IN THE SUPREME COURT OF THE STATE OF NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC,

Appellants,

v.

MARTIN DURAN PEREZ

Respondent.

SUPREME COURT NO.: 79856

DISTRICT COURT NO.: A-18-774722-J

Electronically Filed
Apr 10 2020 02:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANTS' APPENDIX VOLUME 1

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Appellants Focus Framing and Sun City Electric

ALIKA ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorney for Respondent Martin Duran Perez

Docket 79856 Document 2020-13754

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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 10 day of April 2020, service of the attached **APPELLANTS' APPENDIX VOLUME 1** was made this date by depositing a true copy of the same for mailing, first class mail, and/or electronic service as follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

/s/ Joel P. Reeves, Esq.
An employee of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

Electronically Filed
7/24/2018 8:34 AM
Steven D. Grierson
CLERK OF THE COURT

TROA
APPEALS OFFICE
2200 S. Rancho Drive Suite 220
Las Vegas NV 89102
(702) 486-2527

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioner,		
vs.	Case No.:	A-18774772-J
	Dept. No.:	10
MARTIN DURAN PEREZ, and the DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	ROA No.:	1900964-CJY
	Appeal No.:	1714955-CJY

TRANSMITTAL OF RECORD ON APPEAL

TO: STEVEN GRIERSON, Clerk of the above-captioned Court:

Pursuant to NRS 233B.131, the transmittal of the entire Record on Appeal, in accordance with the Nevada Administrative Procedure Act (Chapter 233B of the Nevada Revised Statutes), is hereby made as follows:

1. The entire Record herein, including each and every pleading, document, affidavit, order, decision and exhibit now on file with the Appeal Office, at 2200 S. Rancho Drive Suite 220, Las Vegas, Nevada 89102, under the Nevada Industrial Insurance Act, in the above-captioned action, including the court reporter's transcripts if available, of the testimony of the Appeal Officer hearing.

2. This Transmittal.

DATED this 24th day of July, 2018.

Zoe McGough

Zoe McGough, Legal Secretary II
An Employee of the Hearings Division

ROA
APPEALS OFFICE
2200 S. Rancho Drive Suite 220
Las Vegas NV 89102
(702) 486-2527

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioner, vs. MARTIN DURAN PEREZ, and the DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	Case No.: Dept. No.: ROA No.: Appeal No.:	A-18774772-J 10 1900964-CJY 1714955-CJY

RECORD ON APPEAL IN ACCORDANCE WITH THE NEVADA ADMINISTRATIVE PROCEDURE ACT

MARTIN DURAN PEREZ
1512 CHAPEL COVE CT
LAS VEGAS NV 89106-1900

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89101

FOCUS PLUMBING
ATTN PATTY PAIZANO
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

FOCUS FRAMING
C/O SUN CITY ELECTRIC
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102-2501

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Appeal No.: **1714955-CJY**

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NEVADA DEPARTMENT OF ADMINISTRATION

FILED

MAY 17 2018

APPEALS OFFICE

BEFORE THE APPEALS OFFICER

In the Matter of the: Contested Industrial Insurance Claim, of MARTIN DURAN-PEREZ, Claimant	Claim No.: 2016-0022 Appeal No.: 1714955-CJY

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

HONORABLE CHARLES J. YORK, ESQ.

APPEALS OFFICER

FEBRUARY 9, 2018

9:05 AM

2200 SOUTH RANCHO DRIVE, SUITE 220

LAS VEGAS, NEVADA 89102

Ordered by: Lewis, Brisbois, Bisgaard & Smith, LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375

Transcribed By: Jaime Caris, Always On Time

DOC003

1 A P P E A R A N C E S

2

3 On behalf of the Claimant:

4 Alika Angerman, Esq.

5 Bighorn Law

6 716 South Jones Boulevard

7 Las Vegas, Nevada 89107-3614

8

9

10 On behalf of the Insurer:

11 Daniel Schwartz, Esq.

12 Lewis, Brisbois, Bisgaard & Smith, LLP

13 2300 West Sahara Avenue, Suite 300, Box 28

14 Las Vegas, Nevada 89102-4375

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1 I N D E X

EXAMINATION	DIRECT	CROSS	REDIRECT	RECROSS
Martin Duran-Perez	6	8	14	
Eduardo Leon	15	17		
Nicholas Pao	26	34	36	
Kevin Mendoza	39	45		

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1 P R O C E E D I N G S

2 APPEALS OFFICER: Okay, we're on the record in
3 the Matter of the Contested Industrial Insurance Claim of
4 Mr. Martin Duran Perez, who is present. Represented by his
5 Counsel, Mr. Alika Angerman. The Insurer is represented by
6 their Counsel, Mr. Daniel Schwartz.
7 On behalf of the Insurer, one packet, 68-pages,
8 filed on September 11th of last year. Any objections?
9 ALIKA ANGERMAN: No objections, Your Honor.
10 APPEALS OFFICER: That will be marked as the
11 Insurer's Exhibit A. And, Mr. Schwartz, on behalf of the
12 Claimant, I believe I have four packets. The first filed,
13 July 12th of last year. Have you received that and any
14 objections?
15 DANIEL SCHWARTZ: I'm just looking for dates,
16 Your Honor. Just to Page 60, which is an unsworn statement
17 from somebody—
18 APPEALS OFFICER: The Detective, theoretically?
19 DANIEL SCHWARTZ: Theoretically. Just to the
20 legal conclusions it draws, I don't think whoever Detective
21 Watford [phonetic] that apparently doesn't sign documents
22 but prints his name instead, really has any legal bearing
23 on this case.
24 APPEALS OFFICER: Right. Alika?
25 ALIKA ANGERMAN: That's fine, Your Honor.

1 APPEALS OFFICER: We'll admit this, minus Page
2 60. So, it will be a packet of 73 pages. That will be
3 introduced as Claimant's Exhibit 1. Next we have a packet
4 filed by the Claimant on November 22nd of last year,
5 consisting of eight pages. Mr. Schwartz?
6 DANIEL SCHWARTZ: No objection, Your Honor.
7 APPEALS OFFICER: That will be Claimant's #2.
8 Then we have a packet filed January 19th of this year,
9 consisting of five pages. Mr. Schwartz?
10 DANIEL SCHWARTZ: No objection, Your Honor.
11 APPEALS OFFICER: That will be marked as
12 Claimant's Exhibit #3. Then, #4—
13 DANIEL SCHWARTZ: When was that filed?
14 APPEALS OFFICER: Number four?
15 DANIEL SCHWARTZ: Correct, well, what you're
16 calling #4.
17 APPEALS OFFICER: January 31st.
18 DANIEL SCHWARTZ: May I see it?
19 APPEALS OFFICER: I think you might want to
20 take a look at it. Let's go off the record.
21 OFF THE RECORD
22 ON THE RECORD
23 APPEALS OFFICER: Mr. Schwartz, you had a
24 chance to take a look a look at Claimant's proposed Exhibit
25 4?

1 DANIEL SCHWARTZ: That's correct, Your Honor.
2 APPEALS OFFICER: And, with no objections?
3 DANIEL SCHWARTZ: No objections.
4 APPEALS OFFICER: That will be marked as
5 Claimant's Exhibit #4. No further documentation?
6 ALIKA ANGERMAN: No, Your Honor.
7 APPEALS OFFICER: We do have an interpreter
8 here today. Sir, if you could state your name for the
9 record.
10 INTERPRETER: Interpreter's name for the
11 record is Napoleon Buenrostra [phonetic].
12 APPEALS OFFICER: And, sir, do you solemnly
13 swear to translate from English to Spanish and Spanish to
14 English to the best of your ability, the testimony in this
15 matter?
16 INTERPRETER: I do.
17 APPEALS OFFICER: Opening statement or waive?
18 ALIKA ANGERMAN: I waive, Your Honor and allow
19 the Claimant to testify.
20 APPEALS OFFICER: Waive?
21 DANIEL SCHWARTZ: I'll waive opening as well,
22 Your Honor. I believe you've already indicated that we're
23 going to—well, I'm going to invoke the—
24 APPEALS OFFICER: Right.
25 DANIEL SCHWARTZ: Invoke the Exclusionary Rule.

1 APPEALS OFFICER: Have your witness step
2 outside and wait in the lobby.
3 DANIEL SCHWARTZ: And, I don't know if you want
4 to tell them, there are going to be a hundred attorneys
5 sitting out there. I've told my witnesses, they might be
6 more comfortable—well, too late. He may just be sitting
7 out there with a bunch of—there's a meeting going on.
8 APPEALS OFFICER: Right. Okay. Let's get the
9 witness sworn in. Sir, do you swear or affirm that the
10 testimony you're about to give in this matter shall be the
11 truth, the whole truth and nothing but the truth?
12 MARTIN DURAN-PEREZ: I do.
13 APPEALS OFFICER: Thank you. Mr. Angerman?
14 ALIKA ANGERMAN: Yes, Your Honor. Mr. Perez,
15 can you tell me the name of the company you worked for on
16 the day of the accident?
17 MARTIN DURAN-PEREZ: Focus.
18 ALIKA ANGERMAN: And, what was your job title?
19 MARTIN DURAN-PEREZ: Carpentry.
20 ALIKA ANGERMAN: And, can you please explain
21 what happened on the day of the accident?
22 MARTIN DURAN-PEREZ: I was working and I received
23 my paycheck and I noticed that the amount was low. So, I
24 talked to Pedro and asked him what had happened, what was
25 going on. I asked him if there was some kind of error. He

1 said it was okay. I asked him, how is it that it is okay?
2 He always does the same thing to everyone. When I told him
3 it wasn't okay, what he was doing, his son pushed me from
4 behind.
5 ALIKA ANGERMAN: Who is Pedro?
6 MARTIN DURAN-PEREZ: Pedro is the father to the
7 guy who pushed me.
8 ALIKA ANGERMAN: And, what was Pedro's job
9 title in Focus?
10 MARTIN DURAN-PEREZ: Pedro had his team and he's
11 the one that gave us work at the company.
12 ALIKA ANGERMAN: And, were you working for
13 Pedro on the day of the accident?
14 MARTIN DURAN-PEREZ: No.
15 ALIKA ANGERMAN: Why did you speak with Pedro
16 if you weren't working for him?
17 MARTIN DURAN-PEREZ: Because he's the one that
18 gave me the check.
19 ALIKA ANGERMAN: And, who do you normally talk
20 to regarding your checks?
21 MARTIN DURAN-PEREZ: Well, the thing is, he gave
22 it to me and I was working with him, so I was supposed to
23 talk to him.
24 ALIKA ANGERMAN: And, do you recall what day
25 the accident occurred on?

1 MARTIN DURAN-PEREZ: December 30, 2016.

2 ALIKA ANGERMAN: And, what happened after you

3 were pushed?

4 MARTIN DURAN-PEREZ: So, he pushed me and then

5 Eduardo took me to the truck and then he even said, so you

6 remember me, you son of a bitch.

7 ALIKA ANGERMAN: And, who is Eduardo?

8 MARTIN DURAN-PEREZ: My brother-in-law and co-

9 worker.

10 ALIKA ANGERMAN: And, do you know the name of

11 Pedro's son?

12 MARTIN DURAN-PEREZ: I don't remember.

13 ALIKA ANGERMAN: And, did you go to a medical

14 facility on the day of the accident?

15 MARTIN DURAN-PEREZ: I was in a hospital in

16 Henderson, yes.

17 ALIKA ANGERMAN: And, who took you there?

18 MARTIN DURAN-PEREZ: Well, when I came to, I was

19 at the hospital.

20 ALIKA ANGERMAN: No further questions, Your

21 Honor.

22 APPEALS OFFICER: Mr. Schwartz?

23 DANIEL SCHWARTZ: Mr. Duran-Perez, for Focus,

24 what was your job title?

25 MARTIN DURAN-PEREZ: Priming.

1 DANIEL SCHWARTZ: I'm sorry?
2 INTERPRETER: Priming.
3 DANIEL SCHWARTZ: So, you did Priming at Focus?
4 MARTIN DURAN-PEREZ: Uh huh.
5 DANIEL SCHWARTZ: You have to say 'yes' or 'no'
6 please.
7 MARTIN DURAN-PEREZ: Yes.
8 DANIEL SCHWARTZ: What does 'Priming' mean,
9 what do you do?
10 MARTIN DURAN-PEREZ: Carpentry.
11 DANIEL SCHWARTZ: Okay and so, what—does Focus
12 do the carpentry work on residential houses?
13 MARTIN DURAN-PEREZ: Yes.
14 DANIEL SCHWARTZ: And, by that, I mean, these
15 are like the initial framing that's done, the skeleton, so
16 to speak of a house, is that correct?
17 MARTIN DURAN-PEREZ: Yes.
18 DANIEL SCHWARTZ: And, how long had you worked
19 for Focus at the time of this incident?
20 MARTIN DURAN-PEREZ: About a month, month and a
21 half.
22 DANIEL SCHWARTZ: Am I correct that there are
23 what I would call crews, which is groups of individuals
24 that work together on a specific house at a specific time?
25 MARTIN DURAN-PEREZ: I don't remember.

1 DANIEL SCHWARTZ: Okay. I'm just going to use
2 the word 'father' and 'son', so we don't have an issue with
3 names. Is that okay, do you understand who I mean when I
4 say the father and the son?
5 MARTIN DURAN-PEREZ: Yes.
6 DANIEL SCHWARTZ: On this—on the day of the
7 incident, was the father your crew leader?
8 MARTIN DURAN-PEREZ: Yes.
9 DANIEL SCHWARTZ: So, he was in charge of your
10 crew that day?
11 MARTIN DURAN-PEREZ: No.
12 DANIEL SCHWARTZ: Okay. Who was in charge of
13 your crew on the day of the incident?
14 MARTIN DURAN-PEREZ: Francisco.
15 DANIEL SCHWARTZ: And, were you working on the
16 same house as the father or a different house?
17 MARTIN DURAN-PEREZ: In front, across.
18 DANIEL SCHWARTZ: So, it was a different house.
19 MARTIN DURAN-PEREZ: Yes.
20 DANIEL SCHWARTZ: How far away was the house
21 you were working on from the house that ultimately the
22 incident happened at?
23 MARTIN DURAN-PEREZ: Here to here, is in front,
24 across.
25 DANIEL SCHWARTZ: About 100 feet?

1 MARTIN DURAN-PEREZ: About three houses away.
2 DANIEL SCHWARTZ: Okay. And, these are just—
3 are these normal residential houses?
4 MARTIN DURAN-PEREZ: Yes.
5 DANIEL SCHWARTZ: Am I correct that—well, let
6 me ask this question, do you know who Nick Pao, P-A-O is?
7 INTERPRETER: I'd like to make a
8 clarification.
9 MARTIN DURAN-PEREZ: Well, he—he was working
10 there, he does inspection.
11 DANIEL SCHWARTZ: Okay, I'm just going to call
12 him Nick. As far as you know, is Nick the Safety Director,
13 or the person who is in charge of Safety?
14 MARTIN DURAN-PEREZ: Yes.
15 DANIEL SCHWARTZ: Did you speak to Nick that
16 day, before the incident?
17 MARTIN DURAN-PEREZ: No.
18 DANIEL SCHWARTZ: Did you discuss with Nick the
19 problem with your paycheck, before the incident?
20 MARTIN DURAN-PEREZ: No.
21 DANIEL SCHWARTZ: Did you talk to anyone, in
22 the Safety Department, on the day of the incident, before
23 the incident, about your paycheck?
24 MARTIN DURAN-PEREZ: No.
25

1 DANIEL SCHWARTZ: Where were you right before
2 you got to the house where the father and son were working?
3 MARTIN DURAN-PEREZ: I was working Francisco-
4 Pancho's house.
5 DANIEL SCHWARTZ: And, did you leave
6 Francisco's house to go talk to the father?
7 MARTIN DURAN-PEREZ: Yes.
8 DANIEL SCHWARTZ: And, the purpose of that was
9 to discuss your paycheck?
10 MARTIN DURAN-PEREZ: Yes.
11 DANIEL SCHWARTZ: Was the father on the roof of
12 the house, when you got to the house?
13 MARTIN DURAN-PEREZ: Yes.
14 DANIEL SCHWARTZ: Did you climb up a ladder to
15 get to the roof of the house?
16 MARTIN DURAN-PEREZ: Yes.
17 DANIEL SCHWARTZ: Do you remember what kind of
18 ladder it was?
19 MARTIN DURAN-PEREZ: Don't recall.
20 DANIEL SCHWARTZ: Did you climb up the front or
21 the back of the house?
22 MARTIN DURAN-PEREZ: The middle.
23 DANIEL SCHWARTZ: The middle portion of the
24 house?
25 MARTIN DURAN-PEREZ: The right side.

1 DANIEL SCHWARTZ: Okay. When you got to the
2 roof, did you utilize fall protection?
3 MARTIN DURAN-PEREZ: No one had it.
4 DANIEL SCHWARTZ: So, no one on the roof was
5 using fall protection?
6 MARTIN DURAN-PEREZ: No.
7 DANIEL SCHWARTZ: How long was your
8 conversation with the father before the incident happened?
9 MARTIN DURAN-PEREZ: Not much, it was about 10
10 minutes.
11 DANIEL SCHWARTZ: And, what did the father say
12 to you during the conversation?
13 MARTIN DURAN-PEREZ: Well, the thing is, I asked
14 him about the check. I asked him why the check was—the
15 amount was so little.
16 DANIEL SCHWARTZ: And, did he tell you
17 anything?
18 MARTIN DURAN-PEREZ: No.
19 DANIEL SCHWARTZ: Did he tell you that you need
20 to go to the office to sort that out?
21 MARTIN DURAN-PEREZ: No.
22 DANIEL SCHWARTZ: Have you ever had a problem
23 with your check being short in the past?
24 MARTIN DURAN-PEREZ: It had never happened.
25

1 DANIEL SCHWARTZ: Was your discussion with the
2 father, did it become more of an argument than a
3 discussion?
4 MARTIN DURAN-PEREZ: The only thing that happened
5 was, I asked him what was going on and that it wasn't fair.
6 DANIEL SCHWARTZ: I guess what I'm trying to
7 figure out is if you talked to him for 10 minutes, and you
8 said to him, my check is short, it isn't fair and he didn't
9 tell you anything, what was the rest of the conversation?
10 MARTIN DURAN-PEREZ: He said it was okay. I told
11 him it wasn't fair.
12 DANIEL SCHWARTZ: Okay, did you raise your
13 voice or did he raise his voice, or both?
14 MARTIN DURAN-PEREZ: No, I just told him that it
15 wasn't right.
16 DANIEL SCHWARTZ: So, that's the extent of the
17 conversation, what you've testified to, is that correct?
18 MARTIN DURAN-PEREZ: Yes.
19 DANIEL SCHWARTZ: I don't have any other
20 questions, Your Honor.
21 APPEALS OFFICER: Any redirect?
22 ALIKA ANGERMAN: Just one question, Your
23 Honor. When did you last work for Pedro before the
24 accident?
25 MARTIN DURAN-PEREZ: It was on a Friday.

1 ALIKA ANGERMAN: When did you—did you work for
2 Pedro the week prior to the accident?
3 MARTIN DURAN-PEREZ: Yes.
4 ALIKA ANGERMAN: No further questions, Your
5 Honor.
6 APPEALS OFFICER: Thank you for your testimony,
7 sir. Mr. Angerman, next witness? Could you have your
8 client, perhaps sit in the back for a second while they—
9 and, this witness is who?
10 ALIKA ANGERMAN: I think it's—what's his full
11 name? Eduardo is the last name? [crosstalk]
12 APPEALS OFFICER: Let's get the name of the
13 witness and spelling.
14 EDUARDO LEON: Eduardo Leon. L-E-O-N.
15 APPEALS OFFICER: Thank you sir. And, Mr.
16 Leon, do you solemnly swear or affirm that the testimony
17 you're about to give in this matter shall be the truth, the
18 whole truth and nothing but the truth?
19 EDUARDO LEON: Yes.
20 APPEALS OFFICER: Direct?
21 ALIKA ANGERMAN: Mr. Leon, were you at the
22 work site on the date of the accident?
23 EDUARDO LEON: Yes.
24 ALIKA ANGERMAN: And, did you observe the
25 conversation between Pedro, the Foreman and the Claimant?

1 EDUARDO LEON: Yes.
2 ALIKA ANGERMAN: And, what did you observe?
3 EDUARDO LEON: Well, he went to ask him
4 about his money and they were arguing and then he was
5 pushed. That's what I saw.
6 ALIKA ANGERMAN: Who pushed who?
7 EDUARDO LEON: Pedro's son pushed Martin.
8 ALIKA ANGERMAN: Was Pedro's son arguing with
9 Martin?
10 EDUARDO LEON: No.
11 ALIKA ANGERMAN: And, where was Pedro's son
12 when the argument happened?
13 EDUARDO LEON: He was at the bottom and in
14 less than a minute, he went up to listen to the
15 conversation they were having.
16 ALIKA ANGERMAN: How far away were you from
17 Pedro and Mr. Perez?
18 EDUARDO LEON: Ten feet.
19 ALIKA ANGERMAN: And, what happened after Mr.
20 Perez was pushed?
21 EDUARDO LEON: I called 9-1-1 and Pedro's
22 son was laughing. He said that he wanted him to remember
23 him for the rest of his life.
24 ALIKA ANGERMAN: And then what happened?
25

1 INTERPRETER: I'd like to make a
2 clarification, please.
3 EDUARDO LEON: The ambulance showed up and
4 we took Martin to—the ambulance showed up, the people in
5 charge of the building showed up and we took Martin to the
6 hospital.
7 ALIKA ANGERMAN: Do you know the names of the
8 people in charge of the building?
9 EDUARDO LEON: His name was Rafa, but I
10 don't know his last name.
11 ALIKA ANGERMAN: Do you know his title?
12 EDUARDO LEON: He's in charge of the
13 building.
14 ALIKA ANGERMAN: What is your relationship
15 with Mr. Perez?
16 EDUARDO LEON: He's my brother-in-law.
17 APPEALS OFFICER: Brother-in-law?
18 INTERPRETER: Brother-in-law, Your Honor.
19 ALIKA ANGERMAN: No further questions, Your
20 Honor.
21 APPEALS OFFICER: Cross?
22 DANIEL SCHWARTZ: Mr. Leon, on the day of the
23 incident, who were you employed by?
24 EDUARDO LEON: Focus.
25

1 DANIEL SCHWARTZ: What was your job title, what
2 did you do for them?
3 EDUARDO LEON: I'm a carpenter, I'm a
4 framer.
5 DANIEL SCHWARTZ: I'm sorry, carpenter, framer
6 is that what you said?
7 INTERPRETER: Framer/carpenter, yes.
8 DANIEL SCHWARTZ: How long had you worked for
9 Focus?
10 EDUARDO LEON: A year.
11 DANIEL SCHWARTZ: When working for Focus, as a
12 carpenter, are there different crews or teams that work on
13 houses, or do you just go during the course of a day, from
14 one house, to another house, to another house, to another
15 house?
16 EDUARDO LEON: You finish a house and then
17 you're sent to a different one.
18 DANIEL SCHWARTZ: Okay. On the day of the
19 incident, you said you were about 10 feet away from the
20 conversation, is that accurate?
21 EDUARDO LEON: Yes.
22 DANIEL SCHWARTZ: And, the conversation was
23 happening on a roof, is that correct? You have to say yes
24 or no please.
25 EDUARDO LEON: Yes.

1 DANIEL SCHWARTZ: And, just, if you don't mind
2 explaining, I'm not telling you to say yes or no, just one
3 of the two because nodding doesn't come on.
4 EDUARDO LEON: Okay.
5 DANIEL SCHWARTZ: Were you on the roof when the
6 conversation was happening or were you on the ground?
7 EDUARDO LEON: I was on the sidewalk.
8 DANIEL SCHWARTZ: The roof was—it was a roof of
9 a house, correct? A house in the process of being built?
10 EDUARDO LEON: Yes, it's called decking.
11 DANIEL SCHWARTZ: Was that house the house that
12 you were working on, on the day of the incident?
13 EDUARDO LEON: My house was across, they
14 were at the house across from where I was.
15 DANIEL SCHWARTZ: Okay. So, you were working
16 on a different house then where the incident occurred.
17 EDUARDO LEON: Yes.
18 DANIEL SCHWARTZ: Was--
19 EDUARDO LEON: I didn't work for Pedro.
20 DANIEL SCHWARTZ: Okay. So, was Martin working
21 on the same house as you, on the day of the incident?
22 EDUARDO LEON: He was working on the same
23 house that I was and he went to talk to Pedro.
24 DANIEL SCHWARTZ: Okay. Who was your and
25 Martin's crew leader on the day of the incident?

1 EDUARDO LEON: Francisco Gonzalez.

2 DANIEL SCHWARTZ: And you said, you didn't work

3 for Pedro, does that mean you never worked for Pedro?

4 EDUARDO LEON: No. I didn't work for Pedro.

5 DANIEL SCHWARTZ: Okay.

6 ALIKA ANGERMAN: Counsel—

7 INTERPRETER: I don't think he understood

8 the question, do you mind if I ask it again?

9 APPEALS OFFICER: Go ahead.

10 EDUARDO LEON: Never worked for Pedro.

11 APPEALS OFFICER: Okay.

12 DANIEL SCHWARTZ: Counsel, can you show him

13 Page 14 of my Exhibit? And, if Your Honor doesn't mind,

14 I'm going to approach the Interpreter.

15 APPEALS OFFICER: Certainly.

16 INTERPRETER: Thank you, Counsel.

17 ALIKA ANGERMAN: 14?

18 DANIEL SCHWARTZ: 14. [inaudible]. Okay,

19 yeah. Mr. Leon, do you recognize the handwriting on Page

20 14?

21 EDUARDO LEON: Uh huh.

22 DANIEL SCHWARTZ: You have to say yes or no,

23 please.

24 EDUARDO LEON: Yes.

25

1 DANIEL SCHWARTZ: Mr. Angerman, can you show
2 him the next page? How about the handwriting on Page 15?
3 I don't have a copy so I'm just blindly asking you.
4 EDUARDO LEON: Yes.
5 DANIEL SCHWARTZ: The handwriting on Pages 14
6 and 15, is that yours?
7 EDUARDO LEON: Yes.
8 DANIEL SCHWARTZ: Do you remember preparing
9 this statement?
10 EDUARDO LEON: No.
11 DANIEL SCHWARTZ: You do not remember doing
12 this statement, is that correct?
13 EDUARDO LEON: I did write it.
14 DANIEL SCHWARTZ: Okay. I'm asking you if you
15 remember writing it.
16 EDUARDO LEON: Yes.
17 DANIEL SCHWARTZ: Were you asked to prepare a
18 statement?
19 EDUARDO LEON: Yes, by the people in charge
20 of Safety. The company's Safety Department.
21 DANIEL SCHWARTZ: Do you remember the names of
22 anyone who asked you to prepare the statement?
23 EDUARDO LEON: Kevin and the boss' name, but
24 I don't recall his name.
25 DANIEL SCHWARTZ: Did they tell what to write?

1 EDUARDO LEON: No.

2 DANIEL SCHWARTZ: If you could, can you read
3 that statement, in Spanish, but not all at once, if you
4 could maybe read a couple lines and then allow the
5 Interpreter to interpret and then a couple lines and allow
6 the Interpreter to interpret so we can have a translation
7 of that in the record.

8 EDUARDO LEON: Okay.

9 DANIEL SCHWARTZ: And, please read it word for
10 word.

11 EDUARDO LEON: Okay.

12 INTERPRETER: Thank you, it makes it easier
13 [inaudible]

14 EDUARDO LEON: Pancho gave Martin his check
15 and he looked at him. It was very little and he went up to
16 ask Pedro about it. They started talking and after, they
17 got a little—they were a little altered but they didn't
18 shout. They used their hands and Pedro's son went up a
19 little upset. In some instance, he pushed him. I,
20 Eduardo, went up and asked what happened. Martin was on
21 the floor after. I asked for help and nobody wanted to
22 help me because they were in shock. We picked him up and
23 then Pedro's son was laughing or making fun with hatred in
24 his voice, so that you remember me.

25

1 DANIEL SCHWARTZ: Is that statement true and
2 accurate?
3 EDUARDO LEON: Yes.
4 DANIEL SCHWARTZ: If you don't mind, do you—I
5 know you said you've never worked with Pedro, have you ever
6 seen Pedro before?
7 EDUARDO LEON: Yes, we work at the same
8 company.
9 DANIEL SCHWARTZ: Do you know how old or
10 approximately how old Pedro is?
11 EDUARDO LEON: No.
12 DANIEL SCHWARTZ: How about compared to me, do
13 you think he's younger or older than me, if you have an
14 opinion?
15 EDUARDO LEON: Younger.
16 DANIEL SCHWARTZ: Is he tall, is he short?
17 EDUARDO LEON: Medium height.
18 DANIEL SCHWARTZ: Is he big or small, size
19 wise?
20 EDUARDO LEON: Average.
21 DANIEL SCHWARTZ: How about his sons, I'm
22 assuming he's younger than him.
23 EDUARDO LEON: Uh huh.
24 DANIEL SCHWARTZ: Is he big or small, his son?
25 EDUARDO LEON: Average and thin.

1 DANIEL SCHWARTZ: Okay. I don't have any other
2 questions, Your Honor.
3 APPEALS OFFICER: Any redirect?
4 ALIKA ANGERMAN: No redirect, Your Honor.
5 APPEALS OFFICER: Okay, thank you, Mr. Leon,
6 for your testimony.
7 EDUARDO LEON: Okay.
8 APPEALS OFFICER: Mr. Angerman, do you want to
9 release Mr. Leon to head home, unless somebody is going to
10 recall him?
11 DANIEL SCHWARTZ: I think they came together,
12 Your Honor.
13 ALIKA ANGERMAN: Yeah, I think they came
14 together, so it's fine.
15 APPEALS OFFICER: Okay. Are there any other
16 witnesses?
17 ALIKA ANGERMAN: No other witnesses, Your
18 Honor.
19 APPEALS OFFICER: And, Mr. Schwartz, what
20 witnesses do you have?
21 DANIEL SCHWARTZ: Well, I'll start with Nick,
22 who you have a statement from. I have the two safety
23 people.
24 APPEALS OFFICER: Okay.
25 DANIEL SCHWARTZ: May I go?

1 APPEALS OFFICER: Yeah, of course.

2 DANIEL SCHWARTZ: Just asking. [pause] Nick,
3 you're going to go to that chair right there, that I didn't
4 have a chance to show you. It's a little bit crazy out
5 there, Your Honor.

6 APPEALS OFFICER: I only asked you—we're still
7 on the record. I didn't know if Pedro and/or his son was
8 going to be here—

9 DANIEL SCHWARTZ: I didn't think it was wise,
10 Your Honor.

11 APPEALS OFFICER: If there's any animosity or—
12 right, okay. That's why I asked.

13 DANIEL SCHWARTZ: So, this is Nick. His last
14 name is—we're still on the record, correct?

15 APPEALS OFFICER: Yes.

16 DANIEL SCHWARTZ: His last name is P-A-O, I
17 haven't asked him how to pronounce it yet.

18 APPEALS OFFICER: Okay.

19 NICHOLAS PAO: Pao. P-A-O.

20 APPEALS OFFICER: Pao?

21 NICHOLAS PAO: Yes.

22 APPEALS OFFICER: Mr. Pao, do you solemnly
23 swear or affirm that the testimony you're about to give in
24 this matter shall be the truth, the whole truth and nothing
25 but the truth?

1 NICHOLAS PAO: Yes sir.
2 APPEALS OFFICER: Okay, thank you. Mr.
3 Schwartz.
4 DANIEL SCHWARTZ: Could you state your name and
5 spell your last name for the record, even though you just
6 did it?
7 NICHOLAS PAO: Okay. My name is Nicholas
8 Pao. P-A-O.
9 DANIEL SCHWARTZ: Do you mind if I call you
10 Nick?
11 NICHOLAS PAO: Yeah, that's fine.
12 DANIEL SCHWARTZ: Nick, where do you work?
13 NICHOLAS PAO: I work for Focus Companies.
14 My position is Safety Director.
15 DANIEL SCHWARTZ: How long have you been there?
16 NICHOLAS PAO: This June will be five years.
17 DANIEL SCHWARTZ: Have you ever testified in a
18 Worker's Compensation Claim before?
19 NICHOLAS PAO: No, this is the first time.
20 DANIEL SCHWARTZ: Okay. If any of us say
21 anything to you, like you have to say yes or no, or you're
22 talking too quietly, it's not because we're trying to
23 offend you, it's because the microphone in front of you
24 records, it doesn't amplify and we need the questions
25 answered in either yes or no. Is that okay?

1 NICHOLAS PAO: Okay, yes.
2 DANIEL SCHWARTZ: As the Safety Director, do
3 you deal with the Framing Department?
4 NICHOLAS PAO: Yes.
5 DANIEL SCHWARTZ: Is that—does that have a
6 different title, the Framing Department or is it all part
7 of Focus?
8 NICHOLAS PAO: No, it's all part of Focus.
9 We have a plumbing division, electrical division, a
10 landscape division, a concrete division and framing
11 division.
12 DANIEL SCHWARTZ: And, are you the Safety
13 Director over all the different--
14 NICHOLAS PAO: Over all the companies, yes.
15 DANIEL SCHWARTZ: Is there a Safety Director
16 just for the Framing Division, or safety person?
17 NICHOLAS PAO: I have two managers, Kevin
18 Mendoza which he's outside and Angel Cabrera, are the two
19 Safety Managers for—strictly for the Framing Division.
20 DANIEL SCHWARTZ: Okay. So, the Framing
21 Division has two managers and then you oversee both of them
22 as the Safety Director.
23 NICHOLAS PAO: Yes. Yes.
24
25

1 DANIEL SCHWARTZ: Are you familiar with Martin
2 Duran-Perez who is the gentleman in the black coat, sitting
3 next to Mr. Angerman, who is the guy in the tie?
4 NICHOLAS PAO: Yes.
5 DANIEL SCHWARTZ: How do you know him?
6 NICHOLAS PAO: He was working for Focus
7 Framing.
8 DANIEL SCHWARTZ: As a—in the Framing Division,
9 are there things called crews?
10 NICHOLAS PAO: Yeah, we have—right now, we
11 have a total of 33 crews out in the Valley. We have what's
12 called a Crew Leader. They are like the designated person
13 who takes charge of that crew.
14 DANIEL SCHWARTZ: And, how many people,
15 approximately are on each crew, or does it just vary?
16 NICHOLAS PAO: It varies on average between—
17 sometimes, five—five man crews upwards of—we have some
18 crews that are 13—13-man crews out there.
19 DANIEL SCHWARTZ: How does a person get on a
20 crew, if that makes sense?
21 NICHOLAS PAO: Usually the Crew Leader will
22 request if they can get them hired on and then they fill
23 out all the proper documentation, new hire orientation and
24 then they go to work for that crew.
25

1 DANIEL SCHWARTZ: And, do people sometimes
2 switch from one crew to the other, once they're employed by
3 Focus?
4 NICHOLAS PAO: Yes. They do switch off and
5 on. I mean, sometimes, the—another crew may offer them
6 more money, so what they'll do is they'll switch over to
7 another crew.
8 DANIEL SCHWARTZ: Prior to being in the Safety
9 Department, did you work in the construction industry?
10 NICHOLAS PAO: I've been in the construction
11 industry for 15 years. I've worked for MS Concrete and
12 then after that, I worked in Safety and Health for two and
13 a half years at a medical facility. I've been with Focus,
14 in Safety for just under five years.
15 DANIEL SCHWARTZ: And, are you working—I mean,
16 I know you're here with us today, but are you working
17 today?
18 NICHOLAS PAO: Yes, I am working today.
19 DANIEL SCHWARTZ: The orange shirt, underneath,
20 is that like designed to--
21 NICHOLAS PAO: That's safety, you know.
22 Yeah.
23 DANIEL SCHWARTZ: Okay. Are you familiar with
24 a Crew Leader named Pedro?
25 NICHOLAS PAO: Yes.

1 DANIEL SCHWARTZ: What's Pedro's last name?
2 NICHOLAS PAO: Rosales.
3 DANIEL SCHWARTZ: And there's been some
4 testimony earlier about a Crew Leader named—within the
5 Framing Department named Francisco, are you familiar with
6 him?
7 NICHOLAS PAO: Yes, Francisco Gonzalez.
8 DANIEL SCHWARTZ: Are those two different crew
9 leaders?
10 NICHOLAS PAO: Two different crew leaders,
11 yes.
12 DANIEL SCHWARTZ: Do you remember the day of
13 the incident involving Mr. Duran-Perez?
14 NICHOLAS PAO: Yes.
15 DANIEL SCHWARTZ: Do you remember the location
16 of the incident?
17 NICHOLAS PAO: It was in Inspirada Green
18 Courts.
19 DANIEL SCHWARTZ: Is that a housing
20 development?
21 NICHOLAS PAO: Yeah, for KB Homes.
22 DANIEL SCHWARTZ: Okay. What does Focus, the
23 Framing Department, at that time, what were they doing for
24 KB Homes?
25

1 NICHOLAS PAO: We were framing single-family
2 resident homes, over there.
3 DANIEL SCHWARTZ: So, just so I have the
4 picture in my head, is that kind of putting up the skeleton
5 of the house?
6 NICHOLAS PAO: Yeah. Yeah, the framing
7 structure of a house.
8 DANIEL SCHWARTZ: Were you on the jobsite when
9 the incident occurred with Mr. Duran-Perez?
10 NICHOLAS PAO: I was not on the jobsite at
11 the time it happened, but I was there earlier that day.
12 DANIEL SCHWARTZ: Okay, that was going to be
13 next question, had you been on that jobsite that day?
14 NICHOLAS PAO: Yes, I was on the jobsite
15 that day.
16 DANIEL SCHWARTZ: Did you talk to Mr. Duran-
17 Perez that day?
18 NICHOLAS PAO: Yes, I did, matter of fact,
19 speak to Martin that day because there was somewhat of a
20 language barrier. My other Safety Manager, Kevin Mendoza,
21 was there present too.
22 DANIEL SCHWARTZ: So, do you not speak Spanish?
23 NICHOLAS PAO: I speak, not fluent Spanish,
24 but I do speak Spanish to where I can understand some, but
25 if they start speaking real fast, I do have a little hard

1 time understanding. So, when it gets to that point, that's
2 when I'll call in to ask for help.
3 DANIEL SCHWARTZ: Do you remember what the
4 conversation you had, obviously with Kevin's assistance,
5 was about with Mr. Duran-Perez?
6 NICHOLAS PAO: Yeah, he brought it to our
7 attention that there was a discrepancy on his paycheck from
8 Pedro. We had basically told him, at the end of the day,
9 take it to the office and Lucy would get that corrected.
10 DANIEL SCHWARTZ: At that point in time, when
11 you were having this conversation with him, would Pedro
12 have had any ability to do anything with that paycheck?
13 NICHOLAS PAO: No. He couldn't have done
14 nothing. He could've maybe made a phone call and told Lucy
15 to get the check corrected, but as far as him cutting a
16 check for him, no.
17 DANIEL SCHWARTZ: So, your—your—I don't want to
18 say advice, but what you told Mr. Duran-Perez, concerning
19 the paycheck was to go to the office.
20 NICHOLAS PAO: Go to the office at the end
21 of the day. Yeah.
22 DANIEL SCHWARTZ: And then did you leave the
23 jobsite?
24 NICHOLAS PAO: Yeah.
25

1 DANIEL SCHWARTZ: Are you familiar that—are you
2 aware that an incident happened later?
3 NICHOLAS PAO: Yeah. I did find out that
4 there was an incident.
5 DANIEL SCHWARTZ: And, as part of the incident,
6 did you do some investigative, getting some statements, et
7 cetera?
8 NICHOLAS PAO: Uh huh. Yes--
9 DANIEL SCHWARTZ: You have to say yes or no.
10 NICHOLAS PAO: I went and—I went and did my
11 investigation. I took my photos. I even met him at UMC,
12 just to follow-up and make sure his condition was okay.
13 DANIEL SCHWARTZ: So, just from a—from a very
14 simplistic version of what happened, Mr. Duran-Perez was
15 pushed off a roof, or a deck, is that your understanding?
16 NICHOLAS PAO: Correct, yes.
17 DANIEL SCHWARTZ: The roof—am I using the right
18 term when I say 'roof' or--
19 NICHOLAS PAO: It's—it's not a roof, it's a
20 deck to a second story home.
21 DANIEL SCHWARTZ: Okay. So, that would be the
22 floor of the second story?
23 NICHOLAS PAO: The floor of the second,
24 yeah—approximately about 12 feet from the subfloor, to the
25 ground is about 12 feet that he fell.

1 DANIEL SCHWARTZ: Okay. When you're on a deck
2 that's 12 feet above the ground level, from a safety
3 perspective, are you supposed to be using fall protection?
4 NICHOLAS PAO: Yes, correct. Under
5 1926.500(m), any time you work above six feet, you are
6 required to wear fall protection.
7 DANIEL SCHWARTZ: Mr. Duran-Perez has said that
8 none of the other guys on the roof were wearing fall
9 protection, is that—did you yield that from your
10 investigation?
11 NICHOLAS PAO: No. Not that I know. Pedro
12 said—what he had stated to me, in my investigation, he was
13 tied off.
14 DANIEL SCHWARTZ: Okay. Obviously, Mr. Duran-
15 Perez wasn't tied off--
16 NICHOLAS PAO: Correct.
17 DANIEL SCHWARTZ: --because he came off the
18 roof.
19 NICHOLAS PAO: Yes.
20 DANIEL SCHWARTZ: I don't have any other
21 questions, Your Honor.
22 APPEALS OFFICER: Cross?
23 ALIKA ANGERMAN: Yes, Your Honor. Just to
24 focus on the checks for a moment. Who approves of the time
25 periods that are added to the checks?

1 NICHOLAS PAO: The checks are actually
2 written out by the crew leaders and then they're given to
3 the foremans and then the foremans turn it into payroll.
4 ALIKA ANGERMAN: So, does the foremans have
5 any say as far as like, the hours that people work?
6 NICHOLAS PAO: They're not going to really
7 keep control of the—of who approves what, you know.
8 Usually the crew leaders are the ones that, you know,
9 determine how many hours they work, you know, for that
10 week.
11 ALIKA ANGERMAN: So, the crew leader is going
12 to be the ones that would be tracking the hours?
13 NICHOLAS PAO: Somewhat, yeah.
14 ALIKA ANGERMAN: Okay. Now, with—mentioning
15 the Claimant was on the deck, it was about 12 feet from the
16 ground.
17 NICHOLAS PAO: Correct.
18 ALIKA ANGERMAN: Had he been wearing the
19 safety equipment, would he still have hit—would he still
20 have hit the ground or--
21 NICHOLAS PAO: Absolutely not. The
22 retractables that we use, they have a stopping distance of
23 18-inches. So, even if—if he had the harness, proper
24 harness, retractable, and a 5,000 pound anchor point, if
25 they do fall off, they're going to fall approximately 18

1 inches and he would've been hanging on the side of the
2 building.
3 ALIKA ANGERMAN: And, as far as your
4 investigation into determining whether people, whether the
5 crew was wearing the safety equipment, the extent was just
6 asking Mr.—or, excuse me, asking Pedro, whether the rest of
7 the crew was compliant?
8 NICHOLAS PAO: From during my investigation,
9 Pedro was the only one that was up on the roof, or not the
10 roof, the deck and he was tied off.
11 ALIKA ANGERMAN: Oh.
12 NICHOLAS PAO: Yeah.
13 ALIKA ANGERMAN: So, you asked him and he said
14 he was tied off?
15 NICHOLAS PAO: Yes.
16 ALIKA ANGERMAN: All right. No further
17 questions.
18 NICHOLAS PAO: No further questions?
19 APPEALS OFFICER: Any redirect?
20 DANIEL SCHWARTZ: Yes. You obviously know that
21 Pedro's son was also up there at some point, correct?
22 NICHOLAS PAO: Correct, yes.
23 DANIEL SCHWARTZ: Did you speak to him
24 afterwards?
25

1 NICHOLAS PAO: Yes, we did also get a
2 statement from him. I did speak to him too.
3 DANIEL SCHWARTZ: Did you ask him about being
4 tied off?
5 NICHOLAS PAO: Yes, I did and he stated he
6 was not tied off. He—he had stated to me, I know it's—he
7 stated that he heard his dad and Martin arguing up there on
8 the top, so he went up there in defense of his father.
9 DANIEL SCHWARTZ: Okay.
10 NICHOLAS PAO: Yeah.
11 DANIEL SCHWARTZ: Just one question about the—
12 about the keeping track of payroll, for lack of a better
13 way of putting it. So I understand correctly, the crew
14 leader somehow keeps track, is that accurate?
15 NICHOLAS PAO: Yeah. He'll submit his time
16 into the foreman. The foreman will check to make sure,
17 like if they're going to turn in time for standing the
18 walls or doing the deck, it's all based on a piece working
19 system. So, he just wants to make sure that the work that
20 they've done, that they're turning in the time for. The
21 work is completed.
22 DANIEL SCHWARTZ: So, the crew leader turns in
23 the time to a foreman.
24 NICHOLAS PAO: Yeah.
25

1 DANIEL SCHWARTZ: The foreman verifies that
2 whatever the tasks are were actually done.
3 NICHOLAS PAO: Were completed, yeah.
4 DANIEL SCHWARTZ: And then the foreman turns it
5 into the office.
6 NICHOLAS PAO: Turns it into the office.
7 DANIEL SCHWARTZ: The office then generates
8 paychecks.
9 NICHOLAS PAO: Generates the checks, yes.
10 DANIEL SCHWARTZ: So, again, if there's a
11 problem with the check, the person who generated the check
12 is the office.
13 NICHOLAS PAO: Correct.
14 DANIEL SCHWARTZ: Okay. I don't have any other
15 questions, Your Honor.
16 APPEALS OFFICER: Okay, thank you sir, for your
17 testimony.
18 NICHOLAS PAO: Yes sir, thank you.
19 APPEALS OFFICER: Can this witness be excused?
20 DANIEL SCHWARTZ: Both guys—we had this
21 conversation. They came together as well, so.
22 NICHOLAS PAO: Yeah, I'll hang out outside.
23 APPEALS OFFICER: Okay, thank you sir.
24 DANIEL SCHWARTZ: May I go get my next witness?
25 [pause] You're going to—oh, I'm sorry. I didn't get to

1 show you before. You're going to sit in the chair—the
2 chair with the microphone please.
3 APPEALS OFFICER: Sir, if you'd have a seat
4 there. Do you need an interpreter or—
5 KEVIN MENDOZA: No, we're okay.
6 APPEALS OFFICER: Okay. And, if you could
7 please state your name?
8 KEVIN MENDOZA: Kevin Mendoza.
9 APPEALS OFFICER: Okay. Mr. Mendoza, do you
10 solemnly swear or affirm that the testimony you're about to
11 give in this matter shall be the truth, the whole truth and
12 nothing but the truth?
13 KEVIN MENDOZA: Yes sir.
14 APPEALS OFFICER: Thank you sir. Mr. Schwartz.
15 DANIEL SCHWARTZ: Mr. Mendoza, first name is
16 spelled the normal Kevin, K-E-V-I-N?
17 KEVIN MENDOZA: Correct.
18 DANIEL SCHWARTZ: And, will you just spell your
19 last name for the record?
20 KEVIN MENDOZA: M-E-N-D-O-Z-A.
21 DANIEL SCHWARTZ: Mr. Mendoza, where do you—do
22 you mind if I call you Kevin?
23 KEVIN MENDOZA: Yeah, that's fine.
24 DANIEL SCHWARTZ: Okay. Where do you work?
25 KEVIN MENDOZA: Focus Framing.

1 DANIEL SCHWARTZ: How long have you worked
2 there?
3 KEVIN MENDOZA: About a year and three
4 months, four months.
5 DANIEL SCHWARTZ: Do you have a job title at
6 Focus Framing?
7 KEVIN MENDOZA: Yeah, I'm a Safety
8 Supervisor.
9 DANIEL SCHWARTZ: Can you give us a little bit
10 of background, as to how you become a safety supervisor?
11 KEVIN MENDOZA: I started off being a
12 plumber. Ended up taking my OSHA 30, came in contact with
13 Nick and I'm here now.
14 DANIEL SCHWARTZ: So, you have OSHA 30, that's
15 a class?
16 KEVIN MENDOZA: Correct.
17 DANIEL SCHWARTZ: Okay. Are there more than
18 one person in your role for Focus Framing?
19 KEVIN MENDOZA: Yes.
20 DANIEL SCHWARTZ: How many others are there?
21 KEVIN MENDOZA: Other than Nick, there would
22 be one more other person.
23 DANIEL SCHWARTZ: Okay. So, there's a total of
24 three people in the Safety Department?
25 KEVIN MENDOZA: Correct.

1 DANIEL SCHWARTZ: Are you familiar with Martin
2 Duran-Perez, who is the gentleman in the black coat,
3 sitting next to Mr. Angerman who is wearing a tie?
4 KEVIN MENDOZA: Yes sir.
5 DANIEL SCHWARTZ: How do you know him?
6 KEVIN MENDOZA: He used to be an employee for
7 Focus Framing.
8 DANIEL SCHWARTZ: Okay. Are you aware that an
9 incident occurred back in December of 2016 involving Mr.
10 Duran-Perez?
11 KEVIN MENDOZA: Yes sir.
12 DANIEL SCHWARTZ: Do you know where that
13 incident occurred, what location?
14 KEVIN MENDOZA: It'd be Inspirada Green
15 Courts, the jobsite.
16 DANIEL SCHWARTZ: And, the Inspirada Green
17 Courts, what was Focus Framing doing at that location?
18 KEVIN MENDOZA: Framing houses.
19 DANIEL SCHWARTZ: And, just again, for the
20 record, so we're painting a picture, is that kind of doing
21 the skeleton of a house?
22 KEVIN MENDOZA: Exact—that's exactly what it
23 is.
24
25

1 DANIEL SCHWARTZ: So, when I drive by and see
2 the wood skeletons of houses, that's what Focus Framing was
3 doing that day?
4 KEVIN MENDOZA: Yes sir.
5 DANIEL SCHWARTZ: Were you on the jobsite when
6 the incident happened?
7 KEVIN MENDOZA: No.
8 DANIEL SCHWARTZ: Were you on the jobsite at
9 all that day, prior to the incident happening?
10 KEVIN MENDOZA: Yes.
11 DANIEL SCHWARTZ: Do you remember talking to
12 Mr. Duran-Perez, prior to the incident happening that day?
13 KEVIN MENDOZA: Yes.
14 DANIEL SCHWARTZ: What was the subject of the
15 conversation?
16 KEVIN MENDOZA: He came up in regards to some
17 problem he was having with his check. So, I told him to
18 take it up to the office and get it handled there.
19 DANIEL SCHWARTZ: Was Nick there when this
20 conversation was happening?
21 KEVIN MENDOZA: Yes.
22 DANIEL SCHWARTZ: Was Nick using you to help
23 interpret as well?
24 KEVIN MENDOZA: Yes.
25

1 DANIEL SCHWARTZ: Okay. And, do you speak
2 Spanish?
3 KEVIN MENDOZA: Yes, I do.
4 DANIEL SCHWARTZ: So I understand correctly,
5 Mr. Duran-Perez had an issue with his paycheck?
6 KEVIN MENDOZA: Correct.
7 DANIEL SCHWARTZ: And, you and Nick told him,
8 if you have a question, you need to talk to the office?
9 KEVIN MENDOZA: Yes sir.
10 DANIEL SCHWARTZ: Okay. Did you leave the
11 jobsite at some point that day?
12 KEVIN MENDOZA: Did we leave? Yes. We left.
13 DANIEL SCHWARTZ: Did you later find out that
14 this incident had occurred?
15 KEVIN MENDOZA: Yes.
16 DANIEL SCHWARTZ: Nick's already testified
17 about what he did, as far as the investigation, did you
18 have any role in the investigation, once the incident
19 occurred?
20 KEVIN MENDOZA: I took testimony from the
21 gentlemen. That's about it. I showed up to the hospital.
22 when Mr. Duran was in the hospital.
23 DANIEL SCHWARTZ: Okay. Are you familiar,
24 being one of the safety people for Focus Framing, of the
25 concept of a crew?

1 KEVIN MENDOZA: Yes.
2 DANIEL SCHWARTZ: Can you explain to us what
3 that means?
4 KEVIN MENDOZA: So, a person, there's a crew
5 leader, which is whoever is responsible for the whole crew
6 itself. It can be up to—it can be as low as two people or
7 it can be as much as 10 people, just depending on the crew
8 itself. Each individual has his own responsibility that we
9 don't know. That's between the crew leader and the workers
10 themselves and they build the house. Each crew is
11 responsible for a house at a time.
12 DANIEL SCHWARTZ: Are you familiar with a Crew
13 Leader named Pedro?
14 KEVIN MENDOZA: Yes.
15 DANIEL SCHWARTZ: Was Pedro at one point in
16 time a Crew Leader for Focus Framing?
17 KEVIN MENDOZA: Yes, he was.
18 DANIEL SCHWARTZ: And, how about a Crew Leader
19 named Francisco?
20 KEVIN MENDOZA: Yes.
21 DANIEL SCHWARTZ: Was Francisco a Crew Leader
22 for Focus at one point in time?
23 KEVIN MENDOZA: Yes.
24 DANIEL SCHWARTZ: As Crew Leaders, according to
25 what you just said, I just want to make sure I'm clear,

1 they would each have their own group of people working
2 under them, is that accurate?
3 KEVIN MENDOZA: Correct.
4 DANIEL SCHWARTZ: Are you aware of how the pay
5 works from the Crew Leader level up, meaning, do you know
6 what a crew leader does to get their crew members paid?
7 KEVIN MENDOZA: That I know of, personally,
8 they fill out a timecard per employee and then it gets
9 taken up to management.
10 DANIEL SCHWARTZ: Okay. Management meaning,
11 does it go to a supervisor first?
12 KEVIN MENDOZA: It goes from the foreman and
13 then the foreman take it up to the supervisor, correct.
14 DANIEL SCHWARTZ: So, crew leader to foreman,
15 to the office?
16 KEVIN MENDOZA: To the office, right.
17 DANIEL SCHWARTZ: Is that—okay. I don't have
18 any other questions, Your Honor.
19 APPEALS OFFICER: Cross?
20 ALIKA ANGERMAN: Yes, Your Honor. How often
21 were you on the jobsite prior to the accident?
22 KEVIN MENDOZA: We do routinely [sic]
23 inspections, so I would say on the jobsite, probably to
24 that, that week, or the days prior to it, maybe twice.
25

1 ALIKA ANGERMAN: How well do you know my
2 client, Mr. Perez?
3 KEVIN MENDOZA: I met him actually the day
4 that I first spoke to him because at the time, I was
5 training with Nick. So, I was pretty much just—just
6 learning everybody and who was who.
7 ALIKA ANGERMAN: So, just to be clear, that
8 was your first interaction with Mr. Perez?
9 KEVIN MENDOZA: With Mr. Duran, yes sir.
10 ALIKA ANGERMAN: All right. And, if a worker
11 has an issue with a check, who do they go to discuss that
12 issue?
13 KEVIN MENDOZA: It should be directly to the
14 payroll office.
15 ALIKA ANGERMAN: Where is that located?
16 KEVIN MENDOZA: At our main office which is
17 1220 South Commerce.
18 ALIKA ANGERMAN: Okay. So, there's nothing on
19 the actual jobsite.
20 KEVIN MENDOZA: No, no.
21 ALIKA ANGERMAN: Can you please describe some
22 of your duties as a Safety Manager?
23 KEVIN MENDOZA: Yes sir. So, I show up to
24 the jobsite and do my routine inspection where we check the
25 cords, check their tools, make sure the proper corrals,

1 guards are up on the house. Make sure they're wearing
2 proper [inaudible] and that's about it. Do the training,
3 whatever training is mandated for us to go do that day or
4 for the month.
5 ALIKA ANGERMAN: Okay, thank you. I believe
6 that's it. I have no further questions.
7 APPEALS OFFICER: Any redirect?
8 DANIEL SCHWARTZ: No redirect, Your Honor.
9 APPEALS OFFICER: Thank you sir, for your
10 testimony.
11 KEVIN MENDOZA: Thank you.
12 APPEALS OFFICER: Next witness?
13 DANIEL SCHWARTZ: I don't have a next witness,
14 Your Honor. Oh, I'm sorry, your—since you guys came
15 together, you're free to get out of here.
16 KEVIN MENDOZA: All right, thank you.
17 DANIEL SCHWARTZ: Have another donut, if you
18 want.
19 KEVIN MENDOZA: Thank you.
20 APPEALS OFFICER: Oh, there's donuts out there?
21 DANIEL SCHWARTZ: Ms. Morrison brought donuts
22 for the meeting. So, there's donuts and these little water
23 bottles.
24 APPEALS OFFICER: That's information I could've
25 used about an hour ago.

