reese Kintz,  
Guinasso  
190 W. Huffaker Ln.  
Suite 402  
Reno, NV 89511  
(775) 853-8746

1 On December 6, 2016, the Appeal Officer set the appeal in the foregoing matter for  
2 **Thursday, February 9, 2017 at 10:00 a.m.**, in Carson City, Nevada.

3 **IV. STATEMENT OF FACTS**

4 **A. Accident and Injury**

5 On April 19, 2016, Mr. Taylor was doing a HazMat training drill at work when he  
6 injured himself. He stated, *"While participating in the Triad's monthly Haz-Mat training I*  
7 *injured my left shoulder during one of the exercises. Drill in turnouts and SCBA (with*  
8 *partner). Rescue a downed firefighter (Haz-Mytech) in a level A suit on the second floor*  
9 *using asked device. While carrying the 200 pound mannequin down the stairs, I was*  
10 *holding the Sked with my left hand and the handrail with my right felt a "pop" followed by*  
11 *intense pain I my left shoulder. Pain did not subside."* **DE#1 at Taylor0002.**

12 Mr. Taylor reported the injury to his employer immediately. **DE#1 at Taylor0001-7.**

13 Shortly thereafter, Mr. Taylor presented at the emergency room at Renown South  
14 Meadows Medical Center. He was seen by Leland Sullivan, MD, who diagnosed left  
15 shoulder strain. **DE#1 at Taylor0008-9.**

16 The following day, April 20, 2016, Mr. Taylor was evaluated by Dr. Scott Hall at  
17 Specialty Health. Dr. Hall ordered an MRI of the left shoulder and placed Mr. Taylor on  
18 light duty. **DE#1 at Taylor0021-23.**

19 Mr. Taylor then went to Reno Diagnostics Center for an x-ray of the left shoulder,  
20 which showed severe glenohumeral osteoarthritis, hydroxyapatite deposition along the  
21 greater tuberosity, no visible fracture or dislocation. **DE#1 at Taylor0024.**

22 When re-evaluated by Dr. Hall on April 22, 2016, Dr. Hall again recommended an  
23 MRI and placed Mr. Taylor on light duty. **DE#1 at Taylor0025-28.**

24 On April 25, 2016, ASC issued their, 'Notice of Claim Acceptance'. **DE#1 at**  
25 **Taylor0029-32.**



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746



1 On April 26, 2016, ASC issued their letter informing Mr. Taylor of right to received  
2 TTD benefits. **DE#1 at Taylor0035.**

3 On April 29, 2016, Dr. Vijay Sekhon of Reno Diagnostic Center performed an MRI  
4 of the left shoulder. The MRI findings were:

- 5 1. Severe glenohumeral joint degenerative changes posteriorly with large areas of full-  
6 thickness chondromalacia, bulky osteophytes, and subchondral cysts.
- 7 2. Large tear of the posterior labrum with associated cartilage delamination.
- 8 3. Large loose body in the subcoracoid space.
- 9 4. Calcific tendinitis of the supraspinatus tendon insertion without evidence of rotator  
10 cuff tear.
- 11 5. Degenerative type tear of the superior labrum extending into the biceps anchor.

12 **DE#1 at Taylor0052.**

13 On May 2, 2016, Mr. Taylor again presented to Dr. Hall for a follow up  
14 appointment. Dr. Hall referred him to physical therapy and placed him on light duty. **DE#1**  
15 **at Taylor0053-57.**

16 Mr. Taylor commenced physical therapy on May 10, 2016 and continued 2 to 3  
17 times a week for 4 to 6 weeks. **DE#1 at Taylor0058-59.**

18 During the next follow up appointment with Dr. Hall on May 17, 2016, Mr. Taylor  
19 was referred to an orthopedic specialist for further treatment. **DE#1 at Taylor0061-63.**

20 On May 20, 2016, Mr. Taylor attended an initial evaluation at Nevada Orthopedics  
21 where he was seen by Dr. Hilary Malcarney. Dr. Malcarney diagnosed osteoarthritis in the  
22 left shoulder, left shoulder strain, labral tear, and rotator cuff calcific tendinopathy of the left  
23 shoulder. **DE#1 at Taylor0065-68.** She also placed him on restricted duty and referred him  
24 to physical therapy. **DE#1 at Taylor0069-70.**



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746

1 On June 13, 2016, Mr. Taylor again presented to Dr. Malcarney. At this time, she  
2 recommended left shoulder arthroscopy. **DE#1 at Taylor0071-73.**

3 On June 16, 2016, ASC sent a letter to Dr. Malcarney with questions for her to  
4 answer regarding the recommended surgery. **DE#1 at Taylor0075.**

5 Then on June 29, 2016, ASC sent a letter denying surgery pending the response of  
6 Dr. Malcarney to the letter with questions they had sent to her. **DE#1 at Taylor0077-78.**

7 Also on June 29, 2016, Dr. Malcarney sent her response stating, "*Yes, exacerbation*  
8 *of pre-existing osteoarthritis and calcific tendinopathy. Also, exacerbation and likely*  
9 *extension of labral tear.*" **DE#1 at Taylor0079.**

10 On July 18, 2016, Dr. Malcarney noted her plan to proceed with left shoulder  
11 arthroscopy, SAD, labral debridement, chondroplasty, possible biceps tendonesis. **DE#1 at**  
12 **Taylor0080-83.**

13 On July 21, 2016, surgery was performed on Mr. Taylor at Surgery Center of Reno.  
14 **DE#1 at Taylor0087-92.**

15 At his follow-up appointment with Dr. Malcarney on August 3, 2016, Mr. Taylor's  
16 sutures were removed and he was referred to physical therapy. **DE#1 at Taylor0096-97.**

17 Mr. Taylor was released to restricted duty on August 15, 2016. **DE#1 at**  
18 **Taylor0100.**

19 On September 9, 2016, Mr. Taylor's employer, TMFPD, sent a letter to Mr. Taylor  
20 with an offer of temporary light duty employment. **DE#2 at Taylor0101-102.**

21 Thereafter, on September 26, 2016, ASC sent a letter stating that, due to Mr.  
22 Taylor's denial of the light duty offer, his TTD benefits were discontinued. **DE#2 at**  
23 **Taylor0103-104.**

24 ///

25 ///



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
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1 V. THE LIGHT DUTY JOB OFFERED TO MR. TAYLOR BY TMFPD IS  
2 INVALID BECAUSE IT FAILS TO COMPLY WITH NRS 616C.475(8).

3 A. **Governing Law**

4 If an employer decides to offer a claimant a light duty job, the job offer must be  
5 offered in writing and comply with all of the provisions of NRS 616C.475(8). NRS  
6 616C.475(8) provides as follows:

7 "Any offer of temporary, light-duty employment made by the employer must specify  
8 a position that:

9 (a) Is substantially similar to the employee's position at the time of his or her  
10 injury in relation to the location of the employment and the hours the employee is  
11 required to work;

12 (b) Provides a gross wage that is:

13 (1) If the position is in the same classification of employment, equal to the  
14 gross wage the employee was earning at the time of his or her injury; or

15 (2) If the position is not in the same classification of employment,  
16 substantially similar to the gross wage the employee was earning at the time of his or  
17 her injury; and

18 (c) Has the same employment benefits as the position of the employee at the  
19 time of his or her injury."

20 (emphasis supplied).

21 The Nevada Administrative Code further elaborates on the requirements for a valid  
22 light duty job offer by providing the following:

23 NAC 616C.583 Offer of employment: Light duty. (NRS 616A.400)

24 1. An offer of employment at light duty to an injured employee by his or her  
25 employer must:

(a) Be in writing;

(b) Be mailed to both the insurer and the injured employee; and

(c) Include:

(1) The net wage to be paid the injured employee;

(2) The hours which the injured employee will be expected to work;

(3) A reasonable description of the physical requirements of the employment;

(4) A reasonable description of the duties the injured employee will be  
expected to perform;

(5) A description of any fringe benefits of the employment; and

(6) The geographical location of the employment.



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1  
2 2. If the insurer finds that the actual requirements of the employment at light  
3 duty materially differ from the offer of employment and the employer fails to take  
4 corrective action, the insurer may provide vocational rehabilitation services.

5 3. The injured employee must be allowed a reasonable time, not to exceed 7  
6 days after the date the offer of the employment at light duty is made, within which to  
7 accept or reject the offer.

8 4. If the employment at light duty offered to the injured employee is expected to  
9 be of limited duration, the employer shall disclose that fact to the injured employee  
10 in the offer of employment and state the expected duration.

11 5. An employer must not offer temporary or permanent employment at light  
12 duty which he or she does not then expect to be available to the injured employee as  
13 offered.

14 6. An employer does not have to comply with the requirements in subsections 1  
15 to 5, inclusive, if the employer offers the injured employee temporary employment at  
16 light duty which is:

- 17 (a) Immediately available;  
18 (b) Compatible with the physical limitations of the injured employee as  
19 established by the treating physician or chiropractor; and  
20 (c) Substantially similar in terms of the location and the working hours to the  
21 position that the injured employee held at the time of the injury.

22 7. Temporary employment at light duty offered pursuant to subsection 6 must  
23 cease within 30 days after the injured employee's physical restrictions are  
24 determined to be permanent. Any subsequent offers of employment at light duty by  
25 the employer must comply with the requirements of subsections 1 to 5, inclusive.

26 Finally, in EG & G Special Projects, Inc. v. Corselli, 102 Nev. 116, 715 P.2d 1326  
(1986), the Nevada Supreme Court held that an offer of light duty work must not impose an  
unreasonable burden on the injured worker. In that case, the employee prior to injury, had  
for twenty-five years lived in Riverside, California, and commuted by air at government  
expense to the Nevada Test Site to work three days a week, with four days off at home in  
Riverside. The new "light duty" job found for the employee substantially changed the  
hours, days and location of the injured workers' employment by requiring him to work five  
days per week in Las Vegas. The Court found that the light duty job offered to the injured  
worker was unreasonable and remanded with an order to pay the claimant benefits.



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1 This notion of reasonableness is found in the legislative history of the NRS  
2 616C.475(8). In this regard, at a February 25, 1993, meeting of the Senate Committee on  
3 Commerce and Labor, Scott Young, General Counsel for the Nevada State Industrial System  
4 (SIIS), explained the temporary light duty language as follows:

5 *As long as the offer is reasonable, in terms of those three categories (pay rate, shift,*  
6 *hours of employment) my understanding is the injured worker could not refuse it. . . .*  
7 *As long as the job offer was reasonable in terms of the location and hours, the*  
8 *workers should be required to take the job.*

9 Minutes of the Senate Committee on Commerce and Labor, 67th Sess., Feb 25,  
10 1993.

11 **B. In This Case, The Light Duty Job Offer Does Not Comply With The**  
12 **Express Requirements of NRS 616C.475(8) And Is Otherwise**  
13 **Unreasonable.**

14 On September 9, 2016, Mr. Taylor's employer, TMFPD, sent a letter to Mr. Taylor  
15 with an offer of temporary light duty employment. **DE#2 at Taylor0101-102.** The letter  
16 offering the light duty job provided as follows:

17 *"You will be assigned to the administrative office and your scheduled hours*  
18 *will be Monday through Friday 8am to 5pm with an hour lunch. To align the*  
19 *schedule change with the beginning of the FLSA cycle, you will report to the*  
20 *administrative offices on Monday September 12, 2016 at 8am."*

21 This light duty job offer fails to comply with NRS 616C.475(8) and is otherwise  
22 unreasonable for the following reasons.

23 First, the light duty job offer dramatically changed Mr. Taylor's work schedule from  
24 a 48/96 schedule and pay scale, which includes FLSA pay, to a forty hour scale  
25 administrative schedule from 8:00 am to 5:00 pm Monday thru Friday with no FLSA pay  
and no ability to bank Holiday Comp Time. This imposes a hardship on Mr. Taylor and his  
family by causing incurred increased day care expenditures for childcare, increased fuel and



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1 maintenance costs for daily commutes, and increase stress on the family due to an  
2 unfamiliar, unforgiving, and inconvenient work schedule. This light duty job-offer amounts  
3 to harassment while Mr. Taylor is recovering from a work-related injury and places a burden  
4 on both him and his family.

5 Second, the change of schedule also eliminates FLSA pay and the ability to bank 12  
6 hours of Holiday Comp Time. This will result in a decrease in pay over an extended or  
7 lengthy injury recovery period. In this case, Mr. Taylor's recovery from the medical  
8 treatment for his work-related shoulder injury is expected to take several months.

9 Third, this light duty job offer changes the location of Mr. Taylor's employment  
10 from Station 15 at 110 Quartz Lane, Reno, Nevada 89433 to a location six miles away at  
11 1001 East Ninth Street, Building D, Reno, Nevada 89512.

12 Fourth, this light duty job offer changes Mr. Taylor's job duties dramatically and  
13 effectively demotes Mr. Taylor from a Captain to an office secretary, which is both  
14 humiliating and unlawful. See Dillard Dept. Stores, Inc. v. Beckwith, 115 Nev. 372, 989  
15 P.2d 882 (1999)(Court awarded claimant \$2,496,112 in damages and \$518,455 in attorney  
16 fees and costs for constructive discharge claims because employer placed employee in entry  
17 level position, which included document filing, rather than being returned to her  
18 management position with the company). Changing the job duties expected to be performed  
19 while Mr. Taylor is on light-duty from his normal position to that of an office secretary is  
20 humiliating, demoralizing and degrading which, in turn, creates a hostile work environment  
21 giving Mr. Taylor the feeling that he is being punished by the employer for sustaining a  
22 work-related injury and filing a workers' compensation claim related thereto. Consequently,  
23 Mr. Taylor feels pressured to either try to push the doctor for a premature full-duty release  
24 that will subject him to further injury or to resign and consider a medical retirement.

25 Finally, TMFPD's light duty job offer replaced Mr. Taylor's normal supervising



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1 Battalion Chief with an appointed office secretary, which in turn, breaks the normal chain of  
2 command established by the fire department. Changing Mr. Taylor's supervisor from his  
3 duty Battalion Chief to an appointed office secretary not only breaks the established chain of  
4 command, but is extremely confusing and restrictive for Mr. Taylor and his Battalion Chief.  
5 Moreover, this break in the chain of command adds to the humiliating feeling that he is  
6 being punished because he sustained a work-related injury and filed a workers'  
7 compensation claim.

8 In accordance with the foregoing, TMFPD's light duty job offer did not provide for a  
9 light duty job that was substantially similar to the job Mr. Taylor had pre-injury with regard  
10 to both the shift he was required to work and the location of his employment. Moreover, the  
11 light duty job offer was unreasonable and otherwise degrading to Mr. Taylor, who is a 25-  
12 year veteran of the Fire Service, and a Captain for the TMFPD.

### 13 B. CONCLUSION

14 In accordance with the foregoing, Mr. Taylor respectfully requests that the Appeal  
15 Officer REVERSE the Hearing Officer's Decision and Order and CCMSI's September 26,  
16 2016, determination because the light duty job offered to Mr. Taylor does not satisfy the  
17 requirements of NRS 616C.475(8) and related case law.

### 18 VI. DOCUMENTARY EVIDENCE

19 Mr. Taylor will rely upon (2) two documentary exhibits, previously submitted. Mr.  
20 Taylor reserves the right to rely on evidence submitted by the employer or insurer and to  
21 submit additional rebuttal evidence, if necessary.

### 22 VII. WITNESSES

- 23 1. Staci Taylor, wife of Vance Taylor
- 24 2. Vance Taylor



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
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1           3. Mr. Taylor does not plan on calling any other witnesses at this time.  
2 However, Mr. Taylor reserves the right to call the insurer or employer and any witnesses  
3 called by the insurer or employer or identified in their pre-hearing statement, and rebuttal  
4 witnesses. Mr. Taylor also reserves the right to introduce rebuttal evidence and witnesses, if  
5 necessary.

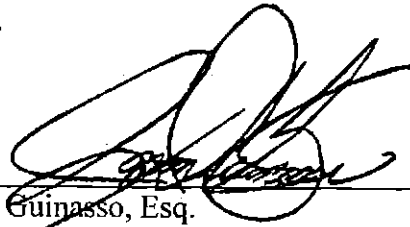
6 **VIII. ESTIMATED TIME**

7           Mr. Taylor's submission of evidence, examination of witnesses, and closing  
8 argument will take approximately one hour.

9 **AFFIRMATION**

10           The undersigned does hereby affirm that the foregoing document filed in this matter  
11 does not contain the social security number of any person.

12           DATED this 3<sup>rd</sup> day of February, 2017.



13  
14  
15 Jason D. Guinasso, Esq.  
Attorney for Vance Taylor



22  
23 Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
24 Reno, NV 89511  
(775) 853-8746



**CERTIFICATE OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 190 W. Huffaker Lane, Suite 402, Reno, Nevada, 89511.

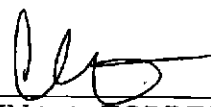
On February 3<sup>rd</sup>, 2017, I served the following:

**VANCE TAYLOR'S  
PRE-HEARING STATEMENT**

on the following in said cause as indicated below:

VANCE TAYLOR 2919 ASPEN MEADOWS CT RENO, NV 89519 (VIA U.S. MAIL)	TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89520 (VIA U.S. MAIL)
ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG, ET AL 6590 S MCCARRAN BLVD., SUITE B RENO, NV 89509 (VIA HAND DELIVERY)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD SUITE 390 RENO, NV 89520 (VIA U.S. MAIL)
NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA HAND DELIVERY)	

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 3<sup>rd</sup>, 2017, at Reno, Nevada.

  
KATRINA A. TORRES



Reese Kintz,  
Guinasso  
190 W Huffaker Ln  
Suite 402  
Reno, NV 89511  
(775) 853-8746

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Robert F. Balkenbush, Esq.  
State Bar No. 1246  
Thorndal Armstrong Delk Balkenbush & Eisinger  
6590 S. McCarran, Suite B  
Reno, Nevada 89509  
Tel: (775) 786-2882  
Fax: (775) 768-8004  
Attorneys for: Truckee Meadows Fire Protection District, Employer and  
Public Agency Compensation Trust, Insurer

**NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER**

In the Matter of the Contested Claim No. C143-16-09765-01  
Industrial Insurance Claim  
of Hearing No. 1700937-SA  
VANCE TAYLOR / Appeal No. 1701567-SYM

**INSURER'S AND EMPLOYER'S  
PRE-HEARING STATEMENT**

**I  
DOCUMENTARY EVIDENCE**

The Insurer and Employer will rely on three (3) documentary exhibits previously submitted. The Insurer and Employer reserve the right to submit additional documentary exhibits.

**II  
STATEMENT OF ISSUES**

1. Whether the Insurer's September 26, 2016 determination to discontinue temporary total disability (TTD) payments beyond September 11, 2016 as the Claimant was offered a light duty position to begin on September 12, 2016 was lawful or proper?
2. Whether it was lawful or proper for the Hearing Officer to find that the Insurer properly terminated TTD benefits and that the light duty job offered was a valid light duty job?

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**III**

**WITNESSES**

The Insurer and Employer may call one or more of the following witnesses to testify in person or by telephone about various aspects of the claim:

1. A claims representative(s) from Alternative Service Concepts may testify concerning the carrier's administration of Claimant's claim for workers' compensation at issue in this contested case.

2. A representative(s) from the Employer may testify in person or by telephone about the facts of the alleged incident forming the basis of the within claim.

3. Any and all health care providers who have treated the Claimant or been consulted concerning Claimant's industrial injury of April 19, 2016, may testify.

4. An expert witness, not yet identified, may testify concerning the Claimant's industrial injury of April 19, 2016.

5. The Insurer and Employer also reserve the right to call any witnesses called by the Claimant or identified in his respective pre-hearing statement, and rebuttal witnesses. The Insurer and Employer also reserve the right to introduce documentary rebuttal evidence, if necessary.

**IV**

**ESTIMATED TIME**

The presentation by the Insurer and Employer will take approximately one and one half (1 ½) hours.

DATED this 4<sup>th</sup> day of January, 2017.

By 

ROBERT F. BALKENBUSH, ESQ.  
Attorney Truckee Meadows Fire Protection District,  
Employer, and Public Agency Compensation Trust,  
Insurer

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk,  
Balkenbush & Eisinger, and that on this day I deposited for mailing at Reno, Nevada, a true and  
correct copy of the foregoing document, addressed to:

Jason Guinasso, Esq.  
Reese Kintz Guinasso, LLC  
190 West Huffaker, Suite 402  
Reno, NV 89511

DATED this 4 day of January, 2017.

  
NATALIE L. STEINHARDT

**AFFIRMATION**  
**Pursuant to NRS 239B.030(4)**

The undersigned hereby affirms that the preceding document filed with the Appeals Officer  
does not contain the social security number of any person.

DATED this 4 day of January, 2017.

By: 

1 Robert F. Balkenbush, Esq.  
2 State Bar No. 1246  
3 Thorndal, Armstrong, Delk, Balkenbush & Eisinger  
4 6590 S. McCarran, Suite B  
5 Reno, Nevada 89509  
6 (775) 786-2882  
7 Attorneys for: Truckee Meadows Fire Protection District, Employer and  
8 Public Agency Compensation Trust, Insurer

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NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER

In the Matter of the  
Industrial Insurance Claim  
Of  
VANCE TAYLOR

Claim No. C143-16-09765-01

Hearing No. 1700937-SA

Appeal No. 1701567-SYM

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE, Robert F. Balkenbush, Esq., will appear as counsel for the  
Employer, Truckee Meadows Fire Protection District, and the Insurer, Public Agency  
Compensation Trust, in the above-referenced matter.

DATED this 8th day of December, 2016.

By: 

ROBERT F. BALKENBUSH, ESQ.

Attorneys for: Truckee Meadows Fire Protection  
District and Public Agency Compensation Trust

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and that on this day I deposited for mailing at Reno, Nevada, a true and correct copy of the foregoing document, addressed to:

Jason Guinasso, Esq.  
Reese Kintz Guinasso, LLC  
190 West Huffaker, Suite 402  
Reno, NV 89520

DATED this 8 day of December, 2016.


  
NATALIE L. STEINHARDT

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**AFFIRMATION**  
**Pursuant to NRS 239B.030(4)**

The undersigned hereby affirms that the preceding document filed with the Hearing Officer  
does not contain the social security number of any person.

DATED this 8 day of December, 2016.

By: 



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5 BEFORE THE APPEALS OFFICER

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**FILED**  
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DEPT. OF ADMINISTRATION  
APPEALS OFFICER

In the Matter of the Contested  
Industrial Insurance Claim of:

VANCE TAYLOR,

Claimant.

) Claim No: C143-16-09765-01

) Hearing No: 1700937-SA

) Appeal No: 1701567-SYM

NOTICE OF APPEAL AND ORDER TO APPEAR

1. **ALL PARTIES IN INTEREST ARE HEREBY NOTIFIED** that a hearing will be held by the Appeals Officer, pursuant to NRS 616 and 617 on:

**DATE:** Thursday, February 9, 2017

**TIME:** 10:00AM

**PLACE:** DEPT OF ADMINISTRATION, APPEALS OFFICE  
1050 E. WILLIAMS STREET, SUITE 450  
CARSON CITY, NV 89701

2. The **INSURER** shall comply with NAC 616C.300 for the provision of documents in the Claimant's file relating to the matter on appeal.
3. **ALL PARTIES** shall comply with NAC 616C.297 for the filing and serving of information to be considered on appeal.
4. Pursuant to NRS 239B.030(4), any document/s filed with this agency must have all social security numbers redacted or otherwise removed and an affirmation to this effect must be attached. The documents otherwise may be rejected by the Hearings Division.
5. Pursuant to NRS 616C.282, any party failing to comply with NAC 616C.274-.336 shall be subject to the Appeals Officer's orders as are necessary to direct the course of the Hearing.
6. Any party wishing to reschedule this hearing should consult with opposing counsel or parties, and immediately make such a request to the Appeals Office in writing supported by an affidavit.
7. The injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

**IT IS SO ORDERED.**

  
SHEILA Y MOORE  
APPEALS OFFICER

AA000383

Nevada Department of Administration, Appeals Division  
1050 E. William Street, Suite 450  
Carson City, Nevada 89701  
(775) 687-8420

**ORIGINAL**  
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FILED

**REQUEST FOR HEARING BEFORE THE APPEALS OFFICER**

**CLAIMANT INFORMATION**

Claimant: Vance Taylor
Address: 2919 Aspen Meadows Court Reno, NV 89519
SSN:
Telephone: (775) 830-3873

**EMPLOYER INFORMATION**

Claim Number: C143-16-09765-01
Employer: Truckee Meadows FPD
Address: PO Box 11130 Reno, NV 89520
Telephone: (775) 326-6000

PERSON REQUESTING APPEAL: (circle one) CLAIMANT EMPLOYER INSURER

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: November 23, 2016

***YOU MUST ATTACH A COPY OF THE DETERMINATION LETTER  
PER NRS 616C.315(2)(a)(b)***

BRIEFLY EXPLAIN REASON FOR APPEAL: Disagree with Hearing Officer.
---

If you are represented by an attorney or other agent, please print the name and address below.

**ATTORNEY/REPRESENTATIVE:**

Name: Jason D. Guinasso, Esq.
Address: 190 West Huffaker Lane, Suite 402 Reno, Nevada 89511
Telephone: (775) 832-6800

**INSURANCE COMPANY:**

Name: Alternative Service Concepts
Address: 639 Isbell Road, Suite 390 Reno, NV 89509
Telephone: (775) 329-1181

Signature

Date

12/1/16

**NOTICE**

If the Hearing Officer decision is appealed, Claimants are entitled to free legal representation by the Nevada Attorney for Injured Workers (NAIW). If you want NAIW to represent you, please sign below:

Signature

Telephone Number

**\*\*If you are appealing the Hearing Officer's Decision, file this form and a copy of the Decision no later than thirty (30) days after the date of the Hearing Officer's Decision\*\***

1701567-541M  
THURS - 279000384  
10:00

355

1 CERTIFICATE OF MAILING

2 The undersigned, an employee of the State of Nevada, Department of Administration,  
3 Hearings Division, does hereby certify that on the date shown below, a true and correct copy of  
4 the foregoing **NOTICE OF APPEAL AND ORDER TO APPEAR** was duly mailed, postage  
5 prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration,  
Hearings Division, 1050 E. Williams Street, Carson City, Nevada, to the following:

6 VANCE TAYLOR  
7 2919 ASPEN MEADOWS CT  
8 RENO, NV 89519

9 JASON GUINASSO, ESQ  
10 REESE KINTZ GUINASSO, LLC  
11 190 WEST HUFFAKER SUITE 402  
12 RENO NV 89511

13 TRUCKEE MEADOWS FPD  
14 PO BOX 11130  
15 RENO, NV 89520

16 ALTERNATIVE SERVICE CONCEPTS  
17 639 ISBELL RD #390  
18 RENO, NV 89509-4993

19 ROBERT F BALKENBUSH, ESQ.  
20 6590 S MCCARRAN BLVD #B  
21 RENO NV 89509-6112

22 Dated this 6 day of December, 2016.

23 Tasha Eaton  
24 Tasha Eaton, Supervising Legal Secretary  
25 Employee of the State of Nevada  
26  
27  
28

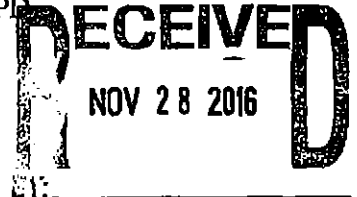
**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
**HEARINGS DIVISION**

In the matter of the Contested  
Industrial Insurance Claim of:

Hearing Number: 1700937-SA  
Claim Number: C143-16-09765-01

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520



**BEFORE THE HEARING OFFICER**

The Claimant's request for Hearing was filed on September 29, 2016, and a Hearing was scheduled for October 24, 2016 and continued to November 8, 2016. The Hearing was held on November 8, 2016, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present and represented by Jason Guinasso, Esquire. The Employer/Insurer was represented by Bob Balkenbush, Esquire, by telephone conference call.

**ISSUE**

The Claimant appealed the Insurer's determination dated September 26, 2016. The issue before the Hearing Officer is termination of temporary total disability effective September 11, 2016. At today's hearing the parties clarified the period of time in question is September 11, 2016 to November 1, 2016.

**DECISION AND ORDER**

The determination of the Insurer is hereby **REMANDED**.

On September 9, 2016 this Claimant was offered a temporary light duty job which he rejected. Based on said rejection, the Insurer terminated the Claimant's TTD benefits effective September 11, 2016. At today's hearing the Claimant's counsel based the Claimant's rejection of said job on the following:

- The Claimant's work schedule was changed from a "48/96" to a 40-hour work week which imposed undo hardship on the Claimant's family, increased day care, increased fuel and maintenance costs for daily commutes and "increase stress on the family due to an unfamiliar, unforgiving, and inconvenient work schedule which "amounts to harassment" while the Claimant is recovering.
- The change of schedule did not allow the Claimant to bank 12 hours of holiday comp time each month.
- The location changed by six miles.
- The "...job duties dramatically and effectively demotes Mr. Taylor from Captain to an office secretary, which is both humiliating and..

- unlawful...Changing the job duties expected to be performed...from his normal position to that of an office secretary is humiliating, demoralizing and degrading which, in turn, creates a hostile work environment.”
- The light duty job offer replaced the Claimant's normal supervising from his duty Battalion Chief to an appointed office secretary which breaks the established chain of command and "...adds to the humiliating feeling that he is being punished because he sustained a work related injury and filed a workers' compensation claim."

At today's hearing, the Hearing Officer questioned the Claimant regarding the hardship placed on him and his family by not accepting the light duty job which paid him at his prior salary of approximately \$67/hour versus his TTD of \$118/daily. The Claimant essentially explained that he had worked the light job for three months prior to his surgery and he was not going to put himself or his family through that again. It appears the parties did meet and as long as the Battalion Chief gave instructions to the Claimant, he did return to work light duty for one week after which time he was released to work full duty and has since returned to work in said capacity.

The Hearing Officer, having reviewed the submitted evidence and in consideration of the representations made at today's hearing, finds the Insurer properly terminated TTD benefits. The Hearing Officer finds the light duty job offered by the pre-injury employer is a valid light duty job and, while the Claimant is a Fire Chief in his regular capacity, the light duty job is not considered humiliating and degrading and is an essential function in the work force. The Claimant's personal feeling with regard to the light duty job do not negate the statutes governing temporary light duty work and offer thereof.

#### **APPEAL RIGHTS**

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 23rd day of November, 2016.

  
Sondra L. Amodci, Hearing Officer

**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD STE 390  
RENO, NV 89509

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 23rd day of November, 2016.



Karen Dyer  
Employee of the State of Nevada

1 2880

2  
3  
4  
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE

7 VANCE TAYLOR,

CASE NO. CV18-00673

8  
9 Petitioner,

DEPT NO. 6

10 vs.

11 TRUCKEE MEADOWS FIRE PROTECTION  
12 DISTRICT, ALTERNATIVE SERVICE  
13 CONCEPTS and the NEVADA DEPARTMENT  
14 OF ADMINISTRATION APPEALS  
OFFICER SHEILA MOORE,

15 Respondents.  
16 \_\_\_\_\_ /

17 **ORDER FOR BRIEFING SCHEDULE**

18 On March 30, 2018, a Petition for Judicial Review was filed by Petitioner. Petitioner  
19 must serve the Petition upon the agency and every party within 45 days after the filing of  
20 the Petition.  
21

22 The Agency and any party desiring to participate must file a Statement of Intent to  
23 Participate within 20 days after service of the Petition.

24 Pursuant to NRS 233B.131, within 45 days after service of the Petition for Judicial  
25 Review, Petitioner shall transmit to the Court an original or certified copy of the transcript of  
26 the evidence resulting in the final decision of the agency. The Agency that rendered the  
27 decision shall transmit to the Court the original or certified copy of the remainder of the  
28

1 record of proceedings under review. The parties may stipulate to shorten the record. The  
2 Agency is instructed to file written notice when the record is filed.

3 Pursuant to NRS 233B.133, Petitioner must file and serve an Opening Brief within  
4 40 days after the Agency has given written notice that the record has been filed with the  
5 Court.  
6

7 Respondent shall serve and file an Answering Brief within 30 days after service of  
8 Petitioner's Opening Brief.

9 Petitioner may serve and file a Reply Brief within 30 days after service of  
10 Respondent's Answering Brief. Petitioner will file a request for submission once the appeal  
11 is ready to be ruled on.  
12

13 Any party may request a hearing within 7 days after expiration of the time within  
14 which Petitioner is required to file a Reply Brief.

15 In the original Petition, a request for stay was made by Petitioner. Petitioner is  
16 directed to file an appropriate motion seeking such relief.  
17

18 DATED this 4th day of May, 2018.

19  
20   
21 DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28



1 CERTIFICATE OF SERVICE

2 I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
3 that on the 4<sup>th</sup> day of May, 2018, I electronically filed the foregoing with the Clerk of  
4 the Court system which will send a notice of electronic filing to the following:

5 ROBERT BALKENBUSH, ESQ.

6 JASON GUINASSO, ESQ.  
7  
8  
9  
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12

13 And, I deposited in the County mailing system for postage and mailing with the  
14 United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
15 document addressed as follows:  
16

17 Appeals Office of the  
18 Department of Administration  
19 Appeals Division  
1050 E. William Street, Ste. 450  
Carson City, NV 89701

20 Alternative Service Concepts  
21 639 Isbell Rd., Ste. 390  
22 Reno, NV 89509  
23  
24

25 Robert Balkenbush  
26  
27  
28

1 Robert F. Balkenbush, Esq.  
2 Nevada Bar No. 01246  
3 John D. Hooks, Esq.  
4 Nevada Bar No. 11605  
5 Thorndal, Armstrong, Delk, Balkenbush & Eisinger  
6 6590 S. McCarran Blvd., Suite B  
7 Reno, Nevada 89509  
8 Tel.: (775) 786-2882  
9 Fax.: (775) 786-8004  
10 Attorneys for: Truckee Meadows Fire Protection District, Employer  
11 Public Agency Compensation Trust, Insurer  
12

13 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR THE COUNTY OF WASHOE

15 VANCE TAYLOR

16 Petitioner,

CASE NO.: CV18-00673

17 vs.

DEPARTMENT NO.: 6

18 TRUCKEE MEADOWS FIRE  
19 PROTECTION DISTRICT;  
20 ALTERNATIVE SERVICE CONCEPTS,  
21 LLC, PUBLIC AGENCY COMPENSATION  
22 TRUST and the NEVADA DEPARTMENT  
23 OF ADMINISTRATION APPEALS  
24 OFFICER SHEILA MOORE

25 Respondents.  
26 \_\_\_\_\_/

27 **RESPONDENTS' MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

28 COME NOW, Respondents, TRUCKEE MEADOWS FIRE PROTECTION DISTRICT and  
ALTERNATIVE SERVICE CONCEPTS, LLC, and PUBLIC AGENCY COMPENSATION  
TRUST, by and through their attorney ROBERT F. BALKENBUSH, ESQ., of the law firm  
THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER, and hereby move this Court  
for an Order dismissing the Petition for Judicial Review filed in this Court by Petitioner Vance  
Taylor on March 30, 2018. The basis of the motion is that this Court lacks jurisdiction to hear this

1 matter pursuant to NRS 233B.130(2)(a) and the holding in *Washoe County v. Otto*, 128 Nev. 424,  
2 282 P.3d 719 (2012). This motion is made based upon NRS 233B.130, the attached exhibits, the  
3 papers and pleadings on file herein, and the following points and authorities.  
4

5 DATED this 1st day of June, 2018.

6 THORNDAL, ARMSTRONG,  
7 DELK, BALKENBUSH & EISINGER

8 By: /s/ Robert F. Balkenbush

9 ROBERT F. BALKENBUSH, ESQ.

10 State Bar No. 1246

11 6590 S. McCarran Blvd., Suite B

12 Reno, Nevada 89509

13 (775) 786-2882

14 Truckee Meadows Fire Protection District,  
15 Employer, Public Agency Compensation Trust,  
16 And Alternative Service Concepts, LLC  
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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. STATEMENT OF FACTS

The respondent employer in this matter is Truckee Meadows Fire Protection District (hereinafter the "District"). Public Agency Compensation Trust (hereinafter "PACT") is the respondent insurer of the workers' compensation claim herein at issue. Alternative Service Concepts, LLC (hereinafter "ASC"), is the respondent third party administrator (TPA) of the workers' compensation claim herein at issue. Lastly, Sheila Moore is the Appeals Officer at the Nevada Department of Administration who presided over the trial of the underlying contested case (Appeal Number 1701567-SYM), and who rendered the decision that is the subject of the within petition for judicial review. Vance Taylor (hereinafter the "Taylor") is the Petitioner and the Claimant who filed the workers' compensation claim herein at issue.

In the underlying contested case (Appeal Number 1701567-SYM), the legal question presented was whether Taylor was entitled to monetary compensation known as temporary total disability (TTD) from September 11, 2016 to the date when he returned to his pre-injury employment in November 2016, a period encompassing approximately eight weeks.

After a hearing before Appeals Officer Moore, the Appeals Officer issued a February 28, 2018, decision finding that Taylor was not entitled to temporary total disability (TTD) from September 11, 2016 to the date when he returned to his pre-injury employment in November 2016. *See Exhibit 1.*

On March 30, 2018, Taylor filed a Petition for Judicial Review of the decision made under Appeal Number 1701567-SYM. *See Exhibit 2.* Petitioner, however, failed to name the Insurer, the Public Agency Compensation Trust, as a respondent to the Petition for Judicial Review and, therefore, failed to meet the mandatory and jurisdictional requirements of NRS 233B.130(2)(a) as confirmed in *Washoe County v. Otto*, 128 Nev. 424, 282 P.3d 719 (2012). The consequence

1 of this failure is that Petitioner failed to invoke this Court's jurisdiction and, therefore, the Petition  
2 for Judicial Review must be dismissed with prejudice.  
3

4 **II. LEGAL ARGUMENT:**

5 **The Court Lacks Jurisdiction to Consider Petitioner's Petition for Judicial Review**

6 The purpose of Chapter 233B of the Nevada Revised Statutes is to establish procedural and  
7 judicial review requirements under Nevada's Administrative Procedure Act for matters such as the  
8 instant Petition for Judicial Review. NRS 233B.010; NRS 233B.020. Additionally, under NRS  
9 233B.130(6), the provisions of this chapter "are the exclusive means of judicial review..." of a final  
10 decision entered by an agency to which the Administrative Procedure Act applies. NRS 233B.130(6).  
11 Furthermore, NRS 616C.370 of the Nevada Industrial Insurance Act (NIIA) provides "Judicial  
12 proceedings instituted for compensation for an injury or death, under chapters 616A to 616D,  
13 inclusive, of NRS are limited to judicial review of the decision of an appeals officer."  
14

15 NRS 233B.130 (2)(a) is a mandatory procedural statute governing the filing of a Petition for  
16 Judicial Review in a district court that mandates, *inter alia*, as follows:  
17

18 2. Petitions for judicial review must:

- 19 (a) Name as respondents the agency and all parties of record to the  
20 administrative proceeding.

21 The Petition for Judicial Review filed in this matter failed to meet this mandatory and jurisdictional  
22 requirement. Petitioner timely filed with this Court a Petition for Judicial Review of the decision  
23 made under Appeal Number 1701567-SYM. *See* Exhibit 2. Petitioner, however, failed to name the  
24 Insurer, the Public Agency Compensation Trust (PACT), as a respondent in the Petition for Judicial  
25 Review and, therefore, failed to meet the jurisdictional and mandatory requirements of NRS  
26 233B.130(2)(a). *Id.* The Nevada Supreme Court has held that the failure of a petitioner to strictly  
27 comply with the requirements of NRS 233B.130(2) results in a lack of subject matter jurisdiction  
28

1 necessary for a district court to entertain the Petition for Judicial Review. *Washoe County v. Otto*,  
2 128 Nev. 424, 282 P.3d 719 (2012).

3 In *Otto*, Washoe County timely filed a Petition for Judicial Review from a decision of the  
4 State Board of Equalization. *Otto*, 128 Nev. at 429, 282 P.3d at 723. The Petition for Judicial  
5 Review failed to name as respondents the individual taxpayers who were parties to the underlying  
6 administrative hearing in the Petition for Judicial Review. *Id.* In upholding the District Court's  
7 dismissal of the Petition, the Court explained that because a review of a final decision "may be  
8 obtained only as provided by statute, a court exercises 'special statutory jurisdiction' when it reviews  
9 an administrative decision." *Id.* at 431. The Court stressed that when a petitioner seeks to invoke  
10 this special statutory jurisdiction by filing its Petition for Judicial Review, "strict compliance with  
11 the statutory requirements for such review *is a precondition to jurisdiction* by the court of judicial  
12 review." *Id.*(emphasis added).