1 DANIEL SCHWARTZ: I'm sorry, Your Honor, would
2 you like me to get you a donut before we proceed?
3 APPEALS OFFICER: That's all right. Okay, no
4 further witnesses?
5 ALIKA ANGERMAN: Correct.
6 APPEALS OFFICER: Mr. Schwartz, no other
7 witness?
8 DANIEL SCHWARTZ: Correct, Your Honor, sorry.
9 APPEALS OFFICER: Okay, closing.
10 ALIKA ANGERMAN: Yes, Your Honor. As you
11 heard today in the—through the evidence that's been
12 submitted, we were arguing that the Claimant has a
13 compensable claim. There was an accident.
14 In this situation, he—the Claimant has testified
15 that there was an issue with his paycheck and that he went
16 to Pedro, Pedro Gonzalez, who was his foreman the prior
17 week to the accident to discuss this issue. There was an
18 argument, but as everyone involved has testified to, there
19 was a disagreement but there was no shouting and they
20 discussed the issue with the check. What the Claimant
21 believes to be a shortage on his check, with not an
22 accurate accounting of the hours.
23 As this discussion was going on, Mr. Rosales' son
24 entered into the situation and pushed my client off of the—
25 what has been described as a deck, which is apparently 12-

1 feet from the ground, which resulted in the injury to the
2 Claimant as described on Page 6 of the Claimant's packet,
3 through the C4 Form.
4 So, we do have an accident/injury during the
5 course and scope of his employment because the whole issue
6 centers around the discussion of the paycheck and the
7 Claimant was working at the time of the accident.
8 We would argue that the elements of
9 accident/injury in the course and scope have been met.
10 There's no notice issue, as everyone has discussed and it's
11 in the evidence. The Claimant was taken to UMC on the date
12 of the accident, in which he was evaluated by a physician
13 there who had evaluated the Claimant and found the subdural
14 hematoma or the brain bleed, to be work-incurred.
15 So, we are arguing that all the elements of a
16 compensable claim have been met.
17 APPEALS OFFICER: Thank you. Mr. Schwartz.
18 DANIEL SCHWARTZ: Your Honor, I think you first
19 need to pay a little bit of close attention to the
20 testimony you've heard. According to Mr. Duran-Perez, he
21 did not speak with either of the safety people the morning
22 of the incident. They both testified that they did.
23 According to Mr. Duran-Perez, he says that he was
24 having a 10-minute conversation with Pedro when Pedro's son
25 entered the picture. I tried to get him to tell me what

1 happened in those 10 minutes and all he could tell me was,
2 I asked him about my check being shorted and he said,
3 basically, I can't help you with it. That's a pretty quick
4 10-minute conversation.
5 We asked Mr. Duran-Perez if it was an argument.
6 He said, no, but Mr. Leon testified and he used the word
7 'they were arguing'. If you read his written statement,
8 Mr. Leon, he indicates in his written statement that they
9 were—the voices were raised, I guess, we'll put it that
10 way. Again, I don't expect Mr. Leon to throw his brother-
11 in-law under the bus, proverbially and to say they were
12 arguing, but clearly, according to all the documents you
13 have, except for Mr. Duran-Perez, they were arguing.
14 Now, let's kind of back up to how we got to that
15 point. By the way, I just looked at a calendar, December
16 30, 2016 was a Friday. So, we're talking about an entire
17 work week, in a different crew, at a different location
18 that Mr. Duran-Perez was on, versus Pedro.
19 So, an entire week, basically not working with
20 Pedro, Mr. Duran-Perez looks at his check and I assume he
21 got it that day, I'm not—I mean, I would assume they get
22 paid every Friday—finds a shortfall in his check.
23 According to the testimony of the two safety officers, they
24 are confronted by Mr. Duran-Perez. I don't mean in a
25 negative way, just converse with, I guess, is probably a

1 better way of putting it, not the term 'confronted'. They
2 advise him to take it up with the office. And he doesn't.
3 So, starting from that point, I would argue, he
4 is going against the instructions of the Employer, when he
5 chooses to go talk to Pedro about the check.
6 You also have no testimony other than Nick said,
7 Pedro might have been able to call the office and tell the
8 office and then they would have to follow this chain that
9 we've talked about, of Pedro, to foreman, to office, etc.
10 There was nothing, according to any documents you have,
11 that Pedro could've done about this check. So, there's
12 zero reason why Mr. Duran-Perez should've even been talking
13 to Pedro about it.
14 It's not just talking, Your Honor. Mr. Duran-
15 Perez left the job he was working on, which was according
16 to the testimony of Mr. Duran-Perez, approximately three
17 houses away. He didn't wait for Pedro to come down, you
18 know, for a coffee break or a lunch break or any kind of
19 break or the beginning or end of their work day.
20 He climbed up on a ladder, to the second-floor
21 decking or deck, to have this conversation, while Pedro was
22 up there working. And, according to the testimony of Nick,
23 and the statements you have, Pedro was tied off, doing his
24 job when suddenly an individual who is not on his crew any
25 longer, comes to talk to him about a check.

1 Again, although Mr. Duran-Perez says it didn't
2 happen, all the rest of the statements say it happened,
3 that voices escalated and at that point in time, Pedro's
4 son got involved and the unfortunate incident happened.
5 The question becomes, Your Honor, is this work
6 related? That's the question.
7 APPEALS OFFICER: That is the question.
8 DANIEL SCHWARTZ: So, I would direct you to a
9 few different things. We have case law in Nevada, the
10 *Cummings* case. That talks about the insane act of a
11 coworker. Well, Claimant's Exhibit 1, towards the back
12 shows you that apparently a District Court—and they
13 submitted this, I didn't.
14 APPEALS OFFICER: Right.
15 DANIEL SCHWARTZ: Apparently a District Court
16 did not find Pedro's son to be insane because they allowed
17 him to make a plea agreement to a criminal charge, so he's
18 not insane.
19 APPEALS OFFICER: Right.
20 DANIEL SCHWARTZ: I mean, we know that. As in
21 *Cummings*, the person was actually declared insane. So,
22 he's not insane. *Cummings* held the proposition that the
23 insane act of a coworker is compensable within the course
24 and scope of employment.
25

1 *Cummings* also cites us to cases from other
2 jurisdiction, as does *Larson*, Professor Larson's
3 [inaudible] that talks about the fact that altercations on
4 the job are generally compensable unless they involve
5 something for which the two people involved have no
6 jurisdiction or ability to be involved with.
7 So, for example, if, Your Honor, right now in the
8 middle of this Hearing, got up, walked down the hall to
9 confront Appeals Officer Morgando about the change in
10 leadership in the agency and your desire to have the old
11 leader back, versus Ms. Morgando, that's beyond the scope
12 of what either one of you have the ability to discuss.
13 That's exactly what happened in this case, Your
14 Honor.
15 APPEALS OFFICER: What case law is that?
16 DANIEL SCHWARTZ: That's *Larsen*. It's cited in
17 *Cummings*. They give you all the different cases from all
18 the wonderful different jurisdictions that talk about where
19 we draw the line of compensability between an altercation
20 involving individuals, coworkers.
21 APPEALS OFFICER: I mean, we all know that
22 that's what this case comes down to.
23 DANIEL SCHWARTZ: Absolutely.
24 APPEALS OFFICER: Right.
25

1 DANIEL SCHWARTZ: And the two [inaudible]
2 witnesses, other than Mr. Duran-Perez who said to you, they
3 were asked by Mr. Duran-Perez earlier in the day about his
4 check and they directed Mr. Duran-Perez to the office.
5 APPEALS OFFICER: Is there any Nevada Supreme
6 Court case law on this that's a little more close than
7 other jurisdictions?
8 DANIEL SCHWARTZ: You have *Cummings*, as far as
9 I could find, you have the *Cummings* case, which obviously
10 talks about the insane act of a coworker.
11 APPEALS OFFICER: Right.
12 DANIEL SCHWARTZ: You have *McColl*, M-C-C-O-L-L.
13 APPEALS OFFICER: Right.
14 DANIEL SCHWARTZ: Which is actually a third-
15 party coming in.
16 APPEALS OFFICER: Right.
17 DANIEL SCHWARTZ: So, I guess the analogy would
18 be if—
19 APPEALS OFFICER: Yeah, he's a third-party.
20 DANIEL SCHWARTZ: If Pedro's wife just showed
21 up on the jobsite, was involved, that would be different.
22 You really don't have, as lease as far as I could tell, any
23 other citable altercation cases. There are some uncitable
24 ones but I'm not going to violate the Supreme Court rules,
25 even though—

1 APPEALS OFFICER: Right.

2 DANIEL SCHWARTZ: I believe they support my
3 position. I'm not going to violate the rules for that.
4 So, that's why I'm referring to other jurisdictions, and
5 specifically *Larson*, that seems to be where we're supposed
6 to go when we don't have answers in Nevada, that's where
7 the *Cummings* Court went when they didn't have answers in
8 Nevada.

9 Again, that's the argument. I think the only
10 factual question, Your Honor, in the case, is whether or
11 not—well, I guess there's theoretically two. Whether or
12 not Mr. Duran-Perez and Pedro had the ability to address
13 this issue and whether or not Mr. Duran-Perez was told by
14 the Safety Department, which are his supervisors, to go
15 talk to the office.

16 Obviously, our argument goes further which is, by
17 climbing up the ladder and going up to the decking area,
18 without tying off and engaging in a 10-minute conversation,
19 with Pedro, we would argue, he's taken himself out of the
20 scope of employment.

21 I mean, he's clearly working. There's no
22 question about that. He's clearly on a jobsite, although
23 it's not his jobsite, it's the company's jobsite but not
24 his jobsite. His jobsite was three houses away. We
25 believe that also is a factor that should be considered.

1 I'm not arguing premises. I'm just saying, he
2 left his jobsite which was a residential house, walked
3 three houses away to discuss, although I would think more
4 confront, Pedro about a check, but it not even stops there.
5 He had to, in order to make this happen, had to climb up a
6 ladder, go to a second-floor decking and have a 10-minute
7 conversation. It's not a, simply poking his head up there
8 and saying, I got a problem with my check and Pedro saying,
9 get out of here. The testimony, according to the Claimant
10 is, it was a 10-mintue conversation.
11 You have statements that support most of what I'm
12 stating, as far as factual goes. So, our position is, at
13 some point in time, Mr. Duran-Perez stepped out of the
14 course and scope of this employment.
15 I could argue it ended the moment it walked off
16 of his jobsite. I could argue it ended the moment he
17 started climbing the ladder. I could argue it ended the
18 moment he got to the roof and didn't tie off and went
19 forward with his conversation. It's at one of those three
20 points, he stepped outside the course and scope of his
21 employment by deciding to confront a former crew leader—
22 again, it's not even his crew leader at this point—about
23 his check, despite being told what to do to fix the
24 problem, or to at least discuss the problem with the
25 appropriate people.

1 Under all the case law that we've cited and the
2 *Larsen* authority, we believe the Claim is not compensable,
3 Your Honor.
4 APPEALS OFFICER: Thank you. Mr. Angerman.
5 ALIKA ANGERMAN: Yes, Your Honor. A lot of
6 the discussion has been focused on the course and scope and
7 who is the appropriate person to discuss the checks with.
8 Both in the regards to whether it's Pedro or the Safety
9 Managers, it seems pretty obvious that Pedro would be the
10 one to discuss it with. The Safety Manager, especially the
11 way the company testified to, one of the safety managers,
12 all of his duties surrounded safety, not anything to do
13 with payroll whatsoever.
14 Versus, Pedro, who is along that chain, that
15 opposing Counsel had mentioned, as far as how the actual
16 check gets created. There's a dispute over the hours. Mr.
17 Perez could go to the office, which it wasn't onsite. So,
18 if he had an issue at that moment, he couldn't discuss it
19 with anyone onsite besides Pedro. If he does go offsite,
20 it's going to be the word of a worker versus the payroll
21 department, unless Pedro, the person who is the foreman,
22 verifies that the hours are wrong and that they need to be
23 corrected.
24 This is exactly the reason why the Claimant has
25 said he went to go discuss with Pedro the hours, because

1 Pedro was the supervisor the week prior for the check
2 that's in dispute. So, as far as the Claimant's belief,
3 Pedro is obviously the one to discuss the issue with.
4 As the Claimant testified to, he never spoke with
5 Nick or Kevin, the Safety Managers that testified prior,
6 regarding the check. It doesn't make sense that the Safety
7 Managers would be the go-to people to discuss the check
8 with when Kevin, the first time he ever met the Claimant
9 was that day, according to Kevin himself.
10 So, we have this inconsistency there. Then, when
11 we talked to Nick regarding the issue, we have Nick who is
12 inconsistent when he's saying that everybody involved was
13 tied down to—it was only Mr. Pedro that was tied down—Pedro
14 was tied down and the only one there—Pedro and his son were
15 there, and the son wasn't tied down.
16 So, we have the Safety Manager, who did his
17 investigation and his investigation led to the extent of
18 asking the other party involved, who isn't here to
19 testified, what he did and whether the safety measures, as
20 far as Pedro was concerned was followed. So, that's all we
21 have of the discussion after the fact.
22 What we do know is Kevin and Nick weren't even
23 involved in the situation and didn't come until after the
24 fact. So, again, we are arguing the accident, which
25 everybody that was involved point to Pedro's son pushing

1 the Claimant off of the deck and resulting in the injury as
2 supported by the medical evidence in the C4. We do have
3 the Notice, obviously same day, as the Claimant was taken
4 from the site, in an ambulance, to UMC. And we have the C4
5 that also corroborates that it happened on the same day and
6 then of course, the big issue is course and scope.
7 The issue revolves around the check which—the
8 only reason why people work is for money. So, obviously,
9 any discussion with the money has to do with the work, has
10 to do with course and scope. It's a different situation.
11 It's not like an office environment where we have a very
12 designated HR and payroll department that's clearly defined
13 and easily accessible to. This is construction. They're
14 offsite. The Safety Manager gave the exact address of
15 where it is. The important issue it's not on the actual
16 site of the construction where the work is happening. The
17 person who is in charge, most intimately with the workers
18 is the foreman. The foreman is Pedro and Pedro is the one
19 that was the supervisor the week prior, for the issues—for
20 the check issue.
21 So, ultimately, as far as the Claimant is
22 concerned, this is—
23 APPEALS OFFICER: Hold up, back up on that.
24 Was that the testimony that he worked for Pedro?
25

1 ALIKA ANGERMAN: The week prior to the
2 accident.
3 APPEALS OFFICER: For the period of time that
4 the check was allegedly short.
5 ALIKA ANGERMAN: That's why he went to discuss
6 it with him, was that check.
7 APPEALS OFFICER: Okay.
8 ALIKA ANGERMAN: And so, as far as the
9 Claimant is concerned, that would be the person to talk to
10 and the only ones we have saying that differently were the
11 people that weren't actually involved with the incident.
12 So, based off of that, it is within course and
13 scope because the issue had to do with the actual pay
14 period. It had to do with the work hours. Based off of
15 that, we're arguing compensable claim, Your Honor.
16 APPEALS OFFICER: Okay, thank you, gentlemen.
17 Matter shall stand submitted.
18 [end of proceeding 10:10:09]
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CERTIFICATE OF TRANSCRIPT

I, Jaime Caris, as the Official Transcriber, hereby certify that the attached proceedings before the Judge,

In the Matter of the: Contested Industrial Insurance Claim,	Claim No.: 2016-0022
of	Appeal No.: 1714955-CJY
MARTIN DURAN-PEREZ, Claimant	

were held as herein appears and that this is the original transcript thereof and that the statements that appear in this transcript were transcribed by me to the best of my ability.

I further certify that this transcript is a true, complete and accurate record of the proceeding that took place in this matter on February 9, 2018 in Las Vegas, Nevada.

Jaime Caris
Always On Time
May 17, 2018

BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
Alika@bighornlaw.com
Attorneys for Claimant

FILED
MAY 03 2018
APPEALS OFFICE

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALOFFICER

In the Matter of the Contested Insurance Claim of MARTIN DURAN PEREZ, Claimant.	APPEAL NO: 1714955-CJY HEARING NO.: 1710955-MT EMPLOYER: Focus Plumbing/Framing CLAIM NO.: 2016-0022

DECISION AND ORDER

This matter was submitted for decision for the Appeals Officer. Claimant was represented by ALIKA K. ANGERMAN, Esq. of the law Bighorn Law; Employer FOCUS PLUMBING (hereinafter referred to as "Employer"), was represented by DANIEL SCHWARTZ, ESQ. of Lewis Brisbois, Bisgaard & Smith LLP.

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FINDING OF FACTS

1. On December 30, 2016, Claimant suffered an injury while in the course and scope of his employment as a laborer with Employer. Claimant was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. On December 30, 2016 Claimant went to ask Mr. Pedro Rosales about his check. Claimant climbed to the roof of the house where Mr. Rosales was working. Claimant was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Claimant off of the roof. Claimant fell to the ground where he landed sustaining serious injuries to include, but not limited to "1) traumatic fall 2) Traumatic subdural hematoma 3) Possible right 8th rib fracture 4) Musculoskeletal chest pain" as the initial hospital diagnosis. Although not working on Pedro Rosales' crew on December 30, 2016, Claimant credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales.

2. On December 30, 2016, Claimant underwent CT scans of the chest, abdomen, thoracic spine and lumbar spine.

3. On December 31, 2016, Claimant had an x-ray performed on his shoulder and a CT scan of his brain. In addition, Claimant underwent an MRI of his cervical.

4. On March 6, 2017, Employer issued a determination denying Claimant's claim.

5. On March 20, 2017, Claimant appealed Employer's claim denial determination.

6. On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination.

7. On June 30, 2017, Employer appealed Hearing Officer Trenkler's Decision and Order and filed a Motion for Stay Pending Appeal.

8. On July 17, 2017, Claimant filed an Opposition to Motion For Stay Pending Appeal.

9. On August 2, 2017, Employer's Motion for Stay was granted.

10. After consideration of the totality of the evidence presented in this case and the arguments of counsel, I find as follows:

a. I find that Claimant was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead me to conclude the claim is compensable. The decision of the Hearing Officer is proper and AFFIRMED.

b. This is not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. There is a clear indication that the work issue (short paycheck) was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)]. As such Claimant is entitled to all appropriate benefits.

c. These Findings of Fact are based upon substantial evidence within the record.

11. If any finding of fact is more appropriately deemed a conclusion of law it shall be so deemed, or vice versa.

CONCLUSION OF LAW

1. Nevada Revised Statutes ("NRS") 616C.150 only requires Claimant to demonstrate that he was injured within the course and scope of his employment by preponderance of the evidence, nothing greater. "NRS 616C.150 does not require an injured worker to offer a greater number of expert witnesses who express opinions in his favor to establish that an injury arose...[r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence." McClanahan v. Raley's, Inc. 34 P.3d 573, 576 (2001).
2. Workers' Compensation is statutorily driven and defined. Claimant must prove, by preponderance that he was in the course and scope when an accident occurred.
3. Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010).
4. The threshold requirement in an industrial injury is that Claimant's injury must have occurred within

the course and scope of employment. Phillips, at 5. Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. Here, Claimant was working at an assigned time and scheduled to be in the same construction housing complex. Claimant went to the house across the street to inquire with the foreman that he worked with the week prior as to why his hours were not properly reflected. His pay and hours are indeed work related. The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of employment. Claimant was on the job when this incident occurred, and the injuries resulted by the assault due to work-related issues (short paycheck).

5. Accident is statutorily defined in NRS 616A.030 as "Accident" means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury." Clearly, Claimant did not anticipate being pushed off of a roof by anyone let alone someone who was not a part of the conversation. Claimant wanted clarification for his hours from the foreman he worked with for the subject pay period. In the instant case, Claimant meets the statutory requirement of accident.

6. Injury is defined in NRS 616A.265 as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence. Here, the initial treating physician who completed the Form C-4 causally related the injury to the work place incident. Employer bears, the burden under NRS 616C.175 if it believes Claimant has a prior condition. Employer must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim.

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ORDER

Therefore, after considering the totality of the evidence presented in Appeal 1714955-CJY IT IS HEREBY ORDERED that the Hearing Officer's decision in June 1, 2017 is hereby AFFIRMED and the Employer's March 6, 2017 claim denial determination is REVERSED.

Dated this 30 day of ~~April,~~ May 2018.

APPEALS OFFICER

CHARLES J. YORK, ESQ.

Submitted by:

BIGHORN LAW

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 South Jones Boulevard
Las Vegas, NV 89107

NOTICE: Pursuant to NRS 616.543 and NRS 233B.130, should any party desire to appeal this determination of the Appeals Officer, a Petition of Judicial Review must be filed with the District Court within thirty (30) days after service by mail of this Decision.

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of BIGHORN LAW and that on the day of April, 2018, I duly deposited for mailing at Las Vegas, Nevada, a true copy of the forgoing **DECISION** and **ORDER**, postage prepaid, addressed to the following:

Daniel Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara Suite 300, Box 28
Las Vegas, NV 89102

Focus Framing/Plumbing
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102

Martin Duran Perez
3555 E. Lake Mead
Blvd Apt. #147
Las Vegas, NV 89115

Janet Sanchez

An Employee of Bighorn Law

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, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

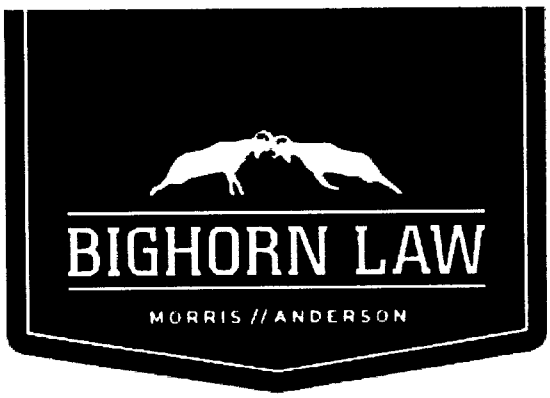
FOCUS PLUMBING
ATTN PATTY PAIZANO
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 3rd day of ~~April, 2~~ May 2018.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

ORIGINAL



716 S. Jones Blvd.
Las Vegas, NV 89107

P 702.333.1111
F 702.507.0092

bighornlaw.com

NATHAN R. MORRIS
RYAN M. ANDERSON
KIMBALL J. JONES
JACQUELINE R. BRETELL
LAUREN D. CALVERT
DANIEL M. SINGER
JONATHAN L. TAYLOR
JOSHUA P. BERRETT
NICHOLAS R. ANDERSON
DARREN J. LACH
GARRY B. TRINH
JACOB G. LEAVITT
ALIKA K. ANGERMAN

April 16, 2018

FILED
APR 16 2018
APPEALS OFFICE

VIA HAND DELIVERY
Charles J York, Esq., Appeals Officer
DEPARTMENT OF ADMINISTRATION
2200 South Rancho Dr. Suite 220
Las Vegas, Nevada 89102

Re:	Claimant	:	Martin Duran-Perez
	Claim No.	:	5001-1175-2016-0182
	Appeal No.	:	1714955-CJY

Dear Appeals Officer York:

Attached for your review is the proposed Decision and Order in the above-referenced matter. In the event that modifications to the decisions become necessary, I will amend the Decision and Order at your direction.

Please withhold signing this Decision and Order for a period of five (5) days to allow opposing counsel the opportunity to review the proposed Decision and Order.

Thank you for your time and attention in this matter. If you have any questions or comments regarding this letter, please feel free to contact me.

Very truly yours,

Alika Angerman, Esq.
BIGHORN LAW

cc: Daniel Schwartz, Esq.

DOC005

Brian Sandoval
Governor

Patrick Cates
Director

Michelle L. Morgando, Esq.
Acting Senior Appeals Officer

Northern Nevada:
Hearing Office
1050 E. William St., Ste. 400
Carson City, Nevada 89701
(775) 687-8440 | Fax (775) 687-8441

Appeals Office
1050 E. William St., Ste. 450
Carson City, Nevada 89701
(775) 687-8420 | Fax (775) 687-8421

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Hearings Division
http://hearings.state.nv.us

Southern Nevada:
Hearing Office
2200 S. Rancho Drive, Ste. 210
Las Vegas, Nevada 89102
(702) 486-2525 | Fax (702) 486-2879

Appeals Office
2200 S. Rancho Drive, Ste. 220
Las Vegas, Nevada 89102
(702) 486-2527 | Fax (702) 486-2555

February 13, 2018

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

Re: DURAN PEREZ, MARTIN
Appeal No.: 1714955-CJY

Dear Mr. Angerman:

This claim is compensable and thus the Hearing Officer's Decision and Order of June 1, 2017 is **AFFIRMED**.

The claimant was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead me to conclude the claim is compensable.

The claimant was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosales's crew. On December 30, 2016 the claimant went to ask Mr. Pedro Rosales about his check. He climbed up to the roof of the house where Mr. Rosales was working and was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed the claimant of the roof. Serious injuries were sustained. Although not working on Pedro Rosales' crew on December 30, 2016, the claimant credibly testified that if there was an issue with his check and he needed to talk to Pedro Rosales.

The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of

employment. The claimant was on the job when this incident occurred and the injuries resulted by the assault due to work-related issues (short paycheck).

This is not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. There is a clear indication that the work issue (short paycheck) was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)] As such the claimant is entitled to all appropriate benefits.

Please prepare a Decision and Order consistent with the above as well as your argument at the time of the hearing no later than March 19, 2018.

Very truly yours,

CHARLES J YORK, ESQ.
APPEALS OFFICER

CJY:ep

cc: DANIEL SCHWARTZ ESQ

MORRIS // ANDERSON LAW
ALIKA ANGERMAN, ESQ
NEVADA BAR #12933
716 S. JONES BOULEVARD
LAS VEGAS, NV 89107
(702)333-1111- Tel No.
(702)507-0092- Fax No.

STATE OF NEVADA
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NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE HEARING OFFICER

In the Matter of Contested Industrial Insurance Claim	)	Claim No.	:	2016-0022
	)	Hearing No.	:	1714955-CJY
of	)			
MARTIN DURAN PEREZ,	)	Employer	:	Focus Plumbing

CLAIMANT'S SECONDARY SUPPLEMENTED DOCUMENTARY EVIDENCE PACKET AND WITNESS DISCLOSURE

Date	Description	Pages
12.12.2017	Notice of Resetting	1-2
11.21.2017	Ross Medical Group- Report	3-5
12.19.2017	Ross Medical Group- Report	6-7
12.20.2017	Ross Medical Group- Referral	8
12.21.2017	Desert Institute of Spine Care Confirming the Referral- Apt Ltr	9-10
11.22.2017	Ross Medical Group- Prescriptions	11

4

CLAIMANT'S EXHIBIT # 4

DOC907

LIST OF WITNESSES

Claimant may appear to testify on his behalf. Claimant further preserves the right to call rebuttal witnesses.

DATED this 30th day of January, 2018.

Alika Angerman, Esq
Nevada Bar No.12993
716 S. Jones Blvd
Las Vegas, Nevada 89107
(702) 333-1111
Attorney for Claimant

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Documentary Evidence filed in or submitted for Pending Appeals Officer, Pending Appeal No., does not contain the Social Security number of any person.

Morris/Anderson Law

Alika Angerman, Esq.

1/30/18
Date

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Morris Anderson Law, and that on the date indicated below, I duly deposited for mailing OR placed in the appropriate file maintained by the Division, 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada, a true and correct copy of the foregoing CLAIMANT'S SECONDARY SUPPLEMENTED DOCUMENTARY EVIDENCE PACKET addressed to the following:

DANIEL SCHWARTZ, ESQ.
2300 W. SAHARA AVE STE 300 BOX 28
LAS VEGAS, NV 89102

- ☐ Regular U.S. Mail
- ☐ Via Hand Delivery
- ☐ Via Fax / Via E-Mail
- ☑ Mail Box at AO - HO

FOCUS PLUMBING
ATTN: PATTY PIZANO
1220 S. COMMERCE ST STE 120
LAS VEGAS, NV 89102

- ☑ Regular U.S. Mail
- ☐ Via Hand Delivery
- ☐ Via Fax / Via E-Mail
- ☐ Mail Box at AO - HO

DATED this 30th day of January, 2018.

An Employee of Morris//Anderson Law

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of:	)	Claim No: 2016-0022
MARTIN DURAN PEREZ,	)	Appeal No: 1714955-CJY
Claimant.	)	

NOTICE OF RESETTING

TO ALL PARTIES-IN-INTEREST:

PLEASE TAKE NOTICE that the above-captioned matter will now be heard in front of the Appeals Officer for a **HEARING** on:

DATE: **February 9, 2018**

TIME: **9:00AM – 11:00AM**

PLACE: **DEPARTMENT OF ADMINISTRATION**
2200 SOUTH RANCHO DRIVE #220
LAS VEGAS, NV 89102

PLEASE TAKE FURTHER NOTICE that previously scheduled hearing dates in this matter, if any, are hereby vacated and reset to the above referenced date and time.

###

CONTINUANCE OF THIS SCHEDULED HEARING DATE SHALL ONLY BE CONSIDERED ON WRITTEN APPLICATION SUPPORTED BY AFFIDAVITS.

###

IT IS SO ORDERED this 12th day of December, 2017.

CHARLES J YORK, ESQ.
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 RESETTING** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

FOCUS PLUMBING
ATTN PATTY PAIZANO
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 12th day of December, 2017.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

2

Horizon Ridge Commons
2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

Ross MEDICAL GROUP

North Vista Medical Center
1905 McDaniel Street, Ste 101
North Las Vegas, NV 89030

Office Phone: (702)487-5586 Email: RossMedGroup@gmail.com Office Fax: (702) 487-5840

PATIENT: Martin Duran-Perez
DOS: 11/21/17
DOB: 01/08/78
DOI: 12/30/16

CHIEF COMPLAINT: Headache, neck pain, back pain, chest pain.

PAIN SCALE: Rated at 8/10 at today's visit and states his daily pain was 0/10 prior to the injury on 12/30/16.

HISTORY OF PRESENT ILLNESS: Mr. Duran-Perez presented ambulatory for an initial evaluation of injuries sustained in an alleged assault and battery and mechanical fall on 12/30/16. Patient is employed as construction and landscaping labor. He was at work on top of the house garage, standing on the roof. Patient states that he was in a verbal argument with his boss named Pedro concerning wages. The patient was surprised that the boss' son José pushed Mr. Durand Perez in his back with his hands. He fell off the roof. To his left, there was an overhang. He tried to grab on to as he was falling. He hit his chest against the side of the roof, scraped his chest and then fell one story backwards landing on his back and back of his head. Patient was knocked unconscious. He thinks the ground he fell on was concrete. Patient has no recollection of events after that and then remembers waking up at UMC Hospital. Per patient report, he was evaluated at the scene and transported to UMC Trauma Center, was found to have a head injury and possible intracranial bleeding and rib fracture. He was admitted for five days at UMC. He is unsure what exact radiology tests but thinks he received CAT scans and x-rays. Patient was discharged with medications. He does not remember the names and he has had no specialty followups scheduled. Patient persists with headache occipital, neck pain, low back pain and chest pain. Patient states that he did have difficulty with memory, grogginess, dizziness after the event for a few weeks that dissipated over time and has not been present for approximately six plus months. Only the pain is residual. Patient has no history of headaches. Patient has been unable to work as a landscaping construction laborer secondary to his injuries. Patient has begun conservative therapy at Nicola Chiropractic, going three times per week. Patient thinks he was sent for MRI scan of his brain, neck and low back but has not completed those studies and does not know where the referral was sent. He does not know which radiology location referral was sent to. The patient denies any previous trauma or injury and states that he was 100% pain-free and in good health prior to the event described above and he presents for further evaluation and management.

PHYSICAL EXAMINATION: Vital signs reveal blood is 136/86, heart rate 104, respiratory rate 18, pulse ox on room air 98%. He is 5 feet 6 inches and weighs 170 pounds. Head is normocephalic and atraumatic. There is tenderness in the nuchal joint and occiput. There is no bogginess, edema, contusion, or scar tissue. Eyes are PERRL. EOMI. No nystagmus. Oropharynx is clear. There is no pharyngeal, dental or facial trauma. Lungs are clear to auscultation. Heart is regular rate and rhythm. Diffuse inferior left chest wall pain over the inferior ribs. No crepitus. No edema. No contusion seen. Abdomen is soft, nontender and nondistended. Positive bowel sounds. Extremities: Anterior shoulders, elbows, wrists, hands, hips, knees, ankles and feet are nontender. No clubbing, cyanosis or edema. Neurovascularly intact distally. Neurologically, he is oriented x4. Cranial nerves II through XII are normal. Diffuse motor is 5/5 including grip strength. Sensory subjective non-dermatomal numbness in the dorsum of his bilateral hands and bilateral thighs and calves. Deep tendon reflexes are +2/4 in upper and lower extremities, biceps, triceps, wrist, knee and ankle. He has clear speech. There are no cerebellar signs. He does have slow and mildly antalgic gait. Cervical Spine: Generalized positive axial loading. Midline and bilateral paracervical tenderness. Myospasms are palpated. Positive trapezius sign. Decreased motion with flexion, extension and bilateral rotation. Thoracic Spine: Slight midline but bilateral interscapular and parathoracic tenderness. Myospasms are noted. Decreased range of motion with flexion, extension and bilateral rotation. Lumbar Spine: There is midline low lumbar and bilateral paralumbar tenderness. Positive gluteal tenderness and positive straight leg raise to approximately 60 degrees bilateral causing increased back discomfort. Positive quadriceps loading sign.

Horizon Ridge Commons
2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

North Vista Medical Center
1905 McDaniel Street, Ste 101
North Las Vegas, NV 89030

Office Phone: (702)487-5586 Email: RossMedGroup@gmail.com Office Fax: (702) 487-5840

Past Medical History: denies

Allergies: Denies

Surgical History: denies

Medications: Over the counter

Social History: denies tobacco, admits to social alcohol, employed as construction laborer

ROS: AT least 12 systems have been reviewed and are normal or negative as per discussed in HPI.

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2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

ROSS MEDICAL GROUP

North Vista Medical Center
1905 McDaniel Street, Ste 101
North Las Vegas, NV 89030

Office Phone: (702)487-5586 Email: RossMedGroup@gmail.com Office Fax: (702) 487-5840

PATIENT: Martin Duran-Perez
DOS: 11/21/17
DOB: 01/08/78
DOI: 12/30/16
PAGE 2

CLINICAL IMPRESSION:
1. Assault and battery.
2. Mechanical fall.
3. Posttraumatic headache with concussion.
4. Cervicalgia.
5. Lumbago.
6. Lumbar radiculopathy.
7. Cervical radiculopathy.

PLAN:
1. Diagnostic Studies: Recommend MRI scan of lumbar spine, cervical spine and consider brain for persistent symptomatology and upper and lower extremity radicular symptoms with paresthesias.
2. Referral: Recommend continuance of conservative therapy at Nicola chiropractic. Recommend referral and evaluation by Spine Specialist Dr. Cash for persistent cervicalgia/lumbago s/p fall with radicular symptoms denoting likely discogenic etiology. Forward results of MRIs when obtained. Consider referral to pain specialist if TX/DX injections recommended by spine specialist. Recommend referral to Neurologist for persistent post-traumatic cephalgia.
3. Medications: Recommend ibuprofen for pain and inflammation, Flexeril for muscle relaxation and tramadol for pain.
4. Records: Obtain records from UMC trauma and admission visit on 12/30/16.
5. Followup: In approximately four weeks for further evaluation and management.

It is my professional opinion with a reasonable degree of medical certainty that the aforementioned complaints and injuries listed in my clinical impression are directly and causally related to the assault and battery and fall on 12/30/16. All treatment for these injuries will be deemed medically necessary and charges for my medical services are standard, reasonable and customary.

Douglas Ross, M.D.
DR/ps

T: 12/20/17
*** DIGITALLY SIGNED ON 12/20/2017 5:12:29 PM BY Douglas Ross, MD ***

Horizon Ridge Commons
2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

Ross MEDICAL GROUP

North Vista Medical Center
1905 McDaniel Street, Ste 101
North Las Vegas, NV 89030

Office Phone: (702)487-5586 Email: RossMedGroup@gmail.com Office Fax: (702) 487-5840

PATIENT: Martin Duran-Perez
DOS: 12/19/17
DOB: 01/08/78
DOI: 12/30/16

CHIEF COMPLAINT: Headache, neck pain, back pain, hand and leg numbness, chest pain.

PAIN SCALE: Pain level is rated at 6/10 today. It was rated at 8/10 on previous visit.

SUBJECTIVE: Mr. Duran-Perez returned ambulatory for reevaluation of injuries sustained in a mechanical fall secondary to an assault and battery on 12/30/16. The patient complains of persistent occipital headache non-radiating. Denies associated neurological symptoms such as blurred vision, dizziness or weakness. He does complain of numbness in his hands intermittently and both legs. He complains of persistent neck pain, sore, stiff, achy, does not radiate down his arms but does complain of intermittent hand numbness, persistent low back pain, denies bowel or bladder incontinence or saddle esthesia. Pain does not radiate to his legs. It does radiate to the buttocks area bilaterally and complains of intermittent numbness of his legs to his ankle excluding the feet. Patient continues with conservative therapy Nicola Chiropractic, going three times a week and states it is helping. Patient continues with medications including ibuprofen, tramadol and Flexeril. He says he is using as needed and is not requesting refills. Patient has had referrals for MRI scan of his cervical, lumbar and brain. Pending completion of those studies. Patient has had no new specialty referrals. Patient is still unable to work secondary to symptomatology of neck pain and back pain.

OBJECTIVE: Blood pressure 139/88, heart rate 102, respiratory rate 18, pulse ox on room air is 96%. Head is normocephalic and atraumatic. Eyes are PERRL. EOMI. No nystagmus. Cervical spine with generalized axial loading. Decreased range of motion with flexion, extension and bilateral rotation. Midline and bilateral paracervical tenderness. Myospasms are palpated. Slight positive trapezius sign bilateral with myospasms. Thoracic Spine: Slight midline and significant bilateral parathoracic interscapular tenderness. Myospasms are noted. Decreased range of motion with flexion, extension and bilateral rotation. Lumbar Spine: Midline tenderness, bilateral paralumbar tenderness. Myospasms are palpated. Decreased flexion, extension and bilateral rotation, bilateral superior gluteal tenderness. Positive straight leg raise bilateral to 60 degrees. Positive quadriceps loading sign. Lungs are clear to auscultation. Heart is regular rhythm. Chest wall with diffuse tenderness left mid and inferior area. There are healed abrasion scars. There is no edema, contusion or crepitus. Heart is mild tachycardic. No murmur. Abdomen is soft, nontender, nondistended, positive bowel sounds. Neurologically, he is oriented x4. Cranial nerves II through XII are normal. Diffuse motor is 5/5. Sensory with subjective numbness in bilateral lower extremities, nondermatomal. No cerebellar signs. Clear speech and mildly antalgic gait. Deep tendon reflexes are +2/4 in upper and lower extremities, biceps, patella and ankle.

CLINICAL IMPRESSION:
1. Status post assault and battery.
2. Mechanical fall.
3. Posttraumatic headache with concussion.
4. Chest wall pain.
5. Cervicalgia.
6. Lumbago.
7. Paresthesias, intermittent, upper and lower extremities.
8. Myalgia with myospasm.

Horizon Ridge Commons
2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

North Vista Medical Center
1905 McDaniel Street, Ste 101
North Las Vegas, NV 89030

Office Phone: (702)487-5586 Email: RossMedGroup@gmail.com Office Fax: (702) 487-5840

PLAN:

1. Diagnostic Studies: Obtain results MRI scan of brain, cervical, and lumbar spine without contrast.
2. Referral: Recommend referral to neurologist for post-traumatic cephalgia/concussion. Recommend referral to spine specialist . Consider referral to interventional pain management depending on patient's course,results of MRI scan, and recommendations of the spine specialist. Recommend to continue conservative therapy.
3. Medications: Continue present medications without change; refills are not required, ibuprofen, tramadol and Flexeril. The patient was reviewed in PMP AWARE.
4. Follow-up: In approximately four to six weeks for further evaluation and management.

Douglas Ross, M.D.
DR/ps

T: 12/20/17
*** DIGITALLY SIGNED ON 12/20/2017 5:18:46 PM BY Douglas Ross, MD ***

Horizon Ridge Commons
2481 W Horizon Ridge, Ste 100
Henderson, NV 89052

Office Phone: (702) 487-5586

ROSS MEDICAL GROUP

Email: awesley@rossmedgroup.com

North Vista Medical Center
1905 McDaniel Street, Ste 101
Las Vegas, NV 89030

Office Fax: (702) 487-5840

REFERRAL

Duran-Perez, Martin
Patient Name (Last, First)

12/20/17
Date

3555 E Lake Mead Blvd LV, NV 89115
Address

01/08/1978
Date of Birth

(805) 827-7746
Phone Number

12.30.16
Date of Injury

Eric Roy
Attorney Office/Name

(702) 423. 3333
Phone Number

Steven
Contact Person

Desert Institute of Spine Care - Dr. Cash
Referral To

ortho spine
Specialist

(702) 630-3472
Office Phone

(702) 946-5115
Office Fax

Reason for Referral

s/p MVC

persistent neck/low back pain

Referring Physician: Douglas Ross, MD, FACEP

Contact Person: April Wesley, Clinical Coordinator, MA
Email: awesley@rossmedgroup.com

Andrew M. Cash MD
9339 West Sunset Road Suite100
Las Vegas, Nevada 89148
Phone: (702) 630-3472 Fax: (702) 946-5115

December 21, 2017

To whom it may concern:

We have received your referral regarding patient:

Duran-Perez, Martin
01/08/1978

This notice is to inform you we have called the patient to schedule, below is the outcome.

- [ ] Our office was unable to reach the patient after [ ] attempts.
- [ ] Wrong number/Phone not in service
- [ ] Patient does not wish to be scheduled at this time
- [ ] Dr.Cash is not a provider for the insurance.
- [X] Other:PATIENT IS SCHEDULED FOR THURSDAY, JANUARY 11, 2018 @ 2:00P

Thank you for your kind referral!

Sincerely,

Scheduling Department

Desert Institute of Spine Care

F A X S H E E T

Date:	Dec-21-2017 02:34:54
To:	
Subject:	Patient Document
Fax Number:	702-487-5840
To Company:	
From Name:	Montgomery,Krystal
From Company:	Desert Institute of Spine Care
From Facility:	Desert Institute of Spine Care
Support Contact:	702-630-3472
Number of Page(s):	2

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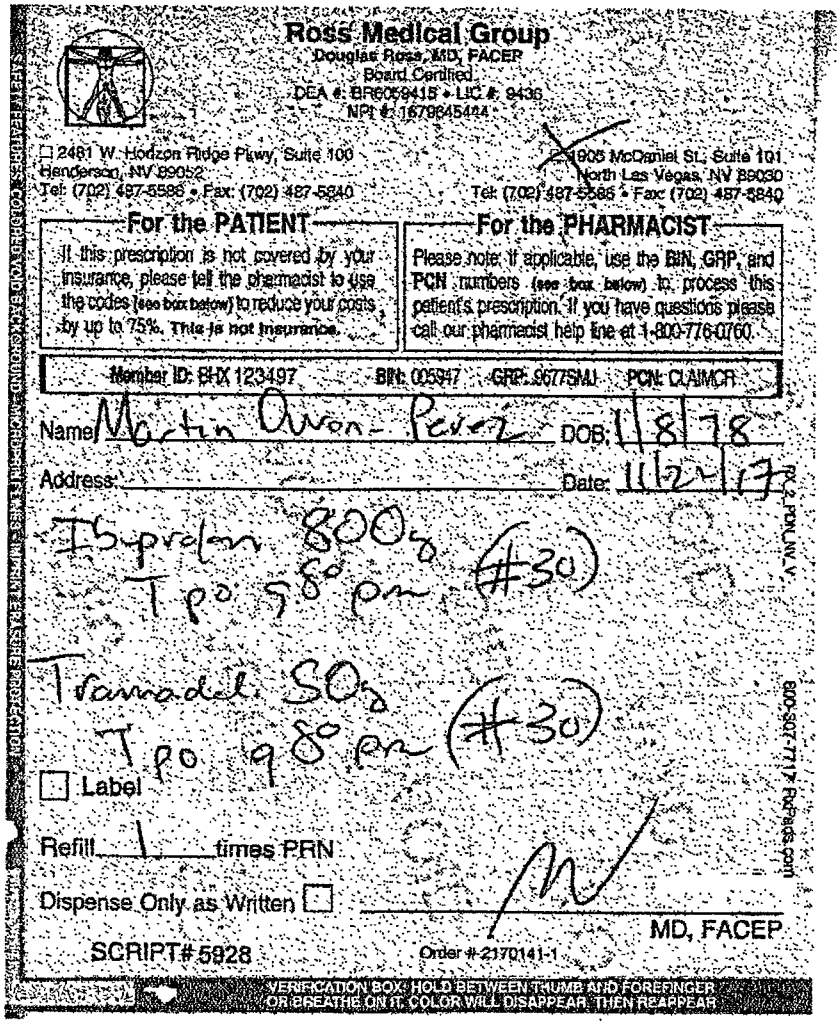

Ross Medical Group
Douglas Ross, MD, FACEP
Board Certified
DEA #: BR6059415 • LIC #: 9436
NPI #: 1679645444

☐ 2481 W. Horizon Ridge Pkwy, Suite 100
Henderson, NV 89052
Tel: (702) 487-5585 • Fax: (702) 487-5840

☒ 1905 McDaniel St., Suite 101
North Las Vegas, NV 89030
Tel: (702) 487-5585 • Fax: (702) 487-5840

For the PATIENT
If this prescription is not covered by your insurance, please tell the pharmacist to use the codes (see box below) to reduce your costs by up to 75%. This is not insurance.

For the PHARMACIST
Please note: If applicable, use the BIN, GRP, and PCN numbers (see box below) to process this patient's prescription. If you have questions please call our pharmacist help line at 1-800-776-0760.

Member ID: BHX 123497 BIN: 00597 GRP: 9677SMJ PCN: CLAIMCR

Name: Martin Owen-Perez DOB: 1/8/78
Address: Date: 11/22/17

Ibuprofen 800mg
1 po 5x pm (#30)

Tramadol 50mg
1 po 4x pm (#30)

☐ Label

Refill 1 times PRN

Dispense Only as Written ☐

MD, FACEP

SCRIPT# 5928 Order # 2170141-1

VERIFICATION BOX: HOLD BETWEEN THUMB AND FOREFINGER OR BREATHE ON IT. COLOR WILL DISAPPEAR THEN REAPPEAR

800-307-7779 RossMD.com

11

MORRIS // ANDERSON LAW
ALIKA ANGERMAN, ESQ
NEVADA BAR #12933
716 S. JONES BOULEVARD
LAS VEGAS, NV 89107
(702)333-1111- Tel No.
(702)507-0092- Fax No.

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2018 JAN 19 PM 4:06
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NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of Contested Industrial Insurance Claim	)	Claim No.	:	2016-0022
	)	Appeal No.	:	1714955-CJY
of	)			
MARTIN DURAN,	)	Employer	:	Focus Plumbing

CLAIMANT'S SECOND SUPPEMENTED DOCUMENTARY EVIDENCE PACKET AND WITNESS DISCLOSURE

Date	Description	Pages
12.12.2017	Notice of Resetting	1-2
01.11.2018	Dr. Andrew Cash- Medical Report	3-5

CLAIMANT'S EXHIBIT # 3

3

DOC008

LIST OF WITNESSES

Claimant may appear to testify on his behalf. Claimant further preserves the right to call rebuttal witnesses.

DATED this 19th day of January, 2018.

Alika Angerman, Esq
Nevada Bar No.12933
716 S. Jones Blvd
Las Vegas, Nevada 89107
(702) 333-1111
Attorney for Claimant

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Documentary Evidence filed in or submitted for Pending Appeals Officer, Pending Appeal No., does not contain the Social Security number of any person.

Morris/Anderson Law

Alika Angerman, Esq.

1/19/18
Date

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Morris Anderson Law, and that on the date indicated below, I duly deposited for mailing OR placed in the appropriate file maintained by the Division, 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada, a true and correct copy of the foregoing CLAIMANT'S SECOND SUPLLEMENTED DOCUMENTARY EVIDENCE PACKET addressed to the following:

DANIEL SCHWARTZ, ESQ.
2300 W. SAHARA AVE STE 300 BOX 28
LAS VEGAS, NV 89102

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FOCUS PLUMBING
1220 S. COMMERCE ST STE 120
LAS VEGAS, NV 89102

- ☑ Regular U.S. Mail
- ☐ Via Hand Delivery
- ☐ Via Fax / Via E-Mail
- ☐ Mail Box at AO - HO

DATED this 19th day of January, 2018.

An Employee of Morris//Anderson Law

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of:	)	Claim No: 2016-0022
MARTIN DURAN PEREZ,	)	Appeal No: 1714955-CJY
Claimant.	)	

NOTICE OF RESETTING

TO ALL PARTIES-IN-INTEREST:

PLEASE TAKE NOTICE that the above-captioned matter will now be heard in front of the Appeals Officer for a **HEARING** on:

DATE: **February 9, 2018**

TIME: **9:00AM – 11:00AM**

PLACE: **DEPARTMENT OF ADMINISTRATION**
2200 SOUTH RANCHO DRIVE #220
LAS VEGAS, NV 89102

PLEASE TAKE FURTHER NOTICE that previously scheduled hearing dates in this matter, if any, are hereby vacated and reset to the above referenced date and time.

###

CONTINUANCE OF THIS SCHEDULED HEARING DATE SHALL ONLY BE CONSIDERED ON WRITTEN APPLICATION SUPPORTED BY AFFIDAVITS.

###

IT IS SO ORDERED this 12th day of December, 2017.

CHARLES J YORK, ESQ.
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 RESETTING** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

FOCUS PLUMBING
ATTN PATTY PAIZANO
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 12th day of December, 2017.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

01/11/2018

Progress Notes: Andrew M. Cash, MD

Past Medical History
Noncontributory

Surgical History
Denies Past Surgical History

Family History
Non-Contributory

Social History
Tobacco Use:
Tobacco Use/Smoking
Smoking Status: *nonsmoker*
Occupational:
Occupation History: The patient is not currently working.
Drugs/Alcohol:
Do you drink alcohol?: No.
Do you smoke marijuana?: Denies.
Miscellaneous:
Marital status: single.
Children: has children.

Allergies
N.K.D.A.

Hospitalization/Major Diagnostic Procedure
Denies Past Hospitalization

Review of Systems
General/Constitutional:
Chills denies. Fatigue denies. Fever denies. Sweats denies. Weight gain denies. Weight loss denies.
ENT:
Hoarseness denies. Visual changes denies. Difficulty swallowing denies. Stuffed nose or sinuses denies. Sore throat denies.
Respiratory:
Breathing problems denies. Frequent coughing denies. Blood in sputum denies. Sputum production denies.
Cardiovascular:
Chest pain denies. Irregular heartbeat denies.
Gastrointestinal:
Hemorrhoids denies. Ulcers denies. Painful bowel movements denies. Black stool denies. Uncontrollable bowel movements denies . Abdominal pain denies. Blood in stool denies. Change in bowel habits denies. Diarrhea denies. Heartburn denies. Nausea denies. Vomiting denies.
Genitourinary:
Loss of urine denies. Uncontrollable urination denies. Blood in urine denies. Frequent urination denies. Kidney stones denies. Painful urination denies.
Musculoskeletal:
Neck pain **admits**. Upper back pain denies. Pain down the legs(s) denies. Pain down the arm(s) denies. Low back pain **admits**. Hip pain denies.
Skin:
Easy bruising denies. Easy bleeding denies.

Reason for Appointment
1. Neck/Back

History of Present Illness
Todays Visit:
The patient is a 40 year old male who was involved in an altercation with his boss on 12/30/2016. The patient was on a roof when he was pushed off and fell 1 story below. He lost consiousness and was taken to a hospital in Henderson to be evaluated, he was transported to UMC later that day as well. When he regained consiousness he began to feel pain in his neck and back. He reports that his pain comes and goes throughout the day. On average his neck pain is 5/10, 6/10 at its worst. On average his back pain is 6/10, 6/10 at its worst. He complains of occasional tingling in his arms and tingling in his legs.
Current Treatment:
Chiropractic.
Prior Injuries::
None.

Vital Signs
Ht 5 ft 4 in, Wt 170 lbs, BMI **29.18 Index**, RR 16 /min, Taken by br.

Examination
General Examination:
GENERAL APPEARANCE: well nourished and hydrated.
EYES/ENT: Pupil: Bilateral equal and direct reaction to normal light, normal conjuctiva and lids.
ENT inspection shows no scars, lesions or foreign bodies. Lips, teeth, and gums appear normal.
NECK, THYROID: No masses, symmetrical, no enlargement of thyroid.
NEUROLOGIC: Cranial nerves:
II Optic: Bilateral visual acuity
III Oculomotor: Normal pupillary constriction.
IV Trochlear: Normal bilateral.
V Trigeminal: Normal bilateral.
VI Abducens: Normal bilateral.
VII Facial: Normal bilateral.
VIII Acoustic: Normal hearing bilateral.
NEUROPSYCHIATRIC: Approprite judgement and insight, alert and oriented x3.
Associations- Intact.
Thought Processes/Cognitive Function- Approprite fund of knowledge.
Imaging Studies:
Results: Cervical disc protrusion(s), Lumbar disc protrusion(s), Lumbar annular tear(s), Thoracic disc protrusion(s), thoracic compression fracture.
Time was spent with the patient reviewing imaging in the office today offering full explanations of the pathology therein, as well as different treatment options that could be provided for such pathological findings. As appropriate, the patient was shown illustrations and models for a better understanding of the condition as well as given literature. I reviewed with the patient the records, images, and diagnostic/therapeutic protocol in detail and to their satisfaction.
Spine:

Cervical
There is painful flexion. There is bilateral paraspinal musculature pain and tenderness. There is associated bilateral trapezii pain and tenderness.
Muscle strength is 5/5 bilaterally.

Easy bruising denies. Easy bleeding denies. Lumps under the skin denies. Rash denies.
Neurologic:
Blackouts denies. Slurred Speech denies. Fainting denies. Headache denies. Loss of strength denies. Seizures denies. Stroke denies. Tingling/Numbness denies. Tremor denies.
Psychiatric:
Tension denies. Memory loss denies. Anxiety denies. Depressed mood denies. Difficulty sleeping denies.
The patient's handwritten intake forms and information has been reviewed, documented, verified, & reconciled, through oral confirmation, and the type written dictation incorporated all information, representing the complete and corroborated historical and current account.

Deep tendon reflexes are symmetrical.
Light touch sensation is intact.
The shoulder exam is unremarkable.
There is a negative compression at the wrist and negative Tinel's at the elbow

Lumbar:

There is painful flexion. There is bilateral paraspinal musculature pain and tenderness.
Muscle strength is 5/5 bilaterally.
Deep tendon reflexes are symmetrical.
Light touch sensation is intact.
The hip exam is unremarkable.
The sacroiliac joint exam is unremarkable

Thoracic:
There is painful flexion. There is bilateral paraspinal musculature pain and tenderness.
.

Assessments

1. Other intervertebral disc displacement, lumbar region - M51.26 (Primary)
2. Mid-cervical disc disorder, unspecified - M50.120
3. Other intervertebral disc displacement, thoracic region - M51.24
4. Wedge compression fracture of unspecified thoracic vertebra, initial encounter for closed fracture - S22.000A

Treatment

1. Other intervertebral disc displacement, lumbar region
Referral To: Pain Medicine
Reason: diagnostic/therapeutic epidural injections

Diagnostic Imaging

Imaging: CRV MINUMUM 4 VIEWS
Imaging: RADEX SPI LUMBOSAC MINIMUM 4 VIEWS

Disability/Prognosis/Causation

Medical Records:
Reviewed records from SimonMed and Dr. Nicola.
DISABILITY:
Cervical restrictions: No overhead lifting or reaching and no lifting more than 10 pounds frequently or 20 pounds occasionally..
Lumbar restrictions: No repetitive bending, twisting, stooping crawling, climbing, squatting, or lifting more than 10 pounds frequently or 20 pounds occasionally.
Thoracic restrictions: No repetitive bending, twisting, stooping crawling, climbing, squatting, or lifting more than 10 pounds frequently or 20 pounds occasionally. .
PROGNOSIS:
Prognosis: Diminished without the recommended treatment..
Prognosis: The patient may experience future exacerbations as there is structural compromise to the spine and will require future treatment. .
CAUSATION:
In my opinion the patient's symptoms which we are evaluating are directly related to the above mentioned accident(s). This opinion is based on patient's history, physical exam, diagnostic studies, and medical records provided. I welcome the opportunity to review any and all medical records regarding past or present treatment of the patient which could possibly reinforce or otherwise affect the above opinions. Final causation requires review of records .
Opioid Risk:
The risks of opioid medications were explained to the patient. The patient understands and agrees to use these medications only as prescribed. The patient agrees to obtain pain medications from this practice only. We have fully discussed the potential side effects of the medication with the patient. These include, but are not limited to, constipation, drowsiness, addiction, nausea, vomiting, impaired judgment and the risk of fatal overdose if not taken as prescribed. We have warned the patient that sharing medications is a felony. We have warned the patient against driving while taking sedating medications.

Procedure Codes

72050 X-RAY EXAM OF NECK SPINE
72110 X-RAY EXAM OF LOWER SPINE

Electronically signed by Andrew Cash MD, MD on 01/12/2018 at 11:08 AM PST
Sign off status: Completed

Desert Institute of Spine Care
9339 W SUNSET RD
LAS VEGAS, NV 89148-4849
Tel: 702-630-3472
Fax: 702-946-5115

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of:	Claim No:	2016-0022
MARTIN DURAN PEREZ,	Appeal No:	1714955-CJY
Claimant.		

NOTICE OF RESETTING

TO ALL PARTIES-IN-INTEREST:

PLEASE TAKE NOTICE that the above-captioned matter will now be heard in front of the Appeals Officer for a **HEARING** on:

DATE: **February 9, 2018**

TIME: **9:00AM – 11:00AM**

PLACE: **DEPARTMENT OF ADMINISTRATION**
2200 SOUTH RANCHO DRIVE #220
LAS VEGAS, NV 89102

PLEASE TAKE FURTHER NOTICE that previously scheduled hearing dates in this matter, if any, are hereby vacated and reset to the above referenced date and time.

###

CONTINUANCE OF THIS SCHEDULED HEARING DATE SHALL ONLY BE CONSIDERED ON WRITTEN APPLICATION SUPPORTED BY AFFIDAVITS.

###

IT IS SO ORDERED this 12th day of December, 2017.

CHARLES J YORK, ESQ.
APPEALS OFFICER

DOC009

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 RESETTING** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

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LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 12th day of December, 2017.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

MORRIS // ANDERSON LAW
JACOB LEAVITT, ESQ
NEVADA BAR #12608
716 S. JONES BOULEVARD
LAS VEGAS, NV 89107
(702)333-1111- Tel No.
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NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of Contested Industrial Insurance Claim	)	Claim No.	:	2016-0022
	)	Appeal No.	:	1714955-CJY
of	)			
MARTIN DURAN,	)	Employer	:	Focus Plumbing

CLAIMANT'S FIRST SUPPLEMENTED DOCUMENTARY EVIDENCE PACKET AND WITNESS DISCLOSURE

Date	Description	Pages
11.06.2017	Nicola Chiropractic Medical Reporting	1-7
11.14.2017	Nicola Chiropractic-Bill	8

CLAIMANT'S EXHIBIT # 2

(2)

DOC010

LIST OF WITNESSES

Claimant may appear to testify on his behalf. Claimant further preserves the right to call rebuttal witnesses.

Eduardo Leon

DATED this 28 day of November, 2017.

Jacob Leavitt, Esq
Nevada Bar No.12608
716 S. Jones Blvd
Las Vegas, Nevada 89107
(702) 333-1111
Attorney for Claimant

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Documentary Evidence filed in or submitted for Pending Appeals Officer, Pending Appeal No., does not contain the Social Security number of any person.

Morris/Anderson Law

Jacob G. Leavitt, Esq.

11/21/17
Date

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Morris Anderson Law, and that on the date indicated below, I duly deposited for mailing OR placed in the appropriate file maintained by the Division, 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada, a true and correct copy of the foregoing CLAIMANT'S FIRST DOCUMENTARY EVIDENCE PACKET addressed to the following:

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LAS VEGAS, NV 89102

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- ☐ Via Fax / Via E-Mail
- ☐ Mail Box at AO - HO

DATED this 21st day of November, 2017.

An Employee of Morris//Anderson Law

Nicola Chiropractic
7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246
Fax: 702-251-9650

Patient: Duran-Perez, Martin **DOB:** 01/08/1978
Ins Co **Pol #** **Insured ID**

Date 11/06/2017

Provider: Jaime DiOrio, D.C.

Subjective:

Mechanism of Injury

Mr. Martin Duran-Perez presents today for evaluation of injuries sustained as the result of an altercation and fall on 12/30/2016. Martin was working on a job site when he was assaulted by another employee. He was pushed off of a building and fell approximately 15-20 feet to the ground below. He landed on his back, hitting the back of his head.

Post Injury

Mr. Duran-Perez reports that he did lose consciousness upon impact. He recalls going in and out of consciousness while in transport. He states he really only remembers waking in the hospital. Mr. Duran-Perez was initially transported from the scene of the fall to a hospital in Henderson by ambulance. He was then transferred again to UMC Hospital by ambulance. Mr. Duran-Perez experienced head, upper/mid back, low back and left rib cage pain when he woke in the hospital. He was evaluated, admitted and stayed 5 days at UMC. Imaging was performed. He relates that he was told he had a bleed in his head and needed to stay for observation. He was eventually discharged for having no insurance. Since that time, he has suffered with headaches, neck, mid and lower back pain. He continued to experience significant spinal, rib and head pain for several months. Because he had no job and no insurance, he was unable to seek further treatment for his injuries.

Subjective Complaints

Mr. Duran-Perez presents today with headaches, neck pain, mid back pain and low back pain. He also has complaints of intermittent left arm pain and numbness and bilateral leg numbness and pain.

He currently rates his lower back pain as moderate to severe. The pain is located across the belt area and is described as a deep ache. He also describes frequent episodes of bilateral leg pain and numbness which extends from his buttocks to his thighs. He often feels weak, like his legs are giving out. Activities that increase his symptoms include: prolonged sitting, lifting, bending, stooping and lying down.

He currently rates his neck and mid back pain as mild to moderate. The pain is located midline along the spine and is most intense at the base of his skull. He describes the pain as sharp, stabbing and tight with movement. Activities that increase his symptoms include: turning the head, looking up, bending the neck side to side, prolong sitting and lifting.

He currently rates his headaches as moderate and intermittent. He states that initially the headaches were constant and located at the back of his head. Over time the frequency and intensity decreased. He still has headaches on a weekly basis and seem to be spontaneous. When they occur he states that it feels like the back of his skull is "open". He denies having any dizziness or visual disturbances in recent weeks.

Nicola Chiropractic
7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246
Fax: 702-251-9650

Patient: Duran-Perez, Martin **DOB:** 01/08/1978
Ins Co **Pol #** **Insured ID**

Date 11/06/2017
Provider: Jaime DiOrio, D.C.

**** continued from previous page ****

Mr. Duran-Perez has had no medical care since being discharged from the hospital and related that over the counter Advil, rest and decreased physical activities were all that would give him relief.

Duties Under Duress / Activities of Daily Living
Mr. Duran-Perez is currently not working due to pain. Days missed because the injury: approximately 10 months. His job as a carpenter requires strenuous physical activity. Due to his injuries, he has been unable to return to working. He was let go from his previous job following the altercation.

He is also experiencing difficulty performing the following home activities due to discomfort: household cleaning. He does not have assistance for help with daily activities, due to his injuries. Martin's family status would best be described as: Single.

Activities of daily living (ADL's) have also been affected negatively in the following area(s): sleep. Martin also states that he has lost 1-2 hours per night of sleep since the injury occurred.

Neck Pain Disability Index Score: 31
Oswestry Low Back Pain Score: 50

Medical History
Prior Injuries: Denies any previous motor vehicle collisions, recreational or work injuries
Surgeries: Denies any past surgical procedures
Fractures/Dislocations: Left rib fractures which resulted from this fall
Current Medical Conditions: Denies any current medical conditions
Current Medication: None
Other: Denies history of neck, back, or extremity pain prior to this injury

Social History
Mr. Duran-Perez is a 39 year old Male. He is a non-smoker that is currently not working due to pain

ROS
HEENT: Headache. Remaining ROS is unremarkable

Objective:
He is a 39 year old Male. He is right handed. He stands 5'4" tall and weighs 224 pounds. His blood pressure was 124/77 and his pulse rate was 98 bpm.

Nicola Chiropractic
7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246
Fax: 702-251-9650

Patient: Duran-Perez, Martin — **DOB:** 01/08/1978
Ins Co — **Pol #** — **Insured ID**

Date 11/06/2017

Provider: Jaime DiOrio, D.C.

**** continued from previous page ****

Psychiatric: He was co-operative, alert, and oriented x3.

Respiratory: His breathing was normal, without apparent distress. Lung sounds were normal.

Cardiovascular: No peripheral edema or jugular distension was noted. Skin color was good. Vertebrobasilar maneuver was negative, and carotid auscultation was normal.

Abdominal: Patient has a large ventral hernia visible with supine trunk flexion.

Tenderness to palpation was noted on the following areas: neck, upper back, mid back, low back, right shoulder and left shoulder.

Cervical Spine
Muscle spasm / hypertonicity was noted on the following spinal musculature: cervical paraspinal, right trapezius, left trapezius and suboccipitals.

Cervical range of motion was evaluated and revealed the following:
Flexion: normal with pain.
Extension: moderately decreased with pain.
Right Lateral Flexion: moderately decreased with pain.
Left Lateral Flexion: mildly decreased with mild pain.
Right Rotation: mildly decreased with pain.
Left Rotation: normal without pain.

The following cervical orthopedic tests were positive for **local neck pain**: shoulder depression.

The following cervical orthopedic tests were positive for left radiating symptoms: Max foraminal compression on the left.

Segmental dysfunction noted in the craniocervical and cervicothoracic regions.

Thoracolumbar Spine
Muscle spasm / hypertonicity was noted on the following spinal musculature: thoracic paraspinal and lumbar paraspinal.

Thoracolumbar range of motion was evaluated and revealed the following:
Flexion: moderately decreased with pain.
Extension: severely decreased with pain.
Right Lateral Flexion: mildly decreased with pain.

Nicola Chiropractic
7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246
Fax: 702-251-9650

Patient: Duran-Perez, Martin **DOB:** 01/08/1978
Ins Co **Pol #** **Insured ID**

Date 11/06/2017

Provider: Jaime DiOrio, D.C.

****continued from previous page ****

Left Lateral Flexion: mildly decreased with pain.
Right Rotation: moderately decreased with pain.
Left Rotation: moderately decreased with pain.

The following orthopedic tests were positive for **local** low back pain: Lasegue's, Patrick's, Yeoman's and Hibb's bilaterally, L>R.

Segmental dysfunction noted throughout the thoracic and lumbosacral spine.

Shoulders
Range of motion was limited and painful in the following extremities: bilateral shoulders
Most pronounced shoulder dysfunction and pain was noted with Add/IR/Ext. Pain is present bilaterally but is worse on the right.

Orthopedic testing of the left shoulder and right shoulder found the following to be positive for increased pain: Apley's Scratch. Thumb only able to reach T3 and L4.

Assessment:
The patient's initial diagnosis is:
(W13.0XXA) Fall from, out of othrough building or structure, initial encounter, (G44.329) Chronic post-traumatic headache, not intract, (M54.17) Radiculopathy, lumbosacral reg, (M62.830) Muscle spasm of back, (M50.23) Other cervical disc displacement, cervicothoracic region, (M54.2) Cervicalgia, (M54.6) Pain in thoracic spine, (M54.5) Low back pain, (M25.512) Pain in LT shoulder, (M25.511) Pain in RT shoulder, (M99.01) Seg and somatic dysf of cervical reg, (M99.02) Seg and somatic dysf of thoracic reg, (M99.03) Seg and somatic dysf of lumbar reg

Records from UMC have been requested. Current diagnoses may change based upon review of hospital records.

Plan:
Physical Restrictions
Restrictions include no standing for more than 30 minutes at a time without a rest and no sitting for more than 1 hour at a time. No lifting greater than 10 pounds. No repetitive tasks with shoulders.

Short and Long Term Goals
Problems for this patient include increased pain, decreased range of motion, decreased tolerance to prolonged positions, decreased endurance, and decreased ability to perform activities of daily living (ADLs) and required job duties.

Nicola Chiropractic
7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246
Fax: 702-251-9650

Patient: Duran-Perez, Martin **DOB:** 01/08/1978
Ins Co **Pol #** **Insured ID**

Date 11/06/2017

Provider: Jaime DiOrio, D.C. **** continued from previous page ****

Short term goals for this patient are to decrease pain, break up scar tissue and fibrous adhesions, decrease muscle spasms, increase active and passive range of motion, restore bio-mechanical integrity and prevent re-injury. We will work on increasing spinal ROM by 2 weeks. Mr. Duran-Perez will decrease pain in 3 weeks. One of the patient's long term goals is to become independent in all ADLs without painful limits. He is to become independent in all recreational activities without painful limits. He will strive to become independent in all work-related activities. He is to receive treatment involving strengthening, ROM, neuromuscular reeducation, mechanical traction, physio-therapeutic modalities as indicated and a home exercise program (HEP).

The long term goals for this patient are to return to pre-injury state.

Prognosis
Mr. Duran-Perez's prognosis is guarded, pending results of the current treatment. The length of the treatment is expected to be prolonged due to lack of initial care following the injury. Scar tissue development and functional limitations have already occurred which will make progress challenging. The patient may or may not recover completely. He will require medical co-management. He is in the chronic phase of care.

Procedures
Physical examination was performed.

Interferential therapy was performed on the patient to stimulate circulation and decrease muscle spasms and/or pain. This therapy was performed for approximately 15 minutes to the areas of involvement.

Moist heat was applied to the area of involvement to reduce muscle spasm and increase circulation. The therapy was applied for approximately 15 minutes.

Imaging Performed
Imaging was ordered while at UMC. Those records were not available today for my review but have been requested. MRI's of the cervical, thoracic and lumbar spine are indicated due to length of time this patient has been symptomatic.

Recommendations:
Mr. Duran-Perez was referred for a medical co-management. Medication for his injuries will be dispensed at the discretion of the medical physician.

Plan
Mr. Duran-Perez was evaluated today for injuries sustained from a fall which occurred on 12/30/16. This patient states he was pain-free and asymptomatic preceding the fall. Based

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Las Vegas, NV 89117
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Ins Co **Pol #** **Insured ID**

Date 11/06/2017

Provider: Jaime DiOrio, D.C.

**** continued from previous page ****

upon the history provided, review of available medical records and the physical examination performed today, it is my conclusion that all injuries and functional limitations are directly related to the assault and fall from a great height. The presenting complaints are consistent with the mechanism of injury. I am recommending conservative care at this time.

Given the amount of time that has lapsed since the original injury occurred, it is important to implement active care as soon as possible. As long as the patient responds well to joint mobilization, I will begin him on rehabilitative exercises. I am also recommending myofascial release therapy to help decrease excess scar tissue development to restore normal joint and muscle flexibility. The patient will also be given a home stretching program to help control symptoms at work and home. I am recommending the use of moist heat at home to alleviate any symptoms of muscle tension. Physiotherapy modalities will be used as needed for pain control. As a result of the delay in receiving care for these injuries, it is expected that recovery will be slower than normal. I am recommending the patient be seen 2 to 3 times per week for 4 weeks at which time I will re-evaluate and modify the treatment plan accordingly.

Evaluation and treatment for Martin's injuries has been deemed medically necessary and causally related to the fall which occurred on 12/30/16.

Nicola Chiropractic

Personal Injury

1735 N. Nellis Blvd. ste. F Las Vegas, NV 89115
Phone (702) 998-6740 Fax (702) 476-4661

Physician's Lien and Medical Reports Authorization

Patient Name (Print): Martin Duran Perez I do hereby authorize Nicola Chiropractic and other listed medical providers to furnish my attorney with a full report of all medical records, including physician's and examination notes, technical results and other relevant documents regarding the incident in which I was involved on (Date of Accident) 12-30-16 and which required treatment by Nicola Chiropractic and their staff.

I hereby authorize and direct my attorney or insurance company to pay directly to Nicola Chiropractic as may be due and owing them for medical service rendered me both by reason of this accident and by reason of any other bills that are due his office, and to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said doctors. And I hereby further give a lien on my case to said doctors against any and all proceeds of my settlement, judgment or verdict which may be paid to you, my attorney, or myself, as the result of the injuries for which I have been treated or injuries in connection therewith.

I agree that I will not rescind this document and that a rescission will not be honored by my attorney. My agreement not to rescind this document is a consideration for my doctor rendering treatment to me while my case is being actively pursued through the process of negotiation, settlement and/or litigation. In the event that my first attorney discontinues representation, I grant Nicola Chiropractic an irrevocable assignment of proceeds up to the amount of medical bills. In the event that another attorney is substituted in this matter the assignment of proceeds may be assigned back to me at the discretion of Nicola Chiropractic.

I fully understand that I am directly and fully responsible to said doctor for all medical bills submitted by him for services rendered to me, and that this agreement is made solely for said doctor's additional protection and in consideration of his awaiting payment, and I further understand that such payment is not contingent on any settlement, judgment or verdict by which I may eventually recover said fee.

I therefore acknowledge and fully accept the terms of this document by signing below. I have been advised that if my attorney does not wish to co-operate in protecting the doctor's interest, the doctor will not await payment but will require me to make payments on a current basis, and that my doctor may also proceed against my attorney to recover such funds if my attorney received such funds and refuses or fails to disperse such funds to my doctor.

I expressly waive the Statute of Limitations regarding my doctor's right to recover.

It is further understood that the doctor shall be entitled to all reasonable costs of collection including, but not limited to, his attorney's fees and costs of suit to recover his full costs of treatment as a result of myself or my attorney receiving any recovery, settlement or compromise and failing and/or refusing to pay promptly the doctor for all medical services he and his office have rendered on my behalf.

Patient or Guardian Signature Martin Duran perez **Date** 11-6-17

Witness Signature _____

The undersigned being attorney of record or insurance company representative for the above patient does hereby acknowledge receipt of Lien and agree to honor above and agrees to withhold such sums from any settlement, judgment or verdict as may be necessary to adequately protect said doctor/healthcare facility above named.

Attorney Signature _____

Nicola Chiropractic

7380 Sahara Ave #100
Las Vegas, NV 89117
Phone: 702-252-7246 Fax: 702-251-9650

Superbill

Superbill Date: 11/14/2017 **Service** 11/1/2017 thru 11/6/2017

Patient Information

Martin Duran-Perez
3555 E. Lakemead Blvd
Las Vegas, NV 89115

Account: 17853
Date of birth: 1/8/1978
Employer:

Payor Information

Insurance Phone:
Insured ID:
Insurance Policy Group:
Insurance Plan Name:

Dx: (W13.0XXA) Fall from, out of othrough building or structure, initial encounter, (G44.329) Chronic post-traumatic headache, not intract, (M54.17) Radiculopathy, lumbosacral reg, (M62.830) Muscle spasm of back, (M50.23) Other cervical disc displacement, cervicothoracic region, (M54.2) Cervicalgia, (M54.6) Pain in thoracic spine, (M54.5) Low back pain, (M25.512) Pain in LT shoulder, (M25.511) Pain in RT shoulder, (M99.01) Seg and somatic dysf of cervical reg, (M99.02) Seg and somatic dysf of thoracic reg, (M99.03) Seg and somatic dysf of lumbar reg

Date	Type	Code	Mod	Units	Description	Date of injury	POS	Tax	Amount
11/06/2017	CRG	99203	25	1	E/ M New Patient Moderate 99203		11	0.00	255.94
11/06/2017	CRG	97010	59	1	Hot/cold 97010		11	0.00	37.77
11/06/2017	CRG	97014	59	1	Electrical Stimulation unattended		11	0.00	42.49

Provider Information

Name: Jaime DiOrio, D.C.
License: B008888
Tax ID: 331010872
NPI:

Total Charges	$336.20
Total Taxes	$0.00
Total	$336.20

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

STATE OF NEVADA
DEPT OF ADMINISTRATION
HEARINGS DIVISION
2017 SEP 11 PM 2:38
RECEIVED AND FILED

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: 1714955-CJY Employer: FOCUS PLUMBING C/O SUN CITY ELECTRIC ATTN: PATTY PIZANO 1220 S. COMMERCE ST., #120 LAS VEGAS, NV 89102 **DOH: 09/12/17 AT 9:30 A.M.**

INSURER'S APPEAL MEMORANDUM

COMES NOW the Insurer, FOCUS PLUMBING (hereinafter referred to as "Insurer"), by and through its attorneys, DANIEL L. SCHWARTZ, ESQ., and LEWIS BRISBOIS BISGAARD & SMITH LLP, and submits its Appeal Memorandum for the hearing on the instant matter currently set to be heard on September 12, 2017, at 9:30 a.m. In support of its position, the Insurer states as follows.

1. That there is no medical, legal or factual basis upon which to warrant an entitlement to any benefits for the claimant due to his failure to meet his burden in establishing that he was injured or developed a condition in the course of and arising out of his employment.

2. That there is no medical, legal or factual basis upon which to warrant an entitlement to any benefits for the claimant as he has failed to prove that it was improper to deny his claim.

WHEREFORE, the Insurer, FOCUS PLUMBING, respectfully requests that the Appeals Officer provide the following relief:

1. That the Appeals Officer reverse the Hearing Officer's Decision and Order dated June 1, 2017, which reversed and remanded Insurer's March 6, 2017 determination to deny the claim.

2. That the Appeals Officer affirm the March 6, 2017 determination to deny the claim.

DATED this 5 day of September, 2017.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: [signature] For

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 W. Sahara Ave., Ste. 300, Box 28
Las Vegas, Nevada 89102
Attorneys for the Insurer

DOCUMENTS TO BE INTRODUCED AT HEARING

The Insurer shall rely upon its Index of Documents filed separately herein. Further, the Insurer shall rely upon any documents produced by the claimant, subject to objection.

STATEMENT OF THE ISSUES

The following issues are before the Appeals Officer for review:

1. Whether the determination to deny the claim for compensation was proper.
2. Whether the Hearing Officer erred in reversing the claim denial determination.

WITNESSES

The Insurer may call the following witnesses at the time of hearing:

1. Proper representatives of the Employer including those who provided written statements;

Further, the Insurer does reserve the right to call the claimant himself, together with any treating or examining physicians of the claimant, for rebuttal and other purposes at the time of hearing.

TIME ESTIMATED FOR HEARING

It is estimated that the time for hearing of the Insurer's case as petitioner will be one (1) hour or less.

...

STATEMENT OF FACTS

The claimant, MARTIN DURAN PEREZ (hereinafter referred to as "claimant"), alleges that he was pushed off of the roof on December 30, 2016. The claimant was treated at UMC Trauma for subdural hematoma on the date of the incident. The claimant was taken off of work. (Exhibit p. 1)

A Supervisor Accident Investigation Report notes that the claimant went to the second floor with no fall protection and was involved in **work place violence**. (Exhibit p. 2)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (Exhibit pp. 3-4)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the claimant was mad due to an alleged pay check shortage while working on Pedro's crew. The claimant climbed an 8 foot ladder to get to where Pedro was working on a second floor, tied off. The claimant started yelling at Pedro and Pedro stated that they could fix the problem the following Tuesday at the office. **However, the discussion with the two got "elevated." Pedro's son came up from the first floor to aid his father, and when the Pedro's son asked the claimant to stop, the claimant allegedly started yelling at him and the son put his hands on the claimant and pushed him away and the claimant eventually fell off of the roof.** (Exhibit pp. 5-9)

Pedro Rosales also gave a statement and alleged that the claimant, at 5:00 came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the claimant to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (Exhibit pp. 10-11)

Pedro's son, Jose Rosales gave his version of what happened, as well. (Exhibit pp. 12-13)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the claimant who fell off of roof after a discussion between

the parties. (Exhibit pp. 14-17)

A statement from the claimant indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (Exhibit p. 18)

An Industrial Injury or Illness form in Spanish was also executed by the claimant. (Exhibit pp. 19-20)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (Exhibit p. 21)

The claimant was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The claimant was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (Exhibit pp. 22-56)

A claim denial determination was issued on March 6, 2017(Exhibit pp. 57-59)

On March 21, 2017, the claimant appealed the claim denial determination. (Exhibit p. 60)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (Exhibit pp. 61-62)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (Exhibit pp. 63-65.) Insurer filed a timely appeal. (Exhibit p. 66.) In addition, the Insurer filed a Motion for a Stay of the Hearing Officer's decision, which was granted. (Exhibit p. 68.)

This appeal ensues.

ARGUMENT

A.

The Claimant Bears the Burden

It is the claimant, not the Insurer, who has the burden of proving his case by a preponderance of all the evidence. State Indus. Ins. Sys. v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Johnson v. State ex rel. Wyoming Worker's Comp. Div., 798 P.2d 323 (1990); Hagler v. Micron Tech., Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove his case, the claimant has the burden of going beyond speculation and conjecture. That means that the claimant must establish all facets of the claim by a preponderance of all the evidence. To prevail, a claimant must present and prove more evidence than an amount which would make his case and his opponent's "evenly balanced." Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993); SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218 (1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, The Law of Workmen's Compensation, §80.33(a).

NRS 616A.010(2) makes it clear that:

> A claim for compensation filed pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS must be decided on its merit and not according to the principle of common law that requires statutes governing workers' compensation to be liberally construed because they are remedial in nature.

The evidence supports the Insurer's position that the claimant has failed to meet his burden of establishing that he has a compensable claim arising out of and in the course and scope of his employment.

B.

The Claim Denial Determination was Legal and Proper

The issue is whether the determination to deny the claim was proper, and/or whether the Hearing Officer erred in reversing the denial of this claim. The Insurer asserts that based upon the totality of the evidence presented, the Hearing Officer did so err. The incident did not arise out of nor was it in the course and scope of the claimant's employment.

Under NRS 616C.150(1), the claimant has the burden of proof to show that the injury **arose out of and in the course and scope of his employment**. The claimant must satisfy this burden by a preponderance of the factual and medical evidence. Further, NRS 616B.612 mandates that an employee is only entitled to compensation **if he is injured in the course and scope of his employment**.

The claimant's injuries arose out of a *personal dispute*, rather than in the course of his employment. The facts are not disputed and are as follows: The claimant was working on a job site. He took it upon himself to go to *another* job site, where his former lead was working. He ascended a ladder, without any protective equipment, and confronted his old lead regarding a pay check. His former lead informed him that they would take care of it at the office. Claimant continued to argue and shout profanities at his former lead. His former lead's son, then became involved and pushed the claimant. The claimant fell off of the roof and sustained injury. Nothing within this fact pattern points to a compensable claim. The claimant was wrong in going to a different job site. The claimant was wrong for ascending a ladder without fall protection. The aggressor was wrong in pushing the claimant; however, there is absolutely nothing compensable about this incident.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a **causal connection between the injury and the employee's work** ... the injured party must establish a link between **the workplace conditions and how those conditions caused the injury** ... a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997). (emphasis added)

The same Court further stated that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers/employers absolutely liable for injuries suffered by employees who are on the job." (Id.)

Here, the claimant was involved in a **personal dispute** with a co-worker and the injuries **did not arise from the Employer's business or the claimant's job**. The claimant clearly has not established that the injury occurred within the course and scope of his employment,

as he was not acting on behalf of the Employer when he verbally assaulted his former lead and another co-worker pushed him, causing injury. What is clear is that this incident **had nothing to do with his work duties. It was clearly a personal matter between him and the co-worker.** The fact that claimant was injured after he verbally assaulted his former lead, does not make this a compensable injury arising out of and in the course and scope of his employment. Conversely, claimant cannot be rewarded for his behavior that was clearly outside of the scope of his employment and not in furtherance his Employer's business.

The Nevada Supreme Court has held that an employee who is injured in the course of his work by the insane act of a fellow employee sustains injury which does not arise out of employment. Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969); Corrao Const. Co. v. Curtis, 94 Nev. 569 (1978); Outboard Marine Corp. v. Schupbach, 93 Nev. 158 (1977).

The Cummings decision went further and adopted the general rule that injuries resulting from assaults by fellow workmen when the attack results from personal animosity are not compensable. (Id.) (Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956).

Larson's treatise on worker's compensation also speaks to this issue:

> **When the animosity or dispute that culminates in an assault is imported into the employment from claimant's domestic or private life, the assault does not arise out of the employment under any test.**

3, A. Larson, The Law of Workmen's Compensation, §11.21(a) (emphasis added).

Larson cites to a number of cases which are helpful in adjudicating the matter before this Court. In City of Atlanta v. Shaw, 345 S.E.2d 642 (1986), an employee sought benefits for an injury sustained during a fight with a fellow employee. The fight concerned the use of the employer's telephone. In reaching the conclusion that the claim was non-compensable, **the Georgia court focused on the history of personal animosity.**

Further, the Nevada Supreme Court held in Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005):

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury. Further, a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment. However, if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the claimant's employment. Finally, resolving whether an injury arose out of employment is examined by a totality of the circumstances.

The Court in Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 605 939 P2d. 1043 (1997) held that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers absolutely liable for injuries suffered by employees who are on the job." The Court concluded by stating, "The requirements of 'arising out of and in the course of employment' make it clear that a claimant must establish more than being at work and suffering an injury in order to recover."

The Court in Rio All Suite Hotel and Casino v. Phillips, 126 Nev. _, 240 P.3d 2 (2010) clarified Mitchell. It indicated that:

> The appeals officer found that Phillips' case was 'distinguishable' from Mitchell because Phillips' injury did not result from an 'unexplained fall.' Without elaborating, the appeals officer also stated that '[t]he Mitchell [c]ourt mentions the inherent dangerousness of stairways.' . . . [The Court in Rio further discussed Mitchell: "The employee argued that because she did not have a health affliction that caused her to fall and 'because staircases are inherently dangerous,' her injury "arose out of her employment." . . . The appeals officer determined that the employee's fall did not arise out of her employment, and the district court denied her petition for judicial review.". . . [Our finding in Mitchell was that] "[T]he employee must show that 'the origin of the injury is related to some risk involved within the scope of employment . . . thus, because the [Mitchell] employee could not explain how the conditions of her employment caused her to fall . . . we determined that the appeals officer correctly concluded that she failed to demonstrate the requisite 'causal connection.

There is simply now showing at this time that there is any origin of injury related to some risk within the scope of employment, given the personal nature of the dispute between the

claimant and his co-worker. The Hearing Officer incorrectly concluded that the injury occurred within the course and scope of the employment. The case law does not support this conclusion, nor was the case law even addressed by the Hearing Officer. The claimant had no right to approach a job site, in which he was not working on, ascend a ladder without safety equipment, and begin verbally assaulting his former supervisor and/or co-worker(s). The act that followed, though unfortunate, from a legal perspective is certainly nothing that arose from the employment. The personal dispute and corresponding injury among co-workers is not compensable. The claim was properly denied.

CONCLUSION

Based upon the foregoing points and authorities, it is clear that the claimant has failed to meet his burden of establishing an entitlement to an accepted claim.

WHEREFORE, the Insurer, FOCUS PLUMBING, respectfully requests that the Appeals Officer provide the following relief:

1. That the Appeals Officer reverse the Hearing Officer's Decision and Order dated June 1, 2017, which reversed and remanded Insurer's March 6, 2017 determination to deny the claim.

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2. That the Appeals Officer affirm the March 6, 2017 determination to deny the claim.

DATED this 5 day of September, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____ For

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89101
Phone: (702) 893-3383
Fax: (702) 366-9689
Attorneys for the Insurer

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the foregoing **INSURER'S APPEAL MEMORANDUM** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as follows:

MORRIS ANDERSON LAW
JACOB LEAVITT, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

FOCUS PLUMBING
C/O SUN CITY ELECTRIC

FOCUS PLUMBING
C/O SUN CITY ELECTRIC
ATTN: PATTY PIZANO
1220 S. COMMERCE ST., #120
LAS VEGAS, NV 89102

DATED this 8th day of September, 2017.

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

NEVADA DEPARTMENT OF ADMINISTRATION
BEFORE THE APPEALS OFFICER

ORIGINAL

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: 1714955-CJY Employer: FOCUS PLUMBING C/O SUN CITY ELECTRIC ATTN: PATTY PIZANO 1220 S. COMMERCE ST., #120 LAS VEGAS, NV 89102 **DOH: 09/12/17 AT 9:30 A.M.**

RECEIVED AND FILED
2017 SEP 11 PM 2:38
STATE OF NEVADA DEPT OF ADMINISTRATION HEARINGS DIVISION

INSURER'S INDEX OF DOCUMENTS

COMES NOW the Insurer, FOCUS PLUMBING (hereinafter referred to as "Insurer"), by and through its attorneys, DANIEL L. SCHWARTZ, ESQ., of LEWIS BRISBOIS BISGAARD & SMITH LLP, and submit the attached Index of Documents relating to the above-referenced matter.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the attached exhibits do not contain the personal information of any person.

DATED this 9 day of September, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: [signature] For
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
2300 W. Sahara Ave., Ste. 300, Box 28
Las Vegas, NV 89102
Tel.: (702) 893-3383
Fax: (702) 366-9563
Attorneys for the Insurer,

INSURER'S EXHIBIT # A

(A)

4837-2732-5007.1 /33947-16

DOC012

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

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CERTIFICATE OF MAILING

I hereby certify that, on the 8th day of September, 2017, I served a true and correct copy of the above and foregoing **INSURER'S INDEX OF DOCUMENTS** by depositing a true and correct copy of the same for mailing, postage prepaid thereon, in an envelope addressed to the following:

MORRIS ANDERSON LAW
JACOB LEAVITT, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

FOCUS PLUMBING
C/O SUN CITY ELECTRIC

FOCUS PLUMBING
SUN CITY ELECTRIC
ATTN: PATTY PIZANO
1220 S. COMMERCE ST., #120
LAS VEGAS, NV 89102

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

Acct 9931347349

EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT
FORM C-4
PLEASE TYPE OR PRINT

EMPLOYEE'S CLAIM - PROVIDE ALL INFORMATION REQUESTED

First Name: Martin	M.I.	Last Name: Perez	Birthdate: 1·8·78	Sex: ☒ M ☐ F	Claim Number (Insurer's Use Only)
Home Address: 355S E. Lake Mead Blvd			Age: 38	Height	Weight	Social Security Number
City: Las Vegas	State: NV	Zip: 89115	Telephone: 805-827-7746	
Physical Address	City	State	Zip	Primary Language Spoken
INSURER: FOCUS	THIRD-PARTY ADMINISTRATOR	Employee's Occupation (Job Title) When Injury or Occupational Disease Occurred	
Employer's Name/Company Name: FOCUS Plumbing			Telephone: 702-220-5621
Office Mail Address (Number and Street): 1220 S Commerce St Ste 120 Las Vegas, NV 89102			
Date of Injury (if applicable): 12·30·16	Hours Injury (if applicable): am pm	Date Employer Notified	Last Day of Work After Injury or Occupational Disease: 12·30·16	Supervisor to Whom Injury Reported
Address or Location of Accident (if applicable): Un Known				
What were you doing at the time of the accident? (if applicable): Pushed off Roof				
How did this injury or occupational disease occur? (Be specific and answer in detail. Use additional sheet if necessary): el 110 de predo me aven to Repente Pushed off Roof				
If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment?				Witnesses to the Accident (if applicable)
Nature of Injury or Occupational Disease: traumatic subdural hematona 8th rib fracture		Part(s) of Body Injured or Affected		

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 616A TO 616D, INCLUSIVE OR CHAPTER 617 OF NRS). I HEREBY AUTHORIZE ANY PHYSICIAN, CHIROPRACTOR, SURGEON, PRACTITIONER, OR OTHER PERSON, ANY HOSPITAL, INCLUDING VETERANS ADMINISTRATION OR GOVERNMENTAL 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 PHOTOSTAT OF THIS AUTHORIZATION SHALL BE AS VALID AS THE ORIGINAL.

Date 12·30·16 Place Employee's Signature martin putin perez

PH UTS Due to Smod. cond

THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT

Place: TRAUMA ED Name of Facility: UNIVERSITY MEDICAL CENTER

Date: 12/30/2016 Hour: 2230	Diagnosis and Description of Injury or Occupational Disease: SUBDURAL HEMATOMA (BRAIN BLEED)	Is there evidence that the injured employee was under the influence of alcohol and/or another controlled substance at the time of the accident? ☒ No ☐ Yes (if yes, please explain)
Treatment: ANTI-SEIZURE MEDICATIONS		Have you advised the patient to remain off work five days or more? ☒ Yes Indicate dates: from 12/30/16 to 1/7/16 ☐ No If no, is the injured employee capable of: ☐ full duty ☐ modified duty
X-Ray Findings: SUBDURAL HEMATOMA		If modified duty, specify any limitations/restrictions: NO ACTIVITIES THAT PUT HIM AT RISK FOR REPEAT HEAD INJURY FOR 1 MONTH
From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job incurred? ☒ Yes ☐ No		
Is additional medical care by a physician indicated? ☒ Yes ☐ No		

Do you know of any previous injury or disease contributing to this condition or occupational disease? ☐ Yes ☒ No (Explain if yes)

Date: 12/30/2016	Print Doctor's Name: SAMUEL BERBIN	I certify that the employer's copy of this form was mailed to the employer on:
Address: 1800 W. Charleston		INSURER'S USE ONLY
City: Las Vegas State: NV Zip: 89102	Provider's Tax I.D. Number: 88-6000436	Telephone: 702-383-2000
Doctor's Signature:		Degree: MD

ORIGINAL – TREATING PHYSICIAN OR CHIROPRACTOR PAGE 2 – INSURER/TPA PAGE 3 – EMPLOYER PAGE 4 – EMPLOYEE Form C-4 (rev.01/03)

RECEIVED MAR 03 2017 BY: 00125

Supervisor Accident Investigation Report

(Must be filled out by the Supervisor)

1. Telephone or radio your report to the **SAFETY OFFICE IMMEDIATELY.** Be prepared to give the following information:

Injured Employee's Name	Time of Accident
Social Security Number	**Name of Medical Facility**
Job Name / Location	Details of Accident

2. Complete the following report for serious and non-serious injuries and or illnesses alike.

COMPANY: Focus Framing JOB NAME: Green Centers Lot 90

3. Injured Employee's Full Name: Martin Duran Perez Sex: ☒ M ☐ F

Job Classification: Framer **Supervisor's Name:** Rafael Benitez

4. Injury or Illness Information:
Date of Injury or Illness: 12/30/16 Time of Day: 4:30 ☐ a.m. ☒ p.m. Date you reported injury: 12/30/16

Did injury require: ☐ First Aid (On Jobsite) ☒ Medical Treatment (Clinic / Hospital) ☐ No Treatment (Information Only)

Did employee request medical treatment at the time of reporting injury or illness? ☒ Yes ☐ No
Did you ask the employee if he needed any medical treatment at the time of reporting injury or illness? ☒ Yes ☐ No

5. Type of injury or illness:

☐ Abrasion	☐ Burn	☐ Foreign Body	☐ Strain	☐ Laceration	☐ Rash	☐ Heart Attack
☐ Amputation	☐ Concussion	☐ Fracture	☐ Hernia	☐ Puncture	☐ Sprain	☐ Skin Disease
☐ Avulsion	☒ Contusion	☐ Hearing Loss	☐ Irritation	☐ Multiple	☐ Wound	☐ Trauma

6. Part of the body effected:

☐ Arm	☒ Chest	☐ Finger	☒ Head	☐ Leg	☐ Shoulder	☐ Trunk
☐ Ankle	☐ Elbow	☐ Foot	☐ Hip	☐ Multiple	☐ Thumb	☐ Wrist
☐ Back	☐ Eye	☐ Hand	☐ Knee	☐ Neck	☐ Toe	☐ Lungs

Body side Indicator:
☐ Upper ☐ Lower ☒ Left ☐ Right ☐ Both

7. Explain how the injury or illness occurred (Describe the events that resulted in injury or illness, what happened, how it happened and name objects and how they were involved.) Use a separate sheet of paper if necessary.

Employee went to 2nd floor without PPE, fall protection and fall from 12' feet

8. Was the employee at work on company time? ☒ Yes ☐ No
If NO, please explain: _____

9. Did a "hazardous condition" exist? ☒ Yes ☐ No
If YES, please explain: The employee Martin Duran climbed on a 2nd flor without the proper protecio

10. Were safety procedures observed? ☐ Yes ☒ No
If YES, please describe: _____

If NO, please explain which safety procedure(s) were violated: No PPE, No Fall protecion and work place violen

11. What is the root cause of the accident? Work place violence

12. What have you done to prevent the accident from reoccurring? Retraining
Recurrence Rate: ☐ Often ☐ Occasional ☒ Rare 1st time
Was this hazard previously reported? ☐ Yes ☒ No
1st time happend

Supervisor Name (PRINT)	Supervisor Signature	Date
Rafael Benitez	[signature]	12/30/16

2

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martin Duran Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 4:30 PM

LOCATION: Green Courts Lot 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

At the time the incident ocurred I did not see it happend myself, when I got there the employee was lying on the ground passed out, I checked vitals and notified 911. Also notified upper managment and safety departament

3

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Rafael Benitez

TITLE: Foreman

SIGNATURE OF PERSON SUBMITTING REPORT: [signature]

DATE OF REPORT: 12/30/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

4

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martine Duran-Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 @ 4:30 to 5:00 PM

LOCATION: Green Courts lot #90 KB Homes.

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes.

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

From taken from following statements of employees. Employee Martine was mad cause his paycheck was short from the week before when he was working on Pedro's crew. That evening at about 4:30 PM Martine walked across the street from lot #98 to where Pedro was working on lot #90 and climbed a 8 FT. ladder to get onto second floor where Pedro was working tied off. He confronted Pedro and started yelling at him, Pedro stated he that told him that they could go to office on tuesday to fix it, but it only got elevated and then Pedros son who was working down

S

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

stairs climbed up to help his dad out. He stated he told Martine to stop, but he started yelling at him and then put hands on him and thats when he pushed him away and was about 3Ft away from edge and tried to grab coral post but ended up falling to the ground approximately 12Ft to the ground. Martine was knocked unconsious. Employee Eduardo Leon then climbed up and confronted Pedro and his ~~fat~~ Son and wanted to fight. Pedro stated that he told him stop. and he went back down.

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Nicholas Paus

TITLE: Safety Manager

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 1/2/17

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martine Duran-Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 @ 4:30 to 5:00 PM.

LOCATION: Green Court #90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes.

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

When they got down. Foreman Rafael Benitez was already there and started proper First Aid protocal and notified First Responders. Rafael then notified Upper managment and the Safety Department.
The employee was taken to St. Rose Siena for further Evaluation. The following morning Henderson police were notified but they had already had opened up an investigation, and we are working with them to get all statements.

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

to them and any information that they may request.

FOLLOW UP: Employee was released Jan 2, 2017 to home from the hospital.

PRINT NAME OF PERSON SUBMITTING REPORT: Nicholas Pao

TITLE: Safety Manager

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 1/2/17

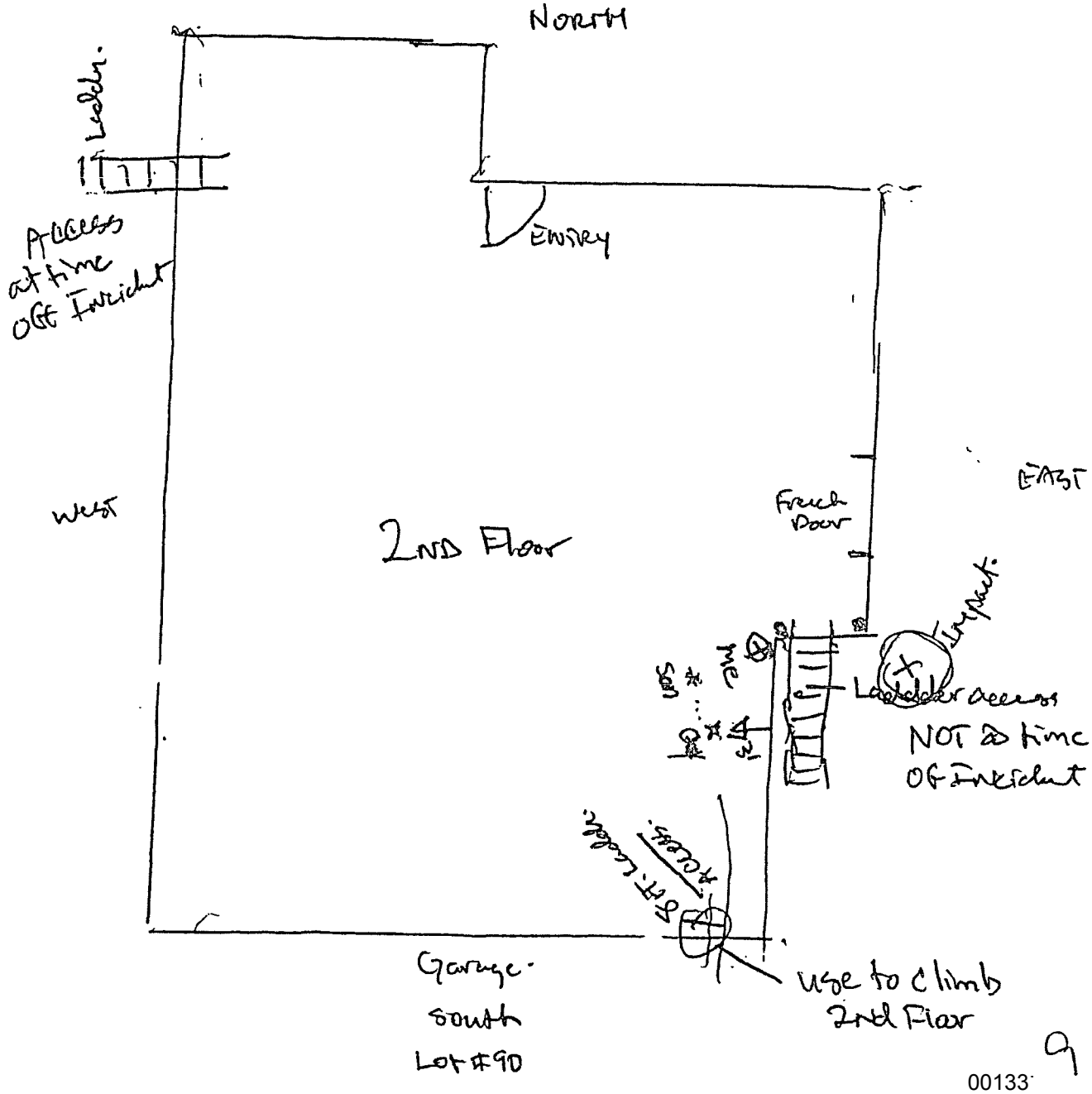
NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

Forcident

Martine Dorran - Perez

report 16-23551 Police Report

Pedro's house lot #90 3161 Via Tellaro St.
Francisco house lot # 94 3156 Florence Falls Walk.



INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Pedro Rosales G

ADDRESS: 2182 N. Pecos Rd #69
las Vegas NV 89115

PHONE: (702) 439-9511

DATE & TIME OF INCIDENT: 12/30/2016 5:PM

LOCATION: Green Court @ inspirada

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? _____

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

12/30/2016 Al Rededor de las 5:PM este Senor bino de un lot, Para mi lot 90 y el se Sufio a el segundo Pizo y empeso @ desir malas Palabras, y tratar de gol Pearme, yo estando travajando con mi equipo de Protection (Hardnes & yoyo) el subio esta el con migo (with out Harnes & yoyo) cuando mi iJo escucho los Grito ofencivos del señor acia mi, yo le esplique al señor que me diera tiempo Para Resolver el Situacion Para el martes 01/02/2017 en la oficina Pero se Portava muy agreciova asia mi, trato de Pelarme Pero mi iJo Jose la unico que Paso esque trato de defender a PaPa, el Segundo Señor Subio tanvien al segundo Pizo @ tratar de Pelamos @ mi y a mi iJo, ablava malas Palavras acianosotros, yo y mi iJo no Pucimos Atencion acia el, Porque yo le dije a mi iJo Jose que no Setrata de Pelear en el ocupacion

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

el señor Paso a Retirarse bajando del segundo Pizo sin Protection's, otro tercer señor Gritava Palavras del otro lado de la calle tratando como de agredirnos tanbien, nosotros siempre nos enfocamos en lograr nuestro travajo y nuestra meta. Para la compania (Focus Framing company) Respetar las Reglas y Formas que senos enseña no Peleas no discuciones, (no ofensas) only Resolver las situaciones de la manera correcta, yo iva a llamar al (911) Pero no lo ise Porque

FOLLOW UP: el Forman ye go en el momento y se en cargo de lo siguiente

PRINT NAME OF PERSON SUBMITTING REPORT: Pedro Rosales-C

TITLE: Foreman

SIGNATURE OF PERSON SUBMITTING REPORT: Pedro Rosales-C

DATE OF REPORT: 12/31/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Jose Rosales

ADDRESS: 2182 Npecos LV NV 89115 #69

PHONE: 702-238-9258

DATE & TIME OF INCIDENT: 12-30-16 4:45 pm

LOCATION: Green croup Lot 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? _____

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

I was clean down stairs and the guy came up stairs aggerivse, to my father so I rushed up there and I told him come down in so many ways and he came aggressive to me so he look at me tried to through his hands at me and ~~we~~ pushed him and he walked like 3 ft and saw and kept on going and there he went he fell.

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FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

There was a second guy trying to fight with me too but I back up and let him be so I continue to do what I was doing. and went to down stairs and Rafel took care of the seven third guy was just talking nonesense after I didn't pay attention of what they were doing.

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Jose Rosales

TITLE: Farmer

SIGNATURE OF PERSON SUBMITTING REPORT: Jose Rosales

DATE OF REPORT: 12.31.16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focos Fraiming

NAME OF INVOLVED PERSON: Eduardo Leon

ADDRESS: 3555 lake medd Blvd Apt #147

PHONE: (805) 9078011

DATE & TIME OF INCIDENT: 12-30-16 4:30 pm E.L.

LOCATION: Green cars L.#90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? YES

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Pando le dio su cheke a martin y miro
k era muy poco y subio a reclamarle
a Pedro empesaron a platicar y pues se
exsaltaron un poco pero no hubo gritos
ni manoteos el hijo de pedro subiò un
poco moleste en intantes lo empujo
eso fue en intantes yo eduardo subi y
dije ke paso cuando menos medi cuenta
Martin ya staba en el suelo pues
podi ayuda y nadie lo hizo xk andaban
en sock la lebantamos del lugar. y
burlandose el hijo de Pedro le dijo con
una boz como de odio. PARA K. TE
ACUERDEZ DE MI

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FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Eduardo Leon

TITLE: Carpintero

SIGNATURE OF PERSON SUBMITTING REPORT: Eduardo Leon

DATE OF REPORT: 12-30-16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: FOUCS

NAME OF INVOLVED PERSON: Elvis Herrera

ADDRESS: 1908 N/A

PHONE (702) 689-2460

DATE & TIME OF INCIDENT: 12/30/16

LOCATION: GREEN COURTS LOH(90)

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? YES

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Will I saw That Martine was pushed from The second floor and hit The floor The son and father were on The second floor Talking and Then Martine Started Talking To The mans son and out of no where The son Of The man Pushed martine from The second floor

14

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: ELVIS HERRERA

TITLE: framer

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 12/31/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus

NAME OF INVOLVED PERSON: Martin Duran Perez

ADDRESS: 3555 E Lakemead Blvd Apt # 147
Las Vegas NV 89115

PHONE: (805) 990-1923

DATE & TIME OF INCIDENT: 4:30 pm

LOCATION: Green Courts Lote # 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? Yes

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Viernes 30 de Diciembre de 2016 Yo Martin Duran Perez Subi donde estaba el señor Pedro. Abri mi cheque Y le dije que no era Justo lo que me pago. Eso no esta bien. El me respondio que las cosas no tenia Dinero. El hijo del señor Predro me dijo como no Esta bien. Me agarro desprebenido Y me abento desde Arriba. Elvis miro todo y mi cuñado llama al 911 Yo no me acurdo despues de nada hasta que llegue al Hospital.

Martin Durán Peréz

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Reporte de Lesión Industrial o Enfermedad
(Debe ser rellenado por el Empleado)

1. Rellene el siguiente informe en caso de herida grave, no- grave, o enfermedad.

COMPAÑÍA: Fox Framing Nombre del Proyecto: Green Coarts lot 9

Nombre del Foreman: Rafael Benites

2. Nombre del Empleado (favor de escribir en letra): martin Durán peréz

Domicilió, y Número de Teléfono: 3555 E Lakmed Blvd Hpt 147 89115 las vegas

Sexo: ☒ Hombre ☐ Mujer Fecha de Nacimiento: 1/08/1978 ¿Casado?: ☐ Sí ☒ No

Clasificación de Trabajo: Carpintero **Número del Seguro Social:** _____

Duración de Empleo: ☒ Menos de 6 meses ☐ 1 a 3 años ☐ 7 meses a un año ☐ Mas de 3 años

Tiempo en el trabajo actual: ☐ Menos de 6 meses ☐ 1 a 3 años ☐ 7 meses a un año ☐ Mas de 3 años

3. Información del Lesión o Enfermedad:
Fecha del Lesión o Enfermedad: 12/30/16 Hora del Día: 450 ☐ a.m. ☒ p.m. Fecha que reportó la Lesión: 12/30/16

¿Requirió el Lesión?: ☐ Primeros Auxilios ☒ Tratamiento Médico (Clínica / Hospital) ☐ Ningún Tratamiento (Sólo Información)

¿Pidió tratamiento médico cuando reporto la lesión o enfermedad? ☒ Sí ☐ No **Debe marcar una**

¿Le ofreció tratamiento médico su supervisor / foreman cuando le informo de la lesión o enfermedad? ☒ Sí ☐ No **Debe marcar una**

4. Tipo de herida o enfermedad:

☐ Raspadura	☐ Quemadura	☒ Cuerpo Ajeno	☐ Torcedura	☐ Laceración	☐ Salpullido	☐ Ataque de Corazón
☐ Amputación	☐ Concusión	☐ Fractura	☐ Hernia	☐ Perforación	☐ Esguince	☐ Enfermedad de Piel
☐ Desgarre	☐ Contusión	☐ Pérdida de Oído	☐ Irritación	☐ Múltiple	☐ Herida	☐ Trauma

5. Parte del cuerpo afectado:

☐ Brazo	☐ Pecho	☐ Dedo	☒ Cabeza	☐ Pierna	☐ Hombro	☐ Tronco
☐ Tobillo	☐ Codo	☐ Pie	☐ Cadera	☐ Múltiple	☐ Pulgar	☐ Muñeca
☒ Espalda	☐ Ojo	☐ Mano	☐ Rodilla	☒ Cuello	☐ Dedo de Pie	☐ Pulmones

Indicador de la Parte / Lado del Cuerpo:
☐ Superior ☐ Inferior ☐ Izquierdo ☐ Derecho ☐ Ambos

6. Lugar exacto donde ocurrió el lesión: Green Coarts Lot 90

7. ¿Qué hacia cuando sufrió la herida? (Sea específico. Si usaba herramientas o equipo, o manejaba material, favor de nombrarlos y explicar lo que estaba haciendo con ellos.) Si es necesario añada otra hoja de papel.

El ijo de pedro meabento del primer piso →

8. Explique cómo sucedió la herida o enfermedad (Describa los acontecimientos que ocasionaron en la herida o enfermedad, ¿qué sucedió?, ¿Cómo sucedió?, y los objetos / herramientas que fueron involucrados.) Si es necesario añada otra hoja de papel.

Testigo(s): Nombre, Domicilio, número de teléfono: Lalo Leon Evis Ereera

Nombre del Empleado (letra)	Firma del Empleado	Fecha
martin Duran peréz	martin Dura peréz	1.31.17

Blanco – Departamento de Seguridad Amarillo – Empleado

Trabajo Liviano o Modificado

Si fue involucrado en una lesión o enfermedad de trabajo, la Compañía le ofrecerá un trabajo temporario que acomodará cualquier restricción impuesto por un doctor [illegible] social a un centro

yo martin estaba Abrando con Pedro me
paga 11. dolares La ora y medio mí
chequi de seis dias 250 Potare x
110 dedige qui Noera gusto y yo
dige qui No estaba bien Loquimedio

20

JUSTICE COURT, HENDERSON TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JOSE ROSALES, aka,
Jose Manuel Rosales #8175632,
Defendant.