13  
14 The court further clarified that those jurisdictional requirements include the procedural  
15 requirements found in NRS 233B.130 and, in particular, subsection (2) invoking the requirement  
16 that, "Petitions for Judicial Review must: (a) Name as respondents the agency and all parties of  
17 record to the administrative proceeding." NRS 233B.130(2)(a)(emphasis added). *Id.* at 432. In  
18 analyzing the language of that statute, the court found that, "[n]othing in the language of that  
19 provision suggests that its requirements are anything but mandatory and jurisdictional." *Id.* The  
20 Supreme Court found NRS 233B.130(2) to be a statute requiring strict compliance, not substantial  
21 compliance. *Id.* In so doing, the court specifically overruled prior precedent in *Civil Service*  
22 *Commission v. District Court*, 118 Nev 186, 189-90, 42 P.3d 268 (2002)(holding that "technical  
23 derelictions do not generally preclude a party's right to review") as it may be applied to the naming  
24 requirement in NRS 233B.130(2). *Id.* at 433. The Court also noted that because the 30 day filing  
25 period promulgated in NRS 233B.130(2)(d) had elapsed, the petitioner could not correct or otherwise  
26  
27  
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1 amend its lack of compliance. *Otto* at 434-35; *see also Liberty Mutual v. Thomasson*, 317 P.3d 831,  
2 836, 130 Nev. Adv. Rep. 4 (2014). *Id.* at 435.

3 In the present case, PACT was a party to the underlying administrative proceedings and was  
4 identified as such in the resulting and appealed decision. *See* Exhibit 1. While Petitioner timely filed  
5 with this Court his Petition for Judicial Review of the decision made under Appeal Number  
6 1701567-SYM (*See* Exhibit 2), the Petition fails to name PACT as a respondent in the Petition for  
7 Judicial Review and, therefore, failed to meet the mandatory and jurisdictional requirements of NRS  
8 233B.130(2)(a) as confirmed in *Washoe County v. Otto*, 128 Nev. 424, 282 P.3d 719 (2012). *Id.*  
9 Because Petitioner failed to invoke this Court's jurisdiction, his Petition for Judicial Review must  
10 be dismissed. Furthermore, the 30 day filing period promulgated in NRS 233B.130(2)(d) has  
11 elapsed and Petitioner cannot correct or otherwise amend his lack of compliance.  
12

13 DATED this 1st day of June, 2018.

14 THORNDAL, ARMSTRONG,  
15 DELK, BALKENBUSH & EISINGER

16 By: /s/ Robert F. Balkenbush

17 ROBERT F. BALKENBUSH, ESQ.

18 State Bar No. 1246

19 6590 S. McCarran Blvd., Suite B

20 Reno, Nevada 89509

21 (775) 786-2882

22 Truckee Meadows Fire Protection District,  
23 Employer, Public Agency Compensation Trust,  
24 And Alternative Service Concepts, LLC  
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DATED this 1st day of June, 2018.

By: /s/ Robert F. Balkenbush  
 ROBERT F. BALKENBUSH, ESQ.  
 State Bar No. 1246  
 6590 S. McCarran Blvd., Suite B  
 Reno, Nevada 89509  
 (775) 786-2882  
 Truckee Meadows Fire Protection District,  
 Employer, Public Agency Compensation Trust,  
 And Alternative Service Concepts, LLC



CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal Armstrong Delk Balkenbush & Eisinger, and that on this date I caused the foregoing **RESPONDENTS' MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW** to be served on all parties to this action by:

XX Placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

Fully addressed as follows:

Jason Guinasso, Esq.  
Hutchison & Steffen, LLC  
500 Damonte Ranch Parkway, Suite 980  
Reno, NV 89521

Patrick Cates – Director  
Department of Administration  
515 E. Musser St.  
Carson City, NV 89701

Adam Laxalt, Esq.  
Attorney General  
100 W. Carson St.  
Carson City, NV 89701

Senior Appeals Officer Michelle Morgando  
2200 S. Rancho Drive, Suite 220  
Las Vegas, NV 89102

Nevada Department of Administration, Appeals Division  
1050 E. William Street, Suite 450  
Carson City, NV 89701

Alternative Service Concepts  
639 Isbell Rd. Ste 390  
Reno, Nevada 89509

DATED this 4<sup>th</sup> day of June, 2018.

By: /s/ Natalie L. Steinhardt  
NATALIE L. STEINHARDT

## **INDEX OF EXHIBIT(S)**

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Exhibit No.	Exhibit Description	No. of Pages
1	Appeals Officer's Decision	8
2	Petition for Judicial Review	18

FILED  
Electronically  
CV18-00673  
2018-06-04 09:47:31 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6709973 : csulezic

# **Exhibit 1**

AA000401

RECEIVED

MAR 01 2018

THORNDAL, ARMSTRONG, DELK  
BALKENBUSH & EISINGER

FILED

FEB 28 2018

DEPT. OF ADMINISTRATION  
APPEALS OFFICER

NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER

In the Matter of the  
Industrial Insurance Claim

Of

VANCE TAYLOR

Claim No. C143-16-09765-01

Hearing No. 1700937-SA

Appeal No. 1701567-SYM

DECISION AND ORDER

Background

In this contested case, the claimant Vance Taylor (hereinafter "Taylor"), was represented by Jason Guinasso, Esq. The employer, Truckee Meadows Fire Protection District (hereinafter "TMFPD"), and the insurer, Public Agency Compensation Trust (hereinafter "PACT"), were represented by Robert Balkenbush, Esq., of the law firm of Thorndal, Armstrong, Delk, Balkenbush & Eisinger. The current third party administrator of Taylor's year 2016 workers' compensation claim at issue in this contested case is Alternative Service Concepts, LLC (hereinafter "ASC").

By written determination dated September 9, 2016, the TMFPD offered Taylor a temporary, light-duty job that accommodated the physical restrictions imposed on Taylor by the treating orthopedic surgeon on September 7, 2016. *See*, Exhibit No. 2 at pp. 101-102; Exhibit No. 3 at pp. 88-89. Taylor rejected the temporary, light-duty job offered to him by the TMFPD. *See*, Exhibit No. 3 at pp. 90-92. In turn, and by written determination dated September 26, 2016, ASC notified Taylor that it was discontinuing temporary total disability (hereinafter "TTD")

1 compensation effective September 11, 2016. *See*, Exhibit No. 2 at pp. 103-104; Exhibit No. 3 at  
2 p. 94; Exhibit 5 at p.1. Taylor returned to pre-injury job with the TMFPD in November 2016.  
3 *Taylor Trial Testimony.* Taylor disagreed with ASC's September 26, 2016, determination and,  
4 therefore, he filed an appeal of this determination with a Hearing Officer, and Hearing No.  
5 1700397-SA was assigned to his appeal. *See*, Exhibit No. 5 at pp. 2-4. Following a hearing and  
6 by written decision dated November 23, 2016, Hearing Officer Sondra Amodei held that TTD  
7 compensation was properly terminated. *See*, Exhibit No. 5 at pp. 2-4. Taylor disagreed with the  
8 Hearing Officer's decision made under Hearing No. 1700937-SA and, therefore, he timely  
9 appealed from that decision to an Appeals Officer and Appeal No. 1701567-SYM was assigned  
10 to his appeal. *See*, Exhibit No. 5 at pp. 5-7.

11 The trial of Appeal No. 1701567-SYM was conducted on March 2, 2017. Taylor and his  
12 wife, Staci Taylor, personally appeared and provided testimony at the hearing of this appeal. No  
13 other witnesses testified in this matter. Five (5) documentary exhibits were admitted into  
14 evidence.

15 Having considered the documentary exhibits admitted into evidence at the trial of this  
16 case, the testimony of claimant Taylor and his wife, Staci Taylor, as well as closing arguments  
17 made by legal counsel for the parties, the Appeals Officer hereafter makes the following findings  
18 of fact, conclusions of law, and order.

19 **Summary of Decision**

20 The temporary, light-duty job offered to Taylor by the TMFPD on September 9, 2016,  
21 was a part of the employer's regular business operations, essentially immediately available,  
22 compatible with the temporary physical limitations for work imposed by the treating orthopedic  
23 surgeon, substantially similar to Taylor's pre-injury position with the TMFPD in relation to the  
24 location and of the employment and hours Taylor was required to work, and provided Taylor  
25 with the same gross wage he was earning from the TMFPD before his work-related injury. *See*,  
26 NRS 616C.475(8); *see generally*, *Amazon v. Magee*, 121 Nev. 632, 635-38, 119 P.3d 732 (2005);  
27 NAC 616C.583(6). Temporary employment at light duty offered by an employer which is part  
28

1 of the employer's regular business operations is deemed in law not to be demeaning or degrading  
2 or to subject the employee to ridicule or embarrassment. See generally, NAC 616C.586(2).

3 It is also noted that Taylor returned to pre-injury job in November 2016, and that he  
4 previously accepted and worked the same temporary, light-duty job offered to him by the  
5 TMFPD on September 9, 2016, for a temporary period before undergoing a shoulder surgery  
6 related to his work-related accidental injury. *Testimony of Taylor.*

7 In accordance with the foregoing, the written determination issued by ASC on September  
8 26, 2016, that notified Taylor that it was discontinuing temporary total disability (hereinafter  
9 "TTD") compensation effective September 11, 2016, is affirmed, as is the decision of the  
10 Hearing Officer made under Hearing No. 1700937-SA.

#### 11 FINDINGS OF FACT

12 1. In April 2016, Taylor was 46 years old and working for the TMFPD as a Fire Captain.  
13 See, Exhibit No. 3 at pp. 17-19, 27; Exhibit No. 1 at pp. 1-7. Taylor began working for the  
14 TMFPD in January 1997. See, Exhibit No. 3 at p. 27; Exhibit No. 1 at p. 1.

15 2. On April 19, 2016, during a training exercise with another firefighter, Taylor was  
16 rescuing a downed firefighter, simulated by a 160 pound mannequin in a Level A suit  
17 (approximately 200 pounds). See, Exhibit No. 3 at pp. 1-19; Exhibit No. 1 at pp. 1-20. A SKED  
18 (sled and skid) device was used in the training exercise, and Taylor suffered an injury to his left  
19 shoulder during this exercise. *Id.*

20 3. On or about July 21, 2016, orthopedic surgeon Hilary Malcarney, M.D., performed a  
21 surgery on Taylor left shoulder. See, Exhibit No. 3 at pp. 68-73; Exhibit No. 1 at pp. 87-92.

22 4. On September 7, 2016, Taylor was examined by Dr. Malcarney and released to work,  
23 with light-duty restrictions (no lifting over 5 lbs. and no reaching above the shoulder) from  
24 September 7, 1996, to October 10, 2016. See, Exhibit No. 3 at p. 85-87.

25 5. On September 9, 2016, the TMFPD offered Taylor temporary, light-duty employment.  
26 See, Exhibit No. 3 at p. 88-89. The temporary, light-duty job offered to Taylor by the TMFPD

27  
28

1 on September 9, 2016, was a part of the employer's regular business operations,<sup>1</sup> essentially  
2 immediately available, compatible with the temporary physical limitations for work imposed by  
3 Dr. Malcarney, substantially similar to Taylor's pre-injury position with the TMFPD in relation  
4 to the location of the employment and hours Taylor was required to work, and provided Taylor  
5 with the same gross wage he was earning from the TMFPD before his work-related injury. *Id.*

6 6. On September 9, 2016, Taylor informed the TMFPD that he would not accept the offer of  
7 temporary, light-duty employment extended by the TMFPD. *See*, Exhibit No. 3 at p. 90-92.  
8 Among other stated contentions for Taylor's rejection of the temporary, light-duty employment,  
9 Taylor asserted that work assignment was not substantially similar to Taylor's position as fire  
10 captain, including differences in work hours,<sup>2</sup> benefits,<sup>3</sup> supervisors,<sup>4</sup> and job duties.<sup>5</sup> *See*,  
11 Exhibit No. 3 at pp. 90-92.

12  
13  
14 <sup>1</sup> The temporary position offered to Taylor was an assignment in the administrative offices of TMFPD,  
15 working Monday through Friday, 8:00 a.m. to 5:00 p.m., with an hour lunch. *See*, Exhibit No. 3 at p. 88-  
16 89. If accepted, Taylor was instructed to report to the administrative offices of the TMFPD on September  
17 12, 2016, so as to align with the beginning of the FLSA cycle. *Id.*

18 <sup>2</sup> Taylor's position as fire captain included working a 48/96 rotation, that is 48 hour (2-day) work shift,  
19 followed by 96 hours (4 days) off work. *See*, Exhibit No. 3 at p. 90-92. Taylor testified that the 48-  
20 hour work shift included working, sleeping and residing at the station. In contrast, the temporary, light-  
21 duty employment work hours were 8:00 a.m. to 5:00 p.m., Monday through Friday. *Id.* Taylor also  
22 asserted that this scheduled change would impose a hardship on his family through an increase in  
23 childcare expenses, fuel and maintenance costs, and stress on his family due to unfamiliar, unforgiving,  
24 and inconvenient work schedule. *Id.* At trial, through the testimony of Taylor and his wife, Staci Taylor,  
25 it was learned that the Taylors have two children, ages 11 and 5, and that the 11 year old was in public  
26 school at the 6<sup>th</sup> grade level and the 5 year old was in pre-school approximately full time. Taylor did not  
27 offer or seek admittance into evidence financial records demonstrating the asserted financial hardship.  
28 Both in the Hearing Officer decision and at trial of this contested case, it was learned that the  
administrative offices of the TMFPD were located approximately 6 miles from the fire station at which  
Taylor was a fire captain. It is also noted that Taylor returned to pre-injury job in November 2016, and  
that he previously accepted and worked the same temporary, light-duty job offered to him by the TMFPD  
on September 9, 2016, for a temporary period before undergoing a shoulder surgery related to his work-  
related accidental injury. *Testimony of Taylor.*

<sup>3</sup> Taylor did not offer into evidence any contract documents to establish asserted differences in benefits.

<sup>4</sup> Taylor asserted that in the temporary, light duty employment, he would not be reporting to his battalion  
chief but to an appointed secretary.

1 7. Taylor's average monthly wage (AMW) under his claim is \$5,426.25, the state maximum  
2 allowed for the date of his work-related injury. *See*, Exhibit No. 3 at pp. 33-37. In turn, under his  
3 claim, Taylor's daily compensation (DCR) and TTD rate were the maximum allowed by Nevada  
4 law for his date of injury, respectively \$118.84 and \$1,663.76. *Id.* In contrast, his hourly rate as  
5 a fire captain was \$67.00 per hour. *Id.* Under the temporary, light-duty job offered to Taylor by  
6 the TMFPD, Taylor was to be paid his pre-injury gross average monthly wage, or \$10,115.39.  
7 *Id.*

### 8 CONCLUSIONS OF LAW

#### 9 A. Governing Law or Legal Principles

10 The burden of proving a case beyond speculation and conjecture is on the Claimant. This  
11 means that the Claimant must establish the work-connection of his/her injuries, the causal  
12 relationship between his/her work-connected injury and his disabilities, the extent of his/her  
13 disabilities, and all other facets of his/her claim by a preponderance of the evidence; he/she  
14 cannot prevail if the evidence is merely evenly balanced. *See*, NRS 616C.150; NRS 616A.010;  
15 *see generally*, 8A Larson, Larson's Workers' Compensation Laws, § 130.06(3)(a)(2006).

#### 16 B. Taylor is not entitled to temporary total disability (TTD) for the period 17 encompassed by the September 2016 offer of temporary, light-duty employment 18 made by the TMFPD and Taylor's return to his pre-injury job in November 2016

19 Under NRS 616C.475(1), an employee who is temporarily totally disabled is entitled to  
20 receive monetary compensation for the period of this disability (TTD). *See also*, NRS 616A.340.  
21 The TTD rate of pay is only 66-2/3 percent of the injured employee's average monthly wage.  
22 However, under NRS 616C.475(5), TTD benefits must cease when a physician determines that  
23 the employee is physically capable of any gainful employment *or where an employer offers*  
24 *light-duty employment*. The temporary, light-duty job must meet the requirements of NRS  
25 616C.475(8).

26  
27 <sup>5</sup> Taylor claims that the administrative assignment would require him to perform clerical tasks, which  
28 Taylor finds humiliating and argues would amount to retaliatory and constructive discharge under *Dillard*  
*Dep't Stores, Inc. v. Beckwith*, 115 Nev. 372, 374, 989 P.2d 882, 883 (1999).



1           The temporary, light-duty job offered to Taylor by the TMFPD on September 9, 2016,  
2 was a part of the employer's regular business operations, essentially immediately available,  
3 compatible with the temporary physical limitations for work imposed by the treating orthopedic  
4 surgeon, substantially similar to Taylor's pre-injury position with the TMFPD in relation to the  
5 location and of the employment and hours Taylor was required to work, and provided Taylor  
6 with the same gross wage he was earning from the TMFPD before his work-related injury. *See*,  
7 NRS 616C.475(8); *see generally, Amazon v. Magee*, 121 Nev. 632, 635-38, 119 P.3d 732 (2005);  
8 NAC 616C.583(6). Temporary employment at light duty offered by an employer which is part  
9 of the employer's regular business operations is deemed in law not to be demeaning or degrading  
10 or to subject the employee to ridicule or embarrassment. *See generally, NAC 616C.586(2).*

11           It is noted that Taylor returned to pre-injury job in November 2016, and that he  
12 previously accepted and worked the same temporary, light-duty job offered to him by the  
13 TMFPD on September 9, 2016, for a temporary period before undergoing a shoulder surgery  
14 related to his work-related accidental injury. *Testimony of Taylor.*

15           In accordance with the foregoing, I conclude as a matter of law that Taylor was not  
16 entitled to TTD compensation from September 11, 2016 to the date when he returned to his pre-  
17 injury job in November 2016.

18       / / / /

19       / / / /

20       / / / /

21       / / / /

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1 / / / /  
2 / / / /  
3 / / / /

4 **ORDER**

5 To the extent that any of the foregoing findings of fact may be construed as conclusions  
6 of law, or any of the foregoing conclusions of law may be construed as findings of fact, they are  
7 hereby adopted as such.

8 In accordance with the foregoing, **IT IS HEREBY ORDERED:**

9 1. That the September 26, 2016, determination made by ASC, on behalf of the  
10 TMFPD and the PACT, is hereby affirmed.

11 2. That the written decision dated November 23, 2016, made by Hearing Officer  
12 Sondra Amodei under Hearing No. 1700937-SA is hereby affirmed.

13 Dated this 21<sup>st</sup> of February, 2018.

14   
15 \_\_\_\_\_  
16 SHEILA Y. MOORE, Appeals Officer

17  
18 **NOTICE:**

19 Pursuant to NRS 233B.130, if any party desires to appeal this final decision of the  
20 Appeals Officer, a Petition for Judicial Review must be filed with the District Court within  
21 thirty (30) days after service of this final decision.

22 **Prepared by:**

23 Robert F. Balkenbush, Esq.  
24 State Bar No. 1246  
25 Thorndal Armstrong Delk Balkenbush & Eisinger  
26 6590 S. McCarran, Suite B  
27 Reno, Nevada 89509  
28 T: (775) 786-2882  
F: (775) 786-8004  
Attorneys for: Truckee Meadows Fire Protection District, Employer and  
Public Agency Compensation Trust, Insurer

1 **CERTIFICATE OF MAILING**

2 The undersigned, an employee of the State of Nevada, Department of  
3 Administration, Hearings Division, does hereby certify that on the date shown  
4 below, a true and correct copy of the foregoing **DECISION AND ORDER** was  
5 duly mailed, postage prepaid OR placed in the appropriate addressee runner file at  
6 the Department of Administration, Hearings Division, 1050 E. Williams Street,  
Carson City, Nevada, to the following:

7 VANCE TAYLOR  
8 2919 ASPEN MEADOWS CT  
9 RENO, NV 89519

10 JASON GUINASSO, ESQ  
11 REESE KINTZ GUINASSO, LLC  
12 500 DAMONTE RANCH PKWY STE 980  
13 RENO NV 89511

14 TRUCKEE FIRE PROTECTION DISTRICT  
15 PO BOX 11130  
16 RENO, NV 89520

17 ALTERNATIVE SERVICE CONCEPTS  
18 639 ISBELL RD #390  
19 RENO, NV 89509-4993

20 ROBERT F BALKENBUSH, ESQ.  
21 6590 S MCCARRAN BLVD #B  
22 RENO NV 89509-6112

23 Dated this 28<sup>th</sup> day of February, 2018.

24 KF  
25 Kristi Fraser, Legal Secretary II  
26 Employee of the State of Nevada  
27  
28

## **Exhibit 2**

RECEIVED

MAR 30 2018

THORNDAL, ARMSTRONG, DELK  
BALKENBUSH & EISINGER

1 Jason D. Guinasso, Esq.  
Nevada Bar No. 8478  
2 Hutchison & Steffen, LLC  
500 Damonte Ranch Parkway, Suite 980  
3 Reno, NV 89521  
Attorney for Vance Taylor  
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 \*\*\*\*\*

8 VANCE TAYLOR,

9 Petitioner,

10 vs.