17CRH000232-0000
CASE NO: 17FH0191X
DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of BATTERY WITH SUBSTANTIAL BODILY HARM (Category C Felony - NRS 200.481 - NOC 50214), in the manner following, to-wit: That the said Defendant, on or about the 30th day of December, 2016, at and within the County of Clark, State of Nevada, did willfully, unlawfully, and feloniously use force or violence upon the person of another, to wit: MARTIN PEREZ, by pushing the said MARTIN PEREZ, resulting in substantial bodily harm to MARTIN PEREZ.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

02/16/17

17FH0191X/lal
HPD EV# 1623551
(TK)

W:\2017\2017F\H01\91\17FH0191-COMP-001.DOCX

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University Medical Center
1800 W Charleston Blvd
Las Vegas,NV 89102
702-383-2000

ED Chart View

Patient Name:	**PEREZ, MARTIN**	**Sex:**	M
Birthdate:	01/08/1978	**Age:**	38
Acct No:	9931347349	**Medical Rec No:**	0030138209
Arrival Dt.:	12/30/2016 20:54	**1st Chart Launch Dt.:**	12/30/2016 21:02
Primary MD:		**Treating Provider:**	RANDALL BESS MD
		Attending MD:	MITZI A DILLON MD
Chart Status:	Final		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Primary Diagnosis

1) Free text DX: Traumatic fall *(RANDALL BESS MD 12/30/2016 21:22:29)* 2) Traumatic subdural hematoma *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Free text DX: Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Musculoskeletal chest pain *(RANDALL BESS MD 12/30/2016 21:22:29)*

History of Present Illness

HPI: Exam started at 21:03 *(MITZI A DILLON MD 12/30/2016 21:03:00)* 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:09:00)* PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Vital Signs

Time	Blood Pressure	Pulse	PulseOx	Respiration	Temperature	Pain
12/31 00:07						0/10 - AM33
12/30 23:39	132/91 mm Hg. - AM33	94 /min - AM33	98 % Room air - AM33	13 /min - AM33		
12/30 21:51	135/81 mm Hg.	99 /min - MK23	99 % 2 liter/min	18 /min - MK23		0/10 - MK23

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	- MK23		- MK23			
12/30 21:14	141/88 mm Hg. - RW4	94 /min - RW4	98 % Room air - RW4	18 /min - RW4	98.7 F - RW4	

Other Vital Signs

Height: 162 cm *(ROBERT WILSON RN 12/30/2016 20:54:00)* **Weight:** 91 kg *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bmi:** 34.7 *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bsa:** 2.02 sq. m *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Current Medications

1) 12/30/2016 21:08:47 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.] *(ROBERT WILSON RN 12/30/2016 21:08:47)*

Med Orders

MedOrder	Entered By	Ordered By	Completed	MD Sign	Note	Comment/ Indication
ED: morphine inj 4 MG IV ONCE NOW	SL8 RN 12/30 21:11	RB40 MD 12/30 21:11	SL8 12/30 21:10		12/30 21:10:Dose given IV push. (SL8); 12/30 21:10:No complications. (SL8); 12/30 21:10:Just given ED: morphine inj. (SL8); 12/30 21:10:Awake and alert. (SL8)	
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE	RW4 RN 12/30 21:49	MD28 MD 12/30 21:49	RW4 12/30 21:49			
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		Indication: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/31 05:18	SB61 12/30 22:57		Indication: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		
acetaminophen [TYLENOL]	SB61 MD 12/30 22:57	JS58 12/30 22:57	12/31 09:40	SB61 12/30 22:57		Indication: moderate pain

1000 MG ORAL Q8H PRN ROUTINE						
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:49	SB61 12/30 22:57		
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW	CJ22 RN 12/30 22:59	SB61 MD 12/30 22:59	CJ22 12/30 22:56		12/30 22:56:Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22)	
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06	SB61 12/31 08:34	SB61 12/30 23:06		
potassium chloride [KLOR-CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KPhos-NaPhos powder packet (8 mmol phos) [PHOS-NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KCl 40 mEq	MNP MD 12/30	MNP MD 12/30		MNP 12/30		Indication: per

rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line	23:49	23:49		23:49		Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE	MNP MD 12/30 23:49	NJ7 MD 12/30 23:49	NJ7 12/31 11:18	MNP 12/30 23:49		
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)

ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders						
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
sodium chloride 0.9% 250 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE	MNP MD 12/30 23:57	JS58 12/30 23:57	12/31 09:40	MNP 12/30 23:57		
HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE	MNP MD 12/30 23:58	MNP MD 12/30 23:58	12/31 03:47	MNP 12/30 23:58		Indication: severe pain
insulin lispro inj [HumaLOG] 3-15 UNIT SUBCUT PRN ROUTINE 70-130= 0 units; 131-150= 3 units; 151-170=	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: PROT-14 sliding scale (A):

5 units; 171-190= 7 units; 191-210= 9 units; 211-230= 11 units; 231-250= 13 units; >250= 15 units and call House Officer to consider scale B (if ICU pt) or scale D (if non-ICU pt)						
dextrose 50% inj 12.5 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose 35-69; recheck BGM in 30min
dextrose 50% inj 25 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose <35; recheck BGM in 30min
PHARMACY COMMUNICA-TION 1 EA MISC PRN ROUTINE Rx to D/C ALL previ-ously ordered anti-diabetic medications	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		

Non-Med Orders

Non-MedOrde	Entered By	Ordered By	Completed	Results Back	MD Sign	Note	Comment/ Indication
TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT THORACIC SPINE RE-CONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	

TR CT LUMBAR SPINE RE-CONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT ABDO-MEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Re-lated	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
PT + APTT ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:29	12/30 22:29		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
TYPE AND SCREEN ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50				12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
BASIC META-BOLIC PAN-EL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:28	12/30 22:28		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
CBC NO DIF-FERENTIAL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:08	12/30 22:08		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood	

						obtained from the right antecubital fossa. (RW4)	
ABO RH TYPE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
ANTIBODY SCREEN - GEL TECH-NIQUE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
EKG 12 LEAD ONCE STAT	AM80 UNIT CLERK 12/30 22:55	SB61 MD 12/30 22:55	12/31 12:52	12/31 12:52	SB61 12/30 22:55	12/30 23:11:First EKG in de-partment ob-tained. (CJ22)	
Surgery Admit Order (basic requirements) ONCE ROUTINE In-patient TICU Standard No 7.3mm Sub-dural hemat-oma, 8th right rib fracture, Fall off second story roof	SB61 MD 12/30 22:56	SB61 MD 12/30 22:56	12/30 23:37		SB61 12/30 22:56		

CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)							
Measure Weight EVERY DAY ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 22:53		SB61 12/30 22:57		
Vital Signs Q2H ROUTINE(*Cancel*)	SB61 MD 12/30 22:57	MNP MD 12/30 22:57			SB61 12/30 22:57		
Intake & Output Q2H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Notify: CONTIN ROUTINE SaO2 < 88%	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:(Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:Peripheral IV #2
Admission Nasal MRSA Colonization Screen-ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Influ-	SB61 MD	SB61 MD			SB61 12/30		Comment:-

enza Vaccine Assessment-CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		Switch to Influenza vaccine order if indicated
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	AA3 12/31 07:46		SB61 12/30 22:57		
Incentive Spirometry - NSG Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 19:28		SB61 12/30 22:57		Comment:X 10 Breaths
CASE MANAGEMENT CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Pneumococcal Vaccine Assessment-CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:- Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
SOCIAL SERVICES CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Notify: CONTIN ROUTINE DBP < 60 or > 110	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Activity CONTIN ROUTINE (with nursing assistance)	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
NPO MEALS(*Cancel*)	SB61 MD 12/30 22:57	JS58 12/30 22:57			SB61 12/30 22:57		
Sequential	SB61 MD	SB61 MD	12/31 20:17		SB61 12/30		

Compression Device CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:brain bleed
CBC/ AUTOMATED IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:29	12/31 01:29	SB61 12/30 22:57		
RENAL PANEL IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:53	12/31 01:53	SB61 12/30 22:57		
Neuro Checks Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 23:00		SB61 12/30 22:57		
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma(*Cancel*)	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06			SB61 12/30 23:06	12/31 00:28:Cancel Reason: PATIENT IS TO BE DONE IN TRAUMA CENTER ()	
Vital Signs Q1H ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	01/01 00:00		MNP 12/30 23:49		
Elevate Head of Bed CONTIN ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
MAGNESIUM LEVEL QDAY IN AM	MNP MD 12/30 23:49	MNP MD 12/30 23:49			MNP 12/30 23:49		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		

Protocol), place in chart							
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/Na-Phos/ PhosNaK, Magnesium 2 hr after magnesium	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU-CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35-69, give 12.5gm D50W IVP and recheck BGM in 30min.	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14-A (TICU/SICU Insulin Sliding Scale), place in chart	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

RN to Order: CONTIN ROUTINE serum glucose level if BGM< 35 mg/dL	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59			MNP 12/30 23:59		Comment:if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
Notify: CONTIN ROUTINE if BGM >250 and consider scale B (ICU pt) or scale D (non-ICU pt) House Officer	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (Non-ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

Lab Results

HEMOGRAM 12/30/2016 21:47:00	
WHITE BLOOD CELL	*13.20 K/MM3 H* (NL = 3.40-10.30)
RED BLOOD CELL	4.67 M/MM3 (NL = 4.08-5.70)
HGB	13.9 G/DL (NL = 13.1-16.8)
HEMATOCRIT	41.4 % (NL = 38.2-48.4)
MCV	88.6 FL (NL = 80.1-98.5)
MEAN CELL HEMOGLOBIN	29.7 pg (NL = 27.1-34.2)
MEAN CELL HEMOGLOBIN CONCENTRATION	33.6 % (NL = 33.0-35.6)
PLATELET	271 K/MM3 (NL = 130-351)
MPV	7.5 FL (NL = 7.5-11.2)
Red Cell Diameter Width	13.8 % (NL = 11.8-15.1)

BASIC METABOLIC PANEL 12/30/2016 21:47:00	
SODIUM	139 MMOL/L (NL = 136-145)
POTASSIUM	3.9 MMOL/L (NL = 3.5-5.1)
CHLORIDE	106 MMOL/L (NL = 98-110)
TOTAL CO2	24 MMOL/L (NL = 22-31)
BLOOD UREA NITROGEN	13 mg/dL (NL = 9-26)
CREATININE	0.7 mg/dL (NL = 0.6-1.5)
GLUCOSE	*122 mg/dL H* (NL = 70-110)
CALCIUM	*8.1 mg/dL L* (NL = 8.4-10.2)
Anion Gap	9 MMOL/L (NL = 8-16)

PT AND APTT 12/30/2016 21:47:00	
PROTHROMBIN TIME	11.7 SEC. (NL = 9.3-12.4)
INR	1.0 (NL = 0.8-1.2) Comment: Recommended therapeutic range for oral anticoagulant therapy (INR 2.0 - 3.0) INDICATION: Prophylaxis of venous thrombosis (High-risk surgery) Treatment of venous thrombosis Treatment of pulmonary embolism Prevention of Systemic embolism Acute myocardial infarction (To prevent systemic embolism) Valvular heart disease Atrial fibrillation 1. It is strongly recommended that all patients with mechanical prosthetic heart valves receive oral anticoagulant (Grade C1 recommendation) A goal INR of 2.5 (range 2.0 - 3.0) is recommended for patients with a bileaflet mechanical valve in the aortic position, provided the left atrium is of normal size, the patient is in sinus rhythm and the ejection fraction is normal

	(Grade A2 recommendation) 2. A goal INR of 3.0 (range 2.5 - 3.5) is recommended for all other patients. If oral anticoagulant therapy is elected to prevent recurrent myocardial infarction, an INR of 2.5 - 3.5 is recommended, consistent with Food and Drug Administration recommendations. Chest: 114:5 November 1998 Supplement
ACTIVATED PARTIAL THROMBOPLASTIN	25 SEC. (NL = 22-33) Comment: Based on the laboratory's aPTT / Heparin anti Xa correlation study, aPTT levels of 52 - 78 seconds correlate with Heparin levels of 0.3 - 0.7 anti Xa units.
GLOMERULAR FILTRATION RATE 12/30/2016 21:47:00	
Glomerular Filtration Rate(GFR) Calc	>60 Comment: Estimated GLOMERULAR FILTRATION RATE (GFR) Reference Ranges: >59 mL/min/1.73 m2 GFR calculation requires an accurate age and gender of the patient. Ordered on patients 18 years and older. For African Americans, multiply GFR value

	by 1.21 The estimated GFR is to be used for screening purposes. For drug dosing, use the Cockcroft-Gault calculation.
ANTIBODY SCREEN GEL 12/30/2016 21:47:00	
ANTIBODY SCREEN (Gel Method)	NEG ABSCRN
ABORH TYPE 12/30/2016 21:47:00	
ABO/RH TYPING	A POS

Physical Exam

General Presentation: VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER] AIRWAY: [patent, patient phonating well] BREATHING: [no respiratory distress, breath sounds present bilaterally] CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused] DISABILITY: [Move all four extremities, GCS 15] GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic] HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness] NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema] CARDIOVASCULAR: [regular rate/rhythm, no murmurs,] Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema] ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam] PELVIS : [stable to anterior-posterior and lateral compression] BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness] EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain] SKIN: [warm, dry, no rashes or lesions] NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact] PSYCHIATRIC: [normal affect/insight/concentration] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Medical History/Patient Problems

1) Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] *(ROBERT WILSON RN 12/30/2016 21:08:39)* 2) Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)*

Substance Use

Tobacco

Smoking status:

never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol

Alcohol use:

no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Acuity

Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Progress Notes

12/30/2016 21:09:00 Imaging and laboratory workup provided from outside hospital seen in the Saint Rose. CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect. CT C-spine shows no acute fracture or subluxation identified, no acute fracture. X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process. X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. *(RANDALL BESS MD 12/30/2016 21:09:00)*

RN Continuation Notes

12/30/2016 21:09:00 Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Bed Assignment: 12/30/2016 21:00:59 Assigned to bed TRM11 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 21:00:59)*

Triage and Nursing History

Acuity: 12/30/2016 20:54:00 Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Language: 12/30/2016 20:54:00 No language or communication barrier. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

RN History: 12/30/2016 20:54:00 Mentation - Patient has periodic confusion. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Elimination - Patient is independent with frequency or diarrhea. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Prior Fall history at home or previous Inpatient care. Score = 1. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient is at risk for falls and precautions have been instituted. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of suicide. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of harming self or others. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Onset of symptoms was about 4 hrs ago. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History comes from patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History is supplied by the patient's ambulance record. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Mental: 12/30/2016 20:54:00 Domestic violence survey shows NEGATIVE risk for this patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:09:00)* Disposition decision is admit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Admit to Intensive Care unit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Condition at discharge - stable. *(MITZI A DILLON MD 12/30/2016 21:12:00)* History, physical findings, and management plan discussed with ED attending physician. *(RANDALL BESS MD 12/30/2016 22:50:06)* Attending physically available and saw patient. *(RANDALL BESS MD 12/30/2016 22:50:06)* Electronically signed by RANDALL BESS MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* The designated co-signing physician is MITZI DILLON MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. *(MITZI A DILLON MD 01/01/2017 00:10:45)*

A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* IV capped and flushed. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* Disposition status is Admit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Admitted to Intensive Care Unit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* RN accompanied patient. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Monitor used during transport. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Valuables inventoried and collected by UMC Public Safety. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Electronically signed by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:33)*

Pre-Hospital Information

Mode of arrival: *(ROBERT WILSON RN 12/30/2016 20:54:00)* AMR *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Reports Printed/Faxed

ROBERT WILSON RN printed Orders Report to Trauma RN 1 at 21:51 *(ROBERT WILSON RN 12/30/2016 21:51:15)* ALEXIS MARTINEZ UNIT CLERK printed UMC-EDView to Trauma RN 1 at 23:29 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 23:29:47)* MITZI A DILLON MD printed Emergency Department Chart to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)* MITZI A DILLON MD printed UMC-EDView to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)*

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being

found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE.

Staff Legend

RW4 - ROBERT WILSON RN AM33 - ANTONIA MCNAMARA RN MK23 - MARTIN KOVACIK RN SL8 - SUSAN LALUMIA RN RB40 - RANDALL BESS MD - External Data SB61 - SAMUEL BERGIN MD CJ22 - CATHERINE JURGENS RN NJ7 - NATHANIEL JIMENEZ MD AM80 - ALEXIS MARTINEZ UNIT CLERK MAD1 - MITZI A DILLON MD AA3 - APRIL ALLEN-CARTER RT

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Vital Signs/Data

Time	Staff	Temperature	Pulse	Respiration	Blood Pressure	Pulse Oximetry	Pain
12/31/2016 00:07	AM33						0/10
12/30/2016 23:39	AM33		94 /min	13 /min	132/91 mm Hg.	98% on Room air	
12/30/2016 21:51	MK23		99 /min	18 /min	135/81 mm Hg.	99% on 2 liter/min	0/10
12/30/2016 21:14	RW4	98.7 F	94 /min	18 /min		98% on Room air	
12/30/2016 21:14	RW4				141/88 mm Hg.		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] (RW4 12/30/2016 21:09)

Pre- Hospital Treatment

Mode of arrival: AMR (RW4) 12/30/2016 20:54

Triage

Activation Level - ED. (RW4 12/30/2016 20:54)
3 - Urgent (RW4 20:54)
No language or communication barrier. (RW4 20:54)
Domestic violence survey shows NEGATIVE risk for this patient. (RW4 20:54)
Mentation - Patient has periodic confusion. Score = 1 (RW4 20:54)
Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 (RW4 20:54)
Elimination - Patient is independent with frequency or diarrhea. Score = 1 (RW4 20:54)
Prior Fall history at home or previous Inpatient care. Score = 1. (RW4 20:54)
Patient is at risk for falls and precautions have been instituted. (RW4 20:54)
Patient has no thoughts of suicide. (RW4 20:54)
Patient has no thoughts of harming self or others. (RW4 20:54)
Onset of symptoms was about 4 hrs ago. (RW4 20:54)
History comes from patient. (RW4 20:54)
History is supplied by the patient's ambulance record. (RW4 20:54)

Height/Weight

Hgt: 162 cm at 20:54 (RW4 12/30/2016 20:54)
Wgt: 91 kg at 20:54 (RW4 20:54)
BMI: 34.7 (RW4 20:54)
BSA: 2.02 sq. m (RW4 20:54)

Current Medications

1) 12/30/2016 21:08 RW4 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.]

Nursing Continuation Notes - Refer to Orders section for all orders

Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. (RW4 12/30/2016 21:09)

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Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Clinician History of Present Illness

Exam started at 21:03 (MAD1) 12/30/2016 21:03 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. (RB40) 12/30/2016 21:17

Patient Problems

Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] (RW4 12/30/2016 21:08)
Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] (RB40) 12/30/2016 21:09

Physical Exam

GENERAL:
VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER]
AIRWAY: [patent, patient phonating well]
BREATHING: [no respiratory distress, breath sounds present bilaterally]
CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused]
DISABILITY: [Move all four extremities, GCS 15]
GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic]
HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness]
NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema]
CARDIOVASCULAR: [regular rate/rhythm, no murmurs,]
Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema]
ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam]
PELVIS : [stable to anterior-posterior and lateral compression]
BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness]
EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain]
SKIN: [warm, dry, no rashes or lesions]
NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact]
PSYCHIATRIC: [normal affect/insight/concentration]
(RB40) 12/30/2016 21:17

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Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Progress Notes

Imaging and laboratory workup provided from outside hospital seen in the Saint Rose.
CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect.
CT C-spine shows no acute fracture or subluxation identified, no acute fracture.
X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process.
X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture
Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. (RB40) 12/30/2016 21:09

Primary Diagnosis

Free text DX: Traumatic fall (RB40 12/30/2016 21:22)
Traumatic subdural hematoma (RB40 21:22)
Free text DX: Possible right 8th rib fracture (RB40 21:22)
Musculoskeletal chest pain (RB40 21:22)

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

ED: morphine inj 4 MG IV ONCE NOW
Entered By (SL8 RN 12/30/2016 21:11) Ordered By (RB40 MD 21:11) Completed By (SL8 RN 21:10) Notes: Dose given IV push. No complications. Just given ED: morphine inj. Awake and alert. (SL8 21:10)
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE
Entered By (RW4 RN 12/30/2016 21:49) Completed By (RW4 RN 21:49)
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:49) MD Sign (SB61 MD 22:57)
acetaminophen [TYLENOL] 1000 MG ORAL Q8H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 09:40) MD Sign (SB61 MD 12/30/2016 22:57) Indications: moderate pain
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57) Indications: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 05:18) MD Sign (SB61 MD 12/30/2016 22:57) Indications: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57)
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW
Entered By (CJ22 RN 12/30/2016 22:59) Ordered By (SB61 MD 22:59) Completed By (CJ22 RN 22:56) Notes: Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22 22:56)
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) Completed By (SB61 MD 12/31/2016 08:34) MD Sign (SB61 MD 12/30/2016 23:06)
potassium chloride [KLOR- CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KCl 40 mEq rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line
Indications: per Electrolyte Protocol (PROT #383)
KPhos- NaPhos powder packet (8 mmol phos) [PHOS- NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE
Ordered By (NJ7 MD 12/30/2016 23:49) Completed By (NJ7 MD 12/31/2016 11:18)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE

sodium chloride 0.9% 250 ML IVPB PRN ROUTINE

HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE
Completed By (12/31/2016 03:47) Indications: severe pain
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE
Completed By (12/31/2016 09:40)
insulin lispro inj [HumaLOG] 3- 15 UNIT SUBCUT PRN ROUTINE 70- 130= 0 units; 131- 150= 3 units; 151- 170= 5 units; 171- 190= 7 units; 191- 210= 9 units; 211- 230= 11 units; 231- 250= 13 units; >250= 15 units and call House Officer to

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

consider scale B (if ICU pt) or scale D (if non- ICU pt)
Indications: PROT- 14 sliding scale (A):
dextrose 50% inj 25 GM IV PRN ROUTINE
Indications: Blood Glucose <35; recheck BGM in 30min
dextrose 50% inj 12.5 GM IV PRN ROUTINE
Indications: Blood Glucose 35- 69; recheck BGM in 30min
PHARMACY COMMUNICATION 1 EA MISC PRN ROUTINE Rx to D/C ALL previously ordered anti- diabetic medications

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT ABDOMEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT LUMBAR SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT THORACIC SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
CBC NO DIFFERENTIAL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:08) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
BASIC METABOLIC PANEL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:28) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
PT + APTT ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:29) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
TYPE AND SCREEN ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
ABO RH TYPE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
ANTIBODY SCREEN - GEL TECHNIQUE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
Surgery Admit Order (basic requirements) ONCE ROUTINE Inpatient TICU Standard No 7.3mm Subdural hematoma, 8th right rib fracture, Fall off second story roof CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)
Entered By (SB61 MD 12/30/2016 22:56) Ordered By (SB61 MD 22:56) Completed By (23:37) MD Sign (SB61 MD 22:56)
Vital Signs Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (23:47)
Intake & Output Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Measure Weight EVERY DAY ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 22:53) MD Sign (SB61 MD 12/30/2016 22:57)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: (Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: Peripheral IV #2
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE SaO2 < 88%
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (AA3 RT 12/31/2016 07:46) MD Sign (SB61 MD 12/30/2016 22:57)

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Incentive Spirometry - NSG Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 19:28) MD Sign (SB61 MD 12/30/2016 22:57) Comments: X 10 Breaths
Admission Nasal MRSA Colonization Screen- ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Initiate Influenza Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to Influenza vaccine order if indicated
Initiate Pneumococcal Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
CASE MANAGEMENT CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
SOCIAL SERVICES CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Activity CONTIN ROUTINE (with nursing assistance)
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE DBP < 60 or > 110
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
NPO MEALS
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (12/31/2016 09:38)
Sequential Compression Device CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: brain bleed
CBC/AUTOMATED IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:29) MD Sign (SB61 MD 12/30/2016 22:57)
RENAL PANEL IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:53) MD Sign (SB61 MD 12/30/2016 22:57)
Neuro Checks Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 23:00) MD Sign (SB61 MD 12/30/2016 22:57)
EKG 12 LEAD ONCE STAT
Entered By (AM80 UNIT CLERK 12/30/2016 22:55) Ordered By (SB61 MD 22:55) Results Back (12/31/2016 12:52) MD Sign (SB61 MD 12/30/2016 22:55) Notes: First EKG in department obtained. (CJ22 23:11)
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) MD Sign (SB61 MD 23:06) Order Cancelled (12/31/2016 00:28)
Elevate Head of Bed CONTIN ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49) Comments: Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
Vital Signs Q1H ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (01/01/2017 00:00) MD Sign (12/30/2016 23:49)
MAGNESIUM LEVEL QDAY IN AM
Entered By (12/30/2016 23:49) Ordered By (23:49) MD Sign (23:49)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte Protocol), place in chart
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/NaPhos/PhosNaK,

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Magnesium 2 hr after magnesium
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
Comments: per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU- CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35- 69, give 12.5gm D50W IVP and recheck BGM in 30min.
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Notify: CONTIN ROUTINE if BGM >250 and consider scale B (ICU pt) or scale D (non- ICU pt) House Officer
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE
Entered By (12/30/2016 23:59) Ordered By (23:59) MD Sign (23:59) Comments: if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
RN to Order: CONTIN ROUTINE serum glucose level if BGM< 35 mg/dL
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14- A (TICU/SICU Insulin Sliding Scale), place in chart
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (Non- ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture (RB40) 12/30/2016 21:09 Disposition decision is admit. Admit to Intensive Care unit. Condition at discharge - stable. (MAD1) 12/30/2016 21:12 History, physical findings, and management plan discussed with ED attending physician. Attending physically available and saw patient. Electronically signed by RANDALL BESS MD.
The designated co-signing physician is MITZI DILLON MD. (RB40) 12/30/2016 22:50 I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. (MAD1) 01/01/2017 00:10 A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. IV capped and flushed. pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, (AM33) 12/31/2016 00:07 Disposition status is Admit. Admitted to Intensive Care Unit. RN accompanied patient. Monitor used during transport. Valuables inventoried and collected by UMC Public Safety. Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08 Electronically signed by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE. (01/01/2017 00:10)

Substance Use

Tobacco

Smoking status
never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol

Alcohol use
no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Staff Legend

AM33	ANTONIA MCNAMARA RN
AM80	ALEXIS MARTINEZ UNIT CLERK
CJ22	CATHERINE JURGENS RN
KR25	KRISTIN REED RN
MAD1	MITZI DILLON MD
MK23	MARTIN KOVACIK RN
RB40	RANDALL BESS MD
RW4	ROBERT WILSON RN
SB61	SAMUEL BERGIN MD
SL8	SUSAN LALUMIA RN

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360842
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT ABD AND PELVIS IV ONLY
*_=_-**_-=_-**_-=_-*

EXAM: CT ABDOMEN PELVIS WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the lung bases to the pubis symphysis. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. Thin section coronal images were reconstructed from the axial data set. All images were reviewed and interpreted.
CONTRAST: Given IV contrast.

FINDINGS:
Ankylosis of the right SI joint noted.
Acute fracture deformity of the posterior right eighth rib is noted.
No acute fracture noted.
The lung bases are clear. The liver and portal veins are normal. The gallbladder is normal. The spleen is normal. The pancreas is normal. The adrenals are normal. The kidneys are normal. The distal esophagus and stomach are normal. The visualized portions of the small bowel are normal. The visualized portions of the colon are normal. The abdominal aorta is normal. The IVC is normal. There is no lymphadenopathy. Normal bladder.

IMPRESSION:
No acute traumatic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:53

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360841
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT CHEST WITH CONTRAST
*_=_-**_=_-**_=_-*

EXAM: CT CHEST WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the thoracic inlet through the lung bases and adrenal glands. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: Given IV IV.

FINDINGS:
No pulmonary infiltrates. No pulmonary nodules or masses. No pleural effusions. No hilar or mediastinal lymphadenopathy. Normal heart. Normal pulmonary vascularity. Normal thoracic aorta and great vessels. Normal adrenals. No fracture noted. No mediastinal hematoma, pneumothorax, pleural effusion or pericardial effusion.

IMPRESSION:
No traumatic thoracic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:44

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360844
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT THORACIC SPINE RECONS
*_ == _**_ == _**_ == _*

EXAM: Thoracic spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted thoracic spine CT images are obtained.
Multilevel mild degenerative disk disease.
There is moderately severe bilateral T2-T3 neural foraminal stenosis secondary to facet hypertrophy.
No aggressive lytic or sclerotic bone lesions noted.
Thoracic vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No thoracic spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:55

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360843
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT LUMBAR SPINE RECONS
*_ == _-**_ == _-**_ == _-*

EXAM: Lumbar spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted lumbar spine CT images are obtained.
Lumbar vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No lumbar spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 22:1

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: HOYE MD,STEPHEN
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360899
Date of Service: 12/31/2016 12:22:00 PM
Exam: TR SHOULDER 2V OR MORE (LEFT)
*_ == _**_ == _**_ == _*

EXAM: XR SHOULDER

HISTORY: Fracture

COMPARISON: None.

TECHNIQUE: Left shoulder, 3 views.

FINDINGS:
Bone mineralization appears age appropriate. No acute appearing fracture or dislocation.

IMPRESSION:
No acute osseous abnormality left shoulder-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: STEPHEN HOYE MD 2/8/2017 13:55

RECEIVED
FEB 28 2017
BY:_____

Page: 1

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00178

113241-2366

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: DOUGHERTY MD,DOUG
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360878
Date of Service: 12/31/2016 2:00:00 AM
Exam: TR CT BRAIN W/O CONTRAST
*_ == _**_ == _**_ == _*

EXAM: CT BRAIN WITHOUT CONTRAST

HISTORY: Subdural hematoma, trauma patient

COMPARISON: None.

TECHNIQUE: Thin section axial CT images were obtained from the vertex of the skull to the foramen magnum without contrast. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: None.

FINDINGS:
A subdural hematoma is present within the interhemispheric fissure, greatest posteriorly where there is a maximal width of approximately 5 mm. There is layering of hemorrhagic material on the bilateral tentorium. No area of intraparenchymal, intraventricular, subarachnoid or epidural hematoma is currently identified. No intraparenchymal mass or mass effect is identified. There is chronic appearing tissue loss involving the anterior pole of the right temporal lobe. The ventricles and sulci are within normal limits for patient age. There is no hydrocephalus. Gray-white differentiation appears normal. There is no acute territorial infarct. The calvarium appears intact. The paranasal sinuses and mastoid air cells are grossly clear.

~Performed after hours
IMPRESSION:
Subdural hematoma within the interhemispheric fissure measuring up to 5 mm in width and layering on the bilateral tentorium.
Chronic appearing tissue loss involving the anterior right temporal lobe.
Findings were discussed with by the patients nurse Elaine myself at approximately 6:05 AM on December 31, 2016. She reports that the patient was scanned at an outside hospital with the reported size of the collection being 7 mm.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: DOUG DOUGHERTY MD 12/31/2016 6:10

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: SINGH MD,SUKHJINDER
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7361192
Date of Service: 12/31/2016 11:16:00 AM
Exam: MRI C-SPINE W/O CONTRAST
*_=_-**-_=_-**-_=_-*

EXAM: MR CERVICAL SPINE WITHOUT CONTRAST

HISTORY: Neck pain, cervicalgia.

COMPARISON: None.

TECHNIQUE: Axial and sagittal T1-weighted, T2-weighted, and STIR fat-suppressed T2-weighted MR images of the cervical spine were performed without contrast.
CONTRAST: None.

FINDINGS:
The intervertebral discs from C2 to T1 are normal in height and signal intensity. No significant disk bulges or herniated discs are present at any level. Normal vertebral alignment and spacing is present at all levels. Normal signal in the bone marrow and intervertebral disks. No spinal canal stenosis or neural foraminal narrowing. No vertebral or soft tissue edema. Normal signal in the cervical cord. No Chiari malformation.
There is right posterior paraspinal soft tissue swelling from T1 through T3.

IMPRESSION:
1. Normal MRI of the cervical spine without contrast.
2. Mild right posterior paraspinal soft tissue swelling from T1 through T3.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: SUKHJINDER SINGH MD 12/31/2016 13:19

RECEIVED
FEB 28 2017
BY:_____

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

NOTICE OF CLAIM DENIAL
PLEASE READ THIS DOCUMENT

March 6, 2017

Martin Perez
3555 E. Lake Mead Blvd. #147
Las Vegas Nevada 89115

Re:		
	Employer:	Focus Framing
	Insurer:	Focus Plumbing
	Claim No:	2016-0022
	Accident Date:	12/30/2016
	Body Part:	Head Injury – Hematoma Only

Dear Martin Perez:

We are in receipt of your claim for the above-mentioned date of injury. Based on the information submitted to this office, your claim for date of injury of 12/30/2016 does not meet the requirements set forth in chapters 616A to 616D, inclusive, and 617, of NRS. The reason for denial is based on the following reasons and statutory authorities. The accident and/or injury described does not meet statutory requirements. We are unable to substantiate that your injury "arose out of and in the course and scope of your employment." Based on medical information submitted, it has been determined that the primary cause of your current disability is your pre-existing non-industrial condition, and that it has been established by a preponderance of the evidence that the injury and/or accident described is not a substantial contributing cause of the resulting condition.

NRS 616A030 defines an "Accident" as "...an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury," and/or as an "Injury" or "Personal Injury" as defined by NRS 616A.265 was "...a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence, including injuries to prosthetic devices . . ."

NRS 616C.150 provides that an injured employee or his dependents are not entitled to receive compensation pursuant to the provisions of chapters *616A* to *616D* of the *Nevada Revised Statutes* unless the employee or his dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his employment. For the purposes of chapters *616A* to *616D* of the *Nevada Revised Statutes*, there is a rebuttal presumption if the employee files a notice of an injury pursuant to *NRS 616C.015* after his employment is terminated for any reason.

NRS 616C.175(1) provides that if an employee has a preexisting condition from a cause or origin that did not arise out of or in the course of his current or past employment; and he subsequently sustains an injury by accident arising out of and in the course of his employment which aggravates, precipitates or accelerates his preexisting condition, the resulting injury shall be deemed to be an injury by accident that is compensable pursuant to the provisions of chapters 616A to 616D, inclusive of NRS, unless the insurer can prove by a preponderance of the evidence that the subsequent injury is not a substantial contributing cause of the resulting condition.

If you should have any questions, please do not hesitate to contact our office.

If you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Officer at the address listed on the form, within seventy (70) days from the date of this determination. Failure to file a timely request with the Department of Administration, Hearing Officer may result in an order dismissing your case.

Sincerely,

Patty Pizano,
Claims Adjuster

cc: Focus Framing

University Medical Center
Division of Industrial Relations

Enclosure(s): Request for Hearing; Brief Description of Rights and Benefits (Pursuant to NRS 616C.050)

CERTIFICATE OF MAILING

I, Patty Pizano, Claims Adjuster, do hereby declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. That on March 6, 2017, service of the Notice of Claim Denial was made by depositing in the U.S. Mail in Las Vegas, NV, postage paid, addressed to:

Name Martin Perez
Address 3555 E. Lake Mead Blvd. #147, Las Vegas, Nevada 89115

Dated this 6 day of March, 20 17

Patty Pizano, Claims Adjuster

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MORRIS//ANDERSON
PERSONAL INJURY & CRIMINAL DEFENSE

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

ORIGINAL

FILED

REQUEST FOR HEARING

CLAIMANT INFORMATION:

Claimant:	Martin Duran Perez
Address:	3555 E. Lake Mead Blvd Apt 147
	Las Vegas, NV 89115
Date of Injury:	12-30-2016
Claim No.:	2016-0022

EMPLOYER INFORMATION:

Employer:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone No.:	702-220-5621

PERSON REQUESTING APPEAL: INJURED EMPLOYEE

I WISH TO APPEAL THE DECISION DATED: 03-06-2017

BRIEFLY EXPLAIN REASON FOR APPEAL:

Claimant does not agree with the insurer's determination of 03-06-2017, regarding Notice of Claim Denial.

ATTORNEY/REPRESENTATIVE:

Name:	Morris Anderson Law
Address:	716 S. Jones Blvd
	Las Vegas, NV 89107
Telephone:	702-333-1111

INSURANCE COMPANY:

Name:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone:	702-220-5621

Signature

March 20, 2017
Date

1710955 WTI
60

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
2001 S. Maryland Pkwy
Las Vegas, Nevada 89102

Re:	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting TTD from December 30, 2016 to Present. Please be advised that this claim was denied. Please see attached Denial Letter.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
716 S. Jones Blvd
Las Vegas, Nevada 89107

Re:		
	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting a transfer of care to Dr. Jason Garber as his primary care physician. This request is denied, as this is a denied claim.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

Hearing Number: 1710955-MT
Claim Number: 2016-0022

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

The Claimant's request for hearing was filed on March 22, 2017 and a hearing was scheduled for MAY 25, 2017. The hearing was held on MAY 25, 2017, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present. The Claimant was represented by JACOB LEAVITT ESQ. The Employer was not present. The Employer and the Administrator were represented by DANIEL SCHWARTZ ESQ.

ISSUE

The Claimant appealed the determination of FOCUS PLUMBLING dated March 6, 2017.

The issue before the Hearing Officer is *claim denial.*

DECISION AND ORDER

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

Counsel and Claimant represent that on December 30, 2016, the Claimant had an issue with his paycheck being short so went over to where his supervisor was to discuss this; his supervisor at the time was up on a roof with his son. An argument pursued and the supervisor's son pushed the Claimant off the roof, approximately 10 to 12 feet. They are seeking Workers Compensation benefits.

In reviewing all evidence submitted, and taking into consideration the representations as depicted above, it is clear that an injury has occurred within the course and scope of the Claimant's employment, the Employer being notified timely, medical treatment sought timely, and the initial examining physician causally connecting all diagnosed conditions to this fall. The issue the Claimant had and pursued clarification by his direct supervisor is in fact considered work-related; records indicate the Claimant was not tied officer properly. Upon getting up on the roof; however, had the Claimant not been pushed as purported, this injury may not have occurred. The determination of the Insurer is hereby deemed improper and reversed. The Insurer is hereby remanded to accept this claim for benefits accordingly. ***NRS 6168.030, NRS 6168.265, NRS 616C.138, NRS 616C.150 (1)***

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IT IS SO ORDERED this 1st day of June, 2017

Megan Trenkler
Hearing Officer

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final decision of the Hearing Officer, a request for appeal must be filed with Appeals Officer within thirty (30) days after the date of the decision by the 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 duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive., #210, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89156

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 1st day of June, 2017

Dan Baiza
Employee of the State of Nevada

64

REQUEST FOR HEARING BEFORE THE APPEALS OFFICER
NEVADA DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

Hearing Number: 1710955-MT
Claim Number: 2016-0022

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

_____/

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: _____

(Please attach a copy of the Hearing Officer's Decision)

PERSON REQUESTING APPEAL: (circle one) CLAIMANT/EMPLOYER/INSURER

REASON FOR APPEAL: _____

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

Name of Attorney or Representative	Person requesting this hearing (please print)
Address	Person requesting this hearing (signature)
City, State, Zip Code	
Telephone Number	Telephone Number Date

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 no later than thirty (30) days after that decision at:

NEVADA DEPARTMENT OF ADMINISTRATION
APPEALS OFFICE
2200 S RANCHO DRIVE, SUITE 220
LAS VEGAS, NV 89102
(702) 486-2527

65

FILE COPY

Nevada Department of Administration, Hearings Division
2200 S. Rancho Drive, Ste 210
Las Vegas, NV 89102
(702) 486-2525

Nevada Department of Administration Hearings Division
1050 E. Williams Street, Ste 400
Carson City, NV 89701
(775) 687-8440

REQUEST FOR HEARING BEFORE APPEALS OFFICER

CLAIMANT INFORMATION

Claimant's Name: Martin Duran Perez
Address: 3555 E. Lake Mead Blvde., #147
City: Las Vegas | State: NV | Zip Code: 89115
Telephone:

EMPLOYER INFORMATION

Hearing number: 1710955-MT
Employer: Focus Plumbing
Address: 1220 S. Commerce St., Ste. 120
City: Las Vegas | State: NV | Zip Code: 89102
Telephone: CLAIM NO. 2016-0022

PERSON REQUESTING APPEAL: Employer's Attorney

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: 06/01/17

YOU MUST ATTACH A COPY OF THE HEARING OFFICER DECISION

BRIEFLY EXPLAIN REASON FOR APPEAL:

Disagree with Decision and Order.

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

ATTORNEY/REPRESENTATIVE:

Attorney or Representative's Name: Daniel L. Schwartz, Esq.
Address: Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara, Ste. 300, Box 28
City: Las Vegas | State: NV | Zip Code: 89102
Telephone: (702) 893-3383

INSURANCECOMPANY/T.P.A.:

Insurer or Third Party Administrator's Name: Patty Pizano / Focus Framing
Address: 1220 S. Commerce St., Ste. 120
City: Las Vegas | State: NV | Zip Code: 89102
Telephone:

Signature: [signature] for

Date: 6/29/17

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.****

66

REVISED 2/15/01

3947-19

MORRIS//ANDERSON
PERSONAL INJURY & CRIMINAL DEFENSE

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

ORIGINAL

REQUEST FOR HEARING

CLAIMANT INFORMATION:

Claimant:	Martin Duran Perez
Address:	3555 E. Lake Mead Blvd Apt #147
	Las Vegas, NV 89115
Date of Injury:	12-30-2016
Claim No.:	2016-0022

EMPLOYER INFORMATION:

Employer:	Focus Framing
Address:	1220 S. Commerce St #120
	Las Vegas, NV 89102
Telephone No.:	

PERSON REQUESTING APPEAL: INJURED EMPLOYEE

I WISH TO APPEAL THE DECISION DATED: 05-30-2017

BRIEFLY EXPLAIN REASON FOR APPEAL:

Claimant does not agree with the insurer's determination of 05-30-2017, regarding Denied TOC to Dr. Garber.

ATTORNEY/REPRESENTATIVE:

Name:	Morris Anderson Law
Address:	716 S. Jones Blvd
	Las Vegas, NV 89107
Telephone:	702-333-1111

INSURANCE COMPANY:

Name:	Focus Plumbing
Address:	1220 S. Commerce Ste #120
	Las Vegas, NV 89102
Telephone:	

Signature

June 1, 2017
Date

67

17/411-7 MT

NEVADA DEPARTMENT OF ADMINISTRATION

FILED
AUG 02 2017
APPEALS OFFICE

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: 1714955-CSY Employer: FOCUS FRAMING C/O FOCUS PLUMBING ATTN: PATTY PIZANO 1220 S. COMMERCE ST., STE 120 LAS VEGAS, NV 89102

ORDER GRANTING MOTION FOR STAY PENDING APPEAL

After consideration and review of Insurer's Motion for Stay Pending Appeal.

IT IS HEREBY ORDERED that the Motion for Stay Pending Appeal is hereby **GRANTED.**

DATED this 2nd day of August, 2017.

Appeals Officer

Submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: for

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89102
Phone: (702) 893-3383
Fax: (702) 366-9689
Attorneys for Insurer

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of:	)	Claim No: 2016-0022
MARTIN DURAN PEREZ,	)	Appeal No: 1714955-CJY
Claimant.	)	

NOTICE OF RESETTING

TO ALL PARTIES-IN-INTEREST:

PLEASE TAKE NOTICE that the above-captioned matter will now be heard in front of the Appeals Officer for a **HEARING** on:

DATE: **December 8, 2017**

TIME: **9:00AM – 11:00AM**

PLACE: **DEPARTMENT OF ADMINISTRATION**
2200 SOUTH RANCHO DRIVE #220
LAS VEGAS, NV 89102

PLEASE TAKE FURTHER NOTICE that previously scheduled hearing dates in this matter, if any, are hereby vacated and reset to the above referenced date and time.

###

CONTINUANCE OF THIS SCHEDULED HEARING DATE SHALL ONLY BE CONSIDERED ON WRITTEN APPLICATION SUPPORTED BY AFFIDAVITS.

###

IT IS SO ORDERED this 8th day of September, 2017.

CHARLES J YORK, ESQ.
APPEALS OFFICER

DOC 013

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 RESETTING** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

FOCUS PLUMBING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 8th day of September, 2017.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

ORIGINAL

NEVADA DEPARTMENT OF ADMINISTRATION

FILED
AUG 02 2017
APPEALS OFFICE

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: 1714955-CSY Employer: FOCUS FRAMING C/O FOCUS PLUMBING ATTN: PATTY PIZANO 1220 S. COMMERCE ST., STE 120 LAS VEGAS, NV 89102

ORDER GRANTING MOTION FOR STAY PENDING APPEAL

After consideration and review of Insurer's Motion for Stay Pending Appeal,

IT IS HEREBY ORDERED that the Motion for Stay Pending Appeal is hereby **GRANTED.**

DATED this 2nd day of August, 2017.

Appeals Officer

Submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: [signature] for

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89102
Phone: (702) 893-3383
Fax: (702) 366-9689
Attorneys for Insurer

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the foregoing **ORDER GRANTING MOTION FOR STAY PENDING APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as follows:

MARTIN DURAN PEREZ
3555 E. LAKE MEAD BLVD., #147
LAS VEGAS, NV 89115

MORRIS ANDERSON LAW
JACOB LEAVITT, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

FOCUS FRAMING
C/O FOCUS PLUMBING

FOCUS PLUMBING
ATTN: PATTY PIZANO
1220 S. COMMERCE ST., STE 120
LAS VEGAS, NV 89102

Daniel L. Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89102

DATED this 2nd day of August, 2017.

An employee of the State of Nevada

ORIGINAL

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: 1714955-CJY Employer: FOCUS FRAMING C/O FOCUS PLUMBING ATTN: PATTY PIZANO 1220 S. COMMERCE ST., STE 120 LAS VEGAS, NV 89102

INSURER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR STAY PENDING APPEAL

COMES NOW the Insurer, FOCUS PLUMBING (hereinafter referred to as "Insurer"),, by and through its attorneys, DANIEL L. SCHWARTZ, ESQ., and LEWIS BRISBOIS BISGAARD & SMITH LLP, and files this Reply Brief in support of its Motion for a Stay of the execution of the Hearing Officer's Decision and Order, dated June 1, 2017, pending decision on the merits of the appeal by the Insurer to this Appeals Officer, filed separately.

This Reply Brief is made and based upon the attached Points and Authorities and any arguments of counsel on this matter, requested by the Appeals Officer.

DATED this 27 day of July, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 W. Sahara Avenue, Ste. 300, Box 28
Las Vegas, NV 89102
Attorneys for the Insurer

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

4852-4691-4124.1 / 33947-19

DOC015

STATEMENT OF THE CASE

The present appeal stems from a June 1, 2017, Hearing Officer's Decision and Order, Hearing No. 1710955-MT, which reversed and remanded Insurer's March 6, 2017 determination denying the claim. **(Exhibit pp. 63-65.)**

The claimant, MARTIN DURAN PEREZ (hereinafter referred to as "claimant"), alleges that he was pushed off of the roof on December 30, 2016. The claimant was treated at UMC Trauma for subdural hematoma on the date of the incident. The claimant was taken off of work. (Exhibit p. 1)

A Supervisor Accident Investigation Report notes that the claimant went to the second floor with no fall protection and was involved in **work place violence**. (Exhibit p. 2)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (Exhibit pp. 3-4)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the claimant was mad due to an alleged pay check shortage while working on Pedro's crew. The claimant climbed an 8 foot ladder to get to where Pedro was working on a second floor, tied off. The claimant started yelling at Pedro and Pedro stated that they could fix the problem the following Tuesday at the office. **However, the discussion with the two got "elevated." Pedro's son came up from the first floor to aid his father, and when the Pedro's son asked the claimant to stop, the claimant allegedly started yelling at him and the son put his hands on the claimant and pushed him away and the claimant eventually fell off of the roof.** (Exhibit pp. 5-9)

Pedro Rosales also gave a statement and alleged that the claimant, at 5:00 came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the claimant to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (Exhibit pp. 10-11)

Pedro's son, Jose Rosales gave his version of what happened, as well. (Exhibit pp. 12-13)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the claimant who fell off of roof after a discussion between the parties. (Exhibit pp. 14-17)

A statement from the claimant indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (Exhibit p. 18)

An Industrial Injury or Illness form in Spanish was also executed by the claimant. (Exhibit pp. 19-20)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (Exhibit p. 21)

The claimant was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The claimant was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (Exhibit pp. 22-56)

A claim denial determination was issued on March 6, 2017(Exhibit pp. 57-59)

On March 21, 2017, the claimant appealed the claim denial determination. (Exhibit p. 60)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (Exhibit pp. 61-62)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (Exhibit pp. 63-65.)

The Insurer has filed a timely appeal along with a Motion for Stay. An Opposition was filed by the claimant. This Reply Brief follows.

///

POINTS & AUTHORITIES

ARGUMENT

The Insurer Has Proven the Elements Necessary for a Stay

In his Opposition, the claimant ignores the very crux of Insurer's argument; that the injury did not arise out of nor was it in the course and scope of claimant's employment. The claimant's behavior, which led to an unfortunate result, was not in furtherance of his Employer's objectives and quite frankly, was in direct contravention of same. Claimant was on the clock on a different job site, supposedly working. He took it upon himself to go to another job to confront his former supervisor regarding his pay. NOTHING about these facts indicate that the claimant was in the course and scope of his employment when he was injured. Further, and even more important, but ignored by claimant, is the fact that the incident that caused claimant's injury *had nothing to do with his employment*. There is no causal connection between the claimant's employment and a co-worker pushing him from a rooftop due to some personal dispute. Again, the **Nevada Supreme Court has held that an employee who is injured in the course of his work by the insane act of a fellow employee sustains injury which does not arise out of employment**. Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969); Corrao Const. Co. v. Curtis, 94 Nev. 569 (1978); Outboard Marine Corp. v. Schupbach, 93 Nev. 158 (1977).

The Cummings decision went further and adopted the general rule that injuries resulting from assaults by fellow workmen when the attack results from personal animosity are not compensable. (Id.) (Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956).

Larson's treatise on worker's compensation also speaks to this issue:

> **When the animosity or dispute that culminates in an assault is imported into the employment from claimant's domestic or private life, the assault does not arise out of the employment under any test.**

3, A. Larson, The Law of Workmen's Compensation, §11.21(a) (emphasis added).

Larson cites to a number of cases which are helpful in adjudicating the matter before this Court. In City of Atlanta v. Shaw, 345 S.E.2d 642 (1986), an employee sought benefits for an

injury sustained during a fight with a fellow employee. The fight concerned the use of the employer's telephone. In reaching the conclusion that the claim was non-compensable, **the Georgia court focused on the history of personal animosity**. The claimant did not attempt to refute any of the underlying argument within his Opposition. Instead, the claimant focuses on irrelevant facts such as a "criminal history" for which a brief review will show that there was exactly ONE prior offense. Nonetheless, this is of no effect with regard to the instant claim. The claimant was injured due to actions of another employee. Period. Claimant's injury did not arise out of his employment nor was he in the course and scope of his employment when the incident occurred. The Insurer has established a strong likelihood of prevailing on the merits of the appeal and therefore, a Stay is proper.

Lastly, with regard to irreparable harm, Insurer asserts that only it will be *irreparably* harmed if this Stay is not granted. Claimant will receive whatever treatment and benefits he is entitled to, should he somehow prevail on the merits of the appeal. The Insurer, conversely, cannot recoup the time, resources and money expended, *even if it prevails on the merits of its appeal.*

Insurer has established both a likelihood of prevailing on the merits of the appeal and irreparable harm. As such, Insurer respectfully renews its request for a Stay in this matter, until the appeal can take place on the merits.

CONCLUSION

Based upon the foregoing points and authorities, the Insurer, FOCUS PLUMBING, respectfully submits that it has established good cause to grant a Stay of the Hearing Officer's Decision and Order dated June 1, 2017, particularly in light of the clear error of law and fact, which have been established above.

///

///

///

WHEREFORE, the Employer, FOCUS PLUMBING, respectfully renews its request that the Appeals Officer grant its Motion for Stay Pending Appeal until such time as a hearing can be conducted on the merits of the underlying appeal.

DATED this 27 day of July, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89102-4375
Phone: (702) 893-3383
Fax: (702) 366-9563
Attorneys for Insurer

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the foregoing **EMPLOYER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR STAY PENDING APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as follows:

MORRIS ANDERSON LAW
JACOB LEAVITT, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

FOCUS FRAMING
C/O FOCUS PLUMBING

FOCUS PLUMBING
ATTN: PATTY PIZANO
1220 S. COMMERCE ST., STE 120
LAS VEGAS, NV 89102

DATED this 27 day of July, 2017.

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

JACOB G. LEAVITT, ESQ.
Nevada Bar No. 12608
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
jacob@bighornlaw.com
Attorneys for Claimant

ORIGINAL

RECEIVED AND FILED
2017 JUL 17 AM 10:40

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
APPEALS OFFICE

In the Matter of the Contested Insurance Claim of MARTIN DURAN-PEREZ, Claimant.	APPEAL NO: 1714955-CJY HEARING NO.: 1710955-MT EMPLOYER: Focus Plumbing/Framing CLAIM NO.: 2016-0022

CLAIMANT'S OPPOSITION TO EMPLOYER'S MOTION FOR STAY

Claimant, MARTIN DURAN-PEREZ (hereinafter "Claimant"), by and through his attorney, JACOB G. LEAVITT, ESQ., and submits his Opposition to FOCUS PLUMBING's (hereinafter referred to as "Employer") Motion for Stay Pending Appeal submitted on June 30, 2017, and certified to have been mailed the same day.

This Opposition is made and based upon the following Memorandum of Points and Authorities, the exhibits attached hereto, and any oral arguments made at the Appeals Officer's Request.

Dated this 17th day of July, 2017.

BIGHORN LAW

JACOB G. LEAVITT, ESQ.
Nevada Bar No. 12608
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Claimant

MEMORANDUM OF POINTS AND AUTHORITIES

I.
STATEMENT OF FACTS

While in the course and scope of his employment as a laborer with Employer on December 30, 2016. Exh. at 1. Towards the end of the work shift, Claimant, went over to Pedro Rosales the foreman that he worked for the week prior to ask why his check did not reflect the hours that he worked the week he worked with Pedro. Pedro was working on the roof and Claimant went to speak with him. Id.

Pedro became agitated at Claimant for questioning the time that Pedro put down for Claimant's work the week prior and yelled at Claimant. Pedro's son a known violent person with an extensive history of domestic violence as evidence on pages 61-69 of Claimant's evidence packet, (and not disputed by Employer) was also not part of Claimant's conversation with Pedro, came over and pushed Claimant off of the roof. Id.

Claimant fell to the ground where he landed sustaining serious injuries to include, but not limited to "1)traumatic fall 2) Traumatic subdural hematoma 3) Possible right 8th rib fracture 4) Musculoskeletal chest pain" as the initial hospital diagnosis. Id. at 8. The CT scan revealed that the subdural hematoma measures to be 7mm. Id.

The x-rays of the thoracic reveal that Claimant may have sustained subtle fractures at the 8th rib. Id. at 24.

Focus Plumbing apparently feels that it is above the and only after several letters and calls does it feel it time to issue a Claim Denial on March 6, 2017, to which a DIR Complaint has been filed. Id. at 43. Clearly, Employer fails to follow the law and has a pattern of poor behavior by employing persons with an unequivocal criminal and violent past placing its employees in danger. Moreover, Employer's determination is a generic, or vanilla, claim denial without meaning alleging that the traumatic brain injury to be preexisting, specifically the claim denial state "[b]ased on medical information submitted, it has been determined that the primary cause of your current disability is your pre-existing non-industrial

condition." Really? Obviously, Ms. Pizano is failed to the read medical records and see the word "traumatic" and understand its meaning, or, the more plausible scenario here, is she finally figured out that she ought to comply with the laws governing workers' compensation and issue some sort of acceptance or denial. Again, bad behavior on the part of someone who is over the handling of injured workers' claims.

This matter was investigated by Las Vegas Metropolitan Police wherein the assailant, Jose M. Rosales, was arrested and placed into custody—NOT CLAIMANT. Id. at 60-61. A warrant was issued by the Judge for Jose the assailant's arrest on February 27, 2017. Id. at 63. Jose the assailant surrendered on March 27, 2017, and posted $3,000.00 bond the same day. Id. Jose the assailant did not appear for the initial arraignment and his counsel requested to exonerate the bond of which Judge Bateman rightfully denied. Id.

On May 2, 2017, Jose the assailant was held on custody for the preliminary hearing which he unconditionally waived and his case was transferred to the Eighth Judicial District Court because the charge is a felony. Id.

Jose the assailant, was charged with a felony for "Battery with substantial bodily harm." Id. at 62.

On May 3, 2017, Jose was arraigned. Id. at 64.

On May 17, 2017, Jose entered a plea of guilty before the Honorable Susan Johnson. Id. at 65.

Jose's sentencing hearing was scheduled to be heard July 11, 2017. Id. at 66.

Of serious note, Jose not only is violent at work, but he also has a history of felony domestic violence and failure to follow court orders when he is given opportunities. Id. at 67-69.

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II.

ARGUMENT

A. EMPLOYER BEARS THE BURDEN TO PROVE THAT IT ENJOYS A LIKELIHOOD OF SUCCESS ON APPEAL A BURDEN IT CANNOT REASONABLY CARRY

First, Employer must prove that they enjoy a likelihood of success on appeal and, second, that they would be harmed more than Claimant if a Stay was denied. It must be clear, that Employer must meet both elements in order for a Stay to be granted not simply one or the other.

Employer relies upon unsworn statements, that are not percipient witnesses, other than Pedro whose statement is clearly biased as his statement would in fact be used against Jose the assailant, **Pedro's son**, both in the worker's compensation case and in his criminal case for sentencing. So to even try and consider Pedro's statement is not a viable legal option. The facts of the case are so clear that, Jose the assailant plead guilty in hopes for a lesser sentence on May 17, 2017. Clearly, every statement, including Pedro's is used for sentencing before the judge, thus making Pedro's statement tainted at best even when considering that Pedro needs to keep his employment when he knowingly allowed such a violent person, son or not, to work on the jobsite.

At hearing, the only person to testify, for both direct and cross was Claimant. Officer Trenkler heard testimony his testimony, reviewed the witness statements and found Claimant to be credible. Office Trnekler also heard the same arguments being made in the current motion for Stay as it is same as the hearing memorandum submitted at the time. She did not find the argument compelling as Employer attempts to note that Claimant was tied off on the roof when he was pushed off. The argument fails for two (2) reasons, first workers' compensation is a not fault system and second being tied off does not prevent a person from falling when being pushed off a roof, rather claimant would still have fallen and IF his lanyard opened he would have fallen to the length of the lanyard and stuck the building.

Again, Jose who was not part of the conversation, resorted to his history of violence and intentionally pushed Claimant off of the roof with an intent to cause serious bodily harm, as he has done in the past, specifically on 2016 in a felony domestic violence attack.

B. LEGAL STANDARD OF PROOF FOR A COMPENSABLE CLAIM, WHEREIN CLAIMANT MEETS THE REQUIREMENT

NRS 616C.150 only requires Claimant to demonstrate that she was injured within the course and scope of her employment by preponderance of the evidence, nothing greater. To make the point on preponderance, McClanahan v. Raley's, Inc., the Nevada Supreme Court states "NRS 616C.150 does not require an injured worker to offer a greater number of expert witnesses who express opinions in his favor to establish that an injury arose. . .[r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence.". 34 P.3d 573, 576 (2001).

Workers' Compensation is statutorily driven and defined. Claimant must prove, by preponderance that he was in the course and scope when an accident occurred. NRS 616A.265 defines injury as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence.

NRS 616C.030 defines the term accident as an "unexpected or unforeseen event happening suddenly and violently, with or without human fault."

Case law, Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010). Suh as we have here, Employer has employed a person with a violent felony history which is actionable for negligent hiring and retention as recognized causes of action in Nevada. This is bellied in the fact the Jose's foreman, and Claimant's foreman the week prior, Pedro has intimate knowledge that his son has violent tendencies and a violent history placing Claimant and others directly in harm's way.

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1. **Course And Scope**

a. **Course and Scope**

The threshold requirement in an industrial injury is that Claimant's injury must have occurred within the course and scope of employment. Phillips, at 5.

Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. It seems apparent that Claimant was working at an assigned time, as Employer makes no argument to the contrary in the same construction housing complex. Claimant went to the house across the street to inquire with the foreman he worked with the week prior as to why his hours were not properly reflected which his pay and hours are indeed work related.

2. **Accident**

Accident is statutorily defined in NRS 616A.030 as "'Accident' means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury."

Clearly Claimant did not anticipate being pushed off of a roof. Claimant wanted clarification for his hours from his foreman that he worked with as his pay is how he supports himself and family, and was pushed off by someone who was not a part of the conversation.

In the instant case, Claimant meets the statutory definition requirement.

3. **Injury**

Injury is defined in NRS 616A.265 as a sudden and tangible happening of a traumatic nature producing an immediate or prompt result which is established by medical evidence."

Here, the C-4 doctor causally related the injury to the work place assault.

Employer bears the burden, because Claimant cannot prove a negative, under NRS 616C.175, that if it believes that Claimant has a prior condition, Employer, must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim as stated in the Claim Denial letter.

Claimant must prove three (3) things; course and scope, accident and injury by preponderance, nothing more. Claimant suffered an injury causally related by the C-4 doctor related to being pushed off of aroof by his foreman's violent son, Jose. Even if there was a pre-existing condition, which Claimant contends there is not, the statutory requirement is met and the burden would then shift to Employer to prove under NRS 616C.175, otherwise.

Clearly, the medical records from UMC noting all traumatic injuries meet the statutory.

C. CLAIMANT WILL SUFFER MORE HARM THAN INSURER

Here, granting of the Stay **will continue to cause irreparable harm to Claimant**, but not Employer who has intentionally, by act of Pedro's knowledge, intentionally placed Claimant in harm's way. In Kress v. Corey, the Nevada Supreme Court stated:

> As a rule a supersedeas or stay should be granted . . . whenever...it is reasonably necessary to protect appellant or **plaintiff** in error **from irreparable or serious injury** in the case of reversal, and it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury in case of affirmance.

Kress, 65 Nev. at 17, 189 P.2d at 360.

Indeed it is Claimant in this case, not Employer, who will sustain the greatest harm in the event that the instant stay is granted as it will serve its purpose of delaying medical treatment of a closed head injury with a 7mm subdermal hematoma, fractured rib and even more tat has not been properly treated.

There is nothing more crippling and harmful than denying medical attention and care.

Here, it is Insurer who bears the burden to this court to prove **both** elements, success on appeal and that it will suffer more harm than Claimant. Claimant met his burden at the hearing with all the same evidence being presented to this very court.

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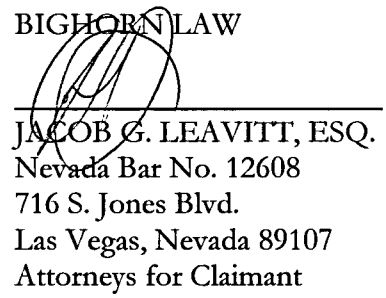
III.

CONCLUSION

Based upon the foregoing, the Appeals Officer cannot properly, and in the interest of justice, grant Insurer's Motion for Stay. Wherefore, Claimant, respectfully requests that the Appeals Officer DENY the Stay.

Dated this 17th day of July, 2017.

BIGHORN LAW



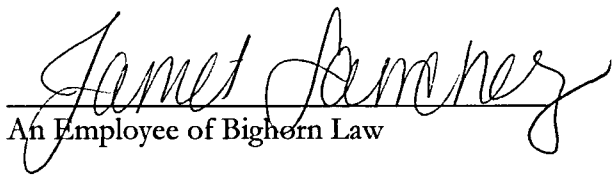
JACOB G. LEAVITT, ESQ.
Nevada Bar No. 12608
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Claimant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BIGHORN LAW, and that on this date of June 17, 2017, I duly deposited for mailing at Las Vegas, Nevada, a true copy of the within and foregoing **CLAIMANT'S OPPOSITION TO ADMINISTRATOR'S MOTION FOR STAY,** addressed to the following:

DANIEL SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Suite 300 Box 28
Las Vegas, NV 89102

FOCUS FRAMING/PLUMBING
1220 S. Commerce St. STE 120
Las Vegas, Nevada 89102



An Employee of Bighorn Law

IN THE SUPREME COURT OF THE STATE OF NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Appellants, v. MARTIN DURAN PEREZ Respondent.	SUPREME COURT NO: 79856 DISTRICT COURT NO: A-18-774772-J

APPELLANTS' APPENDIX VOLUME 2

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Appellants Focus Framing and Sun City Electric

ALIKA ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorney for Respondent Martin Duran Perez

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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 10 day of April 2020, service of the attached **APPELLANTS' APPENDIX VOLUME 2** was made this date by depositing a true copy of the same for mailing, first class mail, and/or electronic service as follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

/s/ Joel P. Reeves, Esq.
An employee of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

MORRIS // ANDERSON LAW
JACOB LEAVITT, ESQ
NEVADA BAR #12608
716 S. JONES BOULEVARD
LAS VEGAS, NV 89107
(702)333-1111- Tel No.
(702)507-0092- Fax No.

ORIGINAL

RECEIVED AND FILED

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of Contested Industrial Insurance Claim	)	Claim No. :	2016-0022
	)	Appeal No. :	1714955-CJY
of	)	Employer :	FOCUS PLUMBLING
MARTIN DURAN PEREZ,	)		

CLAIMANT'S DOCUMENTARY EVIDENCE PACKET AND WITNESS DISCLOSURE

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DOC017

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LIST OF WITNESSES

Claimant mat appear to testify on his behalf. Claimant further preserves the right to call rebuttal witnesses.

DATED this 12th day of July, 2017.

Jacob Leavitt, Esq
Nevada Bar No.12608
716 S. Jones Blvd
Las Vegas, Nevada 89107
(702) 333-1111
Attorney for Claimant

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Documentary Evidence filed in or submitted for Pending Appeals Officer, Pending Appeal No., does not contain the Social Security number of any person.

Morris/Anderson Law

Jacob G. Leavitt, Esq.

07.12.2017
Date

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Morris Anderson Law, and that on the date indicated below, I duly deposited for mailing OR placed in the appropriate file maintained by the Division, 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada, a true and correct copy of the foregoing CLAIMANT'S DOCUMENTARY EVIDENCE PACKET addressed to the following:

DANIEL SCHWARTZ ESQ.
LEWIS BRISBOIS BISGAARD &SMITH
2300 W. SAHAR AVE STE 300
LAS VEGAS NV 89102

- ☐ Regular U.S. Mail
- ☐ Via Hand Delivery
- ☐ Via Fax / Via E-Mail
- ☑ Mail Box at AO - HO

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

- ☑ Regular U.S. Mail
- ☐ Via Hand Delivery
- ☐ Via Fax / Via E-Mail
- ☐ Mail Box at AO - HO

DATED this 12th day of July, 2017.

An Employee of Morris//Anderson Law

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:	Hearing Number: 1710955-MT Claim Number: 2016-0022
MARTIN DURAN PEREZ 3555 E LAKE MEAD BLVD #147 LAS VEGAS, NV 89115	FOCUS PLUMBLING 1220 S COMMERCE ST STE 120 LAS VEGAS, NV 89102

_____/

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: ***May 25, 2017***
TIME: ***1:30PM***
PLACE: *Department of Administration, Hearings Division*
2200 South Rancho Drive, Suite 210
Las Vegas, NV 89102
Phone (702) 486-2525

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 Worker's at 486-2830. *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 one week prior to the hearing date at 486-2525 with the appropriate information. Telephone hearings will generally take place within 1 hour of the time designated for the Hearing (see above).

NOTE: *This Hearing will be scheduled on a **STACKED** calendar.*

Dated this 29th day of March, 2017.

Megan Trenkler
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 **NOTICE OF HEARING BEFORE THE HEARING OFFICER** was duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive., #210, Las Vegas, Nevada, 89102 to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89156

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

Dated this 29th day of March, 2017.

Monica Medina, Legal Secretary II
Employee of the State of Nevada

MORRIS//ANDERSON
PERSONAL INJURY & COMMERCIAL DEFENSE

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

ORIGINAL

FILED
MAR 21 2017
HEARINGS OFFICE

REQUEST FOR HEARING

CLAIMANT INFORMATION:

Claimant:	Martin Duran Perez
Address:	3555 E. Lake Mead Blvd Apt 147
	Las Vegas, NV 89115
Date of Injury:	12-30-2016
Claim No.:	2016-0022

EMPLOYER INFORMATION:

Employer:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone No.:	702-220-5621

PERSON REQUESTING APPEAL: INJURED EMPLOYEE

I WISH TO APPEAL THE DECISION DATED: 03-06-2017

BRIEFLY EXPLAIN REASON FOR APPEAL:

Claimant does not agree with the insurer's determination of 03-06-2017, regarding Notice of Claim Denial.

ATTORNEY/REPRESENTATIVE:

Name:	Morris Anderson Law
Address:	716 S. Jones Blvd
	Las Vegas, NV 89107
Telephone:	702-333-1111

INSURANCE COMPANY:

Name:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone:	702-220-5621

Signature

March 20, 2017
Date

SCHEDULED ON
MAR 21 2017

1710955 MTI

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7988

NOTICE OF CLAIM DENIAL
PLEASE READ THIS DOCUMENT

March 6, 2017

Martin Perez
3555 E. Lake Mead Blvd. #147
Las Vegas Nevada 89115

Re:	Employer:	Focus Framing
	Insurer:	Focus Plumbing
	Claim No:	2016-0022
	Accident Date:	12/30/2016
	Body Part:	Head Injury – Hematoma Only

Dear Martin Perez:

We are in receipt of your claim for the above-mentioned date of injury. Based on the information submitted to this office, your claim for date of injury of 12/30/2016 does not meet the requirements set forth in chapters 616A to 616D, inclusive, and 617, of NRS. The reason for denial is based on the following reasons and statutory authorities. The accident and/or injury described does not meet statutory requirements. We are unable to substantiate that your injury "arose out of and in the course and scope of your employment." Based on medical information submitted, it has been determined that the primary cause of your current disability is your pre-existing non-industrial condition, and that it has been established by a preponderance of the evidence that the injury and/or accident described is not a substantial contributing cause of the resulting condition.

NRS 616A030 defines an "Accident" as "...an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury," and/or as an "Injury" or "Personal Injury" as defined by NRS 616A.265 was "...a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence, including injuries to prosthetic devices . . ."

NRS 616C.150 provides that an injured employee or his dependents are not entitled to receive compensation pursuant to the provisions of chapters *616A* to *616D* of the *Nevada Revised Statutes* unless the employee or his dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his employment. For the purposes of chapters *616A* to *616D* of the *Nevada Revised Statutes*, there is a rebuttal presumption if the employee files a notice of an injury pursuant to *NRS 616C.015* after his employment is terminated for any reason.

NRS 616C[illegible] ovides that if an employee has a preexisting condition from a cause or origin that [illegible] in the course of his current or past employment; and he subsequently sustains an [illegible]ing out of and in the course of his employment which aggravates, precipitates or [illegible]ing condition, the resulting injury shall be deemed to be an injury by accident that [illegible]nt to the provisions of chapters 616A to 616D, inclusive of NRS, unless the [illegible] preponderance of the evidence that the subsequent injury is not a substantial [illegible] resulting condition.

If you should have any questions, please do not hesitate to contact our office.

If you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Officer at the address listed on the form, within seventy (70) days from the date of this determination. Failure to file a timely request with the Department of Administration, Hearing Officer may result in an order dismissing your case.

Sincerely,

Patty Pizano,
Claims Adjuster

cc: Focus Framing

University Medical Center
Division of Industrial Relations

Enclosure(s): Request for Hearing; Brief Description of Rights and Benefits (Pursuant to NRS 616C.050)

EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT
FORM C-4
PLEASE TYPE OR PRINT

Acct 9931347341

EMPLOYEE'S CLAIM – PROVIDE ALL INFORMATION REQUESTED

First Name: Martin M.I.: Last Name: Perez Birthdate: 1-8-78 Sex: ☒ M ☐ F Claim Number (Insurer's Use Only)

Home Address: 3555 E. Lake Mead Blvd Age: 38 Height: Weight: Social Security Number:

City: Las Vegas State: NV Zip: 89115 Telephone: 805-827-7746

Physical Address: City: State: Zip:

INSURER: FOCUS THIRD-PARTY ADMINISTRATOR: Primary Language Spoken:

Employer's Name/Company Name: FOCUS Plumbing Employee's Occupation (Job Title) When Injury or Occupational Disease Occurred:

Office Mail Address (Number and Street): 1220 S Commerce St Ste 120 Las Vegas, NV 89102 Telephone: 702-220-5621

Date of Injury (if applicable): 12-30-16 Hours Injury (if applicable): am pm Date Employer Notified: Last Day of Work After Injury or Occupational Disease: 12-30-16 Supervisor to Whom Injury Reported:

Address or Location of Accident (if applicable): un Known

What were you doing at the time of the accident? (if applicable): Pushed off Roof

How did this injury or occupational disease occur? (Be specific and answer in detail. Use additional sheet if necessary) el 110 de piedo me aven to Repente Pushed off Roof

If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment?

Witnesses to the Accident (if applicable):

Nature of Injury or Occupational Disease: traumatic subdural hematoma 8th rib fracture Part(s) of Body Injured or Affected:

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 616A TO 616D, INCLUSIVE OR CHAPTER 617 OF NRS). I HEREBY AUTHORIZE ANY PHYSICIAN, CHIROPRACTOR, SURGEON, PRACTITIONER, OR OTHER PERSON, ANY HOSPITAL, INCLUDING VETERANS ADMINISTRATION OR GOVERNMENTAL 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 PHOTOSTAT OF THIS AUTHORIZATION SHALL BE AS VALID AS THE ORIGINAL.

Date: 12-30-16 Place: Employee's Signature: martin perez PHUHS Due to mod. cond

THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT

Place: TRAUMA ED Name of Facility: UNIVERSITY MEDICAL CENTER

Date: 12/30/2016 Hour: 2230

Diagnosis and Description of Injury or Occupational Disease: SUBDURAL HEMATOMA (BRAIN BLEED)

Is there evidence that the injured employee was under the influence of alcohol and/or another controlled substance at the time of the accident? ☒ No ☐ Yes (If yes, please explain)

Treatment: ANTI-SEIZURE MEDICATIONS

Have you advised the patient to remain off work five days or more? ☒ Yes Indicate dates: from 12/30/16 to 1/7/16 ☐ No If no, is the injured employee capable of: ☐ full duty ☐ modified duty

If modified duty, specify any limitations/restrictions: NO ACTIVITIES THAT PUT HIM AT RISK FOR REPEAT HEAD INJURY FOR 1 MONTH

X-Ray Findings: SUBDURAL HEMATOMA

From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job incurred? ☒ Yes ☐ No

Is additional medical care by a physician indicated? ☒ Yes ☐ No

Do you know of any previous injury or disease contributing to this condition or occupational disease? ☐ Yes ☒ No (Explain if yes)

Date: 12/30/2016 Print Doctor's Name: SAMUEL BERBIN

I certify that the employer's copy of this form was mailed to the employer on:

Address: 1800 W. Charleston

City: Las Vegas State: NV Zip: 89102 Provider's Tax I.D. Number: 88-6000436 Telephone: 702-383-2000

Doctor's Signature: Degree: MD

INSURER'S USE ONLY

ORIGINAL – TREATING PHYSICIAN OR CHIROPRACTOR PAGE 2 – INSURER/TPA PAGE 3 – EMPLOYER PAGE 4 – EMPLOYEE Form C-4 (rev.01/03)

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EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT
FORM C-4
PLEASE TYPE OR PRINT

EMPLOYEE'S CLAIM – PROVIDE ALL INFORMATION REQUESTED

First Name	M.I.	Last Name	Birthdate	Sex	Claim Number (Insurer's Use Only)
Martin Duran		Perez	01/08/78	☑ M ☐ F	

Home Address	Age	Height	Weight	Social Security Number
3555 E. Lake Mead Blvd. #147	38	5'4	160	[redacted]

City	State	Zip	Telephone
Las Vegas	NV	89115	(805) 827-7546

Mailing Address	City	State	Zip
3555 E. Lake Mead Blvd. #147	L.V.	N.V.	89115

INSURER	THIRD-PARTY ADMINISTRATOR	Primary Language Spoken
		Spanish

Employer's Name/Company Name	Employee's Occupation (Job Title) When Injury or Occupational Disease Occurred
Focus Framing	Playman

Office Mail Address (Number and Street)	Telephone
	(702) 220-5621

Date of Injury (if applicable)	Hours Injury (if applicable)	Date Employer Notified	Last Day of Work After Injury or Occupational Disease	Supervisor to Whom Injury Reported
12/30/16	am 4:50 pm	12/30/16	12/30/16	

Address or Location of Accident (if applicable)

What were you doing at the time of the accident? (if applicable)
Reviewing paycheck

How did this injury or occupational disease occur? (Be specific and answer in detail. Use additional sheet if necessary)
While confronting his former boss on his paycheck being the incorrect amount his son pushed him and knocked him down.

If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment?

Witnesses to the Accident (if applicable)
Eduardo Leon (brother in law)
David (co-worker)

Nature of Injury or Occupational Disease

Part(s) of Body Injured or Affected
ribs, back, waist, head.

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 616A TO 616D, INCLUSIVE OR CHAPTER 617 OF NRS). I HEREBY AUTHORIZE ANY PHYSICIAN, CHIROPRACTOR, SURGEON, PRACTITIONER, OR OTHER PERSON, ANY HOSPITAL, INCLUDING VETERANS ADMINISTRATION OR GOVERNMENTAL 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 PHOTOSTAT OF THIS AUTHORIZATION SHALL BE AS VALID AS THE ORIGINAL.

Date 12/30/16 Place UMC Employee's Signature Martin Duran Perez

THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT

Place
Name of Facility

Date
Hour
Diagnosis and Description of Injury or Occupational Disease

Is there evidence that the injured employee was under the influence of alcohol and/or another controlled substance at the time of the accident?
☐ No ☐ Yes (if yes, please explain)

Treatment:

Have you advised the patient to remain off work five days or more?
☐ Yes Indicate dates: from _____ to _____
☐ No If no, is the injured employee capable of: ☐ full duty ☐ modified duty
If modified duty, specify any limitations/restrictions: _____

X-Ray Findings:

From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job incurred? ☐ Yes ☐ No

Is additional medical care by a physician indicated? ☐ Yes ☐ No

Do you know of any previous injury or disease contributing to this condition or occupational disease? ☐ Yes ☐ No (Explain if yes)

Date
Print Doctor's Name
I certify that the employer's copy of this form was mailed to the employer on:

Address

City State Zip
Provider's Tax I.D. Number
Telephone

Doctor's Signature
Degree

INSURER'S USE ONLY

ORIGINAL – TREATING PHYSICIAN OR CHIROPRACTOR PAGE 2 – INSURER/TPA PAGE 3 – EMPLOYER PAGE 4 – EMPLOYEE Form C-4 (rev.10/07)

University Medical Center
1800 W Charleston Blvd
Las Vegas,NV 89102
702-383-2000

ED Chart View

Patient Name:	PEREZ, MARTIN	Sex:	M
Birthdate:	01/08/1978	Age:	38
Acct No:	9931347349	Medical Rec No:	0030138209
Arrival Dt.:	12/30/2016 20:54	1st Chart Launch Dt.:	12/30/2016 21:02
Primary MD:		Treating Provider:	RANDALL BESS MD
		Attending MD:	MITZI A DILLON MD
Chart Status:	Final		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Primary Diagnosis

1) Free text DX: Traumatic fall *(RANDALL BESS MD 12/30/2016 21:22:29)* 2) Traumatic subdural hematoma *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Free text DX: Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Musculoskeletal chest pain *(RANDALL BESS MD 12/30/2016 21:22:29)*

History of Present Illness

HPI: Exam started at 21:03 *(MITZI A DILLON MD 12/30/2016 21:03:00)* 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:09:00)* PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Vital Signs

Time	Blood Pressure	Pulse	PulseOx	Respiration	Temperature	Pain
12/31 00:07						0/10 - AM33
12/30 23:39	132/91 mm Hg. - AM33	94 /min - AM33	98 % Room air - AM33	13 /min - AM33		
12/30 21:51	135/81 mm Hg.	99 /min - MK23	99 % 2 liter/min	18 /min - MK23		0/10 - MK23

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	- MK23		- MK23			
12/30 21:14	141/88 mm Hg. - RW4	94 /min - RW4	98 % Room air - RW4	18 /min - RW4	98.7 F - RW4	

Other Vital Signs

Height: 162 cm *(ROBERT WILSON RN 12/30/2016 20:54:00)* **Weight:** 91 kg *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bmi:** 34.7 *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bsa:** 2.02 sq. m *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Current Medications

1) 12/30/2016 21:08:47 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.] *(ROBERT WILSON RN 12/30/2016 21:08:47)*

Med Orders

MedOrder	Entered By	Ordered By	Completed	MD Sign	Note	Comment/ Indication
ED: morphine inj 4 MG IV ONCE NOW	SL8 RN 12/30 21:11	RB40 MD 12/30 21:11	SL8 12/30 21:10		12/30 21:10:Dose given IV push. (SL8); 12/30 21:10:No complications. (SL8); 12/30 21:10:Just given ED: morphine inj. (SL8); 12/30 21:10:Awake and alert. (SL8)	
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE	RW4 RN 12/30 21:49	MD28 MD 12/30 21:49	RW4 12/30 21:49			
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		Indication: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/31 05:18	SB61 12/30 22:57		Indication: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		
acetaminophen [TYLENOL]	SB61 MD 12/30 22:57	JS58 12/30 22:57	12/31 09:40	SB61 12/30 22:57		Indication: moderate pain

1000 MG ORAL Q8H PRN ROUTINE						
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:49	SB61 12/30 22:57		
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW	CJ22 RN 12/30 22:59	SB61 MD 12/30 22:59	CJ22 12/30 22:56		12/30 22:56:Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22)	
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06	SB61 12/31 08:34	SB61 12/30 23:06		
potassium chloride [KLOR-CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KPhos-NaPhos powder packet (8 mmol phos) [PHOS-NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KCl 40 mEq	MNP MD 12/30	MNP MD 12/30		MNP 12/30		Indication: per

rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line	23:49	23:49		23:49		Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE	MNP MD 12/30 23:49	NJ7 MD 12/30 23:49	NJ7 12/31 11:18	MNP 12/30 23:49		
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)

ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders						
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
sodium chloride 0.9% 250 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE	MNP MD 12/30 23:57	JS58 12/30 23:57	12/31 09:40	MNP 12/30 23:57		
HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE	MNP MD 12/30 23:58	MNP MD 12/30 23:58	12/31 03:47	MNP 12/30 23:58		Indication: severe pain
insulin lispro inj [HumaLOG] 3-15 UNIT SUBCUT PRN ROUTINE 70-130= 0 units; 131-150= 3 units; 151-170=	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: PROT-14 sliding scale (A):

5 units; 171-190= 7 units; 191-210= 9 units; 211-230= 11 units; 231-250= 13 units; >250= 15 units and call House Officer to consider scale B (if ICU pt) or scale D (if non-ICU pt)						
dextrose 50% inj 12.5 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose 35-69; recheck BGM in 30min
dextrose 50% inj 25 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose <35; recheck BGM in 30min
PHARMACY COMMUNICATION 1 EA MISC PRN ROUTINE Rx to D/C ALL previously ordered anti-diabetic medications	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		

Non-Med Orders

Non-MedOrde	Entered By	Ordered By	Completed	Results Back	MD Sign	Note	Comment/ Indication
TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT THORACIC SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	

TR CT LUMBAR SPINE RE-CONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT ABDO-MEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Re-lated	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
PT + APTT ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:29	12/30 22:29		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
TYPE AND SCREEN ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50				12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
BASIC META-BOLIC PAN-EL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:28	12/30 22:28		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
CBC NO DIF-FERENTIAL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:08	12/30 22:08		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood	

						obtained from the right antecubital fossa. (RW4)	
ABO RH TYPE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
ANTIBODY SCREEN - GEL TECHNIQUE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
EKG 12 LEAD ONCE STAT	AM80 UNIT CLERK 12/30 22:55	SB61 MD 12/30 22:55	12/31 12:52	12/31 12:52	SB61 12/30 22:55	12/30 23:11:First EKG in department obtained. (CJ22)	
Surgery Admit Order (basic requirements) ONCE ROUTINE Inpatient TICU Standard No 7.3mm Subdural hematoma, 8th right rib fracture, Fall off second story roof	SB61 MD 12/30 22:56	SB61 MD 12/30 22:56	12/30 23:37		SB61 12/30 22:56		

CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)							
Measure Weight EVERY DAY ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 22:53		SB61 12/30 22:57		
Vital Signs Q2H ROUTINE(*Cancel*)	SB61 MD 12/30 22:57	MNP MD 12/30 22:57			SB61 12/30 22:57		
Intake & Output Q2H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Notify: CONTIN ROUTINE SaO2 < 88%	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:(Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:Peripheral IV #2
Admission Nasal MRSA Colonization Screen-ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Influ-	SB61 MD	SB61 MD			SB61 12/30		Comment:-

enza Vaccine Assessment-CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		Switch to Influenza vaccine order if indicated
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	AA3 12/31 07:46		SB61 12/30 22:57		
Incentive Spirometry - NSG Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 19:28		SB61 12/30 22:57		Comment:X 10 Breaths
CASE MANAGEMENT CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Pneumococcal Vaccine Assessment-CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:-Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
SOCIAL SERVICES CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Notify: CONTIN ROUTINE DBP < 60 or > 110	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Activity CONTIN ROUTINE (with nursing assistance)	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
NPO MEALS(*Cancel*)	SB61 MD 12/30 22:57	JS58 12/30 22:57			SB61 12/30 22:57		
Sequential	SB61 MD	SB61 MD	12/31 20:17		SB61 12/30		

Compression Device CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:brain bleed
CBC/ AUTOMATED IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:29	12/31 01:29	SB61 12/30 22:57		
RENAL PANEL IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:53	12/31 01:53	SB61 12/30 22:57		
Neuro Checks Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 23:00		SB61 12/30 22:57		
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma(*Cancel*)	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06			SB61 12/30 23:06	12/31 00:28:Cancel Reason: PATIENT IS TO BE DONE IN TRAUMA CENTER ()	
Vital Signs Q1H ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	01/01 00:00		MNP 12/30 23:49		
Elevate Head of Bed CONTIN ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
MAGNESIUM LEVEL QDAY IN AM	MNP MD 12/30 23:49	MNP MD 12/30 23:49			MNP 12/30 23:49		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		

Protocol), place in chart							
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/Na-Phos/ PhosNaK, Magnesium 2 hr after magnesium	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU-CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35-69, give 12.5gm D50W IVP and recheck BGM in 30min.	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14-A (TICU/SICU Insulin Sliding Scale), place in chart	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

RN to Order: CONTIN ROUTINE serum glucose level if BGM< 35 mg/dL	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59			MNP 12/30 23:59		Comment:if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
Notify: CONTIN ROUTINE if BGM >250 and consider scale B (ICU pt) or scale D (non-ICU pt) House Officer	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (Non-ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

Lab Results

HEMOGRAM 12/30/2016 21:47:00	
WHITE BLOOD CELL	*13.20 K/MM3 H* (NL = 3.40-10.30)
RED BLOOD CELL	4.67 M/MM3 (NL = 4.08-5.70)
HGB	13.9 G/DL (NL = 13.1-16.8)
HEMATOCRIT	41.4 % (NL = 38.2-48.4)
MCV	88.6 FL (NL = 80.1-98.5)
MEAN CELL HEMOGLOBIN	29.7 pg (NL = 27.1-34.2)
MEAN CELL HEMOGLOBIN CONCENTRATION	33.6 % (NL = 33.0-35.6)
PLATELET	271 K/MM3 (NL = 130-351)
MPV	7.5 FL (NL = 7.5-11.2)
Red Cell Diameter Width	13.8 % (NL = 11.8-15.1)

BASIC METABOLIC PANEL 12/30/2016 21:47:00	
SODIUM	139 MMOL/L (NL = 136-145)
POTASSIUM	3.9 MMOL/L (NL = 3.5-5.1)
CHLORIDE	106 MMOL/L (NL = 98-110)
TOTAL CO2	24 MMOL/L (NL = 22-31)
BLOOD UREA NITROGEN	13 mg/dL (NL = 9-26)
CREATININE	0.7 mg/dL (NL = 0.6-1.5)
GLUCOSE	*122 mg/dL H* (NL = 70-110)
CALCIUM	*8.1 mg/dL L* (NL = 8.4-10.2)
Anion Gap	9 MMOL/L (NL = 8-16)

PT AND APTT 12/30/2016 21:47:00	
PROTHROMBIN TIME	11.7 SEC. (NL = 9.3-12.4)
INR	1.0 (NL = 0.8-1.2) Comment: Recommended therapeutic range for oral anticoagulant therapy (INR 2.0 - 3.0) INDICATION: Prophylaxis of venous thrombosis (High-risk surgery) Treatment of venous thrombosis Treatment of pulmonary embolism Prevention of Systemic embolism Acute myocardial infarction (To prevent systemic embolism) Valvular heart disease Atrial fibrillation 1. It is strongly recommended that all patients with mechanical prosthetic heart valves receive oral anticoagulant (Grade C1 recommendation) A goal INR of 2.5 (range 2.0 - 3.0) is recommended for patients with a bileaflet mechanical valve in the aortic position, provided the left atrium is of normal size, the patient is in sinus rhythm and the ejection fraction is normal

	(Grade A2 recommendation) 2. A goal INR of 3.0 (range 2.5 - 3.5) is recommended for all other patients. If oral anticoagulant therapy is elected to prevent recurrent myocardial infarction, an INR of 2.5 - 3.5 is recommended, consistent with Food and Drug Administration recommendations. Chest: 114:5 November 1998 Supplement
ACTIVATED PARTIAL THROMBOPLASTIN	25 SEC. (NL = 22-33) Comment: Based on the laboratory's aPTT / Heparin anti Xa correlation study, aPTT levels of 52 - 78 seconds correlate with Heparin levels of 0.3 - 0.7 anti Xa units.
GLOMERULAR FILTRATION RATE 12/30/2016 21:47:00	
Glomerular Filtration Rate(GFR) Calc	>60 Comment: Estimated GLOMERULAR FILTRATION RATE (GFR) Reference Ranges: >59 mL/min/1.73 m2 GFR calculation requires an accurate age and gender of the patient. Ordered on patients 18 years and older. For African Americans, multiply GFR value

	by 1.21 The estimated GFR is to be used for screening purposes. For drug dosing, use the Cockcroft-Gault calculation.
ANTIBODY SCREEN GEL 12/30/2016 21:47:00	
ANTIBODY SCREEN (Gel Method)	NEG ABSCRN
ABORH TYPE 12/30/2016 21:47:00	
ABO/RH TYPING	A POS

Physical Exam

General Presentation: VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER] AIRWAY: [patent, patient phonating well] BREATHING: [no respiratory distress, breath sounds present bilaterally] CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused] DISABILITY: [Move all four extremities, GCS 15] GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic] HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness] NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema] CARDIOVASCULAR: [regular rate/rhythm, no murmurs,] Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema] ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam] PELVIS : [stable to anterior-posterior and lateral compression] BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness] EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain] SKIN: [warm, dry, no rashes or lesions] NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact] PSYCHIATRIC: [normal affect/insight/concentration] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Medical History/Patient Problems

1) Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] *(ROBERT WILSON RN 12/30/2016 21:08:39)* 2) Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)*

Substance Use

Tobacco

Smoking status:

never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol

Alcohol use:

no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Acuity

Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Progress Notes

12/30/2016 21:09:00 Imaging and laboratory workup provided from outside hospital seen in the Saint Rose. CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect. CT C-spine shows no acute fracture or subluxation identified, no acute fracture. X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process. X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. *(RANDALL BESS MD 12/30/2016 21:09:00)*

RN Continuation Notes

12/30/2016 21:09:00 Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Bed Assignment: 12/30/2016 21:00:59 Assigned to bed TRM11 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 21:00:59)*

Triage and Nursing History

Acuity: 12/30/2016 20:54:00 Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Language: 12/30/2016 20:54:00 No language or communication barrier. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

RN History: 12/30/2016 20:54:00 Mentation - Patient has periodic confusion. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Elimination - Patient is independent with frequency or diarrhea. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Prior Fall history at home or previous inpatient care. Score = 1. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient is at risk for falls and precautions have been instituted. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of suicide. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of harming self or others. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Onset of symptoms was about 4 hrs ago. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History comes from patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History is supplied by the patient's ambulance record. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Mental: 12/30/2016 20:54:00 Domestic violence survey shows NEGATIVE risk for this patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical Impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:09:00)* Disposition decision is admit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Admit to Intensive Care unit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Condition at discharge - stable. *(MITZI A DILLON MD 12/30/2016 21:12:00)* History, physical findings, and management plan discussed with ED attending physician. *(RANDALL BESS MD 12/30/2016 22:50:06)* Attending physically available and saw patient. *(RANDALL BESS MD 12/30/2016 22:50:06)* Electronically signed by RANDALL BESS MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* The designated co-signing physician is MITZI DILLON MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. *(MITZI A DILLON MD 01/01/2017 00:10:45)*

A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* IV capped and flushed. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* Disposition status is Admit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Admitted to Intensive Care Unit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* RN accompanied patient. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Monitor used during transport. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Valuables inventoried and collected by UMC Public Safety. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Electronically signed by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:33)*

Pre-Hospital Information

Mode of arrival: *(ROBERT WILSON RN 12/30/2016 20:54:00)* AMR *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Reports Printed/Faxed

ROBERT WILSON RN printed Orders Report to Trauma RN 1 at 21:51 *(ROBERT WILSON RN 12/30/2016 21:51:15)* ALEXIS MARTINEZ UNIT CLERK printed UMC-EDView to Trauma RN 1 at 23:29 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 23:29:47)* MITZI A DILLON MD printed Emergency Department Chart to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)* MITZI A DILLON MD printed UMC-EDView to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)*

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being

found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE.

Staff Legend

RW4 - ROBERT WILSON RN AM33 - ANTONIA MCNAMARA RN MK23 - MARTIN KOVACIK RN SL8 - SUSAN LALUMIA RN RB40 - RANDALL BESS MD - External Data SB61 - SAMUEL BERGIN MD CJ22 - CATHERINE JURGENS RN NJ7 - NATHANIEL JIMENEZ MD AM80 - ALEXIS MARTINEZ UNIT CLERK MAD1 - MITZI A DILLON MD AA3 - APRIL ALLEN-CARTER RT

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Vital Signs/Data

Time	Staff	Temperature	Pulse	Respiration	Blood Pressure	Pulse Oximetry	Pain
12/31/2016 00:07	AM33						0/10
12/30/2016 23:39	AM33		94 /min	13 /min	132/91 mm Hg.	98% on Room air	
12/30/2016 21:51	MK23		99 /min	18 /min	135/81 mm Hg.	99% on 2 liter/min	0/10
12/30/2016 21:14	RW4	98.7 F	94 /min	18 /min		98% on Room air	
12/30/2016 21:14	RW4				141/88 mm Hg.		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] (RW4 12/30/2016 21:09)

Pre- Hospital Treatment

Mode of arrival: AMR (RW4) 12/30/2016 20:54

Triage

Activation Level - ED. (RW4 12/30/2016 20:54)
3 - Urgent (RW4 20:54)
No language or communication barrier. (RW4 20:54)
Domestic violence survey shows NEGATIVE risk for this patient. (RW4 20:54)
Mentation - Patient has periodic confusion. Score = 1 (RW4 20:54)
Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 (RW4 20:54)
Elimination - Patient is independent with frequency or diarrhea. Score = 1 (RW4 20:54)
Prior Fall history at home or previous Inpatient care. Score = 1. (RW4 20:54)
Patient is at risk for falls and precautions have been instituted. (RW4 20:54)
Patient has no thoughts of suicide. (RW4 20:54)
Patient has no thoughts of harming self or others. (RW4 20:54)
Onset of symptoms was about 4 hrs ago. (RW4 20:54)
History comes from patient. (RW4 20:54)
History is supplied by the patient's ambulance record. (RW4 20:54)

Height/Weight

Hgt: 162 cm at 20:54 (RW4 12/30/2016 20:54)
Wgt: 91 kg at 20:54 (RW4 20:54)
BMI: 34.7 (RW4 20:54)
BSA: 2.02 sq. m (RW4 20:54)

Current Medications

1) 12/30/2016 21:08 RW4 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.]

Nursing Continuation Notes - Refer to Orders section for all orders

Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. (RW4 12/30/2016 21:09)

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Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Clinician History of Present Illness

Exam started at 21:03 (MAD1) 12/30/2016 21:03 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. (RB40) 12/30/2016 21:17

Patient Problems

Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] (RW4 12/30/2016 21:08)
Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] (RB40) 12/30/2016 21:09

Physical Exam

GENERAL:
VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER]
AIRWAY: [patent, patient phonating well]
BREATHING: [no respiratory distress, breath sounds present bilaterally]
CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused]
DISABILITY: [Move all four extremities, GCS 15]
GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic]
HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness]
NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema]
CARDIOVASCULAR: [regular rate/rhythm, no murmurs,]
Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema]
ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam]
PELVIS : [stable to anterior-posterior and lateral compression]
BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness]
EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain]
SKIN: [warm, dry, no rashes or lesions]
NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact]
PSYCHIATRIC: [normal affect/insight/concentration]
(RB40) 12/30/2016 21:17

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Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Progress Notes

Imaging and laboratory workup provided from outside hospital seen in the Saint Rose.
CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect.
CT C-spine shows no acute fracture or subluxation identified, no acute fracture.
X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process.
X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture
Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. (RB40) 12/30/2016 21:09

Primary Diagnosis

Free text DX: Traumatic fall (RB40 12/30/2016 21:22)
Traumatic subdural hematoma (RB40 21:22)
Free text DX: Possible right 8th rib fracture (RB40 21:22)
Musculoskeletal chest pain (RB40 21:22)

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Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

ED: morphine inj 4 MG IV ONCE NOW
Entered By (SL8 RN 12/30/2016 21:11) Ordered By (RB40 MD 21:11) Completed By (SL8 RN 21:10) Notes: Dose given IV push. No complications. Just given ED: morphine inj. Awake and alert. (SL8 21:10)
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE
Entered By (RW4 RN 12/30/2016 21:49) Completed By (RW4 RN 21:49)
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:49) MD Sign (SB61 MD 22:57)
acetaminophen [TYLENOL] 1000 MG ORAL Q8H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 09:40) MD Sign (SB61 MD 12/30/2016 22:57) Indications: moderate pain
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57) Indications: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 05:18) MD Sign (SB61 MD 12/30/2016 22:57) Indications: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57)
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW
Entered By (CJ22 RN 12/30/2016 22:59) Ordered By (SB61 MD 22:59) Completed By (CJ22 RN 22:56) Notes: Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22 22:56)
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) Completed By (SB61 MD 12/31/2016 08:34) MD Sign (SB61 MD 12/30/2016 23:06)
potassium chloride [KLOR- CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KCl 40 mEq rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line
Indications: per Electrolyte Protocol (PROT #383)
KPhos- NaPhos powder packet (8 mmol phos) [PHOS- NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE
Ordered By (NJ7 MD 12/30/2016 23:49) Completed By (NJ7 MD 12/31/2016 11:18)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE

sodium chloride 0.9% 250 ML IVPB PRN ROUTINE

HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE
Completed By (12/31/2016 03:47) Indications: severe pain
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE
Completed By (12/31/2016 09:40)
insulin lispro inj [HumaLOG] 3- 15 UNIT SUBCUT PRN ROUTINE 70- 130= 0 units; 131- 150= 3 units; 151- 170= 5 units; 171- 190= 7 units; 191- 210= 9 units; 211- 230= 11 units; 231- 250= 13 units; >250= 15 units and call House Officer to

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Las Vegas, NV 89102
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Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

consider scale B (if ICU pt) or scale D (if non- ICU pt)
Indications: PROT- 14 sliding scale (A):
dextrose 50% Inj 25 GM IV PRN ROUTINE
Indications: Blood Glucose <35; recheck BGM in 30min
dextrose 50% Inj 12.5 GM IV PRN ROUTINE
Indications: Blood Glucose 35- 69; recheck BGM in 30min
PHARMACY COMMUNICATION 1 EA MISC PRN ROUTINE Rx to D/C ALL previously ordered anti- diabetic medications

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Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT ABDOMEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT LUMBAR SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT THORACIC SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
CBC NO DIFFERENTIAL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:08) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
BASIC METABOLIC PANEL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:28) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
PT + APTT ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:29) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
TYPE AND SCREEN ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
ABO RH TYPE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
ANTIBODY SCREEN - GEL TECHNIQUE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
Surgery Admit Order (basic requirements) ONCE ROUTINE Inpatient TICU Standard No 7.3mm Subdural hematoma, 8th right rib fracture, Fall off second story roof CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)
Entered By (SB61 MD 12/30/2016 22:56) Ordered By (SB61 MD 22:56) Completed By (23:37) MD Sign (SB61 MD 22:56)
Vital Signs Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (23:47)
Intake & Output Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Measure Weight EVERY DAY ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 22:53) MD Sign (SB61 MD 12/30/2016 22:57)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: (Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: Peripheral IV #2
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE SaO2 < 88%
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (AA3 RT 12/31/2016 07:46) MD Sign (SB61 MD 12/30/2016 22:57)

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Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Incentive Spirometry - NSG Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 19:28) MD Sign (SB61 MD 12/30/2016 22:57) Comments: X 10 Breaths
Admission Nasal MRSA Colonization Screen- ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Initiate Influenza Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to Influenza vaccine order if indicated
Initiate Pneumococcal Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
CASE MANAGEMENT CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
SOCIAL SERVICES CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Activity CONTIN ROUTINE (with nursing assistance)
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE DBP < 60 or > 110
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
NPO MEALS
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (12/31/2016 09:38)
Sequential Compression Device CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: brain bleed
CBC/AUTOMATED IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:29) MD Sign (SB61 MD 12/30/2016 22:57)
RENAL PANEL IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:53) MD Sign (SB61 MD 12/30/2016 22:57)
Neuro Checks Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 23:00) MD Sign (SB61 MD 12/30/2016 22:57)
EKG 12 LEAD ONCE STAT
Entered By (AM80 UNIT CLERK 12/30/2016 22:55) Ordered By (SB61 MD 22:55) Results Back (12/31/2016 12:52) MD Sign (SB61 MD 12/30/2016 22:55) Notes: First EKG in department obtained. (CJ22 23:11)
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) MD Sign (SB61 MD 23:06) Order Cancelled (12/31/2016 00:28)
Elevate Head of Bed CONTIN ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49) Comments: Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
Vital Signs Q1H ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (01/01/2017 00:00) MD Sign (12/30/2016 23:49)
MAGNESIUM LEVEL QDAY IN AM
Entered By (12/30/2016 23:49) Ordered By (23:49) MD Sign (23:49)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte Protocol), place in chart
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/NaPhos/PhosNaK,

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Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Magnesium 2 hr after magnesium
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
Comments: per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU- CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35- 69, give 12.5gm D50W IVP and recheck BGM in 30min.
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Notify: CONTIN ROUTINE If BGM >250 and consider scale B (ICU pt) or scale D (non- ICU pt) House Officer
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE
Entered By (12/30/2016 23:59) Ordered By (23:59) MD Sign (23:59) Comments: if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
RN to Order: CONTIN ROUTINE serum glucose level If BGM< 35 mg/dL
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14- A (TICU/ICU Insulin Sliding Scale), place in chart
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (ICU Pt) If BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (Non- ICU Pt) If BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture (RB40) 12/30/2016 21:09 Disposition decision is admit. Admit to Intensive Care unit. Condition at discharge - stable. (MAD1) 12/30/2016 21:12 History, physical findings, and management plan discussed with ED attending physician. Attending physically available and saw patient. Electronically signed by RANDALL BESS MD.
The designated co-signing physician is MITZI DILLON MD. (RB40) 12/30/2016 22:50 I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. (MAD1) 01/01/2017 00:10 A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. IV capped and flushed. pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, (AM33) 12/31/2016 00:07 Disposition status is Admit. Admitted to Intensive Care Unit. RN accompanied patient. Monitor used during transport. Valuables inventoried and collected by UMC Public Safety. Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08 Electronically signed by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08

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Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE. (01/01/2017 00:10)

Substance Use

Tobacco
Smoking status
never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol
Alcohol use
no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Staff Legend

AM33	ANTONIA MCNAMARA RN
AM80	ALEXIS MARTINEZ UNIT CLERK
CJ22	CATHERINE JURGENS RN
KR25	KRISTIN REED RN
MAD1	MITZI DILLON MD
MK23	MARTIN KOVACIK RN
RB40	RANDALL BESS MD
RW4	ROBERT WILSON RN
SB61	SAMUEL BERGIN MD
SLB	SUSAN LALUMIA RN

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: HOYE MD,STEPHEN
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360899
Date of Service: 12/31/2016 12:22:00 PM
Exam: TR SHOULDER 2V OR MORE (LEFT)
*-_=_-**-_=_-**-_=_-*

EXAM: XR SHOULDER

HISTORY: Fracture

COMPARISON: None.

TECHNIQUE: Left shoulder, 3 views.

FINDINGS:
Bone mineralization appears age appropriate. No acute appearing fracture or dislocation.

IMPRESSION:
No acute osseous abnormality left shoulder-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: STEPHEN HOYE MD 2/8/2017 13:55

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: DOUGHERTY MD,DOUG
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360878
Date of Service: 12/31/2016 2:00:00 AM
Exam: TR CT BRAIN W/O CONTRAST
*_=_.**_=_.**_=_.*

EXAM: CT BRAIN WITHOUT CONTRAST

HISTORY: Subdural hematoma, trauma patient

COMPARISON: None.

TECHNIQUE: Thin section axial CT images were obtained from the vertex of the skull to the foramen magnum without contrast. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: None.

FINDINGS:
A subdural hematoma is present within the interhemispheric fissure, greatest posteriorly where there is a maximal width of approximately 5 mm. There is layering of hemorrhagic material on the bilateral tentorium. No area of intraparenchymal, intraventricular, subarachnoid or epidural hematoma is currently identified. No intraparenchymal mass or mass effect is identified. There is chronic appearing tissue loss involving the anterior pole of the right temporal lobe. The ventricles and sulci are within normal limits for patient age. There is no hydrocephalus. Gray-white differentiation appears normal. There is no acute territorial infarct. The calvarium appears intact. The paranasal sinuses and mastoid air cells are grossly clear.

~Performed after hours
IMPRESSION:
Subdural hematoma within the interhemispheric fissure measuring up to 5 mm in width and layering on the bilateral tentorium.
Chronic appearing tissue loss involving the anterior right temporal lobe.
Findings were discussed with by the patients nurse Elaine myself at approximately 6:05 AM on December 31, 2016. She reports that the patient was scanned at an outside hospital with the reported size of the collection being 7 mm.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: DOUG DOUGHERTY MD 12/31/2016 6:10

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: SINGH MD,SUKHJINDER
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7361192
Date of Service: 12/31/2016 11:16:00 AM
Exam: MRI C-SPINE W/O CONTRAST
*_==_**_==_**_==_*

EXAM: MR CERVICAL SPINE WITHOUT CONTRAST

HISTORY: Neck pain, cervicalgia.

COMPARISON: None.

TECHNIQUE: Axial and sagittal T1-weighted, T2-weighted, and STIR fat-suppressed T2-weighted MR images of the cervical spine were performed without contrast.
CONTRAST: None.

FINDINGS:
The intervertebral discs from C2 to T1 are normal in height and signal intensity. No significant disk bulges or herniated discs are present at any level. Normal vertebral alignment and spacing is present at all levels. Normal signal in the bone marrow and intervertebral disks. No spinal canal stenosis or neural foraminal narrowing. No vertebral or soft tissue edema. Normal signal in the cervical cord. No Chiari malformation.
There is right posterior paraspinal soft tissue swelling from T1 through T3.

IMPRESSION:
1. Normal MRI of the cervical spine without contrast.
2. Mild right posterior paraspinal soft tissue swelling from T1 through T3.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: SUKHJINDER SINGH MD 12/31/2016 13:19

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360842
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT ABD AND PELVIS IV ONLY
*_=_.**_=_.**_=_.*

EXAM: CT ABDOMEN PELVIS WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the lung bases to the pubis symphysis. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. Thin section coronal images were reconstructed from the axial data set. All images were reviewed and interpreted.
CONTRAST: Given IV contrast.

FINDINGS:
Ankylosis of the right SI joint noted.
Acute fracture deformity of the posterior right eighth rib is noted.
No acute fracture noted.
The lung bases are clear. The liver and portal veins are normal. The gallbladder is normal. The spleen is normal. The pancreas is normal. The adrenals are normal. The kidneys are normal. The distal esophagus and stomach are normal. The visualized portions of the small bowel are normal. The visualized portions of the colon are normal. The abdominal aorta is normal. The IVC is normal. There is no lymphadenopathy. Normal bladder.

IMPRESSION:
No acute traumatic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:53

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360841
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT CHEST WITH CONTRAST
*_=_.**_=_.**_=_.*

EXAM: CT CHEST WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the thoracic inlet through the lung bases and adrenal glands. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: Given IV IV.

FINDINGS:
No pulmonary infiltrates. No pulmonary nodules or masses. No pleural effusions. No hilar or mediastinal lymphadenopathy. Normal heart. Normal pulmonary vascularity. Normal thoracic aorta and great vessels. Normal adrenals. No fracture noted. No mediastinal hematoma, pneumothorax, pleural effusion or pericardial effusion.

IMPRESSION:
No traumatic thoracic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:44

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360844
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT THORACIC SPINE RECONS
*_==_.**_==_.**_==_.*

EXAM: Thoracic spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted thoracic spine CT images are obtained.
Multilevel mild degenerative disk disease.
There is moderately severe bilateral T2-T3 neural foraminal stenosis secondary to facet hypertrophy.
No aggressive lytic or sclerotic bone lesions noted.
Thoracic vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No thoracic spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:55

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360843
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT LUMBAR SPINE RECONS
*_==_.**_==_.**_==_.*

EXAM: Lumbar spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted lumbar spine CT images are obtained.
Lumbar vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No lumbar spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 22:1

RECEIVED
FEB 28 2017
BY:_____

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

NOTICE OF CLAIM DENIAL
PLEASE READ THIS DOCUMENT

March 6, 2017

Martin Perez
3555 E. Lake Mead Blvd. #147
Las Vegas Nevada 89115

Re:	Employer:	Focus Framing
	Insurer:	Focus Plumbing
	Claim No:	2016-0022
	Accident Date:	12/30/2016
	Body Part:	Head Injury – Hematoma Only

Dear Martin Perez:

We are in receipt of your claim for the above-mentioned date of injury. Based on the information submitted to this office, your claim for date of injury of 12/30/2016 does not meet the requirements set forth in chapters 616A to 616D, inclusive, and 617, of NRS. The reason for denial is based on the following reasons and statutory authorities. The accident and/or injury described does not meet statutory requirements. We are unable to substantiate that your injury "arose out of and in the course and scope of your employment." Based on medical information submitted, it has been determined that the primary cause of your current disability is your pre-existing non-industrial condition, and that it has been established by a preponderance of the evidence that the injury and/or accident described is not a substantial contributing cause of the resulting condition.

NRS 616A030 defines an "Accident" as "...an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury," and/or as an "Injury" or "Personal Injury" as defined by NRS 616A.265 was "...a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence, including injuries to prosthetic devices . . ."

NRS 616C.150 provides that an injured employee or his dependents are not entitled to receive compensation pursuant to the provisions of chapters *616A* to *616D* of the *Nevada Revised Statutes* unless the employee or his dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his employment. For the purposes of chapters *616A* to *616D* of the *Nevada Revised Statutes*, there is a rebuttal presumption if the employee files a notice of an injury pursuant to *NRS 616C.015* after his employment is terminated for any reason.

NRS 616C.175(1) provides that if an employee has a preexisting condition from a cause or origin that did not arise out of or in the course of his current or past employment; and he subsequently sustains an injury by accident arising out of and in the course of his employment which aggravates, precipitates or accelerates his preexisting condition, the resulting injury shall be deemed to be an injury by accident that is compensable pursuant to the provisions of chapters 616A to 616D, inclusive of NRS, unless the insurer can prove by a preponderance of the evidence that the subsequent injury is not a substantial contributing cause of the resulting condition.

If you should have any questions, please do not hesitate to contact our office.

If you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Officer at the address listed on the form, within seventy (70) days from the date of this determination. Failure to file a timely request with the Department of Administration, Hearing Officer may result in an order dismissing your case.

Sincerely,

Patty Pizano,
Claims Adjuster

cc: Focus Framing

University Medical Center
Division of Industrial Relations

Enclosure(s): Request for Hearing; Brief Description of Rights and Benefits (Pursuant to NRS 616C.050)

CERTIFICATE OF MAILING

I, Patty Pizano, Claims Adjuster, do hereby declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. That on March 6, 2017, service of the Notice of Claim Denial was made by depositing in the U.S. Mail in Las Vegas, NV, postage paid, addressed to:

Name	Martin Perez
Address	3555 E. Lake Mead Blvd. #147, Las Vegas, Nevada 89115

Dated this 6 day of March, 20 17

Patty Pizano, Claims Adjuster

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 forms required to file the Notice of Injury or Occupational Disease.

Claim for Compensation (Form C-4): If medical treatment is sought, the form C-4 is available at the place of initial treatment. You must file a completed "Claim for Compensation" (Form C-4) 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. The employer must complete and mail to its insurer or third-party administrator an Employer's Report of Industrial Injury or Occupational Disease (Form C-3), within 6 working days after receipt of a Claim for Compensation. Your insurer must accept or deny your claim within 30 days after receipt of the C-4 form.

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.

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. NAIW is an independent state agency and is not affiliated with any insurer.

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 Industrial Insurance Regulation Section, 400 West King Street, Suite 400, Carson City, Nevada 89703, telephone (775) 687-3033, or 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89014, telephone (702) 486-9080.

Permanent Total Disability (PTD): If you are medically certified by a treating physician or chiropractor as permanently and totally disabled as a result of an industrial injury or OD 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.

Temporary Total Disability (TTD): If your doctor has certified that you are unable to work for a period of at least 5 consecutive days, or 5 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.

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. If you and the insurer cannot agree on a rating physician or chiropractor to perform the evaluation, one will be assigned by rotation as established by DIR. The amount of your PPD award depends on the date of injury, the results of the PPD evaluation and your age and wage.

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.

Medical Costs: Any medical procedures or treatments related to your on-the-job injury deemed necessary by your treating physician or chiropractor and authorized by your insurer, will be paid according to the Nevada Medical Fee Schedule or as otherwise contracted.

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. Your right to such services depends on your place of residence. You may be able to obtain a lump sum buyout in lieu of vocational rehabilitation services.

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

Appeal to Hearing Officer: 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, telephone (775) 687-5966, or 2200 S. Rancho Dr., Suite 210, Las Vegas, Nevada 89102, telephone (702) 486-2525.

Appeal to Appeals Officer: 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.

Judicial Review: If you disagree with a 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 Appeal Officer's decision. You may be represented by an attorney at your own expense or you may contact the NAIW for possible representation.

If you have any questions concerning the law as it may apply to you, contact your attorney, insurer or third-party administrator.

D-2 (rev. 7/99)

REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO:

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address	
Employee's Telephone Number	Claim No.
	Date of Injury

Employer Information
Employer's Name and Address
Employer's Telephone Number

Insurer Information
Insurer's Name and Address
Insurer's Telephone Number

Third-Party Administrator Information
Third-Party Administrator's Name and Address
Third-Party Administrator's Telephone Number

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

_____

_____

_____

This request for hearing is filed by, or on behalf of: **The Injured Employee** / **The Employer**

and is dated this _____ day of _____, 20_____.

_____
Signature of Injured Employee/Employer

_____
Injured Employee's/Employer's Rep. (Advisor)

D-12a (Rev. 12/07)

Emp Of Clark Umc Mccourtpllc
c/o Equian
PO Box 32710 Dept. 72856860
Louisville, KY 40232-2710

Call 1-855-692-8301 Today
Important Claim Information Required
TDD/TTY 1-800-653-6478

March 7, 2017

1819-1819-1
Martin Duran Perez T7 P1
3555 E Lake Mead Blvd Apt 147
Las Vegas, NV 89115-7360

RE: Your recent emergency room visit:
Patient: Martin Duran Perez
Medical Record No.: 10674876

The Service Date we are inquiring about:
Treatment Date: 12/30/2016
Treatment Facility: University Medical Center
Physician Group: Emp Of Clark Umc Mccourtpllc
Event Number: 3693675 - Please have this number ready

Dear Patient:

This is your second notice. It is very important that you contact Equian immediately. Equian represents the physician group that provided medical services to you during your recent emergency room visit, which has been indicated to be the result of an accident or injury. **To determine if another party is responsible for the costs associated with your treatment, we need to obtain detailed information from you.**

Please note that we are representing the treating physician only. Because any information provided to the hospital may not have been provided to your treating physician group, your response is requested.

Regardless of how or where your injury or illness occurred, please contact us immediately with the event number listed above.

Please Call Toll-Free at 1-855-692-8301
Monday - Friday: 8:30 a.m. - 8:00 p.m. Eastern

You may also respond anytime at www.Equian.com, select "Respond Online", enter web code 9SKF9, followed by your event number 3693675

Llame por favor a Equian hoy con respecto a su hospitalización reciente.

Your prompt response will be greatly appreciated.

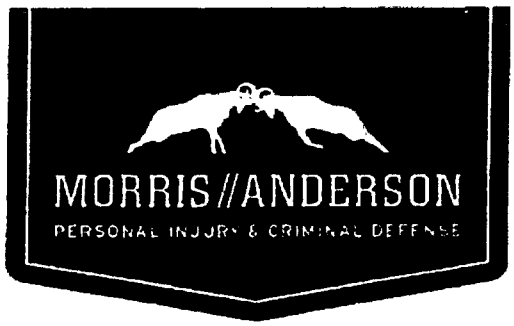
Sincerely,

Tanisha Howard
Note: Please call me at 1-855-692-8301 today.

Inquiries made by Equian are in full compliance with HIPAA.

72856860 3693675 TC2LEMP HRIPP_OWNER
1330090L0001819010100

4



NATHAN MORRIS, ESQ.
RYAN M. ANDERSON, ESQ.

2001 S. Maryland Parkway
Las Vegas, NV 89104

P 702.333.1111
F 702.507.0092

March 21, 2017

Via Facsimile: 702-851-7938
And Regular U.S. Mail

Self Insured Focus Plumbing
1220 S. Commerce Ste 120
Las Vegas, NV 89102
Attention: Patty Pizano

Re:	Claimant	:	Martin Duran Perez
	Employer	:	Focus Plumbing
	D.O.I.	:	12/30/2016
	Claim No.	:	***2016-0022***

Dear Claims Examiner:

Please be advised this firm has been retained to represent Martin Duran with regards to injuries sustained as a result of his industrial accident of December 30, 2016.

Please be advised we are requesting **ALL DETERMINATIONS and ALL MEDICAL REPORTS ISSUED.** Enclosed is a copy of the Power of Attorney form as well as a copy of the Medical/General Authorization form, authorizing this office to receive the above requested information as well as being authorized to receive and/or execute any documents, records, forms or drafts related to this claim.

Please note non-response to this request for a determination will be considered a deliberate refusal and intentional delay, pursuant to NAC 616D.405 that may subject you to complaint with DIR unless you advised this law firm in writing of the reason for non-response.

Any questions concerning this claim should be directed to this office. Thank you for your courtesy and cooperation in this matter.

Sincerely,

Jacob Leavitt

Jacob Leavitt, Esq.
Attorney to Morris Anderson Law
Jacob@BigHornLaw.com

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

March 21, 2017

Via Facsimile: 702-851-7938
And Regular U.S. Mail

Self Insured Focus Plumbing
1220 S. Commerce Ste 120
Las Vegas, NV 89102
Attn: Patty Pizano

Re:	Claimant	:	Martin Duran
	Employer	:	Focus Plumbing
	D.O.I.	:	12.30.2016
	Claim No.	:	***2016-0022***

Dear Claims Examiner:

As you are aware this firm has been retained to represent Martin Duran with regards to injuries sustained as a result of his industrial accident of December 30, 2016.

Please be advised Mr. Duran is requesting his care be transferred to Dr. Jason Garber, as his primary care physician, pursuant to NRS 616C.090(2). If Dr. Garber is not one of your contracted providers, please provide a copy of your provider list at your earliest convenience.

Please note non-response to this request for a determination will be considered a deliberate refusal and intentional delay, pursuant to NAC 616D.405 that may subject you to complaint with DIR unless you advised this law firm in writing of the reason for non-response.

Thank you for your courtesy and cooperation in this matter, should you have any questions please feel free to contact this office.