Case No.: \_\_\_\_\_

11 TRUCKEE MEADOWS FIRE PROTECTION  
DISTRICT, ALTERNATIVE SERVICE  
12 CONCEPTS and the NEVADA  
DEPARTMENT OF ADMINISTRATION  
13 APPEALS OFFICER SHEILA MOORE,

14 Respondents.  
15

PETITION FOR JUDICIAL  
REVIEW

16 Petitioner, VANCE TAYLOR, by and through his attorney of record, Jason D. Guinasso, Esq.,  
17 and Hutchison & Steffen, LLC, hereby requests that the Second Judicial District Court of the State of  
18 Nevada review the Decision and Order of Appeals Officer Sheila Moore, entered on February 28, 2018,  
19 in the case officially designated "In the Matter of the Contested Industrial Insurance Claim of VANCE  
20 TAYLOR, Appeal No. 1701567-SYM". A copy of the referenced order is attached hereto as "Exhibit  
21 No. 1." In support of his Petition, Mr. Taylor respectfully submits the following:

22 ///

23 ///

24 ///

25 ///

I.

JURISDICTION

1. This Court has jurisdiction to review the findings of fact and conclusions law of the Nevada Department of Administration Appeals Officer Sheila Y. Moore. See NRS 616C.370; NRS 233B.130. In this regard, NRS 233B.130 provides that:

1. Any party who is:

(a) Identified as a party of record by an agency in an administrative proceeding; and

(b) Aggrieved by a final decision in a contested case,

is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.

2. Petitions for judicial review must:

(a) Name as respondents the agency and all parties of record to the administrative proceeding;

(b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred; and

(c) Be filed within 30 days after service of the final decision of the agency.

Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.

\*\*\*

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

2. This Petition has been timely filed in the Second Judicial District Court in and for Washoe County.

II.

PARTIES

3. The Claimant in this matter is Vance Taylor ("Mr. Taylor").

4. The Employer in this matter is Truckee Meadows Fire Protection District ("TMFPD").

5. The Third-Party Administrator ("TPA") in this matter is Alternative Service Concepts ("ASC").

1 6. Vance Taylor is the party of record to the administrative proceeding under review herein  
2 that has been "aggrieved" by the final decision of Appeals Officer Moore.

3 **III.**

4 **ISSUES PRESENTED FOR JUDICIAL REVIEW**

5 7. Petitioners submit the following issues for Judicial Review by this honorable Court:

- 6 a. Whether the Appeals Officer erred as a matter of law by holding that Mr. Taylor is not  
7 entitled to temporary total disability ("TTD") benefits for the period of September 11,  
8 2016 through his return to his pre-injury job in November 2016, as stated in ASC's  
9 September 26, 2016, determination letter.
- 10 b. Whether the Appeals Officer erred as a matter of law when she concluded that the light  
11 duty job offered to Mr. Talyor by the employer was a valid light duty job offer under  
12 Nevada law.
- 13 c. Whether the light duty job offered to Mr. Taylor by the employer satisfied the  
14 requirements of NRS 616C.478(8) and NAC 616C.583.

15 **IV.**

16 **STANDARD OF REVIEW**

17 8. Judicial review of a final decision of an agency must be conducted by the District Court  
18 without a jury and is confined to the record on appeal. NRS 233B.135(1).

19 9. The final decision of the agency shall be deemed reasonable and lawful until reversed or  
20 set aside in whole or in part by the Court. NRS 233B.135(2).

21 10. The burden of proof is on the party attacking the decision to show that the final decision  
22 is invalid. NRS 233B.135(2).

23 11. However, the District Court may set aside, in whole or in part, a final decision of an  
24 administrative agency where substantial right of the petitioner has been prejudiced because the final  
25 decision is in violation of statutory provisions, affected by other error of law, clearly erroneous in view

1 of the reliable, probative and substantial evidence on the whole record, or arbitrary, capricious or  
2 characterized by abuse of discretion. NRS 233B.135(3).

3 12. Mr. Taylor now petitions this Court for Judicial Review of the Appeals Officer's  
4 findings and fact and conclusions of law under NRS 233B.135(3) because the final decision of the  
5 Appeals Officer has prejudiced his rights under the Nevada Industrial Insurance Act ("NIIA"), has  
6 violated statutory provisions governing the delivery of total temporary disability benefits under the  
7 NIIA, has been affected by other grievous errors of law, is clearly erroneous in view of the reliable,  
8 probative and substantial evidence on the whole record, and is otherwise arbitrary, capricious or  
9 characterized by abuse of discretion.

10 V.

11 **APPEALS OFFICER'S LEGAL ERROR**

12 13. The Appeals Officer erred as a matter of law when she affirmed the decision of the  
13 Hearing Officer under Hearing No. 1700937-SA, finding that ASC properly terminated Mr. Taylor's  
14 TTD benefits as a result of Mr. Taylor's declination of the light-duty job offered.

15 14. NRS 616C.475(8) provides as follows:

16 "Any offer of temporary, light-duty employment made by the employer must  
17 specify a position that:

18 (a) Is substantially similar to the employee's position at the time of his or her  
19 injury in relation to the location of the employment and the hours the employee is  
20 required to work;

21 (b) Provides a gross wage that is:

22 (1) If the position is in the same classification of employment, equal to the  
23 gross wage the employee was earning at the time of his or her injury; or

24 (2) If the position is not in the same classification of employment,  
25 substantially similar to the gross wage the employee was earning at the time of  
his or her injury; and

(c) Has the same employment benefits as the position of the employee at the  
time of his or her injury."

15. The Nevada Administrative Code further elaborates on the requirements for a  
valid light duty job offer by providing the following:



1 NAC 616C.583 Offer of employment: Light duty. (NRS 616A.400)

2 1. An offer of employment at light duty to an injured employee by his or her  
3 employer must:

- 4 (a) Be in writing;  
5 (b) Be mailed to both the insurer and the injured employee; and  
6 (c) Include:  
7 (1) The net wage to be paid the injured employee;  
8 (2) The hours which the injured employee will be expected to work;  
9 (3) A reasonable description of the physical requirements of the  
10 employment;  
11 (4) A reasonable description of the duties the injured employee will be  
12 expected to perform;  
13 (5) A description of any fringe benefits of the employment; and  
14 (6) The geographical location of the employment.

15 2. If the insurer finds that the actual requirements of the employment at light  
16 duty materially differ from the offer of employment and the employer fails to  
17 take corrective action, the insurer may provide vocational rehabilitation services.

18 3. The injured employee must be allowed a reasonable time, not to exceed 7  
19 days after the date the offer of the employment at light duty is made, within  
20 which to accept or reject the offer.

21 4. If the employment at light duty offered to the injured employee is  
22 expected to be of limited duration, the employer shall disclose that fact to the  
23 injured employee in the offer of employment and state the expected duration.

24 5. An employer must not offer temporary or permanent employment at light  
25 duty which he or she does not then expect to be available to the injured employee  
as offered.

6. An employer does not have to comply with the requirements in  
subsections 1 to 5, inclusive, if the employer offers the injured employee  
temporary employment at light duty which is:

- (a) Immediately available;  
(b) Compatible with the physical limitations of the injured employee as  
established by the treating physician or chiropractor; and  
(c) Substantially similar in terms of the location and the working hours to the  
position that the injured employee held at the time of the injury.

7. Temporary employment at light duty offered pursuant to subsection 6  
must cease within 30 days after the injured employee's physical restrictions are  
determined to be permanent. Any subsequent offers of employment at light duty  
by the employer must comply with the requirements of subsections 1 to 5,  
inclusive.

1           16. In EG & G Special Projects, Inc. v. Corselli, 102 Nev. 116, 715 P.2d 1326 (1986), the  
2 Nevada Supreme Court held that an offer of light duty work must not impose an unreasonable burden  
3 on the injured worker. In that case, the employee prior to injury, had for twenty-five years lived in  
4 Riverside, California, and commuted by air at government expense to the Nevada Test Site to work  
5 three days a week, with four days off at home in Riverside. The new "light duty" job found for the  
6 employee substantially changed the hours, days and location of the injured workers' employment by  
7 requiring him to work five days per week in Las Vegas. The Court found that the light duty job offered  
8 to the injured worker was unreasonable and remanded with an order to pay the claimant benefits.

9           17. This notion of reasonableness is found in the legislative history of the NRS  
10 616C.475(8). In this regard, at a February 25, 1993, meeting of the Senate Committee on Commerce  
11 and Labor, Scott Young, General Counsel for the Nevada State Industrial System (SIIS), explained the  
12 temporary light duty language as follows:

13           *As long as the offer is reasonable, in terms of those three categories (pay rate,*  
14           *shift, hours of employment) my understanding is the injured worker could not*  
15           *refuse it. . . . As long as the job offer was reasonable in terms of the location and*  
16           *hours, the workers should be required to take the job.*

17           Minutes of the Senate Committee on Commerce and Labor, 67th Sess., Feb 25, 1993.

18           18. On September 9, 2016, Mr. Taylor's employer, TMFPD, sent a letter to Mr. Taylor with  
19 an offer of temporary light duty employment. The letter offering the light duty job provided as follows:

20           *"You will be assigned to the administrative office and your scheduled hours*  
21           *will be Monday through Friday 8am to 5pm with an hour lunch. To align the*  
22           *schedule change with the beginning of the FLSA cycle, you will report to the*  
23           *administrative offices on Monday September 12, 2016 at 8am."*

24           18. This light duty job offer fails to comply with NRS 616C.475(8) and is otherwise  
25 unreasonable.

26           19. TMFPD's light duty job offer did not provide for a light duty job that was substantially  
27 similar to the job Mr. Taylor had pre-injury with regard to both the shift he was required to work and

1 the location of his employment. Moreover, the light duty job offer was unreasonable and otherwise  
2 degrading to Mr. Taylor, who is a 25-year veteran of the Fire Service, and a Captain for the TMFPD.

3 20. Therefore, the Appeals Officer committed an error as a matter of law by holding that  
4 Mr. Taylor is not entitled to temporary total disability ("TTD") benefits for the period of September 11,  
5 2016 through his return to his pre-injury job in November 2016, as stated in ASC's September 26,  
6 2016, determination letter.

7 **VI.**

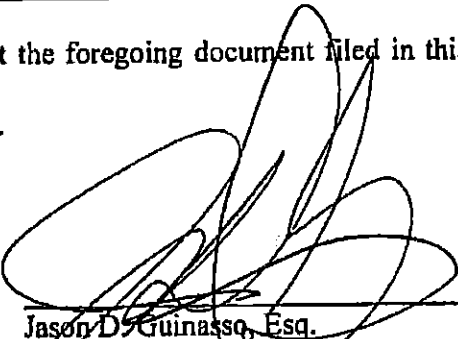
8 **PRAYER FOR RELIEF**

9 21. Petitioners respectfully request that this Court grant their Petition for Judicial Review  
10 and further instruct Appeals Officer to REVERSE the Hearing Officer's November 23, 2016, Decision  
11 and Order under Hearing No. 1700937-SA, remanding ASC's September 26, 2016, termination of TTD  
12 benefits due to Mr. Taylor's declination of the light-duty job offer.

13 **AFFIRMATION**

14 The undersigned does hereby affirm that the foregoing document filed in this matter does not  
15 contain the social security number of any person.

16 DATED this 30<sup>th</sup> day of March, 2018.

17   
18 Jason D. Guinasso, Esq.  
19 Attorney Vance Taylor  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 500 Damonte Ranch Parkway, Suite 980, Reno, Nevada 89521.

On March 30<sup>th</sup>, 2018, I served the following:

**AMAZON.COM'S AND SEDGWICK CMS'**

**PETITION FOR JUDICIAL REVIEW**

on the following in said cause as indicated below:

VANCE TAYLOR 2919 ASPEN MEADOWS COURT RENO, NV 89519 (VIA U.S. MAIL)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD, #390 RENO, NV 89509 (VIA U.S. MAIL)
ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG, ET AL 6590 S MCCARRAN BLVD., SUITE B RENO, NV 89509 (VIA HAND DELIVERY)	NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA HAND DELIVERY)
TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89511 (VIA U.S. MAIL)	ATTORNEY GENERAL'S OFFICE 100 N CARSON STREET CARSON CITY, NEVADA 89701 (VIA HAND DELIVERY)
NEVADA DEPARTMENT OF ADMIN. PATRICK CATES, DIRECTOR 515 EAST MUSSER ST., 3 <sup>RD</sup> FLOOR CARSON CITY, NV 89701 (VIA HAND DELIVERY)	

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 30<sup>th</sup>, 2018, at Reno, Nevada.

  
KATRINA A. TORRES

LIST OF EXHIBITS  
PETITION FOR JUDICIAL REVIEW

EXHIBIT	DOCUMENT TITLE	# OF PAGES
Exhibit 1	Decision and Order of the Appeals Officer, Dated February 28, 2018	8

# **EXHIBIT 1**

# **EXHIBIT 1**

FILED

FEB 28 2018

DEPT. OF ADMINISTRATION  
APPEALS OFFICER

NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER

RECEIVED  
MAR 01 2018

In the Matter of the  
Industrial Insurance Claim

Of

VANCE TAYLOR

Claim No. C143-16-09765-01

Hearing No. 1700937-SA

Appeal No. 1701567-SYM

DECISION AND ORDER

Background

In this contested case, the claimant Vance Taylor (hereinafter "Taylor"), was represented by Jason Guinasso, Esq. The employer, Truckee Meadows Fire Protection District (hereinafter "TMFPD"), and the insurer, Public Agency Compensation Trust (hereinafter "PACT"), were represented by Robert Balkenbush, Esq., of the law firm of Thorndal, Armstrong, Delk, Balkenbush & Bisinger. The current third party administrator of Taylor's year 2016 workers' compensation claim at issue in this contested case is Alternative Service Concepts, LLC (hereinafter "ASC").

By written determination dated September 9, 2016, the TMFPD offered Taylor a temporary, light-duty job that accommodated the physical restrictions imposed on Taylor by the treating orthopedic surgeon on September 7, 2016. See, Exhibit No. 2 at pp. 101-102; Exhibit No. 3 at pp. 88-89. Taylor rejected the temporary, light-duty job offered to him by the TMFPD. See, Exhibit No. 3 at pp. 90-92. In turn, and by written determination dated September 26, 2016, ASC notified Taylor that it was discontinuing temporary total disability (hereinafter "TTD")

1 compensation effective September 11, 2016. *See*, Exhibit No. 2 at pp. 103-104; Exhibit No. 3 at  
2 p. 94; Exhibit 5 at p.1. Taylor returned to pre-injury job with the TMFPD in November 2016.  
3 *Taylor Trial Testimony*. Taylor disagreed with ASC's September 26, 2016, determination and,  
4 therefore, he filed an appeal of this determination with a Hearing Officer, and Hearing No.  
5 1700397-SA was assigned to his appeal. *See*, Exhibit No. 5 at pp. 2-4. Following a hearing and  
6 by written decision dated November 23, 2016, Hearing Officer Sondra Amodei held that TTD  
7 compensation was properly terminated. *See*, Exhibit No. 5 at pp. 2-4. Taylor disagreed with the  
8 Hearing Officer's decision made under Hearing No. 1700937-SA and, therefore, he timely  
9 appealed from that decision to an Appeals Officer and Appeal No. 1701567-SYM was assigned  
10 to his appeal. *See*, Exhibit No. 5 at pp. 5-7.

11 The trial of Appeal No. 1701567-SYM was conducted on March 2, 2017. Taylor and his  
12 wife, Staci Taylor, personally appeared and provided testimony at the hearing of this appeal. No  
13 other witnesses testified in this matter. Five (5) documentary exhibits were admitted into  
14 evidence.

15 Having considered the documentary exhibits admitted into evidence at the trial of this  
16 case, the testimony of claimant Taylor and his wife, Staci Taylor, as well as closing arguments  
17 made by legal counsel for the parties, the Appeals Officer hereafter makes the following findings  
18 of fact, conclusions of law, and order.

19 **Summary of Decision**

20 The temporary, light-duty job offered to Taylor by the TMFPD on September 9, 2016,  
21 was a part of the employer's regular business operations, essentially immediately available,  
22 compatible with the temporary physical limitations for work imposed by the treating orthopedic  
23 surgeon, substantially similar to Taylor's pre-injury position with the TMFPD in relation to the  
24 location and of the employment and hours Taylor was required to work, and provided Taylor  
25 with the same gross wage he was earning from the TMFPD before his work-related injury. *See*,  
26 NRS 616C.475(8); *see generally*, *Amazon v. Magee*, 121 Nev. 632, 635-38, 119 P.3d 732 (2005);  
27 NAC 616C.583(6). Temporary employment at light duty offered by an employer which is part  
28



1 of the employer's regular business operations is deemed in law not to be demeaning or degrading  
2 or to subject the employee to ridicule or embarrassment. See generally, NAC 616C.586(2).

3 It is also noted that Taylor returned to pre-injury job in November 2016, and that he  
4 previously accepted and worked the same temporary, light-duty job offered to him by the  
5 TMFPD on September 9, 2016, for a temporary period before undergoing a shoulder surgery  
6 related to his work-related accidental injury. *Testimony of Taylor.*

7 In accordance with the foregoing, the written determination issued by ASC on September  
8 26, 2016, that notified Taylor that it was discontinuing temporary total disability (hereinafter  
9 "TID") compensation effective September 11, 2016, is affirmed, as is the decision of the  
10 Hearing Officer made under Hearing No. 1700937-SA.

#### 11 FINDINGS OF FACT

12 1. In April 2016, Taylor was 46 years old and working for the TMFPD as a Fire Captain.  
13 See, Exhibit No. 3 at pp. 17-19, 27; Exhibit No. 1 at pp. 1-7. Taylor began working for the  
14 TMFPD in January 1997. See, Exhibit No. 3 at p. 27; Exhibit No. 1 at p. 1.

15 2. On April 19, 2016, during a training exercise with another firefighter, Taylor was  
16 rescuing a downed firefighter, simulated by a 160 pound mannequin in a Level A suit  
17 (approximately 200 pounds). See, Exhibit No. 3 at pp. 1-19; Exhibit No. 1 at pp. 1-20. A SKED  
18 (sled and skid) device was used in the training exercise, and Taylor suffered an injury to his left  
19 shoulder during this exercise. *Id.*

20 3. On or about July 21, 2016, orthopedic surgeon Hilary Malcarney, M.D., performed a  
21 surgery on Taylor left shoulder. See, Exhibit No. 3 at pp. 68-73; Exhibit No. 1 at pp. 87-92.

22 4. On September 7, 2016, Taylor was examined by Dr. Malcarney and released to work,  
23 with light-duty restrictions (no lifting over 5 lbs. and no reaching above the shoulder) from  
24 September 7, 1996, to October 10, 2016. See, Exhibit No. 3 at p. 85-87.

25 5. On September 9, 2016, the TMFPD offered Taylor temporary, light-duty employment.  
26 See, Exhibit No. 3 at p. 88-89. The temporary, light-duty job offered to Taylor by the TMFPD

27  
28

1 on September 9, 2016, was a part of the employer's regular business operations,<sup>1</sup> essentially  
2 immediately available, compatible with the temporary physical limitations for work imposed by  
3 Dr. Malcarney, substantially similar to Taylor's pre-injury position with the TMFPD in relation  
4 to the location of the employment and hours Taylor was required to work, and provided Taylor  
5 with the same gross wage he was earning from the TMFPD before his work-related injury. *Id.*

6 6. On September 9, 2016, Taylor informed the TMFPD that he would not accept the offer of  
7 temporary, light-duty employment extended by the TMFPD. *See*, Exhibit No. 3 at p. 90-92.  
8 Among other stated contentions for Taylor's rejection of the temporary, light-duty employment,  
9 Taylor asserted that work assignment was not substantially similar to Taylor's position as fire  
10 captain, including differences in work hours,<sup>2</sup> benefits,<sup>3</sup> supervisors,<sup>4</sup> and job duties.<sup>5</sup> *See*,  
11 Exhibit No. 3 at pp. 90-92.