Sincerely,

Jacob Leavitt

Jacob Leavitt, Esq.
Jacob@BigHornLaw.com

MORRIS//ANDERSON

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

March 21, 2017

Via Facsimile: 702-851-7938
And Regular U.S. Mail

Self Insured Focus Plumbing
1220 S. Commerce Ste 120
Las Vegas, NV 89102
Attn: Patty Pizano

Re:	Claimant	:	Martin Duran Perez
	Employer	:	Focus Plumbing
	D.O.I.	:	12.30.2016
	Claim No.	:	***2016-0022***

Dear Claims Examiner:

As you are aware this firm has been retained to represent Martin Duran Perez with regards to injuries sustained as a result of his industrial accident of December 30, 2016.

Please be advised we are requesting an average monthly wage calculation with breakdown for Mr. Duran.

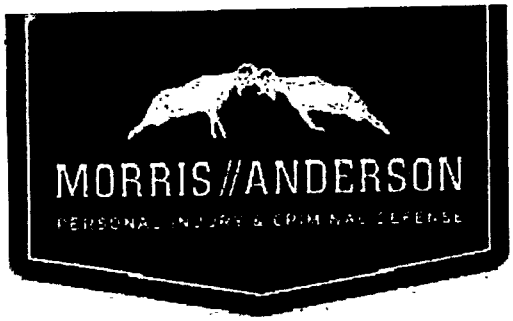
Please note non-response to this request for a determination will be considered a deliberate refusal and intentional delay, pursuant to NAC 616D.405 that may subject you to complaint with DIR unless you advised this law firm in writing of the reason for non-response.

Thank you for your prompt attention to this matter. If you should have any questions please feel free to contact our office at any time.

Sincerely,

Jacob Leavitt

Jacob Leavitt, Esq.
Attorney to Morris Anderson Law
Jacob@BigHornLaw.com



Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

March 21, 2017

Via Facsimile:(702) 851-7938
And Regular U.S. Mail

Focus Plumbing Self Insured
1220 S. Commerce Ste 120
Las Vegas, NV 89102
Attn: Patty Pizano

Re:	Claimant	:	Martin Duran Perez
	Employer	:	Focus Plumbing
	D.O.I.	:	12.30.2016
	Claim No.	:	***2016-0022***

Dear Patty Pizano:

As you are aware, this firm has been retained to represent Martin Duran with regards to injuries sustained as a result of his industrial accident of December 30, 2016.

Please be advised Mr. Duran is requesting TTD benefits beginning December 30, 2016, forward. Please forward benefits to Mr. Duran at your earliest convenience **and provide proof to my office**.

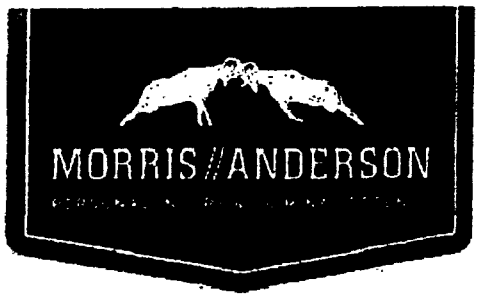
Please note non-response to this request for a determination will be considered a deliberate refusal and intentional delay, pursuant to NAC 616D.405 that may subject you to complaint with DIR unless you advised this law firm in writing of the reason for non-response.

Thank you for your courtesy and cooperation in this matter. Should you have any questions please feel free to contact this office.

Sincerely,

Jacob Leavitt

Jacob Leavitt, Esq.
Attorney to Morris Anderson Law
Jacob@BigHornLaw.com



Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

March 23, 2017

Via Facsimile: 702-851-7938

Focus Plumbing
1220 S. Commerce Ste 120
Las Vegas, NV 89102
Attention: Patty Pizano

Re:	Claimant	:	Martin Duran Perez
	Employer	:	Focus Plumbing
	D.O.I.	:	12.30.2016
	Claim No.	:	***2016-0022***

Dear Claims Examiner:

As you are aware this firm has been retained to represents Martin Duran Perez with regards to injuries sustained as a result of his industrial accident of December 30, 2016.

Enclosed you will find a billing statement from HCFS Health Care Financial Services, LLC, for services received by Mr. Duran resulting from his industrial accident. Please inquire into whether payment has been made. If no payment has been made to date, please submit at your earliest convenience and provide proof to my office.

Thank you for your prompt attention to this matter.

Sincerely,

Jacob Leavitt

Jacob Leavitt, Esq.
Attorney to MorrisAnderson Law
Jacob@BigHornLaw.com

HCFS Healthcare Financial Services, LLC
ALCOA BILLING CENTER
3429 REGAL DR
ALCOA TN 37701-3265

DETACH AND RETURN THIS COUPON WITH THE REVERSE SIDE COMPLETED TO PAY BY CREDIT CARD, TO PROVIDE INSURANCE INFORMATION OR FOR CHANGE OF ADDRESS.

Patient Name: MARTIN PEREZ AMT DUE: $1,601.00

PHYSICIAN SERVICES RENDERED AT: ST ROSE DOMINICAN HOSPITALS-SIENA CAMPUS

Credit card charges will appear as "Team Health"

FREMONT EMERGENCY SERVICES MANDAVIA, LTD
DEPT: A ☐ B ☐ C ☐ (check one - see reverse) 526
3429 REGAL DR
ALCOA TN 37701-3265

64182054-526-52601
CL▲059047
MARTIN PEREZ
3555 E LAKE MEAD BLVD APT 147
LAS VEGAS NV 89115-7360

0260006418205430345265333852601400160100 43

↑ Detach Here ↑

Amount Past Due: $1,601.00 3/12/2017

Account Number: 64182054-526-52601
PATIENT NAME: MARTIN PEREZ

Dear Martin Perez,

We are writing in regard to an overdue balance of $1,601.00 for medical services provided to you at ST ROSE DOMINICAN HOSPITALS-SIENA CAMPUS. This is your final notice. In order to avoid having your account placed with a collection agency, please remit balance in full today or call our patient service center to establish a payment plan.

When paying by check, please be sure to return the bottom coupon in the enclosed envelope.

For your convenience, you may also pay by credit card on our website at http://www.thbillpay.com/, or by telephone by contacting our patient services center at 1-888-952-6772. You may also mail or fax your credit card payment to us by completing the credit card information box on the reverse side of the top coupon. (FAX: 1-865-292-3015). To mail: detach the coupon and return it in the enclosed envelope.

Sincerely,
Patient Services

↓ Detach Here ↓

PAYMENT COUPON - RETURN WHEN PAYING BY CHECK OR MONEY ORDER

PATIENT NAME: MARTIN PEREZ ACCT#: 64182054-526-52601 CHECK#: _____ AMT PAID: _____

PHYSICIAN SERVICES RENDERED AT: ST ROSE DOMINICAN HOSPITALS-SIENA CAMPUS

DO NOT STAPLE OR TAPE YOUR CHECK OR MONEY ORDER TO THIS COUPON

☐ CHECK HERE FOR CHANGE OF ADDRESS

MAKE CHECKS PAYABLE TO:

FREMONT EMERGENCY SERVICES MANDAVIA, LTD
PO BOX 740023
CINCINNATI OH 45274-0023 526

64182054-526-52601
Martin Perez
3555 E Lake Mead Blvd Apt 147
Las Vegas NV 89115-7360

0260006418205430345265333852601400160100 43

INSURANCE INFORMATION

Insurance Company: _____

Claims Address: _____

Policy Number: _____

Group Number: _____

Insured's Name: _____

Relationship: _____

Medicare Number: _____

Medicaid Number: _____

Please Check Appropriate Box

CREDIT CARD PAYMENT ☐ ☐ ☐ ☐

ACCOUNT NUMBER	
CARD NUMBER	EXP DATE
SIGNATURE	PAYMENT AMOUNT
NAME AS IT APPEARS ON CARD	

Change of Address:

Address: _____

City: _____ State: _____ Zip: _____

MAILING INSTRUCTIONS

To Send Insurance or Change of Address Information:

If mailing insurance or address information, please use the top coupon and check Department A on Front.

To Send Credit Card Payments:

If paying by credit card, please use the top coupon and check Department B on the front.

BILLING RIGHTS SUMMARY

Our acceptance of any payment marked with a restrictive legend or otherwise marked "paid in full" will not operate as an accord and satisfaction without our express prior written approval.

If you believe this statement is incorrect, or if you need additional information, contact us in writing or by phone. The billing inquiry number is listed on the front. We must hear from you no later than 60 days after the initial statement. You may telephone us, however doing so will not preserve your rights.

When you contact us, please provide the following information.

- Your name and account number
- Describe the error or problem

Please pay in U.S. Dollars. Checks should be written from a U.S. Bank. If a check is written from a Foreign Bank, add $35.00 for U.S. Bank processing fees or pay by an American Express Money Order.

Team Health will charge a processing fee (added to the balance due on this account) for any check which is returned by the Bank "Non-Sufficient Funds"/"NSF". This fee will cover the expense incurred by Team Health for Bank Fees, extra processing to correct the account balance and additional statement processing.

We are required by applicable federal and state law to maintain the privacy of your health information. Therefore, if you contact us regarding this statement, we will ask you to provide certain information to identify yourself. Please notify us if you want another person to act as your representative regarding this statement or your account. Your representative will also be asked to provide specific identifying information related to you. We will only discuss information regarding your account that is directly relevant to the payment of your account, e.g., providing the account balance, taking insurance information, and setting up budget plans. We will not discuss any health information related to diagnosis or medical treatment with any caller, including you. Since we do not maintain your original medical record, all requests for information in your medical records should be made directly to the treating facility.

Change of Address:

Address: _____

City: _____ State: _____ Zip: _____

ONLY RETURN THIS COUPON WHEN PAYING BY CHECK

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
716 S. Jones Blvd
Las Vegas, Nevada 89107

Re:		
	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting a transfer of care to Dr. Jason Garber as his primary care physician. This request is denied, as this is a denied claim.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO:

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address	
Employee's Telephone Number	Claim No.
	Date of Injury
Insurer Information	
Insurer's Name and Address	
Insurer's Telephone Number	

Employer Information
Employer's Name and Address
Employer's Telephone Number
Third-Party Administrator Information
Third-Party Administrator's Name and Address
Third-Party Administrator's Telephone Number

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

_____

_____

_____

This request for hearing is filed by, or on behalf of: **The Injured Employee** / **The Employer**

and is dated this _____ day of _____, 20_____.

_____ Signature of Injured Employee/Employer

_____ Injured Employee's/Employer's Rep. (Advisor)

D-12a (Rev. 12/07)

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7988

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
2001 S. Maryland Pkwy
Las Vegas, Nevada 89102

Re:	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting TTD from December 30, 2016 to Present. Please be advised that this claim was denied. Please see attached Denial Letter.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO:

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address	
Employee's Telephone Number	Claim No.
	Date of Injury
Insurer Information	
Insurer's Name and Address	
Insurer's Telephone Number	

Employer Information
Employer's Name and Address
Employer's Telephone Number
Third-Party Administrator Information
Third-Party Administrator's Name and Address
Third-Party Administrator's Telephone Number

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

_____

_____

_____

This request for hearing is filed by, or on behalf of: **The Injured Employee** / **The Employer**

and is dated this _____ day of _____, 20_____.

_____ Signature of Injured Employee/Employer

_____ Injured Employee's/Employer's Rep. (Advisor)

D-12a (Rev. 12/07)

Inmate In-Custody Status

ID	Name		Age	Race	Sex
Case	Charge				Status
Related Case	Arrest Date	Detainer	Cash Bail		Surety Bail
Housing	Sched Department	Sched Action	Sched Date		Sched Time

08175632	ROSALES, JOSE M		19	Hispanic	Male
C-17-323323-1	BATTERY R/SBH				Active
C-17-323323-1	4/13/2017	N	$3,000.00		$3,000.00
NV1D	22	FOR SENTENCING	7/11/2017		8:30 AM

08175632	ROSALES, JOSE M		19	Hispanic	Male
16F12898X	DOM BATTERY, (1ST)				Sentenced
	4/13/2017	N	$0.00		$0.00
NV1D	JUSTICE COURT	SENTENCED ON	4/13/2017		9:48 AM
		To Release	12/24/2017		

08175632	ROSALES, JOSE M		19	Hispanic	Male
16F12898X	ASSAULT				Sentenced
	4/13/2017	N	$0.00		$0.00
NV1D	JUSTICE COURT	SENTENCED ON	4/13/2017		9:48 AM
		To Release	8/18/2017		

Searched On
Defendant's ID: 08175632
Defendant's Case No:

Records Found: 3

Top

Another Search

Back to CCDC Home Page

Case Type 02/23/2017	CRIMINAL COMPLAINT HND DCM Track:	Case Status:	CLOSED	File Date:
Action: BATEMAN, SAM	BATTERY W/SUBSTANTIAL BODILY HARM Next Event:	Status Date:	02/23/2017	Case Judge:

All Information | Party | Charge | Ticket/Citation # | Event | Docket | Disposition

Party Information

ROSALES, JOSE MANUEL - DEFENDANT CR/TR

Disposition CLOSED
Disp Date

Alias

Party Attorney
Attorney PRINTY, MICHAEL
Bar Code 005744
Address
Phone

More Party Information

Party Charge Information

ROSALES, JOSE MANUEL - DEFENDANT CR/TR

Charge # 1 :
50214 - FELONY BATTERY W/SUBSTANTIAL BODILY HARM

Original Charge 50214 BATTERY W/SUBSTANTIAL BODILY HARM (FELONY)
Indicted Charge
Amended Charge
DV Related?
Modifiers
Stage Date

Ticket #
ATN #
Tracking #
Place of Offense HENDERSON TOWNSHIP
Offense Location
Date of Offense 12/30/2016
Complainant

Party Charge Disposition
Disposition Date
Disposition
05/02/2017
WAIVER OF PRELIMINARY HEARING

Sentencing Information

Ticket/Citation

Citation # : - HENDERSON TOWNSHIP Offense Date 12/30/2016

Agency HENDERSON POLICE DEPARTMENT
Officer
Second Officer
Complainant

Speed Cited
Speed Limit
Location
Insured/Proof
Accident N
Work Zone
Haz Mat
Points
Priors
License Taken N
BAC

Plate
State
Year
Type
Style
Color

Events

Date/Time	Location	Type	Result	Event Judge
03/30/2017 09:00 AM	DEPARTMENT 1	FELONY ARRAIGNMENT HND	ARRAIGNMENT HEARING HELD	BATEMAN, SAM
05/02/2017 09:30 AM	DEPARTMENT 1	PRELIMINARY HEARING HND	CRIMINAL HEARING HELD	BATEMAN, SAM
05/17/2017 10:00 AM	DISTRICT COURT ARRAIGNMENT	DISTRICT COURT ARRAIGNMENT HND	HEARD IN DISTRICT COURT	

Docket Information

Date	Docket Text	Amount Owed
02/23/2017	PENDING JUDGE'S SIGNATURE	
02/27/2017	Complaint FILED. Upon Motion by State, Arrest Warrant ISSUED. BAIL SET.	
02/27/2017	ALERT INFORMATION ARREST WARRANT - CRIMINAL issued on: 02/27/2017 For: ROSALES, JOSE MANUEL Bond Amt: $3,000.00 CASH OR SURETY BOND	
03/27/2017	ALERT INFORMATION ARREST WARRANT - CRIMINAL served on: 03/24/2017 For: ROSALES, JOSE MANUEL	
03/27/2017	SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT HND Date: 03/30/2017 Time: 9:00 am Judge: BATEMAN, SAM Location: DEPARTMENT 1 Result: ARRAIGNMENT HEARING HELD	
03/27/2017	$3,000 SURETY BOND POSTED Charge #1: BATTERY W/SUBSTANTIAL BODILY HARM	
03/27/2017	BAIL BOND FILING FEE Charge #1: BATTERY W/SUBSTANTIAL BODILY HARM Receipt: 6257283 Date: 03/27/2017	$50.00
03/30/2017	S. BATEMAN, JP S. DIGIACOMO, DDA M. PRINTY, ESQ H. GARCIA, CLK D. TAVAGLIONE, CR	
03/30/2017	INITIAL ARRAIGNMENT: DEFENDANT NOT PRESENT DEFENSE COUNSEL ACKNOWLEDGES, WAIVED READING OF THE COMPLAINT BY AND THROUGH HIS ATTORNEY, DEFENDANT ASKED FOR DATE CERTAIN FOR HEARING WAIVED 15 DAY RULE PRELIMINARY HEARING DATE SET MOTION BY DEFENSE TO EXONERATE BOND. OBJECTION BY STATE. MOTION DENIED. SURETY BOND CONTINUES	
03/30/2017	ARRAIGNMENT HEARING HELD The following event: FELONY ARRAIGNMENT HND scheduled for 03/30/2017 at 9:00 am has been resulted as follows: Result: ARRAIGNMENT HEARING HELD Judge: BATEMAN, SAM Location: DEPARTMENT 1	
03/30/2017	SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING HND Date: 05/02/2017 Time: 9:30 am Judge: BATEMAN, SAM Location: DEPARTMENT 1	
05/02/2017	PRELIMINARY HEARING: Defendant PRESENT IN CUSTODY- DEFENDANT BOOKED ON BOND SURRENDER Per Negotiations: Defendant UNCONDITIONALLY WAIVED Preliminary Hearing. Thereupon Court ORDERED defendant held to answer to said charge in the Eighth Judicial District Court. BAIL RE-SET: $3,000.00 CASH BAIL OR SURETY BOND SURETY BOND EXONERATED RETURN TO METRO	

Date	Docket Text	Amount Owed
05/02/2017	S. BATEMAN, JP S. DIGIACOMO, DDA M. PRINTY, ESQ H. GARCIA, CLK L. BRENSKE, CR	
05/02/2017	HEARING HELD The following event: PRELIMINARY HEARING HND scheduled for 05/02/2017 at 9:30 am has been resulted as follows: Result: CRIMINAL HEARING HELD Judge: BATEMAN, SAM Location: DEPARTMENT 1	
05/02/2017	SET FOR COURT APPEARANCE Event: DISTRICT COURT ARRAIGNMENT HND Date: 05/17/2017 Time: 10:00 am Judge: Location: LOWER LEVEL DISTRICT COURT ARRAIGNMENT	
05/03/2017	CASE FILE HAS BEEN ELECTRONICALLY SCANNED	
05/03/2017	HEARING HELD The following event: DISTRICT COURT ARRAIGNMENT HND scheduled for 05/17/2017 at 10:00 am has been resulted as follows: Result: HEARD IN DISTRICT COURT Judge: Location: DISTRICT COURT ARRAIGNMENT	

Case Disposition

Disposition	Date	Case Judge
BOUND OVER	05/02/2017	BATEMAN, SAM

REGISTER OF ACTIONS
CASE NO. C-17-323323-1

State of Nevada vs Jose Rosales

Case Type:	Felony/Gross Misdemeanor
Date Filed:	05/05/2017
Location:	Department 22
Cross-Reference Case Number:	C323323
Defendant's Scope ID #:	8175632
ITAG Case ID:	1874737
Lower Court Case # Root:	17FH0191
Lower Court Case Number:	17FH0191X

PARTY INFORMATION

Defendant	**Rosales, Jose** *Also Known As* **Rosales, Jose Manuel**	**Lead Attorneys** **Michael P Printy** *Retained* 7027597899(W)
Plaintiff	**State of Nevada**	**Steven B Wolfson** 702-671-2700(W)

CHARGE INFORMATION

Charges: Rosales, Jose	Statute	Level	Date
1. ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM	200.481.2b	Felony/Gross Misdemeanor	12/30/2016

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

05/05/2017 **Criminal Bindover**
05/09/2017 **Information**
Information
05/11/2017 **Reporters Transcript**
Reporter's Transcript of Waiver of Preliminary Hearing 05/02/2017
05/17/2017 **Initial Arraignment** (10:00 AM) (Judicial Officer Henry, Jennifer)
Parties Present
Minutes
Result: Plea Entered
05/17/2017 **Guilty Plea Agreement**
07/11/2017 **Sentencing** (8:30 AM) (Judicial Officer Johnson, Susan)

REGISTER OF ACTIONS
CASE NO. C-17-323323-1

State of Nevada vs Jose Rosales

Case Type:	Felony/Gross Misdemeanor
Date Filed:	05/05/2017
Location:	Department 22
Cross-Reference Case Number:	C323323
Defendant's Scope ID #:	8175632
ITAG Case ID:	1874737
Lower Court Case # Root:	17FH0191
Lower Court Case Number:	17FH0191X

PARTY INFORMATION

Defendant	**Rosales, Jose** ***Also Known As*** **Rosales, Jose Manuel**	**Lead Attorneys** **Michael P Printy** *Retained* 7027597899(W)
Plaintiff	**State of Nevada**	**Steven B Wolfson** 702-671-2700(W)

CHARGE INFORMATION

Charges: Rosales, Jose	Statute	Level	Date
1. ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM	200.481.2b	Felony/Gross Misdemeanor	12/30/2016

EVENTS & ORDERS OF THE COURT

05/17/2017 **Initial Arraignment** (10:00 AM) (Judicial Officer Henry, Jennifer)

Minutes

05/17/2017 10:00 AM

- Deputized law clerk Nima Afshar Bar #14157 present today on behalf of the state. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. ROSALES ARRAIGNED AND PLED GUILTY to ATTEMPT BATTERY WITH SUBSTANTIAL BODILY HARM (F/GM). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. CUSTODY 7/11/17 8:30 A.M. SENTENCING (DEPT. 22)

Parties Present
Return to Register of Actions

REGISTER OF ACTIONS
CASE NO. 16F12898X

State of Nevada vs. ROSALES, JOSE MANUEL

§
§
§
§
§
§

Case Type: Felony
Subtype: DV Case
Date Filed: 08/09/2016
Location: JC Department 10

PARTY INFORMATION

Defendant ROSALES, JOSE MANUEL

Lead Attorneys
Nadine M. Morton
Court Appointed
7024554685(W)

State of Nevada State of Nevada

CHARGE INFORMATION

Charges: ROSALES, JOSE MANUEL	Statute	Level	Date
1. Domestic battery e/dw	200.481.2e	Felony	08/05/2016
2. Assault [50200]	200.471.2a	Misdemeanor	08/05/2016
3. Assault, w/DW [50201]	200.471.2b	Felony	08/05/2016
4. Dom battery, (1st) [50235]	200.485.1a	Misdemeanor	08/05/2016
5. Dom battery, (1st) [50235]	200.485.1a	Misdemeanor	08/05/2016

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

08/24/2016 (Judicial Officer: Tobiasson, Melanie A.)
4. Dom battery, (1st) [50235]
Nolo Contendere
2. Assault [50200]
Nolo Contendere

08/24/2016 (Judicial Officer: Tobiasson, Melanie A.)
1. Domestic battery e/dw
Dismissed
4. Dom battery, (1st) [50235]
Adjudication Deferred
5. Dom battery, (1st) [50235]
Dismissed
2. Assault [50200]
Guilty of Lesser Offense
3. Assault, w/DW [50201]
Dismissed

08/24/2016 (Judicial Officer: Tobiasson, Melanie A.)
2. Assault [50200]
Condition - Adult:
1. Stay Out of Trouble, 08/24/2016, Active 08/24/2016
2. Suspended Jail Sentence, 6 months consecutive per count 08/24/2016, Active 08/24/2016

08/24/2016 (Judicial Officer: Tobiasson, Melanie A.)
4. Dom battery, (1st) [50235]
Condition - Adult:
1. Suspended Jail Sentence, 6 Months consecutive per count 08/24/2016, Active 08/24/2016
2. Stay Out of Trouble, 08/24/2016, Active 08/24/2016
3. Domestic Violence Counseling (12 Months), LRS Systems 11/18/2016 - 3 of 54 Completed - Fees due - 03/16/2017 - 4 of 54 Completed - Fees due - 04/12/2017 - 5 of 54 Completed - Fees due $1,600.00 08/24/2016, Active 08/24/2016
4. Community Service Mandatory Hours DV2, 100 hours; 11/17/16 4 of 100 hours completed 08/24/2016, Active 08/24/2016
5. Community Service - DV2, Defendant may do 68 hours of community service in lieu of $675 08/24/2016, Active 08/24/2016
6. If so, to be reduced to Misdemeanor, Battery 08/24/2016, Active 08/24/2016

Fee Totals:

Cash Bond Criminal Deferred Disposition Fee	$675.00
Fee Totals $	$675.00

04/13/2017 **Amended** (Judicial Officer: Pro Tempore, Judge) Reason: Court Ordered
4. Dom battery, (1st) [50235]
Guilty as Charged

04/13/2017 **Amended** (Judicial Officer: Pro Tempore, Judge) Reason: Court Ordered
2. Assault [50200]

04/13/2017 Amended (Judicial Officer: Pro Tempore, Judge) Reason: Court Ordered
4. Dom battery, (1st) [50235]

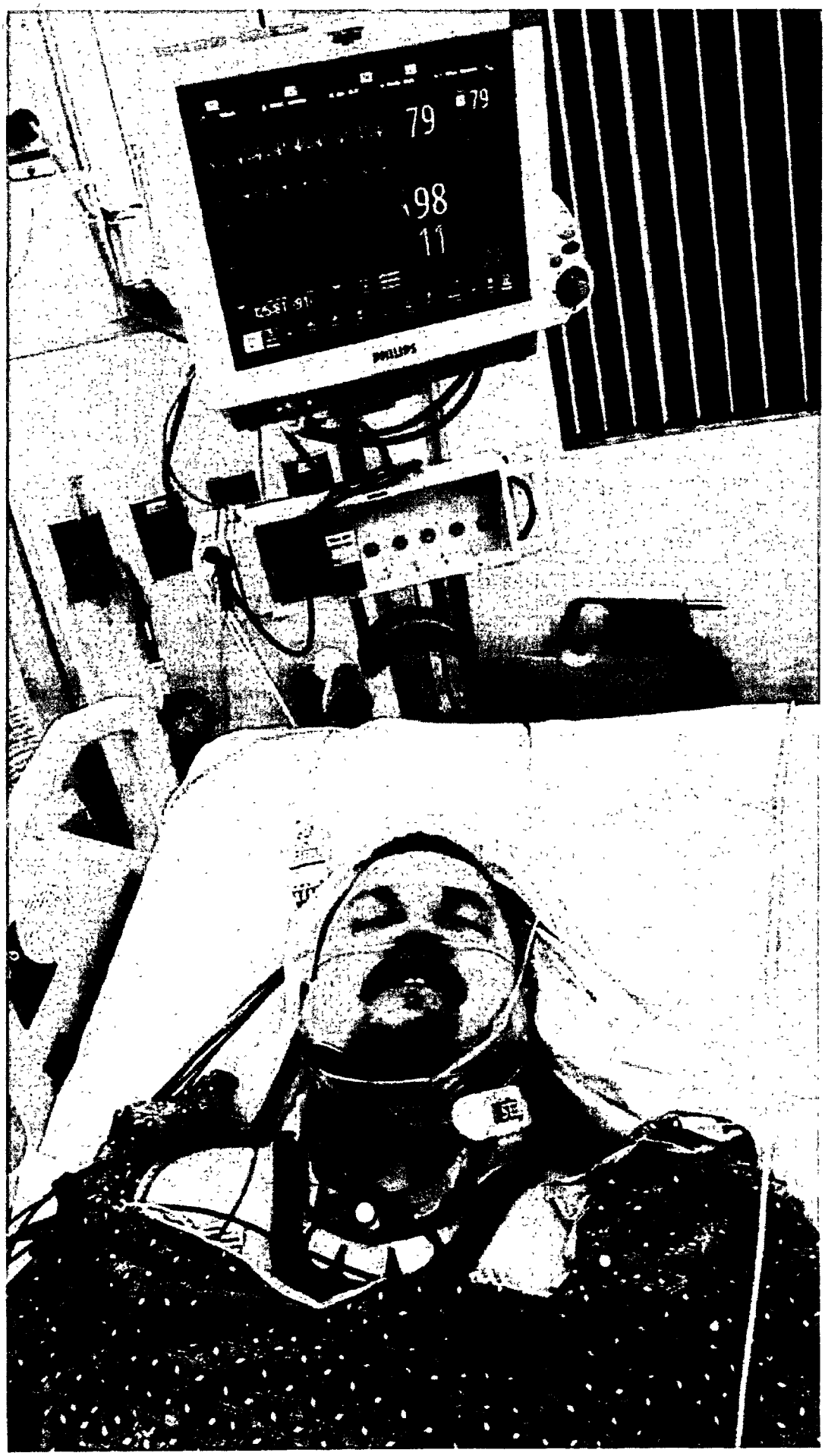
OTHER EVENTS AND HEARINGS

08/06/2016 Standard Bail Set
Ct1: $10000 Cash/$10000 Surety
08/06/2016 CTRACK Track Assignment JC02
08/06/2016 48 Hour Probable Cause Review (7:30 AM) (Judicial Officer Marshall, Janiece)
Result: Signing Completed
08/06/2016 Standard Bail Set
Ct2: $3000 Cash/$3000 Surety
08/06/2016 Standard Bail Set
Ct3: $3000 Cash/$3000 Surety
08/06/2016 Bail Stands - Cash or Surety
Counts: 001 - $10,000.00/$10,000.00 Per Count
08/06/2016 Bail Stands - Cash or Surety
Counts: 002; 003 - $3,000.00/$3,000.00 Per Count
08/06/2016 Bail Condition
STANDARD BAIL PLUS HOUSE ARREST PLUS NO CONTACT WITH VICTIMS
08/06/2016 Probable Cause Found
08/06/2016 Probable Cause Arrest Documents
08/08/2016 Bail Condition - Stay Away From Victim
08/08/2016 CTRACK Case Modified
Jurisdiction/DA;
08/09/2016 Not in custody
08/09/2016 Criminal Complaint
08/10/2016 *CANCELED* 72 Hour Hearing (7:45 AM) (Judicial Officers Pro Tempore, Judge, Lal, Paul)
Criminal Complaint Filed
08/10/2016 Initial Appearance (8:30 AM) (Judicial Officer Tobiasson, Melanie A.)
In Custody Counts 1, 4 and 5 - Not in Custody Counts 2 and 3
Result: Matter Heard
08/10/2016 Minute Order - Department 10
08/10/2016 Initial Appearance Completed
Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint
08/10/2016 Public Defender Appointed
08/10/2016 Remand - Cash or Surety
Counts: 001; 002; 003; 004; 005 - $26,000.00/$26,000.00 Total Bail
08/10/2016 Release Order - Court Ordered Bail AND House Arrest
Counts: 001;002; 003; 004; 005
08/10/2016 Bail Condition - Stay Away From Victim
Pedro Rosales.
08/11/2016 Motion to Withdraw Due to Conflict
08/16/2016 Motion (8:30 AM) (Judicial Officer Tobiasson, Melanie A.)
In Custody
Result: Matter Heard
08/16/2016 Motion to Withdraw Due to Conflict
by Defense - Motion Granted
08/16/2016 Counsel Appointed
N. Morton, Esq. - notified //sc
08/16/2016 Bail Stands - Cash or Surety
Counts: 001; 002; 003; 004; 005 - $26,000.00/$26,000.00 Total Bail with House Arrest
08/16/2016 No Contact with Victim
Pedro Rosales
08/16/2016 Future Court Date Stands
on 08/24/16 (Preliminary Hearing)
08/16/2016 Minute Order - Department 10
08/24/2016 Preliminary Hearing (10:00 AM) (Judicial Officer Tobiasson, Melanie A.)
In Custody
Result: Matter Heard
08/24/2016 Minute Order - Department 10
08/24/2016 Admonishment of Rights - BDV
Signed in open court.
08/24/2016 HELP of Southern Nevada Form
Provided to defendant in open Court.
08/24/2016 Release Order - Court Ordered due to dismissal (Judicial Officer: Tobiasson, Melanie A.)
Counts: 001; 003; 005
08/24/2016 Release Order - Court Ordered (Judicial Officer: Tobiasson, Melanie A.)
Counts: 002; 004
08/24/2016 Status Check on Requirements
08/24/2016 Official Court Date Slip
08/24/2016 Transcript of Proceedings
10/05/2016 Status Check (8:30 AM) (Judicial Officer Tobiasson, Melanie A.)
No Bail Posted
Result: Bench Warrant Issued
10/05/2016 Minute Order - Department 10
10/05/2016 Defendant failed to appear
10/05/2016 Bench Warrant Ordered to be issued
$00/ $00 Total Bail
10/05/2016 Warrant Issued
10/05/2016 Bench Warrant - Face Sheet
10/05/2016 Bench Warrant Confidential
10/18/2016 Warrant Cleared
10/18/2016 Warrant Arrest Documents

10/19/2016	**Warrant Service Slip**
10/19/2016	**Notify** *Mrs. Morton by sending her an email advising of the bench warrant return hearing set for 10/20/16 and that the Defendant is in custody at 7:39 am // nr*
10/20/2016	**Bench Warrant Return Hearing** (8:30 AM) (Judicial Officer Toblasson, Melanie A.) *In Custody* Result: Matter Heard
10/20/2016	**Minute Order - Department 10**
10/20/2016	**Motion by Defense for an O.R. Release** *Motion Granted.*
10/20/2016	**Status Check on Requirements** *Defendant advised to attend school and work towards graduating and attend counseling.*
10/20/2016	**Release Order - Own Recognizance** (Judicial Officer: Toblasson, Melanie A.) *Counts: 002; 004*
10/20/2016	**Release Agreement**
10/20/2016	**HELP of Southern Nevada Form** *Provided to defendant in open Court.*
11/17/2016	**Community Service Report**
11/17/2016	**Community Service Report**
11/18/2016	**Counseling Report** *3/54 LRS $1630*
11/21/2016	**Status Check** (8:30 AM) (Judicial Officer Toblasson, Melanie A.) *O/R* Result: Matter Heard
11/21/2016	**Status Check on Requirements**
11/21/2016	**HELP of Southern Nevada Form - fees waived** *Provided to defendant in open court.*
11/21/2016	**Minute Order - Department 10**
03/16/2017	**Counseling Report** *4/54 LRS $1630*
03/17/2017	**Status Check** (8:30 AM) (Judicial Officer Toblasson, Melanie A.) *O/R* Result: Matter Heard
03/17/2017	**Minute Order - Department 10**
03/17/2017	**Requirements Status Note** *Defendant has completed 4 counseling classes and 4 hours of mandatory community service to date.*
03/17/2017	**Notify** *N. Morton, Esq. via email// sc*
03/17/2017	**Status Check on Requirements** *Defendant is to have 8 total counseling classes by the next court date or to be adjudicated guilty.*
04/12/2017	**Counseling Report** *5/54 LRS $1600*
04/13/2017	**Status Check** (8:30 AM) (Judicial Officers Pro Tempore, Judge, Jansen, William D.) *O/R* Result: Matter Heard
04/13/2017	**Comment** *Case recalled to address stay out of trouble violation.*
04/13/2017	**All Requirements Vacated**
04/13/2017	**Remand - Cash or Surety** *Counts: 002; 004 - $0.00/$0.00 Total Bail*
04/13/2017	**Case Closed - Court Order**
04/13/2017	**Judgment Entered**
04/13/2017	**Minute Order - Department 10**
04/13/2017	**Temporary Custody Record**
04/13/2017	**Notice of Disposition and Judgment**
04/13/2017	**Notice of Disposition and Judgment**
04/19/2017	**Counseling Report** *5/54 LRS $1,600*

FINANCIAL INFORMATION

	Defendant ROSALES, JOSE MANUEL	
	Total Financial Assessment	675.00
	Total Payments and Credits	675.00
	Balance Due as of 05/24/2017	**0.00**
08/24/2016	Transaction Assessment	675.00
04/13/2017	Requirements Vacated	(675.00)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FILED
JUL 05 2017
APPEALS OFFICE

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of:	Claim No:	2016-0022
MARTIN DURAN PEREZ,	Appeal No:	1714955-CJY
Claimant.		

NOTICE OF APPEAL AND ORDER TO APPEAR

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

   DATE: SEPTEMBER 12, 2017
   TIME: 9:30AM STACKED
   PLACE: DEPT OF ADMINISTRATION, HEARINGS DIVISION
   2200 SOUTH RANCHO DRIVE, SUITE 220
   LAS VEGAS NV 89102

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. In the event that all parties to this action agree to have the matter RE-SCHEDULED AND SET FOR A DATE AND TIME CERTAIN, you are hereby required to submit AT LEAST TWO (2) DAYS prior to the scheduled Hearing date a written request, submitted by letter, facsimile or by email, to the Appeals Office advising the Appeals Office that all parties to the action have agreed to remove the action from the Stacked Calendar. A continuance of the hearing date also may be obtained pursuant to NAC 616C.318. The matter will otherwise proceed as scheduled on the STACKED CALENDAR ON A TIME AVAILABLE BASIS.

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 this 5th day of July, 2017.

CHARLES J. YORK, ESQ.
APPEALS OFFICER

DOC018

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, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89156

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 5th day of July, 2017.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

ORIGINAL

Nevada Department of Administration, Hearings Division
2200 S. Rancho Drive, Ste 210
Las Vegas, NV 89102
(702) 486-2525

Nevada Department of Administration Hearings Division
1050 E. Williams Street, Ste 400
Carson City, NV 89701
(775) 687-8440

REQUEST FOR HEARING BEFORE APPEALS OFFICER

CLAIMANT INFORMATION

Claimant's Name: Martin Duran Perez
Address: 3555 E. Lake Mead Blvde., #147
City: Las Vegas | State: NV | Zip Code: 89115
Telephone:

EMPLOYER INFORMATION

Hearing number: 1710955-MT
Employer: Focus Plumbing
Address: 1220 S. Commerce St., Ste. 120
City: Las Vegas | State: NV | Zip Code: 89102
Telephone: CLAIM NO. 2016-0022

PERSON REQUESTING APPEAL: Employer's Attorney

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: 06/01/17

YOU MUST ATTACH A COPY OF THE HEARING OFFICER DECISION

BRIEFLY EXPLAIN REASON FOR APPEAL:

Disagree with Decision and Order.

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

ATTORNEY/REPRESENTATIVE:

Attorney or Representative's Name: Daniel L. Schwartz, Esq.
Address: Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara, Ste. 300, Box 28
City: Las Vegas | State: NV | Zip Code: 89102
Telephone: (702) 893-3383

INSURANCECOMPANY/T.P.A.:

Insurer or Third Party Administrator's Name: Patty Pizano / Focus Framing
Address: 1220 S. Commerce St., Ste. 120
City: Las Vegas | State: NV | Zip Code: 89102
Telephone:

Signature: for

Date: 6/29/17

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.****

SCHEDULED ON
JUN 30 2017

REVISED 2/15/01

33947-19

9/12@ 930 1710955-CY

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

/

Hearing Number: 1710955-MT
Claim Number: 2016-0022

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

The Claimant's request for hearing was filed on March 22, 2017 and a hearing was scheduled for MAY 25, 2017. The hearing was held on MAY 25, 2017, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present. The Claimant was represented by JACOB LEAVITT ESQ. The Employer was not present. The Employer and the Administrator were represented by DANIEL SCHWARTZ ESQ.

ISSUE

The Claimant appealed the determination of FOCUS PLUMBLING dated March 6, 2017.

The issue before the Hearing Officer is *claim denial.*

DECISION AND ORDER

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

Counsel and Claimant represent that on December 30, 2016, the Claimant had an issue with his paycheck being short so went over to where his supervisor was to discuss this; his supervisor at the time was up on a roof with his son. An argument pursued and the supervisor's son pushed the Claimant off the roof, approximately 10 to 12 feet. They are seeking Workers Compensation benefits.

In reviewing all evidence submitted, and taking into consideration the representations as depicted above, it is clear that an injury has occurred within the course and scope of the Claimant's employment, the Employer being notified timely, medical treatment sought timely, and the initial examining physician causally connecting all diagnosed conditions to this fall. The issue the Claimant had and pursued clarification by his direct supervisor is in fact considered work-related; records indicate the Claimant was not tied officer properly. Upon getting up on the roof; however, had the Claimant not been pushed as purported, this injury may not have occurred. The determination of the Insurer is hereby deemed improper and reversed. The Insurer is hereby remanded to accept this claim for benefits accordingly. ***NRS 6168.030, NRS 6168.265, NRS 616C.138, NRS 616C.150 (1)***

IT IS SO ORDERED this 1st day of June, 2017

Megan Trenkler
Hearing Officer

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final decision of the Hearing Officer, a request for appeal must be filed with Appeals Officer within thirty (30) days after the date of the decision by the 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 duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive., #210, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89156

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 1st day of June, 2017

Dan Baiza
Employee of the State of Nevada

REQUEST FOR HEARING BEFORE THE APPEALS OFFICER
NEVADA DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

Hearing Number: 1710955-MT
Claim Number: 2016-0022

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

_____/

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: _____

(Please attach a copy of the Hearing Officer's Decision)

PERSON REQUESTING APPEAL: (circle one) CLAIMANT/EMPLOYER/INSURER

REASON FOR APPEAL: _____

_____

_____

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

Name of Attorney or Representative	Person requesting this hearing (please print)
Address	Person requesting this hearing (signature)
City, State, Zip Code	
Telephone Number	Telephone Number Date

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 no later than thirty (30) days after that decision at:

NEVADA DEPARTMENT OF ADMINISTRATION
APPEALS OFFICE
2200 S RANCHO DRIVE, SUITE 220
LAS VEGAS, NV 89102
(702) 486-2527

ORIGINAL

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALS OFFICER

In the Matter of the Contested Industrial Insurance Claim of MARTIN DURAN PEREZ 3555 E. LAKE MEAD BLVD., #147 LAS VEGAS, NV 89115, Claimant.	Claim No.: 2016-0022 Hearing No.: 1710955-MT Appeal No.: Employer: FOCUS FRAMING C/O FOCUS PLUMBING ATTN: PATTY PIZANO 1220 S. COMMERCE ST., STE 120 LAS VEGAS, NV 89102

INSURER'S MOTION FOR STAY PENDING APPEAL

COMES NOW the Insurer, FOCUS PLUMBING (hereinafter referred to as "Insurer"), by and through its attorneys, DANIEL L. SCHWARTZ, ESQ., and LEWIS BRISBOIS BISGAARD & SMITH LLP, and moves this Appeals Officer for a Stay of the execution of the Hearing Officer's Decision and Order, dated June 1, 2017, pending decision on the merits of the appeal by Insurer to this Appeals Officer, filed separately.

This Motion is made and based upon the attached Points and Authorities and any arguments of counsel on this matter, requested by the Appeals Officer.

DATED this 30 day of June, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____ for
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89102
Phone: (702) 893-3383
Fax: (702) 366-9689
Attorneys for the Insurer

STATEMENT OF THE CASE

The present appeal stems from a June 1, 2017, Hearing Officer's Decision and Order, Hearing No. 1710955-MT, which reversed and remanded Insurer's March 6, 2017 determination denying the claim. **(Exhibit pp. 63-65.)**

The claimant, MARTIN DURAN PEREZ (hereinafter referred to as "claimant"), alleges that he was pushed off of the roof on December 30, 2016. The claimant was treated at UMC Trauma for subdural hematoma on the date of the incident. The claimant was taken off of work. (Exhibit p. 1)

A Supervisor Accident Investigation Report notes that the claimant went to the second floor with no fall protection and was involved in **work place violence**. (Exhibit p. 2)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (Exhibit pp. 3-4)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the claimant was mad due to an alleged pay check shortage while working on Pedro's crew. The claimant climbed an 8 foot ladder to get to where Pedro was working on a second floor, tied off. The claimant started yelling at Pedro and Pedro stated that they could fix the problem the following Tuesday at the office. **However, the discussion with the two got "elevated." Pedro's son came up from the first floor to aid his father, and when the Pedro's son asked the claimant to stop, the claimant allegedly started yelling at him and the son put his hands on the claimant and pushed him away and the claimant eventually fell off of the roof.** (Exhibit pp. 5-9)

Pedro Rosales also gave a statement and alleged that the claimant, at 5:00 came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the claimant to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (Exhibit pp. 10-11)

Pedro's son, Jose Rosales gave his version of what happened, as well. (Exhibit pp.

12-13)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the claimant who fell off of roof after a discussion between the parties. (Exhibit pp. 14-17)

A statement from the claimant indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (Exhibit p. 18)

An Industrial Injury or Illness form in Spanish was also executed by the claimant. (Exhibit pp. 19-20)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (Exhibit p. 21)

The claimant was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The claimant was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (Exhibit pp. 22-56)

A claim denial determination was issued on March 6, 2017(Exhibit pp. 57-59)

On March 21, 2017, the claimant appealed the claim denial determination. (Exhibit p. 60)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (Exhibit pp. 61-62)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (Exhibit pp. 63-65.)

Insurer has filed a timely appeal of this erroneous Decision and Order of the Hearing Officer ordering the claim accepted. Pending a hearing on the merits of its appeal, Insurer moves this Court for a Stay of the Hearing Officer's decision.

POINTS & AUTHORITIES

Jurisdiction

Subsection 3 of NRS 616C.345 provides in part that, "[t]he Appeals Officer may order a Stay, when appropriate, upon the application of a party."

ARGUMENT

The Hearing Officer Erred As a Matter of Law and of Fact

It is the claimant, not the Insurer, who has the burden of proving his case by a preponderance of all the evidence. State Indus. Ins. Sys. v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Johnson v. State ex rel. Wyoming Worker's Comp. Div., 798 P.2d 323 (1990); Hagler v. Micron Tech., Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove his case, the claimant has the burden of going beyond speculation and conjecture. That means that the claimant must establish all facets of the claim by a preponderance of all the evidence. To prevail, a claimant must present and prove more evidence than an amount which would make his case and his opponent's "evenly balanced." Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993); SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218 (1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, The Law of Workmen's Compensation, §80.33(a).

NRS 616A.010(2) makes it clear that:

> A claim for compensation filed pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS must be decided on its merit and not according to the principle of common law that requires statutes governing workers' compensation to be liberally construed because they are remedial in nature.

The issue is whether the Hearing Officer erred in reversing the denial of this claim. The Insurer asserts that based upon the totality of the evidence presented, the Hearing Officer did so err. The incident did not arise out of nor was it in the course and scope of the claimant's employment.

Under NRS 616C.150(1), the claimant has the burden of proof to show that the injury **arose out of and in the course and scope of his employment**. The claimant must satisfy this burden by a preponderance of the factual and medical evidence. Further, NRS 616B.612 mandates that an employee is only entitled to compensation **if he is injured in the course and scope of his employment.**

The claimant's injuries arose out of a *personal dispute*, rather than in the course of his employment. The facts are not disputed and are as follows: The claimant was working on a job site. He took it upon himself to go to *another* job site, where his former lead was working. He ascended a ladder, without any protective equipment, and confronted his old lead regarding a pay check. His former lead informed him that they would take care of it at the office. Claimant continued to argue and shout profanities at his former lead. His former lead's son, then became involved and pushed the claimant. The claimant fell off of the roof and sustained injury. Nothing within this fact pattern points to a compensable claim. The claimant was out of line in going to a different job site. The claimant was out of line for ascending a ladder without fall protection. The aggressor was out of line in pushing the claimant; however, there is absolutely nothing compensable about this incident.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a **causal connection between the injury and the employee's work** ... the injured party must establish a link between **the workplace conditions and how those conditions caused the injury** ... a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997). (emphasis added)

The same Court further stated that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers/employers absolutely liable for injuries suffered by employees who are on the job." (Id.)

Here, the claimant was involved in a **personal dispute** with a co-worker and the injuries **did not arise from the Employer's business or the claimant's job**. The claimant clearly has not established that the injury occurred within the course and scope of his employment,

as he was not acting on behalf of the Employer when he verbally assaulted his former lead and another co-worker pushed him, causing injury. What is clear is that this incident **had nothing to do with his work duties. It was clearly a personal matter between him and the co-worker.** The fact that claimant was injured due to his accosting his former lead, does not make this a compensable injury arising out of and in the course and scope of his employment. Conversely, claimant cannot be rewarded for his behavior that was clearly outside of the scope of his employment and not in furtherance, but actually in opposition of, his Employer's business.

The Nevada Supreme Court has repeatedly held that an employee who is injured in the course of his work by the insane act of a fellow employee sustains injury which does not arise out of employment. Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969); Corrao Const. Co. v. Curtis, 94 Nev. 569 (1978); Outboard Marine Corp. v. Schupbach, 93 Nev. 158 (1977).

The Cummings decision went further and adopted the general rule that injuries resulting from assaults by fellow workmen when the attack results from personal animosity are not compensable. (Id.) (Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956).

Larson's treatise on worker's compensation also speaks to this issue:

> **When the animosity or dispute that culminates in an assault is imported into the employment from claimant's domestic or private life, the assault does not arise out of the employment under any test.**

3, A. Larson, The Law of Workmen's Compensation, §11.21(a) (emphasis added).

Larson cites to a number of cases which are helpful in adjudicating the matter before this Court. In City of Atlanta v. Shaw, 345 S.E.2d 642 (1986), an employee sought benefits for an injury sustained during a fight with a fellow employee. The fight concerned the use of the employer's telephone. In reaching the conclusion that the claim was non-compensable, **the Georgia court focused on the history of personal animosity.**

Further, the Nevada Supreme Court held in Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005):

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury. Further, a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment. However, if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the claimant's employment. Finally, resolving whether an injury arose out of employment is examined by a totality of the circumstances.

The Court in Rio Suite Hotel & Casino v. Gorsky, 113 Nev. 600, 605 939 P2d. 1043 (1997) held that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers absolutely liable for injuries suffered by employees who are on the job." The Court concluded by stating, "The requirements of 'arising out of and in the course of employment' make it clear that a claimant must establish more than being at work and suffering an injury in order to recover."

The Court in Rio All Suite Hotel and Casino v. Phillips, 126 Nev. _, 240 P.3d 2 (2010) clarified Mitchell. It indicated that:

> The appeals officer found that Phillips' case was 'distinguishable' from Mitchell because Phillips' injury did not result from an 'unexplained fall.' Without elaborating, the appeals officer also stated that '[t]he Mitchell [c]ourt mentions the inherent dangerousness of stairways.' . . . [The Court in Rio further discussed Mitchell: "The employee argued that because she did not have a health affliction that caused her to fall and 'because staircases are inherently dangerous,' her injury "arose out of her employment." . . . The appeals officer determined that the employee's fall did not arise out of her employment, and the district court denied her petition for judicial review.". . . [Our finding in Mitchell was that] "[T]he employee must show that 'the origin of the injury is related to some risk involved within the scope of employment . . . thus, because the [Mitchell] employee could not explain how the conditions of her employment caused her to fall . . . we determined that the appeals officer correctly concluded that she failed to demonstrate the requisite 'causal connection.

There is simply now showing at this time that there is any origin of injury related to some risk within the scope of employment, given the personal nature of the dispute between the

claimant and his co-worker. The Hearing Officer incorrectly concluded that the injury occurred within the course and scope of the employment. The case law does not support this conclusion, nor was the case law even addressed by the Hearing Officer. The claimant had no right to approach a job site, in which he was not working on, ascend a ladder without safety equipment, and begin verbally assaulting his former supervisor and/or co-worker(s). The act that followed, though unfortunate, is certainly nothing that arose from the employment. The personal dispute and corresponding injury among co-workers is not compensable. The claim was properly denied and the Hearing Officer's reversal of same is arbitrary, capricious and against the weight of the evidence.

Based on the evidence available, the Employer submits that it has a strong likelihood of prevailing on the merits. Accordingly, a Stay of the Hearing Officer's decision and order is appropriate until such time as a hearing can be conducted on the merits of the Employer's underlying appeal.

The Hearing Officer's decision is blatantly arbitrary and capricious and against the weight of the evidence and the case law cited above. Accordingly, a Stay of the Hearing Officer's Decision and Order is appropriate until such time as a hearing can be conducted on the merits of Insurer's underlying appeal.

Insurer is the Only Party that Will Suffer Any Harm

In DIR v. Circus Circus, 101 Nev. 405, 411-12, 705 P.2d 645, 649 (1985), the Nevada Supreme Court stated that an Insurer/Employer's proper procedure when aggrieved by a decision is to seek a Stay. The Nevada Supreme Court has also recognized that a Stay should be granted where it can be shown that the appellant would suffer irreparable injury during the pendency of the appeal, if the Stay is not granted. White Pine Power v. Public Serv. Comm'n, 76 Nev. 263, 252 P.2d 256 (1960). The Supreme Court elaborated upon this requirement in Kress v. Corey, 65 Nev. 1, 189 P.2d 352 (1948):

> As a rule a supersedes or stay should be granted whenever it appears that without it the object of the appeal or writ of error may be defeated or that it is reasonably necessary to protect appellant or plaintiff in error from irreparable or serious injury in the case of reversal and it does not appear that appellee or defendant in error

will sustain irreparable or disproportionate injury in case of affirmance. 65 Nev. at 17.

The Nevada Supreme Court held, in Ransier v. SIIS, 104 Nev. 742, 766 P.2d 274 (1988), that an Insurer/Employer may not seek recoupment of benefits paid to a claimant that were later found to be unwarranted on appeal. The Ransier decision has not been overruled or reversed. Thus, a Stay is the only method of preventing a burdensome and unnecessary cost to the Insurer pending an appeal.

In the present case, the issue is the reversal of claim denial, in spite of clear evidence in support of that denial. Without this Stay, the Insurer must comply with the erroneous Decision, accept the claim and begin administering benefits. Once benefits and medical treatment have been provided and paid for, said costs cannot be recovered by Insurer, *even if it prevails in its appeal*. Claimant will receive all appropriate treatment and benefits (with interest) if he prevails on the merits. Therefore, there is no harm to claimant if the Stay is granted.

If this Court elects to deny this Motion, the underlying appeal will be rendered moot, as the Insurer will be forced to accept and administer the claim without claimant having to meet his legal burden of proof. Thus, a denial of Stay would have the effect of denying Insurer the opportunity to contest the Hearing Officer's Decision.

Therefore, it is clear that under these facts, Insurer is the only party that will suffer irreparable harm if a Stay is denied. Accordingly, a Stay of the Hearing Officer's Decision is appropriate until such time as a hearing can be conducted on the merits of Insurer's appeal.

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///

///

CONCLUSION

Based upon the foregoing points and authorities, Insurer, FOCUS PLUMBING, respectfully submits that it has established good cause to grant a Stay of the Hearing Officer's Decision and Order dated June 1, 2017, particularly in light of the clear error of law and fact, which have been established above.

WHEREFORE, Insurer, FOCUS PLUMBING, respectfully requests that the Appeals Officer grant its Motion for Stay Pending Appeal until such time as a hearing can be conducted on the merits of the underlying appeal.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the attached exhibits do not contain the personal information of any person.

DATED this 30 day of June, 2017.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____ for

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, NV 89101
Phone: (702) 893-3383
Fax: (702) 366-9689
Attorneys for the Insurer

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the foregoing **INSURER'S MOTION FOR STAY PENDING APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as follows:

MORRIS ANDERSON LAW
JACOB LEAVITT, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

FOCUS FRAMING
C/O FOCUS PLUMBING

FOCUS PLUMBING
ATTN: PATTY PIZANO
1220 S. COMMERCE ST., STE 120
LAS VEGAS, NV 89102

DATED this 30th day of June, 2017.

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

Acct 993134734

EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT
FORM C-4
PLEASE TYPE OR PRINT

EMPLOYEE'S CLAIM – PROVIDE ALL INFORMATION REQUESTED

First Name	M.I.	Last Name	Birthdate	Sex	Claim Number (Insurer's Use Only)
Martin		Perez	1·8·78	☒ M ☐ F	

Home Address	Age	Height	Weight	Social Security Number
355S E. Lake Mead Blvd	38			

City	State	Zip	Telephone
Las Vegas	NV	89115	805-827-7746

Physical Address	City	State	Zip	Primary Language Spoken

INSURER	THIRD-PARTY ADMINISTRATOR	Employee's Occupation (Job Title) When Injury or Occupational Disease Occurred
FOCUS		

Employer's Name/Company Name: FOCUS Plumbing — Telephone: 702-220-5621

Office Mail Address (Number and Street): 1220 S Commerce St Ste 120 Las Vegas, NV 89102

Date of Injury (if applicable)	Hours Injury (if applicable)	Date Employer Notified	Last Day of Work After Injury or Occupational Disease	Supervisor to Whom Injury Reported
12·30·16	am pm		12·30·16	

Address or Location of Accident (if applicable): Un Known

What were you doing at the time of the accident? (if applicable): Pushed off Roof

How did this injury or occupational disease occur? (Be specific and answer in detail. Use additional sheet if necessary): Pushed off Roof el 110 de predo meaven to Repente

If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment?

Witnesses to the Accident (if applicable)

Nature of Injury or Occupational Disease: 8th rib fracture traumatic subdural hematoma

Part(s) of Body Injured or Affected

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 616A TO 616D, INCLUSIVE OR CHAPTER 617 OF NRS). I HEREBY AUTHORIZE ANY PHYSICIAN, CHIROPRACTOR, SURGEON, PRACTITIONER, OR OTHER PERSON, ANY HOSPITAL, INCLUDING VETERANS ADMINISTRATION OR GOVERNMENTAL 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 PHOTOSTAT OF THIS AUTHORIZATION SHALL BE AS VALID AS THE ORIGINAL.

Date 12·30·16 Place Employee's Signature martin Putin perez PH UHS Due to mod. cond

THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT

Place: TRAUMA ED — Name of Facility: UNIVERSITY MEDICAL CENTER

Date: 12/30/2016 Hour: 2230

Diagnosis and Description of Injury or Occupational Disease: SUBDURAL HEMATOMA (BRAIN BLEED)

Is there evidence that the injured employee was under the influence of alcohol and/or another controlled substance at the time of the accident? ☒ No ☐ Yes (if yes, please explain)

Treatment: ANTI-SEIZURE MEDICATIONS

Have you advised the patient to remain off work five days or more? ☒ Yes Indicate dates: from 12/30/16 to 1/7/16 ☐ No If no, is the injured employee capable of: ☐ full duty ☐ modified duty

If modified duty, specify any limitations/restrictions: NO ACTIVITIES THAT PUT HIM AT RISK FOR REPEAT HEAD INJURY FOR 1 MONTH

X-Ray Findings: SUBDURAL HEMATOMA

From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job incurred? ☒ Yes ☐ No

Is additional medical care by a physician indicated? ☒ Yes ☐ No

Do you know of any previous injury or disease contributing to this condition or occupational disease? ☐ Yes ☒ No (Explain if yes)

Date: 12/30/2016 Print Doctor's Name: SAMUEL BERGIN

I certify that the employer's copy of this form was mailed to the employer on:

Address: 1800 W. Charleston

City: Las Vegas State: NV Zip: 89102 Provider's Tax I.D. Number: 88-6000436 Telephone: 702-383-2000

Doctor's Signature: Degree: MD

INSURER'S USE ONLY

ORIGINAL – TREATING PHYSICIAN OR CHIROPRACTOR PAGE 2 – INSURER/TPA PAGE 3 – EMPLOYER PAGE 4 – EMPLOYEE Form C-4 (rev.01/03)

RECEIVED MAR 03 2017 BY: 00306

Supervisor Accident Investigation Report

(Must be filled out by the Supervisor)

1. Telephone or radio your report to the **SAFETY OFFICE IMMEDIATELY.** Be prepared to give the following information:

Injured Employee's Name	Time of Accident
Social Security Number	**Name of Medical Facility**
Job Name / Location	Details of Accident

2. Complete the following report for serious and non-serious injuries and or illnesses alike.

COMPANY: Focus Framing JOB NAME: Green Centers Lot 90

3. Injured Employee's Full Name: Martin Duran Perez Sex: ☒ M ☐ F

Job Classification: Framer **Supervisor's Name:** Rafael Benitez

4. Injury or Illness Information:
Date of Injury or Illness: 12/30/16 Time of Day: 4:30 ☐ a.m. ☒ p.m. Date you reported injury: 12/30/16

Did injury require: ☐ First Aid (On Jobsite) ☒ Medical Treatment (Clinic / Hospital) ☐ No Treatment (Information Only)

Did employee request medical treatment at the time of reporting injury or illness? ☒ Yes ☐ No
Did you ask the employee if he needed any medical treatment at the time of reporting injury or illness? ☒ Yes ☐ No

5. Type of injury or illness:

☐ Abrasion	☐ Burn	☐ Foreign Body	☐ Strain	☐ Laceration	☐ Rash	☐ Heart Attack
☐ Amputation	☐ Concussion	☐ Fracture	☐ Hernia	☐ Puncture	☐ Sprain	☐ Skin Disease
☐ Avulsion	☒ Contusion	☐ Hearing Loss	☐ Irritation	☐ Multiple	☐ Wound	☐ Trauma

6. Part of the body effected:

☐ Arm	☒ Chest	☐ Finger	☒ Head	☐ Leg	☐ Shoulder	☐ Trunk
☐ Ankle	☐ Elbow	☐ Foot	☐ Hip	☐ Multiple	☐ Thumb	☐ Wrist
☐ Back	☐ Eye	☐ Hand	☐ Knee	☐ Neck	☐ Toe	☐ Lungs

Body side Indicator:
☐ Upper ☐ Lower ☒ Left ☐ Right ☐ Both

7. Explain how the injury or illness occurred (Describe the events that resulted in injury or illness, what happened, how it happened and name objects and how they were involved.) Use a separate sheet of paper if necessary.

Employee went to 2nd floor without PPE, fall protection and fall from 12' feet

8. Was the employee at work on company time? ☒ Yes ☐ No
If NO, please explain:

9. Did a "hazardous condition" exist? ☒ Yes ☐ No
If YES, please explain: The employee Martin Duran climbed on a 2nd flor without the proper protecio

10. Were safety procedures observed? ☐ Yes ☒ No
If YES, please describe:

If NO, please explain which safety procedure(s) were violated: No PPE, No Fall protecion and work place violen

11. What is the root cause of the accident? Work place violence

12. What have you done to prevent the accident from reoccurring? Retraining
Recurrence Rate: ☐ Often ☐ Occasional ☒ Rare 1st time
Was this hazard previously reported? ☐ Yes ☒ No 1st time happend

Supervisor Name (PRINT)	Supervisor Signature	Date
Rafael Benitez	[signature]	12/30/16

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martin Duran Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 4:30 PM

LOCATION: Green Courts Lot 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

At the time the incident ocurred I did not see it happend myself, when I got there the employee was lying on the ground passed out, I checked vitals and notified 911. Also notified upper managment and safety departament

3

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Rafael Benitez

TITLE: Foreman

SIGNATURE OF PERSON SUBMITTING REPORT: [signature]

DATE OF REPORT: 12/30/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martine Duran-Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 @ 4:30 to 5:00 PM

LOCATION: Green Courts lot #90 KB Homes.

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes.

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

From taken from following statements of employees. Employee Martine was mad cause his pay check was short from the week before when he was working on Pedro's crew. That evening at about 4:30 PM Martine walked across the street from lot #91 to where Pedro was working on lot #90 and climbed a 8 FT. ladder to get onto second floor where Pedro was working tied off. He confronted Pedro and started yelling at him, Pedro stated he that told him that they could go to office on tuesday to fix it, but it only got elevated and then Pedros son who was working down

5

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

Stairs climbed up to help his dad out. He stated he told Martine to stop, but he started yelling at him and then put hands on him and thats when he pushed him away and was about 3ft away from edge and tried to grab coral post but ended up falling to the ground approximately 12ft to the ground. Martine was knocked unconstious. Employee Eduardo Leon then climbed up and confronted Pedro and his ~~fat~~ son and wanted to fight. Pedro stated that he told him stop. and he went back down.

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Nicholas Pao

TITLE: Safety Manager

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 1/2/17.

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Martine Duran-Perez

ADDRESS:

PHONE:

DATE & TIME OF INCIDENT: 12/30/16 @ 4:30 to 5:00 PM.

LOCATION: Green Court #90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? yes.

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

When they got down. Foreman Rafael Benitez was already there and started proper First Aid protocal and notified First Responders. Rafael then notified Upper managment and the Safety Department.
The employee was taken to St. Rose Siena for further Evaluation. The following morning Henderson police were notified but they had already had opened up an investigation, and we are working with them to get all statements.

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

to them and any information that they may request.

FOLLOW UP: Employee was released Jan 2, 2017 to home from the hospital.

PRINT NAME OF PERSON SUBMITTING REPORT: Nicholas Pao

TITLE: Safety Manager

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 1/2/17

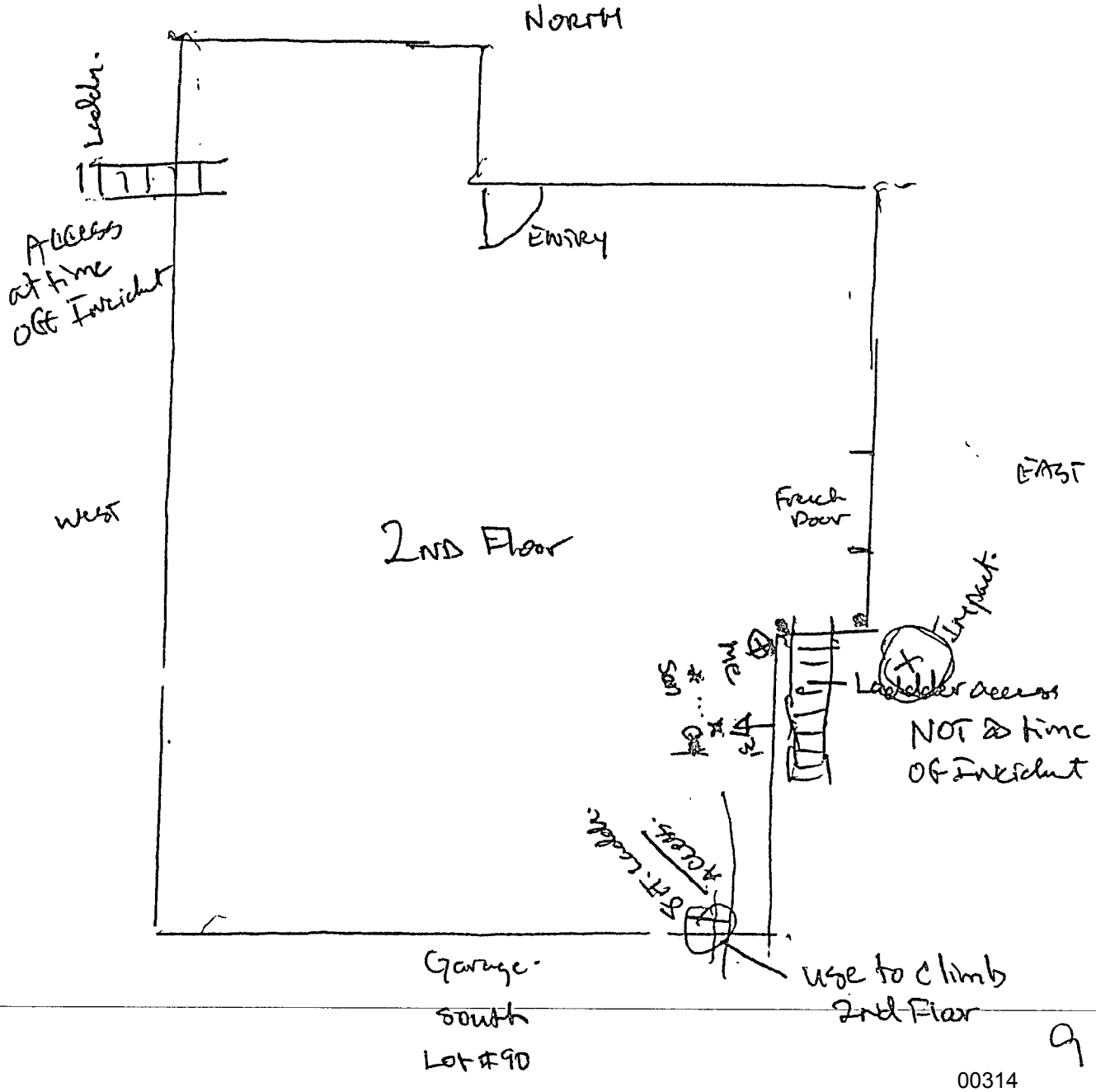
NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

Forcident

Martine Doran - Perez

report 16-23551 Police Report

Pedro's house lot #90 3161 Via Tellaro Sr.
Francisco house lot # 94 3156 Florence Falls Walk.



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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Pedro Rosales G

ADDRESS: 2182 N. Pecos Rd #69
las Vegas NV 89115

PHONE: (702) 439-9511

DATE & TIME OF INCIDENT: 12/30/2016 5:PM

LOCATION: Green Court @ inspirada

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? _____

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

12/30/2016 Al Rededor de las 5:PM este Senor bino de un Lot, Para mi Lot 90 y el se Sufio a el segundo Pizo y empeso @ desir malas Palabras, y tratar de gelpearme, yo estando travajando con mi equipo de Protection (Hardnes & yoyo,) el subio esta el con migo (with out Harnes & yoyo) cuando mi iJo escucho los Grito ofencivos del señor acia mi, yo le esplique al señor que me diera tiempo Para Resolver el Situacion Para el martes 01/02/2017 enla oficina Pero se Portava muy agreciovo asia mi, trato de Pelearme Pero mi iJo Jose la unico que Paso esque trato de defender a PaPa, el segundo Señor Subio tanvien al segundo Pizo @ tratar de Pelamos @ mi y a mi iJo, ablava malas Palavras acianosotro's, yo y mi iJo no Pucimos Atencion acia el, Porque yole dije a mi iJo Jose que no se trata de Pelear en el trabajo.

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

el señor paso a Retirarse bajando del segundo Pízo sin protection's, otro tercer señor Gritava palavras del otro lado de la calle tratando como de agredirnos tanbien, nosotros siempre nos enfocamos en lograr nuestro travajo y nuestra meta. Para la campania (Focos Framing company) Respetar las Reglas y Formas que senos enseña no Peleas no discuciones, (no ofensas) only Resolver las situaciones de la manera correcta, yo iva a llamar al (911) Pero no lo ise Porque el Forman ye go en el momento y se en cargo de lo siguiente

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Pedro Rosales-C

TITLE: Foreman

SIGNATURE OF PERSON SUBMITTING REPORT: Pedro Rosales-C

DATE OF REPORT: 12/31/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus Framing

NAME OF INVOLVED PERSON: Jose Rosales

ADDRESS: 2182 Npecos LV NV 89115 #69

PHONE: 702-238-9258

DATE & TIME OF INCIDENT: 12-30-16 4:45 pm

LOCATION: Green croup Lot 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? _____

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

I was clean down stairs and the guy came up stairs aggerivse, to my father so I rushed up there and I told him come down in so many ways and he came aggressive to me so he look at me tried to through his hands at me and ~~we~~ pushed him and he walked like 3 ft and saw and kept on going and there he went he fell.

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FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

There was a second guy trying to fight with me too but I back up and let him be so I continue to do what I was doing. and went to down stairs and Rafel took care of the seran third guy was just talking nonesense after I didn't pay attention of what they were doing.

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Jose Rosales

TITLE: Farmer

SIGNATURE OF PERSON SUBMITTING REPORT: Jose Rosales

DATE OF REPORT: 12.31.16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

B

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focos Fraiming

NAME OF INVOLVED PERSON: Eduardo Leon

ADDRESS: 3555 lake medd Blvd Apt #147

PHONE: (805) 9078011

DATE & TIME OF INCIDENT: 12-30-16 [redacted] 4:30 pm E.L.

LOCATION: Green Cors L#90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? YES

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Pancho le dio su cheke a martin y miro
K era muy poco y subio a reclamarle
a Pedro empesaron a platicar y pues se
exsaltaron un poco pero no hubo gritros
ni manoteos el hijo de pedro subio un
poco moleste en intantes lo empujo
eso fue en intantes yo eduardo subi y
dije Ke paso cuando menos medi cuenta
Martin ya staba en el suelo pues
pedi ayuda y nadie lo hizo xK andaban
en sock. la lebantamos del lugar. y
burlandose el hijo de Pedro le dijo con
una boz como de odio. PARA K. TE
ACUERDEZ DE MI

M

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Eduardo Leon

TITLE: Carpintero

SIGNATURE OF PERSON SUBMITTING REPORT: Eduardo Leon

DATE OF REPORT: 12-30-16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

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INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: FOUCS

NAME OF INVOLVED PERSON: Elvis Herrera

ADDRESS: 1908 N/A

PHONE (702) 689-2460

DATE & TIME OF INCIDENT: 12/30/16

LOCATION: GREEN COURTS LOT (90)

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? YES

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Will I saw That Martine was pushed from The second floor and hit The flore The son and father were on The second floor Talking and Then Martine started Talking To The mans son and out of no where The son Of The man Pushed martine from The second floor

FINAL DISPOSITION (how you intend to handle the incident, any next steps required, or likely outcomes)

FOLLOW UP:

PRINT NAME OF PERSON SUBMITTING REPORT: Elvis Herrera

TITLE: framer

SIGNATURE OF PERSON SUBMITTING REPORT:

DATE OF REPORT: 12/31/16

NOTE: Incident Report Forms MUST be completed and submitted to Safety Department within 48 hours of the incident.

INCIDENT REPORT FORM
SAFETY REPORT

COMPANY NAME: Focus

NAME OF INVOLVED PERSON: Martin Duron Perez

ADDRESS: 3555 E Lakemead Blud Apt # 147
Las Vegas NV 89115

PHONE: (805) 990-1923

DATE & TIME OF INCIDENT: 4:30 pm

LOCATION: Green Courts Lote # 90

WAS ILLNESS OR INJURY INVOLVED (if yes, describe below)? Yes

DESCRIPTION OF INCIDENT (Please include names of individuals involved, nature of the incident, if injury or illness give name of physician/hospital used, names & addresses of witnesses, and narrative of what occurred)

Viernes 30 de Diciembre de 2016 Yo Martin Duron Perez Subi donde estaba el señor Pedro. Abri mi Cheque Y le dije que no era Justo lo que me pago. Eso no esta bien. El me respondio que las casas no tenia Dinero. El hijo del señor Predro me dijo como no Esta bien. Me agarro desprebenido Y me abento desde Arriba. Elvis miro todo y mi cuñado llama al 911 Yo no me acurdo despues de nada hasta que llegue al Hospital.

Martin Durán Peréz

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Reporte de Lesión Industrial o Enfermedad
(Debe ser rellenado por el Empleado)

1. Rellene el siguiente informe en caso de herida grave, no- grave, o enfermedad.

COMPAÑÍA: Focus Framing Nombre del Proyecto: Green Coarts lot 9

Nombre del Foreman: Rafael Benites

2. Nombre del Empleado (favor de escribir en letra): martin Durán peréz

Domicilió, y Número de Teléfono: 3555 E Lakmed Bivd Hpt 147 89115 las vegas

Sexo: ☒ Hombre ☐ Mujer Fecha de Nacimiento: 1/08/1978 ¿Casado?: ☐ Sí ☒ No

Clasificación de Trabajo: Carpintero **Número del Seguro Social:** _____

Duración de Empleo: ☒ Menos de 6 meses ☐ 1 a 3 años ☐ 7 meses a un año ☐ Mas de 3 años

Tiempo en el trabajo actual: ☐ Menos de 6 meses ☐ 1 a 3 años ☐ 7 meses a un año ☐ Mas de 3 años

3. Información del Lesión o Enfermedad:
Fecha del Lesión o Enfermedad: 12/30/16 Hora del Día: 450 ☐ a.m. ☒ p.m. Fecha que reportó la Lesión: 12/30/16

¿Requirió el Lesión?: ☐ Primeros Auxilios ☒ Tratamiento Médico (Clínica / Hospital) ☐ Ningún Tratamiento (Sólo Información)

¿Pidió tratamiento médico cuando reporto la lesión o enfermedad? ☒ Sí ☐ No **Debe marcar una**

¿Le ofreció tratamiento médico su supervisor / foreman cuando le informo de la lesión o enfermedad? ☒ Sí ☐ No **Debe marcar una**

4. Tipo de herida o enfermedad:

☐ Raspadura	☐ Quemadura	☒ Cuerpo Ajeno	☐ Torcedura	☐ Laceración	☐ Salpullido	☐ Ataque de Corazón
☐ Amputación	☐ Concusión	☐ Fractura	☐ Hernia	☐ Perforación	☐ Esguince	☐ Enfermedad de Piel
☐ Desgarre	☐ Contusión	☐ Pérdida de Oído	☐ Irritación	☐ Múltiple	☐ Herida	☐ Trauma

5. Parte del cuerpo afectado:

☐ Brazo	☐ Pecho	☐ Dedo	☒ Cabeza	☐ Pierna	☐ Hombro	☐ Tronco
☐ Tobillo	☐ Codo	☐ Pie	☐ Cadera	☐ Múltiple	☐ Pulgar	☐ Muñeca
☒ Espalda	☐ Ojo	☐ Mano	☐ Rodilla	☒ Cuello	☐ Dedo de Pie	☐ Pulmones

Indicador de la Parte / Lado del Cuerpo:
☐ Superior ☐ Inferior ☐ Izquierdo ☐ Derecho ☐ Ambos

6. Lugar exacto donde ocurrió el lesión: Green Coarts Lot 90

7. ¿Qué hacia cuando sufrió la herida? (Sea específico. Si usaba herramientas o equipo, o manejaba material, favor de nombrarlos y explicar lo que estaba haciendo con ellos.) Si es necesario añada otra hoja de papel.

El ijo de pedro meabento del primer piso →

8. Explique cómo sucedió la herida o enfermedad (Describa los acontecimientos que ocasionaron en la herida o enfermedad, ¿qué sucedió?, ¿Cómo sucedió?, y los objetos / herramientas que fueron involucrados.) Si es necesario añada otra hoja de papel.

Testigo(s): Nombre, Domicilio, número de teléfono: LaLa Leon EVis Ereerra

Nombre del Empleado (letra)	Firma del Empleado	Fecha
martin Duran peréz	martin Dura peréz	1.31.17

Blanco – Departamento de Seguridad Amarillo – Empleado

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Trabajo Liviano o Modificado

Si fue involucrado en una lesión o enfermedad de trabajo, la Compañía le ofrecerá un trabajo temporario que acomodará cualquier restricción impuesto por un doctor [illegible] inmediato después de su visita inicial a un centro

yo martin estaba Abrando con Pedro me
paga 11. dolares La ora y medio mi
chequi de seis dias 250 Dokare y
110 dedige qui Noera gusto y yo
dige qui No estaba bien Loquimedio

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JUSTICE COURT, HENDERSON TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JOSE ROSALES, aka,
Jose Manuel Rosales #8175632,
Defendant.

17CRH000232-0000
CASE NO: 17FH0191X
DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of BATTERY WITH SUBSTANTIAL BODILY HARM (Category C Felony - NRS 200.481 - NOC 50214), in the manner following, to-wit: That the said Defendant, on or about the 30th day of December, 2016, at and within the County of Clark, State of Nevada, did willfully, unlawfully, and feloniously use force or violence upon the person of another, to wit: MARTIN PEREZ, by pushing the said MARTIN PEREZ, resulting in substantial bodily harm to MARTIN PEREZ.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

02/16/17

17FH0191X/lal
HPD EV# 1623551
(TK)

W:\2017\2017FH\01\91\17FH0191-COMP-001.DOCX

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University Medical Center
1800 W Charleston Blvd
Las Vegas,NV 89102
702-383-2000

ED Chart View

UMC UNIVERSITY MEDICAL CENTER

Patient Name:	**PEREZ, MARTIN**	**Sex:**	M
Birthdate:	01/08/1978	**Age:**	38
Acct No:	9931347349	**Medical Rec No:**	0030138209
Arrival Dt.:	12/30/2016 20:54	**1st Chart Launch Dt.:**	12/30/2016 21:02
Primary MD:		**Treating Provider:**	RANDALL BESS MD
		Attending MD:	MITZI A DILLON MD
Chart Status:	Final		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Primary Diagnosis

1) Free text DX: Traumatic fall *(RANDALL BESS MD 12/30/2016 21:22:29)* 2) Traumatic subdural hematoma *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Free text DX: Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Musculoskeletal chest pain *(RANDALL BESS MD 12/30/2016 21:22:29)*

History of Present Illness

HPI: Exam started at 21:03 *(MITZI A DILLON MD 12/30/2016 21:03:00)* 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:09:00)* PMHx: [as mentioned in HPI] SHx: [none] Social: [negative x3] FHx: [non contributory] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Vital Signs

Time	Blood Pressure	Pulse	PulseOx	Respiration	Temperature	Pain
12/31 00:07						0/10 - AM33
12/30 23:39	132/91 mm Hg. - AM33	94 /min - AM33	98 % Room air - AM33	13 /min - AM33		
12/30 21:51	135/81 mm Hg.	99 /min - MK23	99 % 2 liter/min	18 /min - MK23		0/10 - MK23

RECEIVED FEB 28 2017 BY:_____

	- MK23		- MK23			
12/30 21:14	141/88 mm Hg. - RW4	94 /min - RW4	98 % Room air - RW4	18 /min - RW4	98.7 F - RW4	

Other Vital Signs

Height: 162 cm *(ROBERT WILSON RN 12/30/2016 20:54:00)* **Weight:** 91 kg *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bmi:** 34.7 *(ROBERT WILSON RN 12/30/2016 20:54:00)* **bsa:** 2.02 sq. m *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Current Medications

1) 12/30/2016 21:08:47 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.] *(ROBERT WILSON RN 12/30/2016 21:08:47)*

Med Orders

MedOrder	Entered By	Ordered By	Completed	MD Sign	Note	Comment/ Indication
ED: morphine inj 4 MG IV ONCE NOW	SL8 RN 12/30 21:11	RB40 MD 12/30 21:11	SL8 12/30 21:10		12/30 21:10:Dose given IV push. (SL8); 12/30 21:10:No complications. (SL8); 12/30 21:10:Just given ED: morphine inj. (SL8); 12/30 21:10:Awake and alert. (SL8)	
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE	RW4 RN 12/30 21:49	MD28 MD 12/30 21:49	RW4 12/30 21:49			
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		Indication: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/31 05:18	SB61 12/30 22:57		Indication: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:59	SB61 12/30 22:57		
acetaminophen [TYLENOL]	SB61 MD 12/30 22:57	JS58 12/30 22:57	12/31 09:40	SB61 12/30 22:57		Indication: moderate pain

1000 MG ORAL Q8H PRN ROUTINE						
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance	SB61 MD 12/30 22:57	MNP MD 12/30 22:57	12/30 23:49	SB61 12/30 22:57		
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW	CJ22 RN 12/30 22:59	SB61 MD 12/30 22:59	CJ22 12/30 22:56		12/30 22:56:Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22)	
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06	SB61 12/31 08:34	SB61 12/30 23:06		
potassium chloride [KLOR-CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KPhos-NaPhos powder packet (8 mmol phos) [PHOS-NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
KCl 40 mEq	MNP MD 12/30	MNP MD 12/30		MNP 12/30		Indication: per

rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line	23:49	23:49		23:49		Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE	MNP MD 12/30 23:49	NJ7 MD 12/30 23:49	NJ7 12/31 11:18	MNP 12/30 23:49		
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)

ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders						
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders	MNP MD 12/30 23:49	MNP MD 12/30 23:49		MNP 12/30 23:49		Indication: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
sodium chloride 0.9% 250 ML IVPB PRN ROUTINE	MNP MD 12/30 23:56	MNP MD 12/30 23:56		MNP 12/30 23:56		
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE	MNP MD 12/30 23:57	JS58 12/30 23:57	12/31 09:40	MNP 12/30 23:57		
HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE	MNP MD 12/30 23:58	MNP MD 12/30 23:58	12/31 03:47	MNP 12/30 23:58		Indication: severe pain
insulin lispro inj [HumaLOG] 3-15 UNIT SUBCUT PRN ROUTINE 70-130= 0 units; 131-150= 3 units; 151-170=	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: PROT-14 sliding scale (A):

5 units; 171-190= 7 units; 191-210= 9 units; 211-230= 11 units; 231-250= 13 units; >250= 15 units and call House Officer to consider scale B (if ICU pt) or scale D (if non-ICU pt)						
dextrose 50% inj 12.5 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose 35-69; recheck BGM in 30min
dextrose 50% inj 25 GM IV PRN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		Indication: Blood Glucose <35; recheck BGM in 30min
PHARMACY COMMUNICA-TION 1 EA MISC PRN ROUTINE Rx to D/C ALL previ-ously ordered anti-diabetic medications	MNP MD 12/30 23:59	MNP MD 12/30 23:59		MNP 12/30 23:59		

Non-Med Orders

Non-MedOrde	Entered By	Ordered By	Completed	Results Back	MD Sign	Note	Comment/ Indication
TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT THORACIC SPINE RE-CONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	

TR CT LUMBAR SPINE RE-CONSTRUCT ONCE STAT Pain - Trauma Related	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
TR CT ABDO-MEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Re-lated	AM80 UNIT CLERK 12/30 21:16	MAD1 MD 12/30 21:16	12/30 21:32	12/30 21:32	MAD1 12/30 21:16	12/30 21:18:Taken to CT. (CJ22)	
PT + APTT ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:29	12/30 22:29		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
TYPE AND SCREEN ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50				12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
BASIC META-BOLIC PAN-EL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:28	12/30 22:28		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood obtained from the right antecubital fossa. (RW4)	
CBC NO DIF-FERENTIAL ONCE STAT	RW4 RN 12/30 21:50	MAD1 MD 12/30 21:50	12/30 22:08	12/30 22:08		12/30 21:50:Blood Drawn - RN. (RW4); 12/30 21:50:Blood	

						obtained from the right antecubital fossa. (RW4)	
ABO RH TYPE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
ANTIBODY SCREEN - GEL TECH-NIQUE ONCE STAT	SS21 12/30 22:06	MAD1 MD 12/30 22:06	12/30 23:10	12/30 23:10	MAD1 12/30 22:06	12/30 22:09:Blood Drawn - RN. (KR25); 12/30 22:09:Blood Drawn - RN. (RW4); 12/30 22:09:Blood obtained from the right antecubital fossa. (RW4)	
EKG 12 LEAD ONCE STAT	AM80 UNIT CLERK 12/30 22:55	SB61 MD 12/30 22:55	12/31 12:52	12/31 12:52	SB61 12/30 22:55	12/30 23:11:First EKG in de-partment ob-tained. (CJ22)	
Surgery Admit Order (basic requirements) ONCE ROUTINE In-patient TICU Standard No 7.3mm Sub-dural hemat-oma, 8th right rib fracture, Fall off second story roof	SB61 MD 12/30 22:56	SB61 MD 12/30 22:56	12/30 23:37		SB61 12/30 22:56		

CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)							
Measure Weight EVERY DAY ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 22:53		SB61 12/30 22:57		
Vital Signs Q2H ROUTINE(*Cancel*)	SB61 MD 12/30 22:57	MNP MD 12/30 22:57			SB61 12/30 22:57		
Intake & Output Q2H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Notify: CONTIN ROUTINE SaO2 < 88%	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:(Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		Comment:Peripheral IV #2
Admission Nasal MRSA Colonization Screen-ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Influ-	SB61 MD	SB61 MD			SB61 12/30		Comment:-

enza Vaccine Assessment-CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		Switch to Influenza vaccine order if indicated
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	AA3 12/31 07:46		SB61 12/30 22:57		
Incentive Spirometry - NSG Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 19:28		SB61 12/30 22:57		Comment:X 10 Breaths
CASE MANAGEMENT CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Initiate Pneumococcal Vaccine Assessment-CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:-Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
SOCIAL SERVICES CONSULT ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		
Notify: CONTIN ROUTINE DBP < 60 or > 110	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
Activity CONTIN ROUTINE (with nursing assistance)	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 20:17		SB61 12/30 22:57		
NPO MEALS(*Cancel*)	SB61 MD 12/30 22:57	JS58 12/30 22:57			SB61 12/30 22:57		
Sequential	SB61 MD	SB61 MD	12/31 20:17		SB61 12/30		

Compression Device CONTIN ROUTINE	12/30 22:57	12/30 22:57			22:57		
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57			SB61 12/30 22:57		Comment:brain bleed
CBC/ AUTOMATED IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:29	12/31 01:29	SB61 12/30 22:57		
RENAL PANEL IN AM	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 01:53	12/31 01:53	SB61 12/30 22:57		
Neuro Checks Q1H ROUTINE	SB61 MD 12/30 22:57	SB61 MD 12/30 22:57	12/31 23:00		SB61 12/30 22:57		
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma(*Cancel*)	SB61 MD 12/30 23:06	SB61 MD 12/30 23:06			SB61 12/30 23:06	12/31 00:28:Cancel Reason: PATIENT IS TO BE DONE IN TRAUMA CENTER ()	
Vital Signs Q1H ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	01/01 00:00		MNP 12/30 23:49		
Elevate Head of Bed CONTIN ROUTINE	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
MAGNESIUM LEVEL QDAY IN AM	MNP MD 12/30 23:49	MNP MD 12/30 23:49			MNP 12/30 23:49		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		

Protocol), place in chart							
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/Na-Phos/ PhosNaK, Magnesium 2 hr after magnesium	MNP MD 12/30 23:49	MNP MD 12/30 23:49	12/31 20:17		MNP 12/30 23:49		Comment:per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU-CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35-69, give 12.5gm D50W IVP and recheck BGM in 30min.	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14-A (TICU/SICU Insulin Sliding Scale), place in chart	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

RN to Order: CONTIN ROUTINE serum glucose level if BGM< 35 mg/dL	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE	MNP MD 12/30 23:59	MNP MD 12/30 23:59			MNP 12/30 23:59		Comment:if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
Notify: CONTIN ROUTINE if BGM >250 and consider scale B (ICU pt) or scale D (non-ICU pt) House Officer	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (Non-ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		
Call MD: CONTIN ROUTINE (ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)	MNP MD 12/30 23:59	MNP MD 12/30 23:59	12/31 20:17		MNP 12/30 23:59		

Lab Results

HEMOGRAM 12/30/2016 21:47:00	
WHITE BLOOD CELL	*13.20 K/MM3 H* (NL = 3.40-10.30)
RED BLOOD CELL	4.67 M/MM3 (NL = 4.08-5.70)
HGB	13.9 G/DL (NL = 13.1-16.8)
HEMATOCRIT	41.4 % (NL = 38.2-48.4)
MCV	88.6 FL (NL = 80.1-98.5)
MEAN CELL HEMOGLOBIN	29.7 pg (NL = 27.1-34.2)
MEAN CELL HEMOGLOBIN CONCENTRATION	33.6 % (NL = 33.0-35.6)
PLATELET	271 K/MM3 (NL = 130-351)
MPV	7.5 FL (NL = 7.5-11.2)
Red Cell Diameter Width	13.8 % (NL = 11.8-15.1)

BASIC METABOLIC PANEL 12/30/2016 21:47:00	
SODIUM	139 MMOL/L (NL = 136-145)
POTASSIUM	3.9 MMOL/L (NL = 3.5-5.1)
CHLORIDE	106 MMOL/L (NL = 98-110)
TOTAL CO2	24 MMOL/L (NL = 22-31)
BLOOD UREA NITROGEN	13 mg/dL (NL = 9-26)
CREATININE	0.7 mg/dL (NL = 0.6-1.5)
GLUCOSE	*122 mg/dL H* (NL = 70-110)
CALCIUM	*8.1 mg/dL L* (NL = 8.4-10.2)
Anion Gap	9 MMOL/L (NL = 8-16)

PT AND APTT 12/30/2016 21:47:00	
PROTHROMBIN TIME	11.7 SEC. (NL = 9.3-12.4)
INR	1.0 (NL = 0.8-1.2) Comment: Recommended therapeutic range for oral anticoagulant therapy (INR 2.0 - 3.0) INDICATION: Prophylaxis of venous thrombosis (High-risk surgery) Treatment of venous thrombosis Treatment of pulmonary embolism Prevention of Systemic embolism Acute myocardial infarction (To prevent systemic embolism) Valvular heart disease Atrial fibrillation 1. It is strongly recommended that all patients with mechanical prosthetic heart valves receive oral anticoagulant (Grade C1 recommendation) A goal INR of 2.5 (range 2.0 - 3.0) is recommended for patients with a bileaflet mechanical valve in the aortic position, provided the left atrium is of normal size, the patient is in sinus rhythm and the ejection fraction is normal

	(Grade A2 recommendation) 2. A goal INR of 3.0 (range 2.5 - 3.5) is recommended for all other patients. If oral anticoagulant therapy is elected to prevent recurrent myocardial infarction, an INR of 2.5 - 3.5 is recommended, consistent with Food and Drug Administration recommendations. Chest: 114:5 November 1998 Supplement
ACTIVATED PARTIAL THROMBOPLASTIN	25 SEC. (NL = 22-33) Comment: Based on the laboratory's aPTT / Heparin anti Xa correlation study, aPTT levels of 52 - 78 seconds correlate with Heparin levels of 0.3 - 0.7 anti Xa units.
GLOMERULAR FILTRATION RATE 12/30/2016 21:47:00	
Glomerular Filtration Rate(GFR) Calc	>60 Comment: Estimated GLOMERULAR FILTRATION RATE (GFR) Reference Ranges: >59 mL/min/1.73 m2 GFR calculation requires an accurate age and gender of the patient. Ordered on patients 18 years and older. For African Americans, multiply GFR value

	by 1.21 The estimated GFR is to be used for screening purposes. For drug dosing, use the Cockcroft-Gault calculation.
ANTIBODY SCREEN GEL 12/30/2016 21:47:00	
ANTIBODY SCREEN (Gel Method)	NEG ABSCRN
ABORH TYPE 12/30/2016 21:47:00	
ABO/RH TYPING	A POS

Physical Exam

General Presentation: VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER] AIRWAY: [patent, patient phonating well] BREATHING: [no respiratory distress, breath sounds present bilaterally] CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused] DISABILITY: [Move all four extremities, GCS 15] GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic] HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness] NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema] CARDIOVASCULAR: [regular rate/rhythm, no murmurs,] Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema] ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam] PELVIS : [stable to anterior-posterior and lateral compression] BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness] EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain] SKIN: [warm, dry, no rashes or lesions] NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact] PSYCHIATRIC: [normal affect/insight/concentration] *(RANDALL BESS MD 12/30/2016 21:17:00)*

Past Medical History/Patient Problems

1) Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] *(ROBERT WILSON RN 12/30/2016 21:08:39)* 2) Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 3) Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)* 4) Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] *(RANDALL BESS MD 12/30/2016 21:22:29)*

Substance Use

Tobacco

Smoking status:

never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol

Alcohol use:

no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Acuity

Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Progress Notes

12/30/2016 21:09:00 Imaging and laboratory workup provided from outside hospital seen in the Saint Rose. CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect. CT C-spine shows no acute fracture or subluxation identified, no acute fracture. X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process. X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. *(RANDALL BESS MD 12/30/2016 21:09:00)*

RN Continuation Notes

12/30/2016 21:09:00 Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. *(ROBERT WILSON RN 12/30/2016 21:09:00)*

Bed Assignment: 12/30/2016 21:00:59 Assigned to bed TRM11 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 21:00:59)*

Triage and Nursing History

Acuity: 12/30/2016 20:54:00 Activation Level - ED. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 3 - Urgent *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Language: 12/30/2016 20:54:00 No language or communication barrier. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

RN History: 12/30/2016 20:54:00 Mentation - Patient has periodic confusion. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Elimination - Patient is independent with frequency or diarrhea. Score = 1 *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Prior Fall history at home or previous Inpatient care. Score = 1. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient is at risk for falls and precautions have been instituted. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of suicide. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Patient has no thoughts of harming self or others. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 Onset of symptoms was about 4 hrs ago. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History comes from patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)* 12/30/2016 20:54:00 History is supplied by the patient's ambulance record. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Mental: 12/30/2016 20:54:00 Domestic violence survey shows NEGATIVE risk for this patient. *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture *(RANDALL BESS MD 12/30/2016 21:09:00)* Disposition decision is admit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Admit to Intensive Care unit. *(MITZI A DILLON MD 12/30/2016 21:12:00)* Condition at discharge - stable. *(MITZI A DILLON MD 12/30/2016 21:12:00)* History, physical findings, and management plan discussed with ED attending physician. *(RANDALL BESS MD 12/30/2016 22:50:06)* Attending physically available and saw patient. *(RANDALL BESS MD 12/30/2016 22:50:06)* Electronically signed by RANDALL BESS MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* The designated co-signing physician is MITZI DILLON MD. *(RANDALL BESS MD 12/30/2016 22:50:06)* I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. *(MITZI A DILLON MD 01/01/2017 00:10:45)*

A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* IV capped and flushed. *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, *(ANTONIA MCNAMARA RN 12/31/2016 00:07:00)* Disposition status is Admit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Admitted to Intensive Care Unit. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* RN accompanied patient. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Monitor used during transport. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Valuables inventoried and collected by UMC Public Safety. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:00)* Electronically signed by ANTONIA MCNAMARA RN. *(ANTONIA MCNAMARA RN 12/31/2016 00:08:33)*

Pre-Hospital Information

Mode of arrival: *(ROBERT WILSON RN 12/30/2016 20:54:00)* AMR *(ROBERT WILSON RN 12/30/2016 20:54:00)*

Reports Printed/Faxed

ROBERT WILSON RN printed Orders Report to Trauma RN 1 at 21:51 *(ROBERT WILSON RN 12/30/2016 21:51:15)* ALEXIS MARTINEZ UNIT CLERK printed UMC-EDView to Trauma RN 1 at 23:29 *(ALEXIS MARTINEZ UNIT CLERK 12/30/2016 23:29:47)* MITZI A DILLON MD printed Emergency Department Chart to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)* MITZI A DILLON MD printed UMC-EDView to Archive to One Content at 00:10 *(MITZI A DILLON MD 01/01/2017 00:10:48)*

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being

found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE.

Staff Legend

RW4 - ROBERT WILSON RN AM33 - ANTONIA MCNAMARA RN MK23 - MARTIN KOVACIK RN SL8 - SUSAN LALUMIA RN RB40 - RANDALL BESS MD - External Data SB61 - SAMUEL BERGIN MD CJ22 - CATHERINE JURGENS RN NJ7 - NATHANIEL JIMENEZ MD AM80 - ALEXIS MARTINEZ UNIT CLERK MAD1 - MITZI A DILLON MD AA3 - APRIL ALLEN-CARTER RT

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702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Vital Signs/Data

Time	Staff	Temperature	Pulse	Respiration	Blood Pressure	Pulse Oximetry	Pain
12/31/2016 00:07	AM33						0/10
12/30/2016 23:39	AM33		94 /min	13 /min	132/91 mm Hg.	98% on Room air	
12/30/2016 21:51	MK23		99 /min	18 /min	135/81 mm Hg.	99% on 2 liter/min	0/10
12/30/2016 21:14	RW4	98.7 F	94 /min	18 /min		98% on Room air	
12/30/2016 21:14	RW4				141/88 mm Hg.		

Allergies

NO KNOWN ALLERGIES [Confirmed by ROBERT WILSON RN on 12/30/2016 21:09:00.] (RW4 12/30/2016 21:09)

Pre- Hospital Treatment

Mode of arrival: AMR (RW4) 12/30/2016 20:54

Triage

Activation Level - ED. (RW4 12/30/2016 20:54)
3 - Urgent (RW4 20:54)
No language or communication barrier. (RW4 20:54)
Domestic violence survey shows NEGATIVE risk for this patient. (RW4 20:54)
Mentation - Patient has periodic confusion. Score = 1 (RW4 20:54)
Mobility - Patient is able to ambulate or transfer with assistive device or assistance. Score = 1 (RW4 20:54)
Elimination - Patient is independent with frequency or diarrhea. Score = 1 (RW4 20:54)
Prior Fall history at home or previous Inpatient care. Score = 1. (RW4 20:54)
Patient is at risk for falls and precautions have been instituted. (RW4 20:54)
Patient has no thoughts of suicide. (RW4 20:54)
Patient has no thoughts of harming self or others. (RW4 20:54)
Onset of symptoms was about 4 hrs ago. (RW4 20:54)
History comes from patient. (RW4 20:54)
History is supplied by the patient's ambulance record. (RW4 20:54)

Height/Weight

Hgt: 162 cm at 20:54 (RW4 12/30/2016 20:54)
Wgt: 91 kg at 20:54 (RW4 20:54)
BMI: 34.7 (RW4 20:54)
BSA: 2.02 sq. m (RW4 20:54)

Current Medications

1) 12/30/2016 21:08 RW4 Patient reports, "No Current Meds" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:47.]

Nursing Continuation Notes - Refer to Orders section for all orders

Per ems pt was working on roof when he was pushed off. Pt fell approximately 12 feet hitting his head. Pt transferred from St. Rose Sienna. (RW4 12/30/2016 21:09)

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Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Clinician History of Present Illness

Exam started at 21:03 (MAD1) 12/30/2016 21:03 38-year-old Hispanic speaking male who presents from Saint Rose Sienna after sustaining a 20 foot fall after being pushed off of a roof top by a co-worker and sustaining a loss of consciousness for unknown amount of time. Patient was found unconscious on the ground. Patient presents from outside hospital with outside labs and imaging and is transferred for a subdural bleed measuring 7 millimeters, otherwise injuries noted were possible right 8th rib fracture, no other injuries were reported on transport. Patient denies any past medical history, denies any smoking alcohol or drug use, denies any allergies to any medications. Patient denies any loss of sensation, nausea or vomiting, headache, numbness weakness or tingling, patient does complain of posterior head pain, neck pain and upper back pain, as well as left chest wall pain. Denies any abdominal pain.REVIEW OF SYSTEMS - 10 systems were independently reviewed and are otherwise negative with the exception of those items previously documented in the HPI and nursing notes. (RB40) 12/30/2016 21:17

Patient Problems

Patient reports, "No Known Problems" [Confirmed by ROBERT WILSON RN on 12/30/2016 21:08:39.] (RW4 12/30/2016 21:08)
Traumatic fall [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Musculoskeletal chest pain [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)
Traumatic subdural hematoma [Confirmed by RANDALL BESS MD on 12/30/2016 21:22:29.] (RB40 21:22)

Past Surgical History/Major Procedures

PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] PMHx: [as mentioned in HPI]
SHx: [none]
Social: [negative x3]
FHx: [non contributory] (RB40) 12/30/2016 21:09

Physical Exam

GENERAL:
VITALS :]vital signs documented prior to this note have been reviewed and noted, see HER]
AIRWAY: [patent, patient phonating well]
BREATHING: [no respiratory distress, breath sounds present bilaterally]
CIRCULATION: [heart sounds present, blood pressure adequate, skin well-perfused]
DISABILITY: [Move all four extremities, GCS 15]
GENERAL: [alert, awake, oriented x 3, mild distress, non-toxic]
HEENT: [normocephalic, atraumatic, no bruising around eyes or ears, PERRL, EOMI, nares clear, no fluid from ears or nose, oropharynx clear, no dental malocclusion, no mandible tenderness]
NECK: [arrived in c-collar, midline C-spine tenderness to palpation in the middle of the night, no step-offs, trachea midline, no bruising or swelling, no subcutaneous emphysema]
CARDIOVASCULAR: [regular rate/rhythm, no murmurs,]
Pulmonary/ Chest: [Non-labored. No obvious trauma. Patient does complain of left anterior chest wall pain chief to AP compression. No crepitus or flail segments. Lungs clear to auscultation. No crackles, wheezes or rubs, no respiratory distress, no ecchymoses, no deformity, no subcutaneous emphysema]
ABDOMEN: [Atraumatic in appearance, soft, non-tender, non-distended, normoactive bowel sounds, no ecchymoses, benign exam]
PELVIS : [stable to anterior-posterior and lateral compression]
BACK: [normal appearance, atraumatic, patient did report upper T-spine tenderness to palpation, denied any lumbar tenderness, no step-offs, no crepitance, no CVA tenderness]
EXTREMITIES: [warm, well-perfused, no gross deformities, 2+ pulses in all 4 extremities, full passive range-of-motion at bilateral shoulders/elbows/wrists/hips/knees/ankles without significant pain]
SKIN: [warm, dry, no rashes or lesions]
NEUROLOGIC: [GCS 15 (E4/V5/M6), cranial nerves III-XII intact, strength 5/5 in all 4 extremities, sensation to light-touch intact in all 4 extremities, deep tendon reflexes 2+ in all 4 extremities, no ataxia identified, perineal sensation intact]
PSYCHIATRIC: [normal affect/insight/concentration]
(RB40) 12/30/2016 21:17

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Progress Notes

Imaging and laboratory workup provided from outside hospital seen in the Saint Rose.
CT head without contrast: Shows subdural hemorrhage along the interhemispheric fissure and the tentorium common with maximal thickness measuring 7 millimeters, no midline shift or mass effect.
CT C-spine shows no acute fracture or subluxation identified, no acute fracture.
X-ray L-spine 2 to 3 view shows no acute fracture subluxation, no acute fracture. X-ray T-spine three view shows possible subtle fracture along the posterior 8th right rib, no other acute fracture or subluxation seen in the thoracic spine. Chest x-ray shows no acute cardiopulmonary process.
X-ray of pelvis shows no acute fracture dislocation hip identified, hip joints well preserved. No acute fracture
Laboratory workup: CBC is unremarkable, hemoglobin 15.3 white count 10.5, platelets 296, PT INR within normal limits and CMP shows mild hyperglycemia 109, ALT and AST elevation 57 and 39, otherwise unremarkable within normal limits. Urinalysis also within normal limits. (RB40) 12/30/2016 21:09

Primary Diagnosis

Free text DX: Traumatic fall (RB40 12/30/2016 21:22)
Traumatic subdural hematoma (RB40 21:22)
Free text DX: Possible right 8th rib fracture (RB40 21:22)
Musculoskeletal chest pain (RB40 21:22)

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Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

ED: morphine inj 4 MG IV ONCE NOW
Entered By (SL8 RN 12/30/2016 21:11) Ordered By (RB40 MD 21:11) Completed By (SL8 RN 21:10) Notes: Dose given IV push. No complications. Just given ED: morphine inj. Awake and alert. (SL8 21:10)
levETIRAcetam inj [KEPPRA] 1000 MG IVPB 15 MIN NOW ROUTINE
Entered By (RW4 RN 12/30/2016 21:49) Completed By (RW4 RN 21:49)
lactated ringers 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE Maintenance
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:49) MD Sign (SB61 MD 22:57)
acetaminophen [TYLENOL] 1000 MG ORAL Q8H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 09:40) MD Sign (SB61 MD 12/30/2016 22:57) Indications: moderate pain
fentaNYL inj [SUBLIMAZE] 50 MCG IV Q2H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57) Indications: severe pain
ondansetron [ZOFRAN] 4 MG ORAL Q6H PRN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (12/31/2016 05:18) MD Sign (SB61 MD 12/30/2016 22:57) Indications: nausea
docusate sodium [COLACE] 100 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Completed By (23:59) MD Sign (SB61 MD 22:57)
ED: fentaNYL inj [SUBLIMAZE] 50 MCG IV ONCE NOW
Entered By (CJ22 RN 12/30/2016 22:59) Ordered By (SB61 MD 22:59) Completed By (CJ22 RN 22:56) Notes: Just given ED: fentaNYL inj [SUBLIMAZE]. (CJ22 22:56)
levETIRAcetam [KEPPRA] 500 MG ORAL BID ROUTINE
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) Completed By (SB61 MD 12/31/2016 08:34) MD Sign (SB61 MD 12/30/2016 23:06)
potassium chloride [KLOR- CON] 40 MEQ ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KCl 40 mEq rider 40 MEQ IVPB 10 MEQ/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders Peripheral Line
Indications: per Electrolyte Protocol (PROT #383)
KPhos- NaPhos powder packet (8 mmol phos) [PHOS- NAK] 2 PACKET ORAL PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
KPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE Peripheral Line If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
magnesium sulfate 2 gm rider 2 GM IVPB 30 MIN PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 20 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
NaPhos inj 40 MMOL IVPB 7 MMOL/HR PRN ROUTINE If serum creatinine is >/= 1.4 or UO < 0.5 ml/kg/hr x 3 hrs, DO NOT USE PROTOCOL; contact provider for new orders
Indications: per Electrolyte Protocol (PROT #383)
sodium chloride 0.9% 1000 ML IV 100 ML/HR CONTINUOUS ROUTINE
Ordered By (NJ7 MD 12/30/2016 23:49) Completed By (NJ7 MD 12/31/2016 11:18)
sodium chloride 0.9% 500 ML IVPB PRN ROUTINE

sodium chloride 0.9% 250 ML IVPB PRN ROUTINE

HYDROmorphone inj [DILAUDID] 1 MG IV Q4H PRN ROUTINE
Completed By (12/31/2016 03:47) Indications: severe pain
famotidine inj [PEPCID] 20 MG IV Q12H ROUTINE
Completed By (12/31/2016 09:40)
insulin lispro inj [HumaLOG] 3- 15 UNIT SUBCUT PRN ROUTINE 70- 130= 0 units; 131- 150= 3 units; 151- 170= 5 units; 171- 190= 7 units; 191- 210= 9 units; 211- 230= 11 units; 231- 250= 13 units; >250= 15 units and call House Officer to

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Med Orders

consider scale B (if ICU pt) or scale D (if non- ICU pt)
Indications: PROT- 14 sliding scale (A):
dextrose 50% inj 25 GM IV PRN ROUTINE
Indications: Blood Glucose <35; recheck BGM in 30min
dextrose 50% inj 12.5 GM IV PRN ROUTINE
Indications: Blood Glucose 35- 69; recheck BGM in 30min
PHARMACY COMMUNICATION 1 EA MISC PRN ROUTINE Rx to D/C ALL previously ordered anti- diabetic medications

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Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

TR CT CHEST WITH CONTRAST ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT ABDOMEN AND PELVIS IV ONLY ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT LUMBAR SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
TR CT THORACIC SPINE RECONSTRUCT ONCE STAT Pain - Trauma Related
Entered By (AM80 UNIT CLERK 12/30/2016 21:16) Ordered By (MAD1 MD 21:16) Results Back (21:32) MD Sign (MAD1 MD 21:16) Notes: Taken to CT. (CJ22 21:18)
CBC NO DIFFERENTIAL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:08) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
BASIC METABOLIC PANEL ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:28) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
PT + APTT ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Results Back (22:29) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
TYPE AND SCREEN ONCE STAT
Entered By (RW4 RN 12/30/2016 21:50) Ordered By (MAD1 MD 21:50) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 21:50)
ABO RH TYPE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
ANTIBODY SCREEN - GEL TECHNIQUE ONCE STAT
Entered By (12/30/2016 22:06) Ordered By (MAD1 MD 22:06) Results Back (23:10) MD Sign (MAD1 MD 22:06) Notes: Blood Drawn - RN. Blood obtained from the right antecubital fossa. (RW4 22:09) Blood Drawn - RN. (KR25 22:09)
Surgery Admit Order (basic requirements) ONCE ROUTINE Inpatient TICU Standard No 7.3mm Subdural hematoma, 8th right rib fracture, Fall off second story roof CHESTOVICH, PAUL J [GENERAL SURGERY] (22358)
Entered By (SB61 MD 12/30/2016 22:56) Ordered By (SB61 MD 22:56) Completed By (23:37) MD Sign (SB61 MD 22:56)
Vital Signs Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (23:47)
Intake & Output Q2H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Measure Weight EVERY DAY ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 22:53) MD Sign (SB61 MD 12/30/2016 22:57)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: (Peripheral IV #1)
INSERT: Saline Lock CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57) Comments: Peripheral IV #2
Call MD: CONTIN ROUTINE HR < 50 HR > 130 R < 8 R > 30 SBP < 90 SBP > 180 Temp > 38.5 degree C UOP < 0.5 ml/kg/hr
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE SaO2 < 88%
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
INCENTIVE SPIROMETER- RT to instruct ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (AA3 RT 12/31/2016 07:46) MD Sign (SB61 MD 12/30/2016 22:57)

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Incentive Spirometry - NSG Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 19:28) MD Sign (SB61 MD 12/30/2016 22:57) Comments: X 10 Breaths
Admission Nasal MRSA Colonization Screen- ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Initiate Influenza Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to Influenza vaccine order if indicated
Initiate Pneumococcal Vaccine Assessment- CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: - Switch to pneumococcal vaccine order if indicated
RD May Modify / Clarify Diet Orders CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
CASE MANAGEMENT CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
SOCIAL SERVICES CONSULT ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57)
Activity CONTIN ROUTINE (with nursing assistance)
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
Notify: CONTIN ROUTINE DBP < 60 or > 110
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
NPO MEALS
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (22:57) MD Sign (SB61 MD 22:57) Order Cancelled (12/31/2016 09:38)
Sequential Compression Device CONTIN ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 20:17) MD Sign (SB61 MD 12/30/2016 22:57)
No Parenteral VTE Therapy CQM 2014 ONCE ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) MD Sign (SB61 MD 22:57) Comments: brain bleed
CBC/AUTOMATED IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:29) MD Sign (SB61 MD 12/30/2016 22:57)
RENAL PANEL IN AM
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Results Back (12/31/2016 01:53) MD Sign (SB61 MD 12/30/2016 22:57)
Neuro Checks Q1H ROUTINE
Entered By (SB61 MD 12/30/2016 22:57) Ordered By (SB61 MD 22:57) Completed By (12/31/2016 23:00) MD Sign (SB61 MD 12/30/2016 22:57)
EKG 12 LEAD ONCE STAT
Entered By (AM80 UNIT CLERK 12/30/2016 22:55) Ordered By (SB61 MD 22:55) Results Back (12/31/2016 12:52) MD Sign (SB61 MD 12/30/2016 22:55) Notes: First EKG in department obtained. (CJ22 23:11)
CT BRAIN WO CONTRAST ONCE TIMED subdural hematoma
Entered By (SB61 MD 12/30/2016 23:06) Ordered By (SB61 MD 23:06) MD Sign (SB61 MD 23:06) Order Cancelled (12/31/2016 00:28)
Elevate Head of Bed CONTIN ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49) Comments: Reverse trendelenberg at 30 degress if thoracic and lumbar spine are not cleared
Vital Signs Q1H ROUTINE
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (01/01/2017 00:00) MD Sign (12/30/2016 23:49)
MAGNESIUM LEVEL QDAY IN AM
Entered By (12/30/2016 23:49) Ordered By (23:49) MD Sign (23:49)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #383 (Electrolyte Protocol), place in chart
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
RN to Order: CONTIN ROUTINE Repeat K level 2 hr after KCl, Phosphorous level 2 hr after KPhos/NaPhos/PhosNaK,

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Non- Med Orders

Magnesium 2 hr after magnesium
Entered By (12/30/2016 23:49) Ordered By (23:49) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:49)
Comments: per Electrolyte Protocol (PROT #383)
Blood Glucose Testing - Bedside [ACCU- CHECK] Q4H ROUTINE If BGM< 35, repeat and send serum glucose level. Then give 25gm D50W IVP and recheck BGM in 30min. If BGM 35- 69, give 12.5gm D50W IVP and recheck BGM in 30min.
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Notify: CONTIN ROUTINE if BGM >250 and consider scale B (ICU pt) or scale D (non- ICU pt) House Officer
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Switch to GLYCOSYLATED HGB (HGA1C) CONTIN ROUTINE
Entered By (12/30/2016 23:59) Ordered By (23:59) MD Sign (23:59) Comments: if BGM not in target range after 12hrs on Sliding Scale Protocol and call physician
RN to Order: CONTIN ROUTINE serum glucose level if BGM< 35 mg/dL
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Nurse to Follow Protocol: CONTIN ROUTINE Print and follow PROT #14- A (TICU/SICU Insulin Sliding Scale), place in chart
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)
Call MD: CONTIN ROUTINE (Non- ICU Pt) if BG not in range after 12h on sliding scale to consider NEXT Scale OR ICU transfer & Insulin Infusion (PROT #15)
Entered By (12/30/2016 23:59) Ordered By (23:59) Completed By (12/31/2016 20:17) MD Sign (12/30/2016 23:59)

Disposition

This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture (RB40) 12/30/2016 21:09 Disposition decision is admit. Admit to Intensive Care unit. Condition at discharge - stable. (MAD1) 12/30/2016 21:12 History, physical findings, and management plan discussed with ED attending physician. Attending physically available and saw patient. Electronically signed by RANDALL BESS MD.
The designated co-signing physician is MITZI DILLON MD. (RB40) 12/30/2016 22:50 I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD. (MAD1) 01/01/2017 00:10 A discharge pain score was documented: Pain 0/10 (no pain) at 00:07. IV capped and flushed. pt is admitted to room 810, report given to RN in TICU, pt was transported by trauma RN, vitals stable, no complaints at this time, pt is A+OX4, (AM33) 12/31/2016 00:07 Disposition status is Admit. Admitted to Intensive Care Unit. RN accompanied patient. Monitor used during transport. Valuables inventoried and collected by UMC Public Safety. Patient physically left department and was removed from Tracking Board by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08 Electronically signed by ANTONIA MCNAMARA RN. (AM33) 12/31/2016 00:08

University Medical Center
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-383-2000

Final

Emergency Department Chart

Patient Name: PEREZ, MARTIN	Account Number: 9931347349
Medical Rec. Number: 0030138209	Birthdate: 01/08/1978 Gender: M
Arrival Date: 12/30/2016 20:54	Primary MD:
Visit Date: 12/30/2016 21:02	Attending MD:MITZI DILLON MD

Discharge Summary

Chief Complaint: NO DATA AVAILABLE.. Primary Diagnosis: Traumatic subdural hematoma; Free text DX: Possible right 8th rib fracture; Musculoskeletal chest pain; Free text DX: Traumatic fall.. Disposition Notes: This is a case of traumatic fall in a 30-year-old male with no reported past medical history who presented to the emergency department as a transfer from Saint Rose, after being pushed by a co-worker off of a roof assisting a 20 foot fall and loss of consciousness, being found on the ground for an unknown amount of time. Differential diagnosis included but was not limited to intracranial of/closed head injury, C-spine T-spine L-spine injury, chest wall injury, intra-abdominal, musculoskeletal injury. Initial vital signs within normal limits, hemodynamically appropriate and stable, physical exam showed tenderness posterior scalp as well as C-spine and T-spine, and left anterior chest wall tenderness to anterior compression, laboratory workup was unremarkable from outside hospital, imaging and diagnostic testing showed interhemispheric subdural measuring 7 millimeters with no midline shift common otherwise no acute injuries were noted from outside hospital imaging. At this time the patient is in stable condition, and is being consult to Trauma surgery for final disposition management. Clinical impression 1. Traumatic fall 2. Closed head injury 3. Subdural hematoma 4. Possible right 8th rib fracture; Disposition decision is admit; Condition at discharge - stable; Admit to Intensive Care unit; Electronically signed by RANDALL BESS MD; The designated co-signing physician is MITZI DILLON MD; History, physical findings, and management plan discussed with ED attending physician; Attending physically available and saw patient; I have reviewed the chart of MARTIN PEREZ and as the supervising staff physician concur on the final disposition - ELECTRONICALLY CO-SIGNED BY MITZI A DILLON MD.. Discharge Prescriptions: NO DATA AVAILABLE. (01/01/2017 00:10)

Substance Use

Tobacco

Smoking status
never a smoker [Confirmed by: ROBERT WILSON RN on 12/30/2016 21:09:00]

Alcohol

Alcohol use
no [ROBERT WILSON RN on 12/30/2016 21:09:00]

Staff Legend

AM33	ANTONIA MCNAMARA RN
AM80	ALEXIS MARTINEZ UNIT CLERK
CJ22	CATHERINE JURGENS RN
KR25	KRISTIN REED RN
MAD1	MITZI DILLON MD
MK23	MARTIN KOVACIK RN
RB40	RANDALL BESS MD
RW4	ROBERT WILSON RN
SB61	SAMUEL BERGIN MD
SL8	SUSAN LALUMIA RN

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360842
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT ABD AND PELVIS IV ONLY
*_==_**_==_**_==_*

EXAM: CT ABDOMEN PELVIS WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the lung bases to the pubis symphysis. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. Thin section coronal images were reconstructed from the axial data set. All images were reviewed and interpreted.
CONTRAST: Given IV contrast.