12  
13  
14 <sup>1</sup> The temporary position offered to Taylor was an assignment in the administrative offices of TMFPD,  
15 working Monday through Friday, 8:00 a.m. to 5:00 p.m., with an hour lunch. *See*, Exhibit No. 3 at p. 88-  
16 89. If accepted, Taylor was instructed to report to the administrative offices of the TMFPD on September  
17 12, 2016, so as to align with the beginning of the FLSA cycle. *Id.*

18 <sup>2</sup> Taylor's position as fire captain included working a 48/96 rotation, that is 48 hour (2-day) work shift,  
19 followed by 96 hours (4 days) off work. *See*, Exhibit No. 3 at p. 90-92. Taylor testified that the 48-  
20 hour work shift included working, sleeping and residing at the station. In contrast, the temporary, light-  
21 duty employment work hours were 8:00 a.m. to 5:00 p.m., Monday through Friday. *Id.* Taylor also  
22 asserted that this scheduled change would impose a hardship on his family through an increase in  
23 childcare expenses, fuel and maintenance costs, and stress on his family due to unfamiliar, unforgiving,  
24 and inconvenient work schedule. *Id.* At trial, through the testimony of Taylor and his wife, Staci Taylor,  
25 it was learned that the Taylors have two children, ages 11 and 5, and that the 11 year old was in public  
26 school at the 6<sup>th</sup> grade level and the 5 year old was in pre-school approximately full time. Taylor did not  
27 offer or seek admittance into evidence financial records demonstrating the asserted financial hardship.  
28 Both in the Hearing Officer decision and at trial of this contested case, it was learned that the  
administrative offices of the TMFPD were located approximately 6 miles from the fire station at which  
Taylor was a fire captain. It is also noted that Taylor returned to pre-injury job in November 2016, and  
that he previously accepted and worked the same temporary, light-duty job offered to him by the TMFPD  
on September 9, 2016, for a temporary period before undergoing a shoulder surgery related to his work-  
related accidental injury. *Testimony of Taylor.*

<sup>3</sup> Taylor did not offer into evidence any contract documents to establish asserted differences in benefits.

<sup>4</sup> Taylor asserted that in the temporary, light duty employment, he would not be reporting to his battalion  
chief but to an appointed secretary.

1 7. Taylor's average monthly wage (AMW) under his claim is \$5,426.25, the state maximum  
2 allowed for the date of his work-related injury. *See*, Exhibit No. 3 at pp. 33-37. In turn, under his  
3 claim, Taylor's daily compensation (DCR) and TTD rate were the maximum allowed by Nevada  
4 law for his date of injury, respectively \$118.84 and \$1,663.76. *Id.* In contrast, his hourly rate as  
5 a fire captain was \$67.00 per hour. *Id.* Under the temporary, light-duty job offered to Taylor by  
6 the TMFPD, Taylor was to be paid his pre-injury gross average monthly wage, or \$10,115.39.  
7 *Id.*

### 8 CONCLUSIONS OF LAW

#### 9 A. Governing Law or Legal Principles

10 The burden of proving a case beyond speculation and conjecture is on the Claimant. This  
11 means that the Claimant must establish the work-connection of his/her injuries, the causal  
12 relationship between his/her work-connected injury and his disabilities, the extent of his/her  
13 disabilities, and all other facets of his/her claim by a preponderance of the evidence; he/she  
14 cannot prevail if the evidence is merely evenly balanced. *See*, NRS 616C.150; NRS 616A.010;  
15 *see generally*, 8A Larson, Larson's Workers' Compensation Laws, § 130.06(3)(a)(2006).

#### 16 B. Taylor is not entitled to temporary total disability (TTD) for the period 17 encompassed by the September 2016 offer of temporary, light-duty employment 18 made by the TMFPD and Taylor's return to his pre-injury job in November 2016

19 Under NRS 616C.475(1), an employee who is temporarily totally disabled is entitled to  
20 receive monetary compensation for the period of this disability (TTD). *See also*, NRS 616A.340.  
21 The TTD rate of pay is only 66-2/3 percent of the injured employee's average monthly wage.  
22 However, under NRS 616C.475(5), TTD benefits must cease when a physician determines that  
23 the employee is physically capable of any gainful employment *or where an employer offers*  
24 *light-duty employment*. The temporary, light-duty job must meet the requirements of NRS  
25 616C.475(8).

26  
27 <sup>3</sup> Taylor claims that the administrative assignment would require him to perform clerical tasks, which  
28 Taylor finds humiliating and argues would amount to retaliatory and constructive discharge under *Dillard*  
*Dep't Stores, Inc. v. Beckwith*, 115 Nev. 372, 374, 989 P.2d 882, 883 (1999).

1           The temporary, light-duty job offered to Taylor by the TMFPD on September 9, 2016,  
2 was a part of the employer's regular business operations, essentially immediately available,  
3 compatible with the temporary physical limitations for work imposed by the treating orthopedic  
4 surgeon, substantially similar to Taylor's pre-injury position with the TMFPD in relation to the  
5 location and of the employment and hours Taylor was required to work, and provided Taylor  
6 with the same gross wage he was earning from the TMEPD before his work-related injury. See,  
7 NRS 616C.475(8); see generally, *Amazon v. Magee*, 121 Nev. 632, 635-38, 119 P.3d 732 (2005);  
8 NAC 616C.583(6). Temporary employment at light duty offered by an employer which is part  
9 of the employer's regular business operations is deemed in law not to be demeaning or degrading  
10 or to subject the employee to ridicule or embarrassment. See generally, NAC 616C.586(2).

11           It is noted that Taylor returned to pre-injury job in November 2016, and that he  
12 previously accepted and worked the same temporary, light-duty job offered to him by the  
13 TMFPD on September 9, 2016, for a temporary period before undergoing a shoulder surgery  
14 related to his work-related accidental injury. *Testimony of Taylor*.

15           In accordance with the foregoing, I conclude as a matter of law that Taylor was not  
16 entitled to TTD compensation from September 11, 2016 to the date when he returned to his pre-  
17 injury job in November 2016.

18       / / / /

19       / / / /

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1 // // //

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3 // // //

4 **ORDER**

5 To the extent that any of the foregoing findings of fact may be construed as conclusions  
6 of law, or any of the foregoing conclusions of law may be construed as findings of fact, they are  
7 hereby adopted as such.

8 In accordance with the foregoing, **IT IS HEREBY ORDERED:**

9 1. That the September 26, 2016, determination made by ASC, on behalf of the  
10 TMFPD and the PACT, is hereby affirmed.

11 2. That the written decision dated November 23, 2016, made by Hearing Officer  
12 Sondra Amodei under Hearing No. 1700937-SA is hereby affirmed.

13 Dated this 27<sup>th</sup> of February, 2018.

14   
15 \_\_\_\_\_  
16 SHEILA Y. MOORE, Appeals Officer

17  
18 **NOTICE:**

19 Pursuant to NRS 233B.130, if any party desires to appeal this final decision of the  
20 Appeals Officer, a Petition for Judicial Review must be filed with the District Court within  
21 thirty (30) days after service of this final decision.

22 **Prepared by:**

23 Robert F. Balkenbush, Esq.  
24 State Bar No. 1246  
25 Thorndal Armstrong Delk Balkenbush & Eisinger  
26 6590 S. McCarran, Suite B  
27 Reno, Nevada 89509  
28 T: (775) 786-2882  
F: (775) 786-8004  
Attorneys for: Truckee Meadows Fire Protection District, Employer and  
Public Agency Compensation Trust, Insurer

1 **CERTIFICATE OF MAILING**

2 The undersigned, an employee of the State of Nevada, Department of  
3 Administration, Hearings Division, does hereby certify that on the date shown  
4 below, a true and correct copy of the foregoing **DECISION AND ORDER** was  
5 duly mailed, postage prepaid OR placed in the appropriate addressee runner file at  
6 the Department of Administration, Hearings Division, 1050 E. Williams Street,  
Carson City, Nevada, to the following:

7 VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
8 RENO, NV 89519

9 JASON GUINASSO, ESQ  
10 REESE KINTZ GUINASSO, LLC  
500 DAMONTE RANCH PKWY STE 980  
11 RENO NV 89511

12 TRUCKEE FIRE PROTECTION DISTRICT  
PO BOX 11130  
13 RENO, NV 89520

14 ALTERNATIVE SERVICE CONCEPTS  
15 639 ISBELL RD #390  
RENO, NV 89509-4993

16 ROBERT F BALKENBUSH, ESQ.  
17 6590 S MCCARRAN BLVD #B  
18 RENO NV 89509-6112

19 Dated this <sup>17th</sup>28 day of February, 2018.

20   
21 \_\_\_\_\_  
22 Kristi Fraser, Legal Secretary II  
Employee of the State of Nevada  
23  
24  
25  
26  
27  
28

1 Jason D. Guinasso, Esq.  
Nevada Bar No. 8478  
2 Hutchison & Steffen, LLC  
500 Damonte Ranch Parkway, Suite 980  
3 Reno, NV 89521  
Attorney for Vance Taylor  
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 \*\*\*\*\*

8 VANCE TAYLOR,

9 Petitioner,

10 vs.

11 TRUCKEE MEADOWS FIRE PROTECTION  
DISTRICT, ALTERNATIVE SERVICE  
12 CONCEPTS and the NEVADA  
DEPARTMENT OF ADMINISTRATION  
13 APPEALS OFFICER SHEILA MOORE,

14 Respondents.

Case No.: CV18-00673

Dept. No.: 6

**OPPOSITION TO MOTION  
TO DISMISS PETITION FOR  
JUDICIAL REVIEW**

15 COMES NOW Petitioner, VANCE TAYLOR ("Mr. Taylor"), by and through their attorney of  
16 record, Jason D. Guinasso, Esq., and Hutchison & Steffen, PLLC, having received Respondent's  
17 Motion to Dismiss Petition for Judicial Review, now respectfully submit their Opposition.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**  
19 **IN SUPPORT OF OPPOSITION**

20 **I. SUMMARY OF RELEVANT FACTS AND PROCEDURAL HISTORY**

21 A hearing was held before Appeals Officer Sheila Moore on March 2, 2017 under Appeal  
22 Number 1701567-SYM. On February 28, 2018, Appeal Officer Moore rendered her Decision and  
23 Order. On March 30, 2018, Mr. Taylor filed a Petition for Judicial Review challenging Appeal Officer  
24 Moore's February 28, 2018, Decision and Order, on the grounds that it was erroneous in light of the  
25 substantive evidence on record.

1 On March 30, 2018, the Petition for Judicial Review was timely filed with the Second Judicial  
2 District Court and then timely served upon the agency rendering the decision subject to the petition and  
3 every party to the proceeding that was served a copy of the Decision and Order of the Appeals Officer,  
4 specifically, counsel for the Insurer, Robert Balkenbush, Esq., who filed his Notice of Intent to  
5 Participate on April 12, 2018. Thereafter, Mr. Balkenbush filed his Motion to Dismiss the Petition for  
6 Judicial Review on June 4, 2018. Arguments raised in the Motion are rebutted herein.

## 7 **II. LAW AND ARGUMENT**

### 8 **A. The Procedural Requirements Of NRS 233B.130 With Respect To Serving Interested Parties**

9 NRS 233B.130 provides in pertinent part:  
10

11 1. Any party who is:

12 (a) Identified as a party of record by an agency in an administrative proceeding; and

13 (b) Aggrieved by a final decision in a contested case,  
14 is entitled to judicial review of the decision. Where appeal is provided within an agency only  
15 the decision at the highest level is reviewable unless a decision made at a lower level in the  
16 agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an  
17 agency in a contested case is reviewable if review of the final decision of the agency would not  
18 provide an adequate remedy.

19 2. Petitions for judicial review must:

20 (a) Name as respondents the agency and all parties of record to the administrative  
21 proceeding;

22 (b) Be instituted by filing a petition in the district court in and for Carson City, in and for  
23 the county in which the aggrieved party resides or in and for the county where the agency  
24 proceeding occurred;

25 (c) Be served upon:

(1) The Attorney General, or a person designated by the Attorney General, at the Office  
of the Attorney General in Carson City; and

(2) The person serving in the office of administrative head of the named agency; and

(d) Be filed within 30 days after service of the final decision of the agency. Cross-petitions  
for judicial review must be filed within 10 days after service of a petition for judicial review.



1           3. The agency and any party desiring to participate in the judicial review must file a  
2 statement of intent to participate in the petition for judicial review and serve the statement upon  
the agency and every party within 20 days after service of the petition.

3           4. A petition for rehearing or reconsideration must be filed within 15 days after the date of  
4 service of the final decision. An order granting or denying the petition must be served on all  
parties at least 5 days before the expiration of the time for filing the petition for judicial review.  
5 If the petition is granted, the subsequent order shall be deemed the final order for the purpose  
of judicial review.

6           5. The petition for judicial review and any cross-petitions for judicial review must be  
7 served upon the agency and every party within 45 days after the filing of the petition, unless,  
upon a showing of good cause, the district court extends the time for such service. If the  
8 proceeding involves a petition for judicial review or cross-petition for judicial review of a final  
decision of the State Contractors' Board, the district court may, on its own motion or the motion  
9 of a party, dismiss from the proceeding any agency or person who:

10           (a) Is named as a party in the petition for judicial review or cross-petition for judicial  
review; and

11           (b) Was not a party to the administrative proceeding for which the petition for  
12 judicial review or cross-petition for judicial review was filed.

13           6. The provisions of this chapter are the exclusive means of judicial review of, or judicial  
14 action concerning, a final decision in a contested case involving an agency to which this chapter  
applies.

15           Respondent's allege that by not naming Public Agency Compensation Trust ("PACT") as a  
16 respondent to the Petition for Judicial Review that this Court does not have jurisdiction to review the  
17 case. However, at no point in time did counsel for PACT and Alternative Service Concepts ("ASC")  
18 notice Petitioner's that there had been a change in the Insurer in the course of litigation.

19           Alternative Service Concepts is and has been at all times the relevant Insurer in this matter since  
20 they initially issued the September 26, 2016, determination denying Mr. Taylor's request for TTD  
21 benefits after he received a light duty offer from his employer on September 11, 2016. **Exhibit 1,**  
22 **ASC's September 26, 2016, determination letter.** PACT was not listed as a party to the matter under  
23 Hearing No. 1700937-SA. **Exhibit 2, September 30, 2016, Notice of Hearing Before the Hearing**  
24 **Officer under Hearing No. 1700937-SA.**

1 The Hearing Officer rendered her Decision and Order remanding ASC's determination on  
2 November 23, 2016, again, PACT was not a listed party on the Order. **Exhibit 3, November 23, 2016,**  
3 **Decision and Order of Hearing Officer Sondra Amodeli.**

4 The matter was then appealed and set for hearing before Appeals Officer Moore on December  
5 6, 2016, PACT was not a listed party. **Exhibit 4, December 6, 2016, Notice of Appeal under Appeal**  
6 **No. 1701567-SYM.**

7 The Record on Appeal, submitted by the Appeals Division on May 3, 2018, will reflect that at  
8 no time during the entire two-year course of litigation did counsel for ASC, Robert Balkenbush, Esq.,  
9 notice parties that there was a change in Insurer or that PACT would be a party to the action before the  
10 Appeals Officer.

11 Since several months had passed since Appeals Officer Moore assigned the preparation of her  
12 Decision and Order to counsel for the Employer and Insurer and Mr. Balkenbush had not submitted a  
13 proposed Decision, on February 2, 2018, the Appeals Officer scheduled an In-Court Status Check for  
14 Monday, February 12, 2018 from 10:00 to 10:30 a.m. **Exhibit 5, February 2, 2018, Order of the**  
15 **Appeals Officer.** PACT was not listed as a party on that Order, nor did counsel inform parties that  
16 PACT was an interested party during the In-Court Status Check.

17 Finally, on February 28, 2018, the Decision and Order of the Appeals Officer was issued.  
18 Although Mr. Balkenbush referenced "Truckee Meadows Fire Protection District and the PACT" in the  
19 body of the Order, the Order was not mailed by the Appeals Officer to PACT as an interested party.

20 Given the underlying statutory purpose in providing notice pursuant to NRS 233B.130(2)(a), the  
21 intent of the statute was satisfied through Petitioner's substantial compliance with the notice provisions  
22 of NRS 233B.130(2). Therefore, Petitioners respectfully request that Respondents' Motion to Dismiss  
23 be denied.

24 ///

25 ///

1     **B. By Serving the Petition for Judicial Review Upon Alternative Service Concepts, Truckee**  
2     **Meadows Fire Protection District and Their Counsel of Record Robert Ballkenbush, Esq.,**  
3     **the Requirements of NRS 233B.130 Have Been Met.**

4     Since, throughout the entire course of the litigation in this matter, ASC has been the known  
5     Insurer and it is the responsibility of counsel for the Insurer to properly notice parties of any change in  
6     name or entity with regard to his clients, Petitioner has met the requirements of NRS 233B.130 by  
7     naming the interested parties referenced in the Decision of the Appeals Officer that is in dispute in this  
8     case.

9     **C. The Holding In Washoe County v. Otto Does Not Apply To This Case**

10    Respondent's Motion to Dismiss relies heavily on the decision in Washoe County v. Otto, 128  
11    Nev. 424, 282 P.3d 719 (2012), to support the position that anything other than strict compliance with  
12    the statutory requirements of NRS 233.130(2) is grounds for dismissal. However, the Supreme Court's  
13    decision in Otto does not apply to the present case in that the Decision and Order of the Appeals  
14    Officer at issue reversed the determination letter issued by ASC and not PACT. At the time Otto was  
15    decided, NRS 233.130(2) read in relevant part, that:

16    2. Petitions for judicial review must:

17    (a) Name as respondents the agency and all parties of record to the administrative  
18    proceeding;

19    (b) Be instituted by filing a petition in the district court in and for Carson City, in and for  
20    the county in which the aggrieved party resides or in and for the county where the  
21    agency proceeding occurred; and

22    (c) Be filed within 30 days after service of the final decision from the agency.

23    Petitioner's named all parties of record to the administrative proceeding by serving the Petition  
24    for Judicial Review to all of the parties listed on the Hearing Officer's Decision and Order as well as  
25    the Decision and Order of the Appeals Officer. At no time did either of the administrative offices  
notice PACT on their pleadings nor did counsel for either party. In fact, Respondents Motion to  
Dismiss fails to copy PACT on their Certificate of Service. See page 8 of Respondent's Motion to

1 **Dismiss Petition for Judicial Review.** It is obvious that Respondents acknowledge that PACT is not a  
2 separate, interested party, but rather a party included in ASC or TMFPD's service since their own  
3 counsel does not include PACT in their service list.

4 Unlike the potential harm to the parties in Otto, who were not named as a result of Petitioner's  
5 failure to name all parties of record, the requirement to serve PACT, as alleged by counsel for  
6 Respondents, is redundant and unnecessary and is merely an attempt by Respondents to have this  
7 matter dismissed by this Court without reviewing and hearing the real issues before the Court on their  
8 merit. As previously stated, even a reversal of the Appeals Officer's February 28, 2018, Decision and  
9 Order by this Court would not affect PACT since the determination at issue was made by ASC and  
10 ASC is the interested party in this case, not PACT.

11 Therefore, in accordance with the foregoing, Respondent's Motion to Dismiss should therefore  
12 be denied.

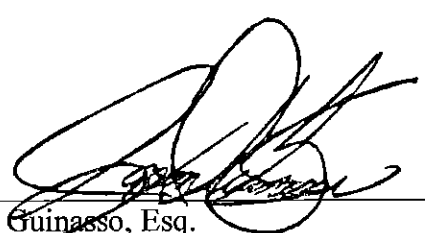
13 **III. CONCLUSION**

14 For all of the foregoing reasons, Mr. Taylor respectfully requests that this Court DENY  
15 Respondent's Motion to Dismiss Petition for Judicial Review.

16 **AFFIRMATION**

17 The undersigned does hereby affirm that the foregoing document filed in this matter does not  
18 contain the social security number of any person.

19 DATED this 14<sup>th</sup> day of June, 2018.

20  
21   
22 \_\_\_\_\_  
23 Jason D. Guinasso, Esq.  
24 Attorney Vance Taylor  
25

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the  
3 within action. My business address is 500 Damonte Ranch Parkway, Suite 980, Reno, Nevada 89521.

4 On June 14, 2018, I served the following:

5 **OPPOSITION TO MOTION TO DISMISS**

6 **PETITION FOR JUDICIAL REVIEW**

7 on the following in said cause as indicated below:

8 VANCE TAYLOR 2919 ASPEN MEADOWS COURT 9 RENO, NV 89519 (VIA U.S. MAIL)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD, #390 RENO, NV 89509 (VIA U.S. MAIL)
10 ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG, ET AL 11 6590 S MCCARRAN BLVD., SUITE B RENO, NV 89509 12 (VIA HAND DELIVERY)	NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA HAND DELIVERY)
13 TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89511 14 (VIA U.S. MAIL)	ATTORNEY GENERAL'S OFFICE 100 N CARSON STREET CARSON CITY, NEVADA 89701 (VIA HAND DELIVERY)
15 NEVADA DEPARTMENT OF ADMIN. PATRICK CATES, DIRECTOR 515 EAST MUSSER ST., 3 <sup>RD</sup> FLOOR 16 CARSON CITY, NV 89701 (VIA HAND DELIVERY)	

17  
18 I declare under penalty of perjury that the foregoing is true and correct. Executed on June 14,  
19 2018, at Reno, Nevada.

20   
21 KATRINA A. TORRES

1 LIST OF EXHIBITS  
2 OPPOSITION TO MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW

3

EXHIBIT	DOCUMENT TITLE	# OF PAGES
4 Exhibit 1	ASC's September 26, 2016, determination letter	1
5 Exhibit 2	September 30, 2016, Notice of Hearing Before the 6 Hearing Officer under Hearing No. 1700937-SA.	4
7 Exhibit 3	November 23, 2016, Decision and Order of 8 Hearing Officer Sondra Amodei.	3
9 Exhibit 4	December 6, 2016, Notice of Appeal under 10 Appeal No. 1701567-SYM.	6
11 Exhibit 5	February 2, 2018, Order of the Appeals Officer.	2

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# EXHIBIT 1

# EXHIBIT 1

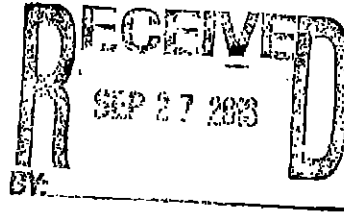


# Alternative Service Concepts

Flexibility · Expertise · Integrity

September 26, 2016

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519



RE: Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Taylor:

We have been informed that you were offered light duty work consistent with the restrictions imposed by Dr. Malcarney, and to begin 9/12/2016. At the present time, no further payments of temporary total disability (TTD) will be paid beyond 9/11/2016.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso ✓

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

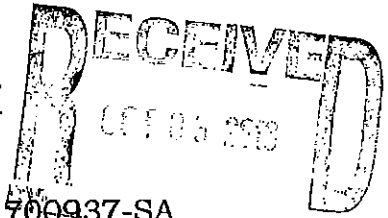
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# EXHIBIT 2

# EXHIBIT 2

**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
**HEARINGS DIVISION**



In the matter of the Contested  
Industrial Insurance Claim of:

Hearing Number: 1700937-SA  
Claim Number: C143-16-09765-01

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

**NOTICE OF HEARING BEFORE THE HEARING OFFICER**

Pursuant to the **Claimant's** request for a Hearing Officer review of the Insurer's Determination under Chapters 616 and 617 of the Nevada Revised Statutes, you are hereby notified a hearing will be held:

**DATE: MONDAY, OCTOBER 24, 2016**

**TIME: 1:00PM**

**PLACE: Department of Administration, HEARINGS DIVISION  
1050 E. Williams Street (Hwy 50 East), Suite 400  
Carson City, NV 89701  
Phone (775) 687-8440 Fax (775) 687-8441**

The matter to be ascertained from this Hearing shall be whether the determination rendered by the Insurer is proper. Failure of the appealing party to attend this Hearing may result in dismissal of the appeal.

**NOTE: The Claimant may be represented at the Hearing by a private attorney or may seek assistance and advice from the Nevada Attorney for Injured Workers at (775) 684-7555. If you have an attorney or other representative, please confirm with them the date and time for this hearing.**

If you would prefer to testify by telephone, please contact this office prior to the hearing date at (775) 687-8440 to make those arrangements. Telephone hearings will generally take place within 1 hour of the time designated for the Hearing.

**NOTE:** This Hearing will be scheduled on a **STACKED** calendar.

Dated this 30th day of September, 2016.

Sondra L Amodei, Hearing Officer

AA000440

17009.37

**ORIGINAL**

Nevada Department of Administration, Hearings Division  
 1050 E. William Street, Suite 400  
 Carson City, Nevada 89701  
 (775) 687-8440

**REQUEST FOR HEARING**  
 (Pursuant to NAC 616C.274)

**CLAIMANT INFORMATION**

Claimant: Vance Taylor  
 Address: 2919 Aspen Meadows Court  
 Reno, NV 89519  
 SSN:  
 Telephone: (775) 830-3873

**EMPLOYER INFORMATION**

Claim Number: C143-16-09765-01  
 Employer: Truckee Meadows FPD  
 Address: PO Box 11130  
 Reno, NV 89520  
 Telephone: (775) 326-6000

2016 SEP 29 PM 12:40  
 RECEIVED

PERSON REQUESTING APPEAL: (circle one) CLAIMANT EMPLOYER INSURER

I WISH TO APPEAL THE DETERMINATION DATED: September 26, 2016

***YOU MUST ATTACH A COPY OF THE DETERMINATION LETTER  
 PER NRS 616C.315(2)(a)(b)***

BRIEFLY EXPLAIN REASON FOR APPEAL: Disagree with determination.

If you are represented by an attorney or other agent, please print the name and address below.

**ATTORNEY/REPRESENTATIVE:**

Name: Jason D. Guinasso, Esq.  
 Address: 190 West Huffaker Lane, Suite 402  
 Reno, Nevada 89511  
 Telephone: (775) 832-6800

**INSURANCE COMPANY:**

Name: Alternative Service Concepts  
 Address: 639 Isbell Road, Suite 390  
 Reno, NV 89509  
 Telephone: (775) 329-1181

Signature

Date

9/29/16

**A COPY OF DETERMINATION LETTER MUST BE SUBMITTED:**

NRS 616C315 Request for hearing; forms for request to be provided by Insurer; appeals; expeditions and informal hearing required; direct submission to Appeals Officer.

2. Except as otherwise provided in NRS 616C.305, a person who is aggrieved by:

- (a) A written determination of an Insurer; or
- (b) The failure of an Insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved, may appeal from the determination of failure to respond by filing a request for a hearing before Hearing Officer.

mon.  
 10/24 @ 1:00  
 SA

AA000441

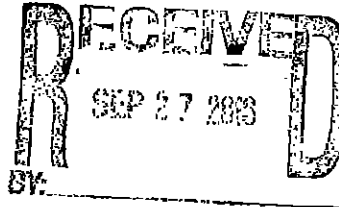


# Alternative Service Concepts

Flexibility · Expertise · Integrity

September 26, 2016

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519



RE: Claim No: C143-16-09765-01  
Employer: Truckee Meadows FPD  
Date of Injury: 4/19/2016

Dear Mr. Taylor:

We have been informed that you were offered light duty work consistent with the restrictions imposed by Dr. Malcarney, and to begin 9/12/2016. At the present time, no further payments of temporary total disability (TTD) will be paid beyond 9/11/2016.

If you disagree with the above determination, you have the right to appeal by completing the enclosed appeal form and submitting it to the Hearing Officer, Department of Administration, at the address indicated on the form, within seventy (70) days from the date of this letter.

If you have questions or need further information or assistance, please contact our office at the number below.

Sincerely,

KAREN BARBEE  
Sr. Claims Adjuster

cc: File  
Employer: Truckee Meadows FPD  
Attorney: Jason Guinasso ✓

639 Isbell Road, Suite 390, Reno, NV 89509  
Phone: (775) 329-1181 Toll Free: (800) 291-6826 Fax: (775) 329-7418

AA000442

**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **NOTICE OF HEARING BEFORE THE HEARING OFFICER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

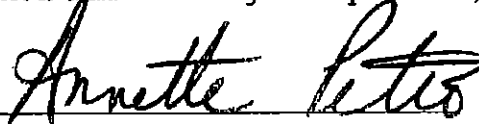
VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD STE 390  
RENO, NV 89509

Dated this 30th day of September, 2016.

A handwritten signature in black ink, appearing to read "Annette Petro", written over a horizontal line.

Annette Petro  
Employee of the State of Nevada

# EXHIBIT 3

# EXHIBIT 3

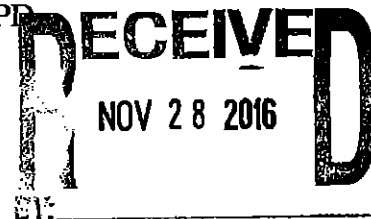
**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
**HEARINGS DIVISION**

In the matter of the Contested  
Industrial Insurance Claim of:

Hearing Number: 1700937-SA  
Claim Number: C143-16-09765-01

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520



**BEFORE THE HEARING OFFICER**

The Claimant's request for Hearing was filed on September 29, 2016, and a Hearing was scheduled for October 24, 2016 and continued to November 8, 2016. The Hearing was held on November 8, 2016, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present and represented by Jason Guinasso, Esquire. The Employer/Insurer was represented by Bob Balkenbush, Esquire, by telephone conference call.

**ISSUE**

The Claimant appealed the Insurer's determination dated September 26, 2016. The issue before the Hearing Officer is termination of temporary total disability effective September 11, 2016. At today's hearing the parties clarified the period of time in question is September 11, 2016 to November 1, 2016.

**DECISION AND ORDER**

The determination of the Insurer is hereby **REMANDED**.

On September 9, 2016 this Claimant was offered a temporary light duty job which he rejected. Based on said rejection, the Insurer terminated the Claimant's TTD benefits effective September 11, 2016. At today's hearing the Claimant's counsel based the Claimant's rejection of said job on the following:

- The Claimant's work schedule was changed from a "48/96" to a 40-hour work week which imposed undo hardship on the Claimant's family, increased day care, increased fuel and maintenance costs for daily commutes and "increase stress on the family due to an unfamiliar, unforgiving, and inconvenient work schedule which "amounts to harassment" while the Claimant is recovering.
- The change of schedule did not allow the Claimant to bank 12 hours of holiday comp time each month.
- The location changed by six miles.
- The "...job duties dramatically and effectively demotes Mr. Taylor from Captain to an office secretary, which is both humiliating and

unlawful...Changing the job duties expected to be performed...from his normal position to that of an office secretary is humiliating, demoralizing and degrading which, in turn, creates a hostile work environment."

- The light duty job offer replaced the Claimant's normal supervising from his duty Battalion Chief to an appointed office secretary which breaks the established chain of command and "...adds to the humiliating feeling that he is being punished because he sustained a work related injury and filed a workers' compensation claim."

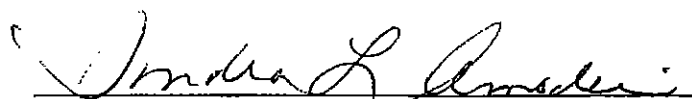
At today's hearing, the Hearing Officer questioned the Claimant regarding the hardship placed on him and his family by not accepting the light duty job which paid him at his prior salary of approximately \$67/hour versus his TTD of \$118/daily. The Claimant essentially explained that he had worked the light job for three months prior to his surgery and he was not going to put himself or his family through that again. It appears the parties did meet and as long as the Battalion Chief gave instructions to the Claimant, he did return to work light duty for one week after which time he was released to work full duty and has since returned to work in said capacity.

The Hearing Officer, having reviewed the submitted evidence and in consideration of the representations made at today's hearing, finds the Insurer properly terminated TTD benefits. The Hearing Officer finds the light duty job offered by the pre-injury employer is a valid light duty job and, while the Claimant is a Fire Chief in his regular capacity, the light duty job is not considered humiliating and degrading and is an essential function in the work force. The Claimant's personal feeling with regard to the light duty job do not negate the statutes governing temporary light duty work and offer thereof.

#### **APPEAL RIGHTS**

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 23rd day of November, 2016.

  
Sondra L Amodei, Hearing Officer



**CERTIFICATE OF MAILING**

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

JASON GUINASSO, ESQ  
REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD STE 390  
RENO, NV 89509

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 23rd day of November, 2016.



Karen Dyer  
Employee of the State of Nevada

# EXHIBIT 4

# EXHIBIT 4

BEFORE THE APPEALS OFFICER

**RECEIVED**  
DEC 07 2016  
BY: \_\_\_\_\_

**FILED**  
DEC - 6 2016  
DEPT. OF ADMINISTRATION  
APPEALS OFFICER

In the Matter of the Contested  
Industrial Insurance Claim of:

VANCE TAYLOR,

Claimant.

Claim No: C143-16-09765-01

Hearing No: 1700937-SA

Appeal No: 1701567-SYM

**NOTICE OF APPEAL AND ORDER TO APPEAR**

1. **ALL PARTIES IN INTEREST ARE HEREBY NOTIFIED** that a hearing will be held by the Appeals Officer, pursuant to NRS 616 and 617 on:

**DATE:** Thursday, February 9, 2017

**TIME:** 10:00AM

**PLACE:** DEPT OF ADMINISTRATION, APPEALS OFFICE  
1050 E. WILLIAMS STREET, SUITE 450  
CARSON CITY, NV 89701

2. The **INSURER** shall comply with NAC 616C.300 for the provision of documents in the Claimant's file relating to the matter on appeal.
3. **ALL PARTIES** shall comply with NAC 616C.297 for the filing and serving of information to be considered on appeal.
4. Pursuant to NRS 239B.030(4), any document/s filed with this agency must have all social security numbers redacted or otherwise removed and an affirmation to this effect must be attached. The documents otherwise may be rejected by the Hearings Division.
5. Pursuant to NRS 616C.282, any party failing to comply with NAC 616C.274-.336 shall be subject to the Appeals Officer's orders as are necessary to direct the course of the Hearing.
6. Any party wishing to reschedule this hearing should consult with opposing counsel or parties, and immediately make such a request to the Appeals Office in writing supported by an affidavit.
7. The injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
SHEILA Y MOORE  
APPEALS OFFICER

AA000449

Nevada Department of Administration, Appeals Division  
1050 E. William Street, Suite 450  
Carson City, Nevada 89701  
(775) 687-8420

**ORIGINAL**

2016 DEC -1 PM 11:37

**REQUEST FOR HEARING BEFORE THE APPEALS OFFICER**

RECEIVED  
AND  
FILED

**CLAIMANT INFORMATION**

**EMPLOYER INFORMATION**

Claimant: Vance Taylor	Claim Number: C143-16-09765-01
Address: 2919 Aspen Meadows Court Reno, NV 89519	Employer: Truckee Meadows FPD Address: PO Box 11130 Reno, NV 89520
SSN:	Telephone: (775) 326-6000
Telephone: (775) 830-3873	

PERSON REQUESTING APPEAL: (circle one) CLAIMANT EMPLOYER INSURER

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: November 23, 2016

***YOU MUST ATTACH A COPY OF THE DETERMINATION LETTER  
PER NRS 616C.315(2)(a)(b)***

BRIEFLY EXPLAIN REASON FOR APPEAL: Disagree with Hearing Officer.

If you are represented by an attorney or other agent, please print the name and address below.

**ATTORNEY/REPRESENTATIVE:**

**INSURANCE COMPANY:**

Name: Jason D. Guinasso, Esq.	Name: Alternative Service Concepts
Address: 190 West Huffaker Lane, Suite 402 Reno, Nevada 89511	Address: 639 Isbell Road, Suite 390 Reno, NV 89509
Telephone: (775) 832-6800	Telephone: (775) 329-1181

Signature

Date

12/1/16

**NOTICE**

If the Hearing Officer decision is appealed, Claimants are entitled to free legal representation by the Nevada Attorney for Injured Workers (NAIW). If you want NAIW to represent you, please sign below:

Signature

Telephone Number

**\*\*If you are appealing the Hearing Officer's Decision, file this form and a copy of the Decision no later than thirty (30) days after the date of the Hearing Officer's Decision\*\***

1701567-541M

THURS-2-8-17  
10:00 00450

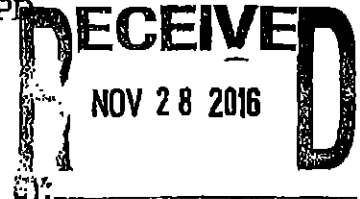
**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
**HEARINGS DIVISION**

In the matter of the Contested  
Industrial Insurance Claim of:

Hearing Number: 1700937-SA  
Claim Number: C143-16-09765-01

VANCE TAYLOR  
2919 ASPEN MEADOWS CT  
RENO, NV 89519

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520



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**ISSUE**

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**DECISION AND ORDER**

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#### **APPEAL RIGHTS**

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 23rd day of November, 2016.

  
Sondra L Amodei, Hearing Officer

**CERTIFICATE OF MAILING**

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REESE KINTZ GUINASSO, LLC  
190 WEST HUFFAKER SUITE 402  
RENO NV 89511

TRUCKEE MEADOWS FPD  
PO BOX 11130  
RENO, NV 89520

ALTERNATIVE SERVICE CONCEPTS  
639 ISBELL RD STE 390  
RENO, NV 89509

ROBERT F BALKENBUSH, ESQ.  
6590 S MCCARRAN BLVD #B  
RENO NV 89509-6112

Dated this 23rd day of November, 2016.



Karen Dyer  
Employee of the State of Nevada

1 **CERTIFICATE OF MAILING**

2 The undersigned, an employee of the State of Nevada, Department of Administration,  
3 Hearings Division, does hereby certify that on the date shown below, a true and correct copy of  
4 the foregoing **NOTICE OF APPEAL AND ORDER TO APPEAR** was duly mailed, postage  
5 prepaid OR placed in the appropriate addressee runner file at the Department of Administration,  
6 Hearings Division, 1050 E. Williams Street, Carson City, Nevada, to the following:

7 VANCE TAYLOR  
8 2919 ASPEN MEADOWS CT  
9 RENO, NV 89519

10 JASON GUINASSO, ESQ  
11 REESE KINTZ GUINASSO, LLC  
12 190 WEST HUFFAKER SUITE 402  
13 RENO NV 89511

14 TRUCKEE MEADOWS FPD  
15 PO BOX 11130  
16 RENO, NV 89520

17 ALTERNATIVE SERVICE CONCEPTS  
18 639 ISBELL RD #390  
19 RENO, NV 89509-4993

20 ROBERT F BALKENBUSH, ESQ.  
21 6590 S MCCARRAN BLVD #B  
22 RENO NV 89509-6112

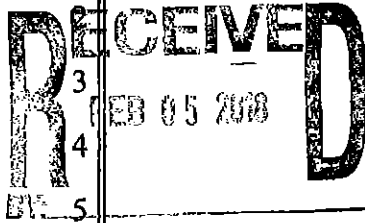
23 Dated this 16 day of December, 2016.

24 Tasha Eaton  
25 Tasha Eaton, Supervising Legal Secretary  
26 Employee of the State of Nevada  
27  
28



# EXHIBIT 5

# EXHIBIT 5



NEVADA DEPARTMENT OF ADMINISTRATION  
BEFORE THE APPEALS OFFICER

1050 E. WILLIAM, SUITE 450  
CARSON CITY, NV 89701

**FILED**

FEB 02 2018

DEPT. OF ADMINISTRATION  
APPEALS OFFICER

6 In the Matter of the Contested  
7 Industrial Insurance Claim of:

8  
9 VANCE TAYLOR,

10 Claimant.

Claim No: C143-16-09765-01

Hearing No: 1700937-SA

Appeal No: 1701567-SYM

11  
12 **ORDER**

13 An In-Court Status check between the Appeals Officer and the  
14 parties' attorneys shall be held on:

15 DATE: Monday, February 12, 2018

16 TIME: 10:00AM- 10:30AM

17 to discuss why the draft decision has not been filed, as was requested on March 14,  
18 2017.

19  
20 **IT IS SO ORDERED.**

21  
22   
23 Sheila Y Moore  
24 APPEALS OFFICER  
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AA000457

1 Robert F. Balkenbush, Esq.  
2 Nevada Bar No. 01246  
3 John D. Hooks, Esq.  
4 Nevada Bar No. 11605  
5 Thorndal, Armstrong, Delk, Balkenbush & Eisinger  
6 6590 S. McCarran Blvd., Suite B  
7 Reno, Nevada 89509  
8 Tel.: (775) 786-2882  
9 Fax.: (775) 786-8004  
10 Attorneys for: Truckee Meadows Fire Protection District, Employer  
11 Public Agency Compensation Trust, Insurer  
12

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

15 VANCE TAYLOR

CASE NO.: CV18-00673

16 Petitioner,

DEPARTMENT NO.: 6

17 vs.

**REQUEST FOR SUBMISSION OF**  
**MOTION TO DISMISS PETITION FOR**  
**JUDICIAL REVIEW**

18 TRUCKEE MEADOWS FIRE  
19 PROTECTION DISTRICT;  
20 ALTERNATIVE SERVICE CONCEPTS,  
21 LLC, PUBLIC AGENCY COMPENSATION  
22 TRUST and the NEVADA DEPARTMENT  
23 OF ADMINISTRATION APPEALS  
24 OFFICER SHEILA MOORE

25 Respondents.  
26 \_\_\_\_\_/

27 COME NOW Respondents, TRUCKEE MEADOWS FIRE PROTECTION DISTRICT,  
28 PUBLIC AGENCY COMPENSATION TRUST, and ALTERNATIVE SERVICE CONCEPTS,  
LLC, by and through their attorney, Robert F. Balkenbush, Esq., and hereby request submission of  
their Motion to Dismiss Petition for Judicial Review, regarding the Decision and Order rendered by  
Appeals Officer Sheila Moore on February 28, 2018, under Appeal Number 1701567-SYM.

1 On or about March 30, 2018, Petitioners filed their Petition for Judicial Review. On June 4,  
2 2018, Respondents filed their Motion to Dismiss Petition for Judicial Review. On June 14, 2018,  
3 Petitioners filed their Opposition to Motion to Dismiss Petition for Judicial Review. Thereafter, on  
4 June 29, 2018, Respondents' filed their Reply to Taylor's Opposition to Motion to Dismiss Petition  
5 for Judicial Review.

6 In accordance with the foregoing, Respondents respectfully request the submission of their  
7 motion to dismiss for decision by the Court.

8 The undersigned attorney certifies that a copy of this request has been mailed to all counsel  
9 of record.

10 **AFFIRMATION**  
11 **Pursuant to NRS 239B.030**

12 The undersigned hereby affirms that the preceding document filed in above-entitled court  
13 does not contain the social security number of any person.

14 DATED this 2<sup>nd</sup> day of July, 2018.

15 THORNDAL, ARMSTRONG,  
16 DELK, BALKENBUSH & EISINGER

17 By: /s/ Robert F. Balkenbush  
18 ROBERT F. BALKENBUSH, ESQ.  
19 State Bar No. 1246  
20 6590 S. McCarran Blvd., Suite B  
21 Reno, Nevada 89509  
22 (775) 786-2882  
23 Truckee Meadows Fire Protection District,  
24 Employer, Public Agency Compensation Trust,  
25 And Alternative Service Concepts, LLC  
26  
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XX Placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

DATED this 2<sup>nd</sup> day of July, 2018.

By: /s/ Natalie L. Steinhardt  
NATALIE L. STEINHARDT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

\*\*\*\*\*

VANCE TAYLOR,  Petitioner,  vs.  TRUCKEE MEADOWS FIRE PROTECTION DISTRICT, ALTERNATIVE SERVICE CONCEPTS and the NEVADA DEPARTMENT OF ADMINISTRATION APPEALS OFFICER SHEILA MOORE  Respondents.	Case No.: CV18-00294  Dept. No.: 7
--	--

**PETITION FOR JUDICIAL REVIEW**

**PETITIONER'S OPENING BRIEF**

<b>ATTORNEY FOR THE PETITIONER:</b> Jason Guinasso, Esq. Nevada Bar No. 8478 Hutchison & Steffen, PLLC 500 Damonte Ranch Parkway, Suite 980 Reno, NV 89521 Tel.: 775-853-8746 Fax: 775-201-9611 Attorney for Vance Taylor	<b>ATTORNEY FOR THE RESPONDENTS:</b> Robert Balkenbush, Esq. Nevada Bar No. 1246 Thorndal Armstrong, et al 6590 S McCarran Blvd., Suite B Reno, NV 89509 Tel.: 775-786-2882 Fax: 775-786-8004 Attorney for Truckee Meadows FPD, Alternative Service Concepts
--	---

1                   **DISCLOSURE STATEMENT IN COMPLIANCE WITH NRAP 26.1**

2           The undersigned counsel of record certifies that the following are persons and  
3 entities as described in NRAP 26.1(a) and must be disclosed. These representations are  
4 made in order that the judges of this court may evaluate possible disqualification or  
5 recusal.

- 6           1. VANCE TAYLOR- Is an individual.
- 7           2. ALTERNATIVE SERVICE CONCEPTS- Is the third party administrator, licensed  
8           in the State of Nevada, that administered the Petitioner's workers' compensation  
9           claim.
- 10          3. TRUCKEE MEADOWS FIRE PROTECTION DISTRICT- Is a governmental  
11          party.
- 12          4. Jason D. Guinasso, Esq., of Hutchison & Steffen, LLC, is and has been at all times  
13          relevant to the commencement of litigation subject to the Respondent's appeal the  
14          attorney of record for Vance Taylor. No other partners or associates from  
15          Hutchison & Steffen are expected to appear before this Court with respect to the  
16          appeal now pending.
- 17
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1 **TABLE OF AUTHORITIES**

2 **STATUTES**

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4 NRS 233B.130.....vi  
5 NRS 616C.475(8).....1, 6, 8, 10, 11, 14  
6 NRS 233B.135(3).....2, 7, 8  
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14 NRAP 32(a)(4).....15  
15 NRAP 32(a)(5).....15  
16 NRAP 32(a)(6).....15  
17 NRAP 32(a)(7).....15  
18 NRAP 32(a)(7)(C).....15  
19 NRAP 28(e)(1).....15

**CASES**

<u>United Exposition Service Co. v. State Indus. Ins. Sys.</u> , 109 Nev. 421, 424, 851 P.2d 423	
(1993).....	7
<u>Horne v. State Indus. Sys.</u> , 113 Nev. 532, 936 P.2d 839 (1997).....	7
<u>State Emp. Sec. Div. v. Reliable Health Care Servs.</u> , 115 Nev. 253, 983 P.2d 414 (1999)	
.....	7
<u>Langman v. Nevada Adm'rs</u> , 114 Nev. 203, 955 P.2d 188 (1998).....	7
<u>Bullock v. Pinnacle Risk Mgmt.</u> , 113 Nev. 1385, 1388, 951 P.2d 1036 (1997).....	7
<u>Gubber v. Independence Mining Co.</u> , 112 Nevlang. 190, 192, 911 P.2d 1191 (1996)....	7
<u>Installation &amp; Dismantle v. State Indus. Ins. Sys.</u> , 110 Nev. 930, 879 P.2d 58 (1994)....	7
<u>Titanium Metals Corp. v. Clark County</u> , 99 Nev. 397, 399, 633 P.2d 355 (1983).....	7
<u>Amazon.com v. Magee</u> , 121 Nev. 632 (Nev. 2005).....	8
<u>Washoe Co. School Dist. v. Bowen</u> , 114 Nev. 879, 882, (1998) .....	8
<u>EG &amp; G Special Projects, Inc. v. Corselli</u> , 102 Nev. 116, 715 P.2d 1326 (1986).....	10
<u>Dillard Dept. Stores, Inc. v. Beckwith</u> , 115 Nev. 372, 989 P.2d 882 (1999).....	12

1 **I. JURISDICTIONAL STATEMENT**

2 This Court has jurisdiction to review the findings of fact and conclusions law of  
3 the Nevada Department of Administration Appeals Officer Sheila Y. Moore. See NRS  
4 616C.370; NRS 233B.130. In this regard, NRS 233B.130 provides that:

5 1. Any party who is:

6 (a) Identified as a party of record by an agency in an administrative proceeding;  
and

7 (b) Aggrieved by a final decision in a contested case,  
is entitled to judicial review of the decision. Where appeal is provided within an  
8 agency, only the decision at the highest level is reviewable unless a decision made  
at a lower level in the agency is made final by statute. Any preliminary,  
9 procedural or intermediate act or ruling by an agency in a contested case is  
reviewable if review of the final decision of the agency would not provide an  
10 adequate remedy.

11 2. Petitions for judicial review must:

12 (a) Name as respondents the agency and all parties of record to the administrative  
proceeding;

13 (b) Be instituted by filing a petition in the district court in and for Carson City, in  
and for the county in which the aggrieved party resides or in and for the county  
14 where the agency proceeding occurred; and

(c) Be filed within 30 days after service of the final decision of the agency.

15 Cross-petitions for judicial review must be filed within 10 days after service of a  
petition for judicial review.

16 \*\*\*

17 6. The provisions of this chapter are the exclusive means of judicial review of, or  
judicial action concerning, a final decision in a contested case involving an agency  
to which this chapter applies.

18 This Petition has been timely filed in the Second Judicial District Court in and for  
19 Washoe County.

20 ///

21 ///

1 **II. STATEMENT OF ISSUES PRESENTED FOR REVIEW**

2 A. Whether the Appeals Officer erred as a matter of law by holding that Mr. Taylor is  
3 not entitled to temporary total disability (“TTD”) benefits for the period of  
4 September 11, 2016 through his return to his pre-injury job in November 2016, as  
5 stated in ASC’s September 26, 2016, determination letter.

6 B. Whether the Appeals Officer erred as a matter of law when she concluded that the  
7 light duty job offered to Mr. Talyor by the employer was a valid light duty job  
8 offer under Nevada law.

9 C. Whether the light duty job offered to Mr. Taylor by the employer satisfied the  
10 requirements of NRS 616C.475(8) and NAC 616C.583.

11 **III. STATEMENT OF THE CASE**

12 The Claimant in this matter is Vance Taylor (“Mr. Taylor”). **ROA at 093-095.**  
13 The Employer in this matter is the Truckee Meadows Fire Protection District  
14 (“TMFPD”). **ROA at 093.** The Third-Party Administrator (“TPA”) in this matter is  
15 Alternative Service Concepts (“ASC”). **ROA at 120.**

16 **A. Hearing No. 1700937-SA**

17 On September 26, 2016, ASC rendered their determination discontinuing TTD  
18 benefits. **ROA at 198.**

19 On September 29, 2016, Mr. Taylor filed his request for hearing before the  
20 Hearing Officer.

1 On November 23, 2016, the Hearing Officer rendered her Decision and Order,  
2 remanding CCMSI's September 26, 2016 determination. **ROA at 357-358.**

3 **B. Appeal No. 1701567-SYM**

4 On December 1, 2016, Mr. Taylor requested an appeal of the Decision and Order.  
5 **ROA at 355.**

6 On December 6, 2016, the Appeal Officer set the appeal in the foregoing matter  
7 for Thursday, February 9, 2017 at 10:00 a.m., in Carson City, Nevada. **ROA at 354.**

8 On February 28, 2018, the Appeals Officer rendered her findings of fact and  
9 conclusions of law affirming the insurer's and employer's determination. **ROA at 001-**  
10 **008.**

11 Mr. Taylor now petitions this Court for Judicial Review of the Appeals Officer's  
12 findings and fact and conclusions of law under NRS 233B.135(3) because the final  
13 decision of the Appeals Officer has prejudiced his rights under the Nevada Industrial  
14 Insurance Act ("NIIA"), has violated statutory provisions governing the delivery of total  
15 temporary disability benefits under the NIIA, has been affected by other grievous errors  
16 of law, is clearly erroneous in view of the reliable, probative and substantial evidence on  
17 the whole record, and is otherwise arbitrary, capricious or characterized by abuse of  
18 discretion.

19 **IV. STATEMENT OF FACTS**

20 On April 19, 2016, Mr. Taylor was doing a HazMat training drill at work when he  
21 injured himself. **ROA at 093-095.** He stated, *"While participating in the Triad's monthly*

1 *Haz-Mat training I injured my left shoulder during one of the exercises. Drill in*  
2 *turnouts and SCBA (with partner). Rescue a downed firefighter (Haz-Mytech) in a level*  
3 *A suit on the second floor using asked device. While carrying the 200 pound mannequin*  
4 *down the stairs, I was holding the Sked with my left hand and the handrail with my right*  
5 *felt a "pop" followed by intense pain I my left shoulder. Pain did not subside." ROA at*  
6 **093.**

7 Mr. Taylor reported the injury to his employer immediately. **ROA at 092.**

8 Shortly thereafter, Mr. Taylor presented at the emergency room at Renown South  
9 Meadows Medical Center. He was seen by Leland Sullivan, MD, who diagnosed left  
10 shoulder strain. **ROA at 099-111.**

11 The following day, April 20, 2016, Mr. Taylor was evaluated by Dr. Scott Hall at  
12 Specialty Health. Dr. Hall ordered an MRI of the left shoulder and placed Mr. Taylor on  
13 light duty. **ROA at 112-113.**

14 Mr. Taylor then went to Reno Diagnostics Center for an x-ray of the left shoulder,  
15 which showed severe glenohumeral osteoarthritis, hydroxyapatite deposition along the  
16 greater tuberosity, no visible fracture or dislocation. **ROA at 115.**

17 When re-evaluated by Dr. Hall on April 22, 2016, Dr. Hall again recommended an  
18 MRI and placed Mr. Taylor on light duty. **ROA at 116-119.**

19 On April 25, 2016, ASC issued their, 'Notice of Claim Acceptance". **ROA at 120.**

20 On April 26, 2016, ASC issued their letter informing Mr. Taylor of right to  
21 received TTD benefits. **ROA at 126.**

1 On April 29, 2016, Dr. Vijay Sekhon of Reno Diagnostic Center performed an  
2 MRI of the left shoulder. The MRI findings were:

- 3 1. Severe glenohumeral joint degenerative changes posteriorly with large  
areas of full-thickness chondromalacia, bulky osteophytes, and subchondral cysts.
- 4 2. Large tear of the posterior labrum with associated cartilage delamination.
- 5 3. Large loose body in the subcoracoid space.
- 6 4. Calcific tendinitis of the supraspinatus tendon insertion without evidence of  
rotator cuff tear.
- 7 5. Degenerative type tear of the superior labrum extending into the biceps  
anchor.

8 **ROA at 143.**

9 On May 2, 2016, Mr. Taylor again presented to Dr. Hall for a follow up  
10 appointment. Dr. Hall referred him to physical therapy and placed him on light duty.

11 **ROA at 144-148.**

12 Mr. Taylor commenced physical therapy on May 10, 2016 and continued 2 to 3  
13 times a week for 4 to 6 weeks. **ROA at 149-150.**

14 During the next follow up appointment with Dr. Hall on May 17, 2016, Mr.  
15 Taylor was referred to an orthopedic specialist for further treatment. **ROA at 152-154.**

16 On May 20, 2016, Mr. Taylor attended an initial evaluation at Nevada  
17 Orthopedics where he was seen by Dr. Hilary Malcarney. Dr. Malcarney diagnosed  
18 osteoarthritis in the left shoulder, left shoulder strain, labral tear, and rotator cuff calcific  
19 tendinopathy of the left shoulder. **ROA at 156-159.** She also placed him on restricted  
20 duty and referred him to physical therapy. **ROA at 160-161.**

21 On June 13, 2016, Mr. Taylor again presented to Dr. Malcarney. At this time, she  
recommended left shoulder arthroscopy. **ROA at 162-164.**



1 On June 16, 2016, ASC sent a letter to Dr. Malcarney with questions for her to  
2 answer regarding the recommended surgery. **ROA at 166.**

3 Then on June 29, 2016, ASC sent a letter denying surgery pending the response of  
4 Dr. Malcarney to the letter with questions they had sent to her. **ROA at 168-169.**

5 Also on June 29, 2016, Dr. Malcarney sent her response stating, "Yes,  
6 *exacerbation of pre-existing osteoarthritis and calcific tendinopathy. Also, exacerbation*  
7 *and likely extension of labral tear.*" **ROA at 170.**

8 On July 18, 2016, Dr. Malcarney noted her plan to proceed with left shoulder  
9 arthroscopy, SAD, labral debridement, chondroplasty, possible biceps tendonesis. **ROA**  
10 **at 171-174.**

11 On July 21, 2016, surgery was performed on Mr. Taylor at Surgery Center of  
12 Reno. **ROA at 178-183.**

13 At his follow-up appointment with Dr. Malcarney on August 3, 2016, Mr.  
14 Taylor's sutures were removed and he was referred to physical therapy. **ROA at 187-**  
15 **188.**

16 Mr. Taylor was released to restricted duty on August 15, 2016. **ROA at 191.**

17 On September 9, 2016, Mr. Taylor's employer, TMFPD, sent a letter to Mr.  
18 Taylor with an offer of temporary light duty employment. **ROA at 196-197.** The letter  
19 offering the light duty job provided as follows:

20 "You will be assigned to the administrative office and your scheduled  
21 hours will be Monday through Friday 8am to 5pm with an hour lunch.  
To align the schedule change with the beginning of the FLSA cycle, you

1       *will report to the administrative offices on Monday September 12, 2016*  
2       *at 8am."*

3       Mr. Taylor refused to accept this offer of light duty employment because it was not  
4 substantially similar to his pre-injury job.

5       Thereafter, on September 26, 2016, ASC sent a letter stating that, due to Mr.  
6 Taylor's refusal to accet the light duty offer, his TTD benefits were discontinued. **ROA**  
7 **at 198-199.**

## 8       **V.     SUMMARY OF ARGUMENT**

9       The Appeals Officer erred as a matter of law by concluding that Mr. Taylor is not  
10 entitled to temporary total disability ("TTD") benefits for the period of September 11,  
11 2016 through his return to his pre-injury job in November 2016, as stated in ASC's  
12 September 26, 2016, determination letter. Additionally, the Appeals Officer erred as a  
13 matter of law when she concluded that the light duty job offered to Mr. Talyor by his  
14 employer was a valid light duty job offer under Nevada law. The light duty job offered  
15 to Mr. Taylor by the employer is invalid as a matter of law because it failed to satisfy the  
16 requirements of NRS 616C.475(8) and NAC 616C.583.

## 17       **VI.    ARGUMENT**

### 18       **A.     Petition for Judicial Review Standard of Review**

19       The parameters of judicial review are established by statute. Judicial review of a  
20 final decision of an agency must be conducted by the Court without a jury and confined  
21 to the record. NRS 233B.135(1). The final decision of the agency shall be deemed  
reasonable and lawful until reversed or set aside in whole or in part by the Court. NRS

1 233B.135(2). The burden of proof is on the party attacking the decision to show that the  
2 final decision is invalid. NRS 233B.135(2). However, a Court may set aside, in whole  
3 or in part, a final decision of an administrative agency where substantial rights of the  
4 petitioner have been prejudiced because the final decision is in violation of statutory  
5 provisions, affected by other error of law, clearly erroneous in view of the reliable,  
6 probative, and substantial evidence on the whole record, or arbitrary, capricious, or  
7 characterized by abuse of discretion. NRS 233B.135(3).

8       There are two (2) steps in the long-established methodology for applying the  
9 substantial evidence standard set forth in NRS 233B.135(3)(e)-(f).

10       First, identifying the law which governs the contested issue, as such law  
11 establishes what facts had to be proven, and how such facts had to be proven. United  
12 Exposition Service Co. v. State Indus. Ins. Sys., 109 Nev. 421, 424, 851 P.2d 423  
13 (1993); Horne v. State Indus. Sys., 113 Nev. 532, 936 P.2d 839 (1997); State Emp. Sec.  
14 Div. v. Reliable Health Care Servs., 115 Nev. 253, 983 P.2d 414 (1999); Langman v.  
15 Nev. Admr's, Inc., 114 Nev. 203, 955 P.2d 188 (1998); Bullock v. Pinnacle Risk Mgmt.,  
16 113 Nev. 1385, 1388, 951 P.2d 1036 (1997); Gubber v. Independence Mining Co., 112  
17 Nev. 190, 192, 911 P.2d 1191 (1996); Installation & Dismantle v. State Indus. Ins. Sys.,  
18 110 Nev. 930, 879 P.2d 58 (1994); Titanium Metals Corp. v. Clark County, 99 Nev. 397,  
19 399, 663 P.2d 355 (1983).

20       Second, review the record on appeal and determine whether the record contains  
21 both that quantity and quality of factual evidence which a reasonable person could

1 accept as adequate proof of what the governing law requires. Id. If the record on appeal  
2 does not contain both that quantity and quality of factual evidence which a reasonable  
3 person could accept as adequate proof of what the governing law requires, then the  
4 decision of the administrative agency (Appeals Officer in this case) may be deemed by  
5 the Court to be clearly erroneous in view of the reliable, probative and substantial  
6 evidence on the whole record, or arbitrary, capricious or characterized by abuse of  
7 discretion. NRS 233B.135(3).

8 This Court has the authority and the responsibility to independently review an  
9 Appeals Officer's application of the statutes governing the payment of workers'  
10 compensation benefits. See Amazon.com v. Magee, 121 Nev. 632 (Nev. 2005); Washoe  
11 Co. School Dist. v. Bowen, 114 Nev. 879, 882, (1998). Therefore, this Court should  
12 address this matter anew, without deference to the Appeals Officer's conclusions.

13 B. **THE APPEALS OFFICER ERRED AS A MATTER OF LAW WHEN**  
14 **SHE CONCLUDED THAT ASC PROPERLY TERMINATED MR.**  
15 **TAYLOR'S TTD BENEFITS BECAUSE THE LIGHT DUTY JOB**  
16 **OFFERED TO MR. TAYLOR BY HIS EMPLOYER FAILED TO**  
17 **COMPLY WITH THE EXPRESS PROVISIONS OF NRS 616C.475(8)**  
18 **AND IS OTHERWISE UNREASONABLE.**

19 If an employer decides to offer a claimant a light duty job, the job offer must be  
20 offered in writing and comply with all of the provisions of NRS 616C.475(8). NRS  
21 616C.475(8) provides as follows:

"Any offer of temporary, light-duty employment made by the employer must  
specify a position that:

1 (a) Is substantially similar to the employee's position at the time of his or her  
2 injury in relation to the location of the employment and the hours the employee is  
required to work;

(b) Provides a gross wage that is:

3 (1) If the position is in the same classification of employment, equal to  
the gross wage the employee was earning at the time of his or her injury; or

4 (2) If the position is not in the same classification of employment,  
substantially similar to the gross wage the employee was earning at the time of his  
5 or her injury; and

6 (c) Has the same employment benefits as the position of the employee at the  
time of his or her injury."

7  
8 (emphasis supplied).

9 The Nevada Administrative Code further elaborates on the requirements for a  
10 valid light duty job offer by providing the following:

11 NAC 616C.583 Offer of employment: Light duty. (NRS 616A.400)

12 1. An offer of employment at light duty to an injured employee by his or her  
employer must:

13 (a) Be in writing;

14 (b) Be mailed to both the insurer and the injured employee; and

(c) Include:

15 (1) The net wage to be paid the injured employee;

(2) The hours which the injured employee will be expected to work;

16 (3) A reasonable description of the physical requirements of the  
employment;

17 (4) A reasonable description of the duties the injured employee will be  
expected to perform;

18 (5) A description of any fringe benefits of the employment; and

(6) The geographical location of the employment.

19 2. If the insurer finds that the actual requirements of the employment at light  
20 duty materially differ from the offer of employment and the employer fails to take  
corrective action, the insurer may provide vocational rehabilitation services.

1       3. The injured employee must be allowed a reasonable time, not to exceed 7  
2 days after the date the offer of the employment at light duty is made, within which  
to accept or reject the offer.

3       4. If the employment at light duty offered to the injured employee is expected  
4 to be of limited duration, the employer shall disclose that fact to the injured  
employee in the offer of employment and state the expected duration.

5       5. An employer must not offer temporary or permanent employment at light  
6 duty which he or she does not then expect to be available to the injured employee  
as offered.

7       6. An employer does not have to comply with the requirements in subsections  
8 1 to 5, inclusive, if the employer offers the injured employee temporary  
employment at light duty which is:

9       (a) Immediately available;

10       (b) Compatible with the physical limitations of the injured employee as  
established by the treating physician or chiropractor; and

11       (c) Substantially similar in terms of the location and the working hours to the  
position that the injured employee held at the time of the injury.

12       7. Temporary employment at light duty offered pursuant to subsection 6 must  
13 cease within 30 days after the injured employee's physical restrictions are  
14 determined to be permanent. Any subsequent offers of employment at light duty  
by the employer must comply with the requirements of subsections 1 to 5,  
inclusive.

15       Finally, in EG & G Special Projects, Inc. v. Corselli, 102 Nev. 116, 715 P.2d 1326  
16 (1986), the Nevada Supreme Court held that an offer of light duty work must not impose  
17 an unreasonable burden on the injured worker. In that case, the employee prior to  
18 injury, had for twenty-five years lived in Riverside, California, and commuted by air at  
19 government expense to the Nevada Test Site to work three days a week, with four days  
20 off at home in Riverside. The new "light duty" job found for the employee substantially  
21 changed the hours, days and location of the injured workers' employment by requiring

1 him to work five days per week in Las Vegas. The Court found that the light duty job  
2 offered to the injured worker was unreasonable and remanded with an order to pay the  
3 claimant benefits.

4 This notion of reasonableness articulated by the Court is also found in the  
5 legislative history of the NRS 616C.475(8). In this regard, at a February 25, 1993,  
6 meeting of the Senate Committee on Commerce and Labor, Scott Young, General  
7 Counsel for the Nevada State Industrial System (SIIS), explained the temporary light  
8 duty language as follows:

9 *As long as the offer is reasonable, in terms of those three categories (pay rate,*  
10 *shift, hours of employment) my understanding is the injured worker could not*  
11 *refuse it. . . . As long as the job offer was reasonable in terms of the location and*  
12 *hours, the workers should be required to take the job.*

13 Minutes of the Senate Committee on Commerce and Labor, 67th Sess., Feb 25, 1993.

14 In this case, on September 9, 2016, Mr. Taylor's employer, TMFPD, sent a letter  
15 to Mr. Taylor with an offer of temporary light duty employment. **ROA at 196-197.** The  
16 letter offering the light duty job provided as follows:

17 *"You will be assigned to the administrative office and your scheduled hours will*  
18 *be Monday through Friday 8am to 5pm with an hour lunch. To align the schedule*  
19 *change with the beginning of the FLSA cycle, you will report to the administrative*  
20 *offices on Monday September 12, 2016 at 8am."*

21 This light duty job offer fails to comply with NRS 616C.475(8) and is otherwise  
unreasonable for the following reasons.

1 First, the light duty job offer dramatically changed Mr. Taylor's work schedule  
2 from a 48/96 schedule and pay scale, which includes FLSA pay, to a forty hour scale  
3 administrative schedule from 8:00 am to 5:00 pm Monday thru Friday with no FLSA  
4 pay and no ability to bank Holiday Comp Time. **ROA at 101.** This imposes a hardship  
5 on Mr. Taylor and his family by causing incurred increased day care expenditures for  
6 childcare, increased fuel and maintenance costs for daily commutes, and increase stress  
7 on the family due to an unfamiliar, unforgiving, and inconvenient work schedule. This  
8 light duty job-offer amounts to harassment while Mr. Taylor is recovering from a work-  
9 related injury and places a burden on both him and his family.

10 Second, this light duty job offer changes the location of Mr. Taylor's employment  
11 from Station 15 at 110 Quartz Lane, Reno, Nevada 89433 to a location six miles away at  
12 1001 East Ninth Street, Building D, Reno, Nevada 89512.

13 Third, this light duty job offer changes Mr. Taylor's job duties dramatically and  
14 effectively demotes Mr. Taylor from a Captain to an office secretary, which is both  
15 humiliating and unlawful. See Dillard Dept. Stores, Inc. v. Beckwith, 115 Nev. 372, 989  
16 P.2d 882 (1999)(Court awarded claimant \$2,496,112 in damages and \$518,455 in  
17 attorney fees and costs for constructive discharge claims because employer placed  
18 employee in entry level position, which included document filing, rather than being  
19 returned to her management position with the company). Changing the job duties  
20 expected to be performed while Mr. Taylor is on light-duty from his normal position to  
21 that of an office secretary is humiliating, demoralizing and degrading to a person who is



1 trained and regularly works as a fire fighter. By allowing the Employer and TPA to  
2 provide this type of light duty, the Appeals Officer has erroneously allowed them to  
3 essentially punish Ms. Taylor for sustaining a work-related injury and filing a workers'  
4 compensation claim related thereto.

5 Finally, TMFPD's light duty job offer replaced Mr. Taylor's normal supervising  
6 Battalion Chief with an appointed office secretary, which in turn, breaks the normal  
7 chain of command established by the fire department. Changing Mr. Taylor's supervisor  
8 from his duty Battalion Chief to an appointed office secretary not only breaks the  
9 established chain of command, but is extremely confusing and restrictive for Mr. Taylor  
10 and his Battalion Chief. Moreover, this break in the chain of command adds to the  
11 humiliating feeling that he is being punished because he sustained a work-related injury  
12 and filed a workers' compensation claim.

13 In accordance with the foregoing, TMFPD's light duty job offer did not provide  
14 for a light duty job that was "substantially similar" to the job Mr. Taylor had pre-injury  
15 with regard to both the shift he was required to work and the location of his  
16 employment. Moreover, the light duty job offer was unreasonable and otherwise  
17 degrading to Mr. Taylor, who is a 25-year veteran of the Fire Service, and a Captain for  
18 the TMFPD.

## 19 **VII. CONCLUSION**

20 For all of the foregoing reasons, the Petitioner respectfully requests that this Court  
21 grant his Petition for Judicial Review and reverse the February 28, 2018, Findings of

1 Fact and Conclusions of Law of the Appeals Officer. Petitioner further requests that the  
2 District Court render an order finding:

3 (1) the Appeals Officer erred as a matter of law by concluding that Mr. Taylor is  
4 not entitled to temporary total disability ("TTD") benefits for the period of September  
5 11, 2016 through his return to his pre-injury job in November 2016, as stated in ASC's  
6 September 26, 2016, determination letter;

7 (2) The Appeals Officer erred as a matter of law when she concluded that the light  
8 duty job offered to Mr. Talyor by his employer was a valid light duty job offer under  
9 Nevada law; and

10 (3) The light duty job offered to Mr. Taylor by the employer is invalid as a matter  
11 of law because it failed to satisfy the requirements of NRS 616C.475(8) and NAC  
12 616C.583

13 **AFFIRMATION**

14 The undersigned does hereby affirm that the foregoing document filed in this  
15 matter does not contain the social security number of any person.

16 DATED this 10 day of July, 2018.

17   
18 \_\_\_\_\_  
19 Jason D. Guinasso, Esq.  
20 Attorney for Vance Taylor  
21

1 **VIII. ATTORNEY'S CERTIFICATE OF COMPLIANCE**

2 1. I hereby certify that this brief complies with the formatting requirements of  
3 NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style  
4 requirements of NRAP 32(a)(6) because:

5 a. This brief has been prepared in a proportionally spaced typeface using  
6 Microsoft Word 97 in 14 Point Times New Roman Font.

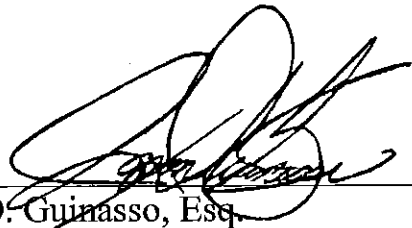
7 2. I further certify that this brief complies with the page-or type-volume  
8 limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by  
9 NRAP 32(a)(7)(C), it is:

10 a. Proportionately spaced, has a typeface of 14 points or more and contains 6490  
11 words; and

12 b. Does not exceed 30 pages.

13 3. Finally, I hereby certify that I have read this opening brief, and to the best of  
14 my knowledge, information, and belief, it is not frivolous or interposed for any improper  
15 purpose. I further certify that this brief complies with all applicable Nevada Rules of  
16 Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the  
17 brief regarding matters in the record to be supported by a reference to the page and  
18 volume number, if any, of the transcript or appendix where the matter relied on is to be  
19 found. I understand that I may be subject to sanctions in the event that the  
20 accompanying brief is not in conformity with the requirements of the Nevada Rules of  
21 Appellate Procedure.

Dated this 10 day of July, 2018.

  
\_\_\_\_\_  
Jason D. Guinasso, Esq.  
Attorney for Vance Taylor

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a  
3 party to the within action. My business address is 500 Damonte Ranch Parkway, Suite  
4 980, Reno, Nevada 89521.

5 On July 10<sup>th</sup>, 2018, I served the following:

6 **VANCE TAYLOR'S**

7 **OPENING BRIEF**

8 on the following in said cause as indicated below:

9 VANCE TAYLOR 2919 ASPEN MEADOWS CT RENO, NV 89519 (VIA U.S. MAIL)	ALTERNATIVE SERVICE CONCEPTS 639 ISBELL ROAD, #390 RENO, NV 89509 (VIA U.S. MAIL)
10 ROBERT BALKENBUSH, ESQ. THORNDAL ARMSTRONG 6590 S MCCARRAN BLVD., #B RENO, NV 89509 (VIA E-FLEX & U.S. MAIL)	NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST., SUITE 450 CARSON CITY, NV 89701 (VIA U.S. MAIL)
11 TRUCKEE MEADOWS FPD PO BOX 11130 RENO, NV 89511 (VIA U.S. MAIL)	ATTORNEY GENERAL'S OFFICE 100 N CARSON STREET CARSON CITY, NEVADA 89701 (VIA U.S. MAIL)
12 NEVADA DEPT. OF ADMIN. PATRICK CATES, DIRECTOR 515 EAST MUSSER ST., 3 <sup>RD</sup> FL CARSON CITY, NV 89701 (VIA U.S. MAIL)	

13 I declare under penalty of perjury that the foregoing is true and correct. Executed  
14 on July 10<sup>th</sup>, 2018, at Reno, Nevada.

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16 KATRINA A. TORRES  
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1 CODE NO. 3370

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 VANCE TAYLOR,

Case No. CV18-00673

10 Petitioner,

Dept. No. 6

11 vs.

12  
13 TRUCKEE MEADOWS FIRE PROTECTION  
14 DISTRICT; ALTERNATIVE SERVICE  
15 CONCEPTS, LLC, PUBLIC AGENCY  
16 COMPENSATION TRUST and the NEVADA  
DEPARTMENT OF ADMINISTRATION  
APPEALS OFFICER SHEILA MOORE,

17 Respondents.  
18 \_\_\_\_\_/

19 **ORDER RE MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

20 Before this Court is *Respondents' Motion to Dismiss Petition for Judicial Review*  
21 (*"Motion"*) filed by Respondent TRUCKEE MEADOWS FIRE PROTECTION DISTRICT  
22 (*"TMFPD"*) and PUBLIC AGENCY COMPENSATION TRUST (*"PACT"*) (collectively  
23 *"Respondents"*), by and through its counsel, Robert F. Balkenbush, Esq. In response,  
24 Petitioner VANCE TAYLOR (*"Mr. Taylor"*), by and through his counsel, Jason D. Guinasso,  
25 Esq., filed his *Opposition to Motion to Dismiss Petition for Judicial Review* (*"Opposition"*).  
26 Thereafter *Respondents' Reply to Taylor's Opposition to Motion to Dismiss Petition for*  
27 *Judicial Review* (*"Reply"*) was filed and the matter was submitted for decision.  
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2 **I. FACTS AND PROCEDURAL HISTORY**

3 The instant action arises out of a contested administrative appeal hearing before the  
4 State of Nevada Department of Administration Hearings Division ("AHD"). Mr. Taylor  
5 appealed a denial of his workers compensation claim against TMFPD. The issue before the  
6 AHD was whether Mr. Taylor was entitled to temporary total disability during an eight week  
7 period after he was injured and whether he subsequently refused an offer of "light duty"  
8 work by his employer. See Motion, p. 3. Following the appeals hearing, AHD found Mr.  
9 Taylor was not entitled to temporary total disability during that time because TMPD's offer of  
10 "light duty" work was a "valid light duty job and . . . is not considered humiliating and  
11 degrading and is an essential function in the work force. See Motion, Exhibit 3.  
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14 Mr. Taylor then filed a *Petition for Judicial Review* ("*Petition*") arguing TMFPD's offer  
15 of "light duty job" was not substantially similar to the job Mr. Taylor had pre-injury and  
16 therefore TMDR's offer failed to comply with NRS 616C.475(8). Mr. Taylor maintains he is  
17 entitled to temporary disability benefits for the period of September 11, 2016 through  
18 November 2016.  
19

20 Respondents' thereafter filed the instant *Motion* arguing this Court lacks jurisdiction  
21 over this matter because Mr. Taylor failed to name the insurer, PACT, as a respondent in  
22 his *Petition* and therefore failed to meet the jurisdictional requirements of NRS  
23 233B.130(2)(a). Respondent maintains NRS 233B.130 (2)(a) "is a mandatory procedural  
24 statute governing the filing of a Petition for Judicial Review," which mandates a Petitioner to  
25 "name as respondents the agency and all parties of record to the administrative  
26 proceeding." *Motion* p. 4; Citing NRS 233B.130 (2)(a). Respondents further argue the  
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1 "Nevada Supreme Court has held that the failure of a petitioner to strictly comply with . . .  
2 NRS 233B.130(2) results in a lack of subject matter jurisdiction necessary for a district court  
3 to entertain the Petition for Judicial Review." *Motion*, pp. 4-5; Citing Washoe County v. Otto,  
4 128 Nev. 424, 282 P.3d 719 (2012). Respondent, therefore, maintains that because PAC  
5 was identified as a party in the administrative decision, Petitioner's failure to name PACT in  
6 the *Petition* required dismissal by this Court for lack of jurisdiction. See *Motion*, p. 6.

8 Mr. Taylor argues in his *Opposition* he fully complied with NRS 233B.130 (2) because  
9 he properly named Respondent, Alternative Service Concepts ("ASC") as the insurer and  
10 party of interest. See *Opposition*, p. 5. Mr. Taylor contends ASC "is and has at all times  
11 been the relevant insurer in this matter." *Opposition*, p. 3. Mr. Taylor further maintains that  
12 "at no time during the entire two-year course of litigation did counsel for ASC, Robert  
13 Balkenbush, Esq., notify parties there was a change in Insurer or that PACT would be a  
14 party to the action before the Appeals Officer." *Motion*, p. 4. Mr. Taylor argues that all  
15 relevant documents in the action leading up to the final appeals decision identified ACS as  
16 the insurer. Mr. Taylor further contends that, although PACT was mentioned in the body of  
17 the February 28, 2018 Decision and Order of the Appeals Officer, the Order was not mailed  
18 by the Appeals Officer to PACT as an interested party. Id. In addition, Mr. Taylor maintains  
19 Respondent has "acknowledge[d] that PACT is not a separate, interested party" because  
20 PACT was not included in Respondent's own service list for the pending *Motion*. See  
21 *Opposition* pp. 5-6.

25 Respondents argue in the *Reply*, the record reflects PACT is a party to this action.  
26 See *Reply*, p. 4. Respondent maintains Mr. Taylor was served with documentary exhibits  
27 and pre-hearing statements prior to the administrative appeal at issue, which included  
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1 exhibits of "the insurer and employer . . . expressly [stating] that the undersigned as legal  
2 counsel represented both the PACT and TMFPD." *Reply* pp. 4-5. Respondents further  
3 point to the decision filed by the Appeals Officer in the underlying matter, which "expressly  
4 states on page 1 that PACT is the insurer of Taylor's workers' compensation at issue and a  
5 party to the administrative proceeding before the Appeals Officer." *Reply*, pp. 5-6.  
6 Respondent again reiterated its argument that Mr. Taylor failed to satisfy the jurisdictional  
7 requirements warranting dismissal of the *Petition*. See Reply, p. 7.  
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9 **II. LAW AND ANALYSIS**

10 The Administrative Procedure Act (APA), codified in NRS Chapter 233B, confers  
11 power to the district courts to conduct judicial review of final administrative agency decisions  
12 to determine whether an aggrieved party is entitled to the relief sought on review. *Otto*, 128  
13 Nev., Adv. Op. 40, 282 P.3d at 724-25; *Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801,  
14 805 (2006) (stating that petitions for judicial review create "a right of review in the district  
15 court"). NRS 233B.130B requires certain procedural requirements be met to invoke a  
16 district court's jurisdiction for a petition for judicial review. Of interest, NRS 233B.130(2)(a)  
17 provides that a petition for judicial review must "[n]ame as respondents the agency and all  
18 parties of record to the administrative proceeding in order to invoke a district court's  
19 jurisdiction for a petition for judicial review." Naming all parties of record is mandatory and  
20 "a district court lacks jurisdiction to consider a petition that fails for comply with this  
21 requirement." *Otto* at 432-33. In *Otto*, the Nevada Supreme Court determined that a  
22 petitioner failed to comply with NRS 233B.130(2)(a) because it did not "name any  
23 [respondent] taxpayer individually in the caption, in the body of the amended petition, or in  
24 an attachment." *Id.* At 430, 282 P.3d at 724.  
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1 In the instant *Motion*, TMFPD argues this Court lacks jurisdiction for judicial review  
2 because Mr. Taylor failed to name PACT as a respondent in this matter. However, it is  
3 unclear at what point, if at all, PACT became a respondent, what the relationship between  
4 ACS and PACT is (i.e. successor or servicer), or if Mr. Taylor was put on notice of the new  
5 insurer. As Mr. Taylor points out, PACT is mentioned only once in the appeals documents.  
6 ACS is otherwise named as the insurer at all relevant times.  
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8 Accordingly, the Court finds additional documentation is needed to determine if PACT is a  
9 party of interest to this matter.  
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11 Accordingly, and good cause appearing,

12 IT IS HEREBY ORDERED on the information submitted,

- 13 1. *Respondents' Motion to Dismiss Petition for Judicial Review* is DENIED at this  
14 time.  
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16 2. The parties may file supplemental affidavits in support of the *Motion/Reply* and  
17 *Opposition* papers within twenty (20) days of the date of this Order and resubmit  
18 the matter for decision.

19 Dated this 5th day of September, 2018.

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22 DISTRICT JUDGE  
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ROBERT BALKENBUSH, ESQ.  
JASON GUINASSO, ESQ.

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