FINDINGS:
Ankylosis of the right SI joint noted.
Acute fracture deformity of the posterior right eighth rib is noted.
No acute fracture noted.
The lung bases are clear. The liver and portal veins are normal. The gallbladder is normal. The spleen is normal. The pancreas is normal. The adrenals are normal. The kidneys are normal. The distal esophagus and stomach are normal. The visualized portions of the small bowel are normal. The visualized portions of the colon are normal. The abdominal aorta is normal. The IVC is normal. There is no lymphadenopathy. Normal bladder.

IMPRESSION:
No acute traumatic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:53

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360841
Date of Service: 12/30/2016 9:14:00 AM
Exam: TR CT CHEST WITH CONTRAST
*_=_-**_=_-**_=_-*

EXAM: CT CHEST WITH CONTRAST

HISTORY: Trauma

COMPARISON: None.

TECHNIQUE: After the uneventful intravenous administration of nonionic iodinated contrast, thin section axial CT images were obtained from the thoracic inlet through the lung bases and adrenal glands. Thin section coronal images were reconstructed from the axial data set. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: Given IV IV.

FINDINGS:
No pulmonary infiltrates. No pulmonary nodules or masses. No pleural effusions. No hilar or mediastinal lymphadenopathy. Normal heart. Normal pulmonary vascularity. Normal thoracic aorta and great vessels. Normal adrenals. No fracture noted. No mediastinal hematoma, pneumothorax, pleural effusion or pericardial effusion.

IMPRESSION:
No traumatic thoracic abnormality noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:44

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360844
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT THORACIC SPINE RECONS
*_ == _**_ == _**_ == _*

EXAM: Thoracic spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted thoracic spine CT images are obtained.
Multilevel mild degenerative disk disease.
There is moderately severe bilateral T2-T3 neural foraminal stenosis secondary to facet hypertrophy.
No aggressive lytic or sclerotic bone lesions noted.
Thoracic vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No thoracic spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 21:55

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: EMG UMC
Rendering Physician: CHIN MD,HUBERT
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360843
Date of Service: 12/30/2016 9:15:00 AM
Exam: TR CT LUMBAR SPINE RECONS
*_=_-**-_=_-**-_=_-*

EXAM: Lumbar spine CT.

Information: Trauma, pain

Comparisons: None

Findings:
Axial, coronal and sagittal reformatted lumbar spine CT images are obtained.
Lumbar vertebrae have intact cortical margins, normal height and normal alignment.

Impressions:
No lumbar spine fracture or malalignment noted.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: HUBERT CHIN MD 12/30/2016 22:1

RECEIVED
FEB 28 2017
BY:

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: HOYE MD,STEPHEN
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360899
Date of Service: 12/31/2016 12:22:00 PM
Exam: TR SHOULDER 2V OR MORE (LEFT)
*_==_-**_==_-**_==_-*

EXAM: XR SHOULDER

HISTORY: Fracture

COMPARISON: None.

TECHNIQUE: Left shoulder, 3 views.

FINDINGS:
Bone mineralization appears age appropriate. No acute appearing fracture or dislocation.

IMPRESSION:
No acute osseous abnormality left shoulder-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: STEPHEN HOYE MD 2/8/2017 13:55

RECEIVED
FEB 28 2017
BY:_____

54

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: DOUGHERTY MD,DOUG
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7360878
Date of Service: 12/31/2016 2:00:00 AM
Exam: TR CT BRAIN W/O CONTRAST
*_=_-**-_=_-**-_=_-*

EXAM: CT BRAIN WITHOUT CONTRAST

HISTORY: Subdural hematoma, trauma patient

COMPARISON: None.

TECHNIQUE: Thin section axial CT images were obtained from the vertex of the skull to the foramen magnum without contrast. In accordance with CT protocols and the ALARA principle, radiation dose reduction techniques were utilized for this examination. All images were reviewed and interpreted.
CONTRAST: None.

FINDINGS:
A subdural hematoma is present within the interhemispheric fissure, greatest posteriorly where there is a maximal width of approximately 5 mm. There is layering of hemorrhagic material on the bilateral tentorium. No area of intraparenchymal, intraventricular, subarachnoid or epidural hematoma is currently identified. No intraparenchymal mass or mass effect is identified. There is chronic appearing tissue loss involving the anterior pole of the right temporal lobe. The ventricles and sulci are within normal limits for patient age. There is no hydrocephalus. Gray-white differentiation appears normal. There is no acute territorial infarct. The calvarium appears intact. The paranasal sinuses and mastoid air cells are grossly clear.

~Performed after hours
IMPRESSION:
Subdural hematoma within the interhemispheric fissure measuring up to 5 mm in width and layering on the bilateral tentorium.
Chronic appearing tissue loss involving the anterior right temporal lobe.
Findings were discussed with by the patients nurse Elaine myself at approximately 6:05 AM on December 31, 2016. She reports that the patient was scanned at an outside hospital with the reported size of the collection being 7 mm.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: DOUG DOUGHERTY MD 12/31/2016 6:10

RECEIVED
FEB 28 2017
BY:_____

Patient Name: PEREZ,MARTIN
Patient Date of Birth: 1/8/1978 12:00:00 AM
Medical Record Number: 030138209
Location: TRA UMC
Rendering Physician: SINGH MD,SUKHJINDER
Referring Physician: PHYSICIAN,UNKNOWN
Accession Number: UMC7361192
Date of Service: 12/31/2016 11:16:00 AM
Exam: MRI C-SPINE W/O CONTRAST
*_=_-**-_=_-**-_=_-*

EXAM: MR CERVICAL SPINE WITHOUT CONTRAST

HISTORY: Neck pain, cervicalgia.

COMPARISON: None.

TECHNIQUE: Axial and sagittal T1-weighted, T2-weighted, and STIR fat-suppressed T2-weighted MR images of the cervical spine were performed without contrast.
CONTRAST: None.

FINDINGS:
The intervertebral discs from C2 to T1 are normal in height and signal intensity. No significant disk bulges or herniated discs are present at any level. Normal vertebral alignment and spacing is present at all levels. Normal signal in the bone marrow and intervertebral disks. No spinal canal stenosis or neural foraminal narrowing. No vertebral or soft tissue edema. Normal signal in the cervical cord. No Chiari malformation.
There is right posterior paraspinal soft tissue swelling from T1 through T3.

IMPRESSION:
1. Normal MRI of the cervical spine without contrast.
2. Mild right posterior paraspinal soft tissue swelling from T1 through T3.-/*_-/_-/*_-/*_-/*_-/*_-

Electronically Signed By: SUKHJINDER SINGH MD 12/31/2016 13:19

RECEIVED
FEB 28 2017
BY:

SV

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

NOTICE OF CLAIM DENIAL
PLEASE READ THIS DOCUMENT

March 6, 2017

Martin Perez
3555 E. Lake Mead Blvd. #147
Las Vegas Nevada 89115

Re:	Employer:	Focus Framing
	Insurer:	Focus Plumbing
	Claim No:	2016-0022
	Accident Date:	12/30/2016
	Body Part:	Head Injury – Hematoma Only

Dear Martin Perez:

We are in receipt of your claim for the above-mentioned date of injury. Based on the information submitted to this office, your claim for date of injury of 12/30/2016 does not meet the requirements set forth in chapters 616A to 616D, inclusive, and 617, of NRS. The reason for denial is based on the following reasons and statutory authorities. The accident and/or injury described does not meet statutory requirements. We are unable to substantiate that your injury "arose out of and in the course and scope of your employment." Based on medical information submitted, it has been determined that the primary cause of your current disability is your pre-existing non-industrial condition, and that it has been established by a preponderance of the evidence that the injury and/or accident described is not a substantial contributing cause of the resulting condition.

NRS 616A030 defines an "Accident" as "...an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury," and/or as an "Injury" or "Personal Injury" as defined by NRS 616A.265 was "...a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence, including injuries to prosthetic devices . . ."

NRS 616C.150 provides that an injured employee or his dependents are not entitled to receive compensation pursuant to the provisions of chapters *616A* to *616D* of the *Nevada Revised Statutes* unless the employee or his dependents establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his employment. For the purposes of chapters *616A* to *616D* of the *Nevada Revised Statutes*, there is a rebuttal presumption if the employee files a notice of an injury pursuant to *NRS 616C.015* after his employment is terminated for any reason.

NRS 616C.175(1) provides that if an employee has a preexisting condition from a cause or origin that did not arise out of or in the course of his current or past employment; and he subsequently sustains an injury by accident arising out of and in the course of his employment which aggravates, precipitates or accelerates his preexisting condition, the resulting injury shall be deemed to be an injury by accident that is compensable pursuant to the provisions of chapters 616A to 616D, inclusive of NRS, unless the insurer can prove by a preponderance of the evidence that the subsequent injury is not a substantial contributing cause of the resulting condition.

If you should have any questions, please do not hesitate to contact our office.

If you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Officer at the address listed on the form, within seventy (70) days from the date of this determination. Failure to file a timely request with the Department of Administration, Hearing Officer may result in an order dismissing your case.

Sincerely,

Patty Pizano,
Claims Adjuster

cc: Focus Framing

University Medical Center
Division of Industrial Relations

Enclosure(s): Request for Hearing; Brief Description of Rights and Benefits (Pursuant to NRS 616C.050)

CERTIFICATE OF MAILING

I, Patty Pizano, Claims Adjuster, do hereby declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. That on March 6, 2017, service of the Notice of Claim Denial was made by depositing in the U.S. Mail in Las Vegas, NV, postage paid, addressed to:

Name Martin Perez
Address 3555 E. Lake Mead Blvd. #147, Las Vegas, Nevada 89115

Dated this 6 day of March, 20 17

Patty Pizano, Claims Adjuster

59

MORRIS//ANDERSON
PERSONAL INJURY & CRIMINAL DEFENSE

Mailing Address:
716 South Jones Boulevard
Las Vegas, NV 89107
P: 702-333-1111
F: 702-507.0092
morrisandersonlaw.com

ORIGINAL

FILED

REQUEST FOR HEARING

CLAIMANT INFORMATION:

Claimant:	Martin Duran Perez
Address:	3555 E. Lake Mead Blvd Apt 147
	Las Vegas, NV 89115
Date of Injury:	12-30-2016
Claim No.:	2016-0022

EMPLOYER INFORMATION:

Employer:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone No.:	702-220-5621

PERSON REQUESTING APPEAL: INJURED EMPLOYEE

I WISH TO APPEAL THE DECISION DATED: 03-06-2017

BRIEFLY EXPLAIN REASON FOR APPEAL:

Claimant does not agree with the insurer's determination of 03-06-2017, regarding Notice of Claim Denial.

ATTORNEY/REPRESENTATIVE:

Name:	Morris Anderson Law
Address:	716 S. Jones Blvd
	Las Vegas, NV 89107
Telephone:	702-333-1111

INSURANCE COMPANY:

Name:	Focus Plumbing
Address:	1220 S. Commerce Ste 120
	Las Vegas, NV 89102
Telephone:	702-220-5621

Signature

March 20, 2017
Date

1710955 NTT
60

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
2001 S. Maryland Pkwy
Las Vegas, Nevada 89102

Re:		
	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting TTD from December 30, 2016 to Present. Please be advised that this claim was denied. Please see attached Denial Letter.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

FOCUS PLUMBING

Self-Insured Self-Administered Workers Compensation
1220 S. COMMERCE SUITE 120, LAS VEGAS, NV 89102
702.220.5621 - 702.851.7938

March 30, 2017

Morris Anderson Law
Attn: Jacob Leavitt, Esq.
716 S. Jones Blvd
Las Vegas, Nevada 89107

Re:		
	Claimant:	Martin Duran Perez
	Claim #:	2016-0022
	Date of Loss:	12/30/2016
	Employer:	Focus Framing
	Insurer:	Focus Plumbing

Dear Jacob Leavitt, Esq:

I am in receipt of your letter dated March 21, 2017 requesting a transfer of care to Dr. Jason Garber as his primary care physician. This request is denied, as this is a denied claim.

Should you disagree with this determination, you may file the enclosed "Request for Hearing" form with the Department of Administration, Hearing Division within seventy (70) days from the date of this letter.

Sincerely,

Patty Pizano
Claims Adjuster

cc: Focus Framing
Martin Duran Perez
Daniel Schwartz, Esq.
Enclosure (Request for Hearing form)

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

/

Hearing Number: 1710955-MT
Claim Number: 2016-0022

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

The Claimant's request for hearing was filed on March 22, 2017 and a hearing was scheduled for MAY 25, 2017. The hearing was held on MAY 25, 2017, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present. The Claimant was represented by JACOB LEAVITT ESQ. The Employer was not present. The Employer and the Administrator were represented by DANIEL SCHWARTZ ESQ.

ISSUE

The Claimant appealed the determination of FOCUS PLUMBLING dated March 6, 2017.

The issue before the Hearing Officer is *claim denial.*

DECISION AND ORDER

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

Counsel and Claimant represent that on December 30, 2016, the Claimant had an issue with his paycheck being short so went over to where his supervisor was to discuss this; his supervisor at the time was up on a roof with his son. An argument pursued and the supervisor's son pushed the Claimant off the roof, approximately 10 to 12 feet. They are seeking Workers Compensation benefits.

In reviewing all evidence submitted, and taking into consideration the representations as depicted above, it is clear that an injury has occurred within the course and scope of the Claimant's employment, the Employer being notified timely, medical treatment sought timely, and the initial examining physician causally connecting all diagnosed conditions to this fall. The issue the Claimant had and pursued clarification by his direct supervisor is in fact considered work-related; records indicate the Claimant was not tied officer properly. Upon getting up on the roof; however, had the Claimant not been pushed as purported, this injury may not have occurred. The determination of the Insurer is hereby deemed improper and reversed. The Insurer is hereby remanded to accept this claim for benefits accordingly. ***NRS 6168.030, NRS 6168.265, NRS 616C.138, NRS 616C.150 (1)***

IT IS SO ORDERED this 1st day of June, 2017

Megan Trenkler
Hearing Officer

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final decision of the Hearing Officer, a request for appeal must be filed with Appeals Officer within thirty (30) days after the date of the decision by the 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 duly mailed, postage prepaid **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 2200 S. Rancho Drive., #210, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

JACOB LEAVITT ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89156

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 1st day of June, 2017

Dan Baiza
Employee of the State of Nevada

REQUEST FOR HEARING BEFORE THE APPEALS OFFICER
NEVADA DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested Industrial Insurance Claim of:

Hearing Number: 1710955-MT
Claim Number: 2016-0022

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS, NV 89115

FOCUS PLUMBLING
1220 S COMMERCE ST STE 120
LAS VEGAS, NV 89102

_____/

I WISH TO APPEAL THE HEARING OFFICER DECISION DATED: _____

(Please attach a copy of the Hearing Officer's Decision)

PERSON REQUESTING APPEAL: (circle one) CLAIMANT/EMPLOYER/INSURER

REASON FOR APPEAL: _____

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

Name of Attorney or Representative	Person requesting this hearing (please print)
Address	Person requesting this hearing (signature)
City, State, Zip Code	
Telephone Number	Telephone Number Date

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 no later than thirty (30) days after that decision at:

NEVADA DEPARTMENT OF ADMINISTRATION
APPEALS OFFICE
2200 S RANCHO DRIVE, SUITE 220
LAS VEGAS, NV 89102
(702) 486-2527

65

IN THE SUPREME COURT OF THE STATE OF NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Appellants, v. MARTIN DURAN PEREZ Respondent.	SUPREME COURT NO: 79856 DISTRICT COURT NO: A-18-774772-J

APPELLANTS' APPENDIX VOLUME 2

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Appellants Focus Framing and Sun City Electric

ALIKA ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorney for Respondent Martin Duran Perez

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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 10 day of April 2020, service of the attached **APPELLANTS' APPENDIX VOLUME 3** was made this date by depositing a true copy of the same for mailing, first class mail, and/or electronic service as follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

/s/ Joel P. Reeves, Esq.
An employee of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

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5/18/2018 4:44 PM
Steven D. Grierson
CLERK OF THE COURT

PTJR
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO: A-18-774772-J DEPT. NO.: Department 30

PETITION FOR JUDICIAL REVIEW

COMES NOW the Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC (hereinafter referred to as the "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ., and LEWIS BRISBOIS BISGAARD & SMITH LLP, in the above-entitled Petition for Judicial Review and petition this Court for judicial review of the Appeals Officer's Decision and Order, filed on May 3, 2018, a copy of which is attached hereto as "Exhibit 1."

The instant Petition for Judicial Review is filed pursuant to NRS Chapter 616C.370, which mandates that judicial review shall be the sole and exclusive authorized judicial proceeding in contested industrial insurance claims for compensation for injury or death and pursuant to NRS 233B.130, et seq.

4827-5538-2630.1
33947-19

The decision of the Appeals Officer was in violation of constitutional or statutory provisions, was in excess of the authority of the Appeals Officer, was based upon errors of law, is arbitrary or capricious in nature, and constitutes an abuse of discretion. The Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, specifically request, pursuant to NRS 233B.133, that this Court receive written briefs and hear oral argument.

DATED this 15 day of May, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 18th day of May, 2018, service of the attached **PETITION FOR JUDICIAL REVIEW** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed follows:

Morris Anderson Law
Jacob Leavitt, Esq.
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

Adam P. Laxalt, Esq.
Nevada Attorney General
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Patrick Cates
Director, Department of Administration
Nevada Dept. Of Administration
515 East Musser Street, Third Floor
Carson City, Nevada 89701-4298

Department of Administration
Hearings Division – Appeals Office
Attn: Appeals Officer Gary Pullam, Esq.
2200 S. Rancho Dr. Ste. 220
Las Vegas, NV 89102
Appeal Nos.: **1505946-GP; 1506242-GP; 1509390-GP; 1513312-GP**

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

4827-5516-6881.1
33943-09

EXHIBIT 1

EXHIBIT 1

BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
Alika@bighornlaw.com
Attorneys for Claimant

FILED
MAY 03 2018
APPEALS OFFICE

NEVADA DEPARTMENT OF ADMINISTRATION

BEFORE THE APPEALOFFICER

In the Matter of the Contested Insurance Claim of MARTIN DURAN PEREZ, Claimant.	APPEAL NO: 1714955-CJY HEARING NO.: 1710955-MT EMPLOYER: Focus Plumbing/Framing CLAIM NO.: 2016-0022

DECISION AND ORDER

This matter was submitted for decision for the Appeals Officer. Claimant was represented by ALIKA K. ANGERMAN, Esq. of the law Bighorn Law; Employer FOCUS PLUMBING (hereinafter referred to as "Employer"), was represented by DANIEL SCHWARTZ, ESQ. of Lewis Brisbois, Bisgaard & Smith LLP.

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FINDING OF FACTS

1. On December 30, 2016, Claimant suffered an injury while in the course and scope of his employment as a laborer with Employer. Claimant was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. On December 30, 2016 Claimant went to ask Mr. Pedro Rosales about his check. Claimant climbed to the roof of the house where Mr. Rosales was working. Claimant was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Claimant off of the roof. Claimant fell to the ground where he landed sustaining serious injuries to include, but not limited to "1) traumatic fall 2) Traumatic subdural hematoma 3) Possible right 8th rib fracture 4) Musculoskeletal chest pain" as the initial hospital diagnosis. Although not working on Pedro Rosales' crew on December 30, 2016, Claimant credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales.

2. On December 30, 2016, Claimant underwent CT scans of the chest, abdomen, thoracic spine and lumbar spine.

3. On December 31, 2016, Claimant had an x-ray performed on his shoulder and a CT scan of his brain. In addition, Claimant underwent an MRI of his cervical.

4. On March 6, 2017, Employer issued a determination denying Claimant's claim.

5. On March 20, 2017, Claimant appealed Employer's claim denial determination.

6. On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination.

7. On June 30, 2017, Employer appealed Hearing Officer Trenkler's Decision and Order and filed a Motion for Stay Pending Appeal.

8. On July 17, 2017, Claimant filed an Opposition to Motion For Stay Pending Appeal.

9. On August 2, 2017, Employer's Motion for Stay was granted.

10. After consideration of the totality of the evidence presented in this case and the arguments of counsel, I find as follows:

a. I find that Claimant was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead me to conclude the claim is compensable. The decision of the Hearing Officer is proper and AFFIRMED.

b. This is not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. There is a clear indication that the work issue (short paycheck) was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)]. As such Claimant is entitled to all appropriate benefits.

c. These Findings of Fact are based upon substantial evidence within the record.

11. If any finding of fact is more appropriately deemed a conclusion of law it shall be so deemed, or vice versa.

CONCLUSION OF LAW

1. Nevada Revised Statutes ("NRS") 616C.150 only requires Claimant to demonstrate that he was injured within the course and scope of his employment by preponderance of the evidence, nothing greater. "NRS 616C.150 does not require an injured worker to offer a greater number of expert witnesses who express opinions in his favor to establish that an injury arose. . . [r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence." McClanahan v. Raley's, Inc. 34 P.3d 573, 576 (2001).
2. Workers' Compensation is statutorily driven and defined. Claimant must prove, by preponderance that he was in the course and scope when an accident occurred.
3. Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010).
4. The threshold requirement in an industrial injury is that Claimant's injury must have occurred within

the course and scope of employment. Phillips, at 5. Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. Here, Claimant was working at an assigned time and scheduled to be in the same construction housing complex. Claimant went to the house across the street to inquire with the foreman that he worked with the week prior as to why his hours were not properly reflected. His pay and hours are indeed work related. The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of employment. Claimant was on the job when this incident occurred, and the injuries resulted by the assault due to work-related issues (short paycheck).

5. Accident is statutorily defined in NRS 616A.030 as "Accident" means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury." Clearly, Claimant did not anticipate being pushed off of a roof by anyone let alone someone who was not a part of the conversation. Claimant wanted clarification for his hours from the foreman he worked with for the subject pay period. In the instant case, Claimant meets the statutory requirement of accident.

6. Injury is defined in NRS 616A.265 as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence. Here, the initial treating physician who completed the Form C-4 causally related the injury to the work place incident. Employer bears, the burden under NRS 616C.175 if it believes Claimant has a prior condition. Employer must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim.

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ORDER

Therefore, after considering the totality of the evidence presented in Appeal 1714955-CJY IT IS HEREBY ORDERED that the Hearing Officer's decision in June 1, 2017 is hereby AFFIRMED and the Employer's March 6, 2017 claim denial determination is REVERSED.

Dated this 30 day of ~~April~~ May, 2018.

APPEALS OFFICER

CHARLES J. YORK, ESQ.

Submitted by:

BIGHORN LAW

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 South Jones Boulevard
Las Vegas, NV 89107

NOTICE: Pursuant to NRS 616.543 and NRS 233B.130, should any party desire to appeal this determination of the Appeals Officer, a Petition of Judicial Review must be filed with the District Court within thirty (30) days after service by mail of this Decision.

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of BIGHORN LAW and that on the day of April, 2018, I duly deposited for mailing at Las Vegas, Nevada, a true copy of the forgoing **DECISION** and **ORDER**, postage prepaid, addressed to the following:

Daniel Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara Suite 300, Box 28
Las Vegas, NV 89102

Focus Framing/Plumbing
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102

Martin Duran Perez
3555 E. Lake Mead
Blvd Apt. #147
Las Vegas, NV 89115

Janet Jaramez
An Employee of Bighorn Law

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, 2200 S. Rancho Drive, #220, Las Vegas, Nevada, to the following:

MARTIN DURAN PEREZ
3555 E LAKE MEAD BLVD #147
LAS VEGAS NV 89115

ALIKA ANGERMAN ESQ
BIGHORN LAW
716 S JONES BLVD
LAS VEGAS NV 89107-3614

FOCUS PLUMBING
ATTN PATTY PAIZANO
1220 S COMMERCE ST STE 120
LAS VEGAS NV 89102

DANIEL SCHWARTZ ESQ
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W SAHARA AVE STE 300 BOX 28
LAS VEGAS NV 89102-4375

Dated this 3rd day of ~~April, 2~~May 2018.

Estela Pinedo, Legal Secretary II
Employee of the State of Nevada

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5/23/2018 3:55 PM
Steven D. Grierson
CLERK OF THE COURT

MOT
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

PETITIONERS' MOTION FOR STAY PENDING APPEAL AND REQUEST FOR ORDER SHORTENING TIME

COMES NOW the Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, (hereinafter referred to as the "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ., and JOEL P. REEVES, ESQ. of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP, and applies to this Court for a Stay of the Appeals Officer's Order, filed on May 3, 2018, pending decision on the merits in the appeal by Petitioners to the District Court, filed

separately. Further, Petitioners respectfully request an Order Shortening Time for this Motion to be heard.

This Motion and request for an Order Shortening Time is made and based upon the papers and pleading on file herein, the Affidavit of JOEL P. REEVES, ESQ., the attached Points and Authorities, and any argument of counsel on this matter.

DATED this 22 day of May, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:_____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

AFFIDAVIT IN SUPPORT OF ORDER SHORTENING TIME

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, JOEL P. REEVES, ESQ., do herby swear under penalty of perjury that the assertion of this affidavit are true, that:

1. Affiant is an attorney authorized and duly licensed to practice law in the State of Nevada and is one of the attorneys of record for Petitioners.

2. This affidavit is made in support of an ex-parte order shortening time for this Motion for Stay to be heard.

3. Affiant has personal knowledge of all matters set forth herein, except those matters stated on information and belief, and is competent to testify thereto.

4. The above-named Affiant has good cause to request this Court for an Order Shortening time. NRS 616C.375 states that an Appeals Officer's Decision and Order is not stayed unless the District Court issues an Order of Stay within thirty (30) days from the date of the Decision and Order. With an additional three (3) days for mailing, Petitioners will have to comply with the Appeal Officer's Decision on or about June 5, 2018.

5. That a stay in this matter is warranted as, without one, Petitioners will have to comply with the Decision and Order at issue and administer the benefits ordered therein, essentially rendering the underlying Petition for Judicial Review moot.

6. This Motion and request for Order Shortening Time is made in good faith and not for the purpose of undue advantage.

Further Affiant sayeth naught.

DATED this 22 day of May, 2018.

JOEL P. REEVES, ESQ.

SUBSCRIBED AND SWORN to before me
this 22 day of May, 2018.

NOTARY PUBLIC in and for said
County and State

JENNIFER BRYAN
Notary Public, State of Nevada
Appointment No. 88-4226-1
My Appt. Expires Nov 1, 2019

ORDER SHORTENING TIME

GOOD CAUSE APPEARING THEREFOR,

IT IS HEREBY ORDERED that the time of hearing of the above-entitled matter be, and the same will be heard, on the 19th day of June 2018, at 9:30 A.M./P.M. in Dept. No. 10.

DATED this 23 day of May, 2018.

DISTRICT COURT JUDGE

Respectfully submitted by:

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

ORDER GRANTING TEMPORARY STAY

Having reviewed the attached Affidavit in support of Order Granting Temporary Stay, and finding that good cause exists therefore, it is hereby ORDERED ADJUDGED AND DECREED that a temporary stay shall be entered in this matter on this 23 day of May, 2018, and continuing through the date of the hearing on Petitioners' Motion for Stay.

DATED this 23 day of May, 2018.

DISTRICT COURT JUDGE

Respectfully submitted by:

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NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Petitioners' MOTION FOR STAY, a copy of which is attached hereto, has been set for hearing by this Court on the _____ day of _____, 2018, in the aforementioned Department at _____ __.m., or as soon thereafter as counsel can be heard.

DATED this ____ day of May, 2018.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By _____

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Attorneys for Petitioners

STATEMENT OF THE FACTS

Petitioners timely appealed the erroneous May 3, 2018 Decision and Order of the Appeals Officer in the underlying workers' compensation administrative appeal. The Appeals Officer erroneously ruled that Respondent had proven that he was entitled to an accepted claim for workers' compensation benefits. See Exhibit A attached hereto.

On December 30, 2016, a C-4 form was completed which alleged that the Respondent, MARTIN DURAN PEREZ (hereinafter referred to as "Respondent"), was injured when he was pushed off of a roof. The Respondent was treated at UMC Trauma for subdural hematoma on the date of the incident. The Respondent was taken off of work. (Exhibit p. 1)

A Supervisor Accident Investigation Report notes that the Respondent went to the second floor with no fall protection and was involved in work place violence. (Exhibit p. 2)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (Exhibit pp. 3-4)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the Respondent was mad due to an alleged pay check shortage while working on Pedro's crew. The Respondent climbed an 8 foot ladder to get to where Pedro was working on a second floor. Pedro was tied off with safety gear but Respondent was not. The discussion with the two got "elevated." Pedro's son came up from the first floor to aid his father, and when Pedro's son asked the Respondent to stop, the Respondent allegedly started yelling at him and the son put his hands on the Respondent and pushed him away and the Respondent eventually fell off of the roof. (Exhibit pp. 5-9)

Pedro Rosales also gave a statement and alleged that the Respondent came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the Respondent to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (Exhibit pp. 10-11)

Pedro's son, Jose Rosales gave his version of what happened, as well. (Exhibit pp. 12-13)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the Respondent who fell off of roof after a discussion between the parties. (Exhibit pp. 14-17)

A statement from the Respondent indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (Exhibit p. 18)

An Industrial Injury or Illness form in Spanish was also executed by the Respondent. (Exhibit pp. 19-20)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (Exhibit p. 21)

The Respondent was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The Respondent was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (Exhibit pp. 22-56)

A claim denial determination was issued on March 6, 2017. (Exhibit pp. 57-59)

On March 21, 2017, the Respondent appealed the claim denial determination. (Exhibit p. 60)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (Exhibit pp. 61-62)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (Exhibit pp. 63-65.) Insurer filed a timely appeal. (Exhibit p. 66.) ***In addition, the Insurer filed a Motion for a Stay of the Hearing Officer's decision, which was granted.*** (Exhibit p. 68.)

On February 9, 2018, this case came on for hearing before the Appeals Officer. The testimonies of four separate witnesses were taken: Respondent; Respondent's brother-in-law; and two safety directors for Employer (Nicholas Pao and Kevin Mendoza). Of note, Respondent testified that, on the day in question, he was working on a house under the supervision of a crew leader named Francisco. On that day, Respondent received a check for the work he had done the previous week when he was working for a different crew leader, Pedro. (Exhibit pp. 75-76; 79-81) Respondent believed that his paycheck was low and testified that he went to Pedro to discuss his paycheck. ***Respondent testified that he did not speak with Mr. Pao on that day.*** Respondent testified that he left the job site that he was working on, walked three houses down to where Pedro was, climbed a ladder to get to Pedro, did not attach any sort of safety measures to himself, and spent at least ten (10) minutes talking to Pedro on the second floor of a house frame. Respondent also testified that no one that house frame was wearing safety measures. After about ten (10) minutes of discussion, Pedro's son climbed the ladder and pushed Respondent off the house.

The brother-in-law (Eduardo Leon) was also working on the job site but his testimony did not add anything worth noting to this case.

Mr. Pao, a safety director for Employer, testified that, on the day in question, he was on the job site prior to the incident and testified that he and Mr. Mendoza (the other safety director) spoke with Respondent about his check. Mr. Pao testified as follows

> NICHOLAS PAO: Yeah, [Respondent] brought it to our attention that there was a discrepancy on his paycheck from Pedro. We had basically told him, at the end of the day, take it to the office and Lucy would get that corrected.
>
> DANIEL SCHWARTZ: At that point in time, when you were having this conversation with him, would Pedro have had any ability to do anything with that paycheck?
>
> NICHOLAS PAO: No. He couldn't have done nothing. He could've maybe made a phone call and told Lucy to get the check corrected, but as far as him cutting a check for him, no.
>
> DANIEL SCHWARTZ: So, your—your—I don't want to say advice, but what you told Mr. Duran-Perez, concerning the paycheck was to go to the office.
>
> NICHOLAS PAO: Go to the office at the end of the day. Yeah.
>
> DANIEL SCHWARTZ: And then did you leave the jobsite?

NICHOLAS PAO: Yeah.

(Exhibit p. 101:6-24)

Mr. Pao also testified that, contrary to Respondent's testimony, Pedro was in fact wearing a safety harness. (Exhibit p. 103; 104-105) Further, Mr. Pao explained the check payment process. Crew leaders (like Pedro and Francisco) keep track of their subordinate's hours and turn those hours into a foreman and the foreman turns the hours into payroll and payroll issues checks. (Exhibit p. 104) He reiterated that a foreman would not be able to do anything with a check after it was cut.

Mr. Mendoza corroborated Mr. Pao's testimony as he helped translate for Mr. Pao on that day.

On May 3, 2018, the Appeals Officer issued the subject Decision and Order reversing claim denial. Of note, the Decision and Order makes no mention whatsoever of any of the testimony given. Nor does it comment on the credibility of any witness. (Exhibit A)

Petitioners timely filed the instant Petition for Judicial Review and hereby request a stay of the Appeals Officer's erroneous decision.

POINTS & AUTHORITIES

II.

JURISDICTION

NRS 233B.140 provides this Court with authority to hear the instant Motion for Stay:

> 1. A petitioner who applies for a stay of the final decision in a contested case shall file and serve a written motion for the stay on the agency and all parties of record to the proceeding at the time of filing the petition for judicial review.
>
> 2. In determining whether to grant a stay, the court shall consider the same factors as are considered for a preliminary injunction under Rule 65 of the Nevada Rules of Civil Procedure.
>
> 3. In making a ruling, the court shall:
>
> (a) Give deference to the trier of fact; and
>
> (b) Consider the risk to the public, if any, of staying the administrative decision.

The petitioner must provide security before the court may issue a stay.

For reference, **NRCP Rule 65** provides in pertinent part as follows:

(a) Preliminary injunction.

(1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(2) Consolidation of hearing with trial on merits. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial. This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury....

(d) Form and scope of injunction or restraining order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

III.

LEGAL ARGUMENT

A.

Standard Of Review

The standard for granting a stay was enunciated in the case of Kress v. Corey, 65 Nev. 1, 16-17, 189 P.2d 352, 360 (1948) as follows:

> an order for a supersedeas or stay will only be granted on good cause shown and where a proper case for exercise of the court's discretion is made out. As a rule a supersedeas or stay should be granted, if the court has the power to grant it, [1] whenever it appears that without it the object of the appeal or writ of error may be defeated, or [2] that it is reasonably necessary to protect Petitioner or plaintiff in error from irreparable or serious injury in the case of reversal, and [3] it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury, in case of affirmance on the other hand, as a rule, a supersedeas or stay will not be granted unless it appears to be necessary to prevent irreparable injury or a miscarriage of justice. (citations removed)(numeration added)

...

A party requesting a stay must also prove a reasonable likelihood of success on the merits. Success on the merits for Petitions for Judicial review of a final decision of an agency is governed by NRS 233B.135 as follows:

> **NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.**
> 1. Judicial review of a final decision of an agency must be: (a) Conducted by the court without a jury; and (b) Confined to the record. In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.
> 2. 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. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.
> 3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
> (a) In violation of constitutional or statutory provisions;
> (b) In excess of the statutory authority of the agency;
> (c) Made upon unlawful procedure;
> (d) Affected by other error of law;
> (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
> (f) Arbitrary or capricious or characterized by abuse of discretion.

The standard of review is whether there is substantial evidence to support the underlying decision. The reviewing court should limit its review of administrative decisions to determine if they are based upon substantial evidence. North Las Vegas v. Public Service Common, 83 Nev. 278, 291, 429 P.2d 66 (1967); McCracken v. Fancy, 98 Nev. 30, 639 P.2d 552 (1982). Substantial evidence is that quantity and quality of evidence which a reasonable man would accept as adequate to support a conclusion. See, Maxwell v. SIIS, 109 Nev. 327, 331, 849 P.2d 267, 270 (1993); and Horne v. State Indus. Ins. Sys., 113 Nev. 532, 537, 936 P.2d 839 (1997).

When reviewing administrative decisions, this Court has held that, on factual determinations, the findings and ultimate decisions of an agency are not to be disturbed unless they are clearly erroneous or otherwise amount to an abuse of discretion. Nevada Industrial Common v. Reese, 93 Nev. 115, 560 P.2d 1352 (1977).

An administrative determination regarding a question of fact will not be set aside unless it is against the manifest weight of the evidence. Nevada Indus. Common v. Hildebrand, 100 Nev. 47, 51, 675 P.2d 401 (1984).

B.

An Order Granting Stay is Appropriate Until this Appeal is Heard and Decided on its Merits

The Nevada Supreme Court has consistently held that a stay is appropriate under circumstances such as those that exist in the instant case. Kress, Id. In DIR v. Circus Circus, 101 Nev. 405, 411-12, 705 P.2d 645, 649 (1985), the Nevada Supreme Court stated that an insurer's proper procedure when aggrieved by a decision is to seek a stay. The Nevada Supreme Court has also recognized that a stay should be granted where it can be shown that the Petitioner would suffer irreparable injury during the pendency of the appeal, if the stay is not granted. White Pine Power v. Public Service Commission, 76 Nev. 263, 252 P.2d 256 (1960).

The Nevada Supreme Court held, in Ransier v. SIIS, 104 Nev. 742, 766 P.2d 274 (1988), that an insurer may not seek recoupment of benefits paid to a Respondent that were later found to be unwarranted on appeal. However, it must be noted that NRS 616C.138 was recently modified to allow insurers to recover amounts paid during the pendency of an appeal "from a health or casualty insurer" if the insurer is found to be entitled to the same. However, if there is no health or casualty insurer, Ransier applies and insurers cannot recover anything at all. Here, just as in most cases, there is nothing to indicate whether Respondent has health or casualty insurance. Furthermore, under no circumstances could an insurer recover any wage replacement benefits such as temporary partial disability or temporary total disability benefits.

In the instant case, an order granting a Stay of the Appeals Officer decision is appropriate for the reasons set forth herein. As will be discussed in detail below, the Appeals Officer's Decision and Order reversing claim denial was issued under color of a legal error. Furthermore, and more relevant to this Motion for Stay proceeding, there is no known pending medical treatment for the Respondent. The only affect that Appeals Officer's Decision has is requiring

Petitioners to issue retro-active benefits. Petitioners will submit to this Court that retro-active benefits can be issued at any time. However, once issued, they are unrecoverable.

This case is precisely the scenario in which a stay is appropriate. Petitioners have shown a substantial likelihood of prevailing on the instant appeal and Petitioners will be irreparably harmed if the instant motion is not granted. Accordingly, Petitioners contend that they have made the requisite showing for the granting of a stay of the Appeals Officer's decision until such time as a hearing can be conducted on the merits of its appeal.

C.

Respondent Will Not Be Harmed By the Granting of a Stay

In the instant case, Respondent will not be harmed by the granting of this stay. There are no pending medical procedures which a Stay would prevent. The only issue would be retro-active benefits that Petitioners cannot recover. However, should Respondent succeed on this appeal, he will absolutely receive all benefits which are due to him. The only real harm to Respondent is that he would have to wait.

The only potential for irreparable harm is to Petitioners. Accordingly, Petitioners have again made the requisite showing for the granting of a stay of the Appeals Officer's decision until such time as a hearing can be conducted on the merits of Petitioners' appeal.

D.

Standard Regarding Merits of Underlying Appeal

As for the merits of the underlying appeal, it was the Respondent, not Petitioners, who had the burden of proving her entitlement to any benefits under any accepted industrial insurance claim by a preponderance of all the evidence. State Industrial Insurance System v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Johnson v. State ex rel. Wyoming Worker's Compensation Div., 798 P.2d 323 (1990); Hagler v. Micron Technology, Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove her case, the Respondent has the burden of going beyond speculation and conjecture. That means that the Respondent must establish all facets of the claim by a preponderance of all the evidence. To prevail, a Respondent must present and prove more evidence than an amount which would make her case and her opponent's "evenly balanced."

Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993); SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218 (1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, the Law of Workmen's Compensation, § 80.33(a).

NRS 616A.010(2)makes it clear that:

> A claim for compensation filed pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS must be decided on its merit and not according to the principle of common law that requires statutes governing workers' compensation to be liberally construed because they are remedial in nature.

E.

The Determination to Deny This Claim is Proper

Here, the issue is whether the Appeals Officer erred in ordering this claim denial reversed. Most importantly, Petitioners want to bring this Court's attention to the fact that the Appeals Officer's Decision does not even mention the copious amount of testimony taken in this case. Instead, the Appeals Officer relies exclusively on the paper evidence filed by the parties, i.e. the exact same evidence which convinced the Appeals Officer that the Hearing Officer's Decision to reverse claim denial should be stayed. Petitioners would submit that the decision to completely ignore the testimony or even comment on the credibility of the witnesses is reversible error in and of itself.

Moreover, by excluding reference to the testimony, the Appeals Officer also excluded all evidence of how Respondent's paycheck process works and how the paycheck dispute resolution process was explained to Respondent. It was legal error to find this claim compensable when Respondent was explicitly informed by Mr. Pao and Mr. Mendoza that his prior crew leader (Pedro) had no control over paycheck dispute resolution. As will be shown below, though certain types of work place violence can be compensable when the violence is begat by an argument over work related issues, if the parties to the violence have no authority over the argument subject, any injuries which result are not compensable because the argument was not related to the parties' job performance.

Under NRS 616C.150(1), the Respondent has the burden of proof to show that the injury arose out of and in the course and scope of his employment. The Respondent must satisfy this burden by a preponderance of the factual and medical evidence. Further, NRS 616B.612 mandates that an employee is only entitled to compensation if he is injured in the course and scope of his employment.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a **causal connection between the injury and the employee's work** ... the injured party must establish a link between **the workplace conditions and how those conditions caused the injury** ... a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997). (emphasis added)

The same Court further stated that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers/employers absolutely liable for injuries suffered by employees who are on the job." (Id.)

Further, the Nevada Supreme Court held in Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005):

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury. Further, a Respondent must demonstrate that the origin of the injury is related to some risk involved within the scope of employment. However, if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the Respondent's employment. Finally, resolving whether an injury arose out of employment is examined by a totality of the circumstances.

With respect to the subject issue of assaults, Nevada decisions are sparse. However, the Court did endorse the general rule that "injuries resulting from assaults by fellow workmen when the attack results from personal animosity unconnected with the employment, are not compensable." Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969)(Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956)). The salient portion

of the rule above is the holding that injuries unconnected to employment are not compensable. This is the guiding principle in determining compensability of workers' compensation claims.

Professor Larson's treatise on workers' compensation expounds on this subject and explains that claim denial has been upheld when workplace fights concern a subject which the employee had no control over. See 1 Larson's Workers' Compensation Law § 8.01[4] (2018). For example, claim denial was affirmed where a worker was killed by another worker over a dispute as to the contents of a coal car when neither party had any ability to control what was in the car. Court held that "[t]he interests of the employer were not being aided, protected or advanced in any manner by what [the claimant] did, and the quarrel and consequent injury had no reasonable connection with any work then being done for the plaintiff in error." Marion Cty. Coal Co. v. Indus. Com., 292 Ill. 463, 466, 127 N.E. 84, 85 (1920).

In another case, a claimant was injured while protecting his employer's property from teamsters who were in a dispute with the employer. The Court upheld claim denial under the theory that "[h]ad Respondent remained at his work he would not have been injured. His presence at the place of fighting was in pursuance of no demand of his employment." Clark v. Clark, 189 Mich. 652, 655, 155 N.W. 507, 508 (1915).[1]

Finally, in a more recent decision, two years prior to the controversy therein, a claimant had used her own personal money to buy a drink machine for the office. On the subject day, a drink truck was parked in the parking lot to refill the machine. A police officer wrote the truck driver a parking ticket and the claimant came out to contest the ticket. The claimant was eventually arrested for disorderly conduct and sustained injury during the arrest. Court upheld claim denial as there was "no testimony from plaintiff, her superior or any other witness that states that plaintiff had any supervisory authority over the parking lot as a result of her employment and was thus involved with duties created by her job at the time she was injured... We are of the opinion that the trial court could properly find that ***any injuries suffered by plaintiff did not occur while the employee was rendering service which she was hired to do to her employer and,***

[1] See Also Libraro v. Ocean Casket Co., 60 A.D.2d 736, 401 N.Y.S.2d 304 (App. Div. 1977) where claim denial was affirmed when an employee left his employment to assist a co-employee who was being assaulted and was then himself shot.

therefore, was not in the course of the employment." Legions v. Liberty Mut. Ins. Co., 703 S.W.2d 620, 623 (Tenn. 1986)(emphasis added)

Here, just as in the cases cited above, neither Respondent, Pedro, nor Pedro's son had any authority over the subject of the dispute, i.e. Respondent's paycheck. Respondent was even informed by Mr. Pao and Mr. Mendoza on the very day of the incident that if he desired to contest his paycheck, the proper way to do so was to contact payroll at the end of the day. Instead of doing that, Respondent left his job site, walked over to Pedro's job site, climbed to the second story of a house frame, did not attach any safety equipment, and engaged in a ten (10) minute long argument about the paycheck before Pedro's son unfortunately pushed him off the frame. Though Respondent's injuries are unfortunate, in no way was Respondent performing his job at the time of his injuries.

Indeed, Respondent left his job duties to discuss a subject with Pedro that he knew Pedro had no authority over. By virtue of the fact that Pedro had no authority over Respondent's paycheck dispute and compounded by the fact Respondent had just that day been informed as to the proper way to dispute his paycheck, Respondent left the course and scope of his employment when he walked off his job site to engage Pedro. Put simply, the argument with Pedro was not related to Respondent's employment because Respondent had just been informed the proper way to dispute his paycheck and he knew that Pedro had no authority to adjust his pay.

The Appeals Officer was apprised of the state of this law at the hearing on this matter. By not even mentioning the testimony of any witness and therefore failing to take into account the fact that the subject altercation was *not* related to Respondent's employment, the Appeals Officer committed reversible error.

IV.

CONCLUSION

Based upon all of the above, it is the belief of Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, that they have reason in good faith to ask for a stay of the Appeals Officer's decision, dated May 3, 2018, particularly in light of the clear errors of law and abuse of discretion which has been established above.

This is not an appeal based solely on a disagreement over the facts. Rather, we are faced with an Appeals Officer's Decision which violates clear and specific legal precedent and statutory schemes. The Appeals Officer's improper application of the law will likely result in irreparable harm to these Petitioners if the instant stay is not granted. Respondent, on the other hand, will suffer no harm if this stay is granted. This clear error of law is exactly the situation in which a stay is proper.

WHEREFORE, Petitioners FOCUS FRAMING and SUN CITY ELECTRIC, respectfully requests that this Court grant its Motion for Stay Pending Appeal of the matter at the time of hearing.

DATED this 22 day of May, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 23rd day of May, 2018, service of the attached **MOTION FOR STAY PENDING APPEAL and REQUEST FOR ORDER SHORTENING TIME** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Morris Anderson Law
Jacob Leavitt, Esq.
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

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Steven D. Grierson
CLERK OF THE COURT

OPP
BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
Alika@bighornlaw.com
Attorneys for Respondent

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO: A-18-774772-J DEPT. NO.: X

RESPONDENT'S OPPOSITION TO PETITIONERS' MOTION FOR STAY

Respondent, MARTIN DURAN PEREZ (hereinafter "Respondent"), by and through his attorney ALIKA K. ANGERMAN, ESQ., submits his Opposition to Petitioners, FOCUS PLUMBING and SUN CITY ELECTRIC's (hereinafter referred to as "Petitioners"), Motion for Stay Pending Appeal signed by the attorney on May 24, 2018 and certified to have been mailed that same day.

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I.

STATEMENT OF FACTS

On December 30, 2016, Respondent suffered an injury while in the course and scope of his employment as a laborer with Employer. See Petitioners' Exhibit B at 1. Respondent was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. On December 30, 2016 Respondent went to ask Mr. Pedro Rosales about his check. Id. at 75. Respondent climbed to the roof of the house where Mr. Rosales was working. Respondent was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Respondent off of the roof. Id. at 76. Respondent fell to the ground where he landed sustaining serious injuries to include, but not limited to "1) traumatic fall 2) Closed head injury 3) Subdural hematoma 4) Possible right 8th rib fracture" as the hospital diagnosis. Id. at 40. Although not working on Pedro Rosales' crew on December 30, 2016, Respondent credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. See Petitioners' Exhibit A at 2.

Respondent underwent CT scans of the chest, abdomen, thoracic spine and lumbar spine. Further, Respondent had an x-ray performed on his shoulder and a CT scan of his brain. In addition, Respondent underwent an MRI of his cervical. See Petitioners' Exhibit B at 22-56.

On March 6, 2017, Employer issued a determination denying Respondent's claim. Id. at 57-59.

On March 21, 2017, Respondent appealed Employer's claim denial determination. Id. at 60.

On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination. Id. at 63-65

On June 30, 2017, Employer appealed Hearing Officer Trenkler's Decision and Order and filed a Motion for Stay Pending Appeal. Id. at 66.

On July 17, 2017, Respondent filed an Opposition to Motion For Stay Pending Appeal.

On August 2, 2017, Employer's Motion for Stay was granted. Id. at 68.

On February 9, 2018, the matter was heard before Appeals Officer York. Appeals Officer York

found that Respondent was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. See Petitioners' Exhibit A at 3. The circumstances of this assault lead the Appeals Officer to conclude the claim is compensable. Id. Appeals Officer York found it was not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. Id. There is a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)]. Id.

II.

ARGUMENT

A. PETITIONERS BEAR THE BURDEN TO PROVE THAT THEY ENJOY A LIKELIHOOD OF SUCCESS ON APPEAL AND THAT APPEALS OFFICER'S DECISION IS AN ABUSE OF DISCRETION—RESPONDENT WILL MORE LIKELY SUCCEED ON THE MERITS

Petitioners' Motion for Stay is entirely devoid of law or fact, which would provide a reasonable basis for staying the Appeals Officer's Decision and Order and said Motion should be DENIED. It is simple, the claim should be accepted on the actual injury and diagnosis.

There are two (2) main factors to consider when presented with a motion for stay: (1) the likelihood of prevailing on the merits on the appeal; and (2) whether the appellant will suffer irreparable harm if the stay is denied. Kress v. Corey, 65 Nev. 1, 17, 189 P.2d 352, 360 (1948); Christensen v. Chromalloy American Corp., 99 Nev. 34, 656 P.2d 844 (1983); Hansen v. Eighth Judicial Dist. Ct. Ex el County of Clark, 116 Nev. 650, 657, 6 P.3d 982, 986-87 (2000).

The right to appeal does not carry with it the automatic right to a stay, as the moving party solely bears the burden to prove a likelihood of success and also show that the decision of the lower agency hearing is fundamentally flawed factually or is an abuse of discretion. State ex. Rel. PS v. District Court, 94 Nev. 42, 574 P.2d 272 (1978).

Here, Petitioners are unable to meet the requirements of either the controlling statutes or the

applicable case law, in essence, they cannot meet their burden. Petitioners rely upon unsworn statements, that are not percipient witnesses, other than Pedro Rosales whose statement is clearly biased towards protecting his son, Jose Rosales, the assailant in the industrial incident. At the hearing, the only person to testify for both direct and cross-examination was Respondent. Hearing Officer Trenkler heard testimony, reviewed the witness statements and found Respondent to be credible.

At the appeal hearing, Pedro Rosales and Jose Rosales failed to appear to testify. Petitioners again relied upon unsworn and unverified statements. In addition, Petitioners presented witnesses at the appeal that had no personal knowledge of the industrial incident. Petitioners' witnesses were safety officers that were not present at the time of the assault and simply interviewed Pedro Rosales after the incident. The witnesses for Petitioners allege they spoke with Respondent on the day of the incident, but Respondent denies that allegation. Mr. Pao, a witness for Petitioners, alleges he had a conversation with Respondent regarding the subject check and the appropriate procedure to follow, however, Mr. Pao admits he needed interpreter to have the conversation, so he is unable to verify that what he allegedly said was translated to Respondent. In addition, Mr. Pao does not provide a sufficient response as to why a worker would approach the safety manager to ask about an issue with the check.

The only witnesses that had personal knowledge of the incident and was present at the appeal was Respondent, Martin Duran Perez, and co-worker Eduardo Leon. Appeals Officer York found Respondent credible testified that that if there was an issue with his check that Respondent needed to talk to Pedro Rosales. Based off the testimony, arguments of counsel for both parties, and the evidence submitted Appeals Officer York affirmed the decision of Hearing Officer Trenkler.

B. <u>LEGAL STANDARD OF PROOF OF A COMPENSABLE CLAIM, RESPONDENT MEETS THE REQUIREMENTS</u>

NRS 616C.150 only requires an injured worker to demonstrate that he was injured within the course and scope of his employment by preponderance of the evidence, nothing greater. To make the point on preponderance, <u>McClanahan v. Raley's, Inc., the Nevada Supreme Court</u> states "NRS 616C.150

does not require an injured worker to offer a greater number of expert witnesses who express opinions in his favor to establish that an injury arose. . .[r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence.". 34 P.3d 573, 576 (2001).

Workers' Compensation is statutorily driven and defined. Respondent must prove, by preponderance that he was in the course and scope when an accident occurred. NRS 616A.265 defines injury as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence.

NRS 616C.030 defines the term accident as an "unexpected or unforeseen event happening suddenly and violently, with or without human fault."

Case law, Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010). Such as we have here, Pedro Rosales has intimate knowledge that his son, Jose Rosales, has violent tendencies and a violent history placing Respondent and others directly in harm's way.

1. Course And Scope

a. Course and Scope

The threshold requirement in an industrial injury is that Respondent's injury must have occurred within the course and scope of employment. Phillips, at 5.

Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. Here, Respondent was working at an assigned time and scheduled to be in the same construction housing complex. Respondent went to the house across the street to inquire with the foreman, Pedro Rosales, that he worked with the week prior as to why his hours were not properly reflected. Respondent's pay and hours are indeed work related. The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of employment. Respondent was on the job when this incident occurred, and the injuries resulted by the assault due to work-related issues (short paycheck). Nicholas Pao, a

safety manager for the employer, testified that Pedro Rosales could have made a phone call to Lucy at payroll to get the check corrected. Exh. B at 101. The witness for Petitioners freely admits Pedro Rosales could have corrected the hours on Respondent's check which is the exact reason Respondent went to speak with Pedro Rosales to begin with. Mr. Pao further states that the crew leaders submit the times employees worked to the foreman who verify the work was done and send the paperwork to the office. Exh. B at 106-107. Pedro Rosales was the person to verify the hours and send them to the office to generate a check. Pedro Rosales was the same person to correct any errors. Pedro Rosales had the authority to change the hours on the check. Pedro Rosales had control over the issue at dispute. The office is not going to take the word of a worker without the foreman to corroborate the claim.

2. Accident

Accident is statutorily defined in NRS 616A.030 as "'Accident' means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury."

Clearly, Respondent did not anticipate being pushed off of a second floor of a house. Respondent wanted clarification for his hours from his foreman that he worked with as his pay is how he supports himself and family and was pushed off by someone who was not part of the conversation. Petitioners focus on Respondent allegedly not being tied off as if that negates Respondent's ability to have a compensable claim. NRS 616A.030 clearly states "Accident" means with or without human fault. The fact that Respondent may have not followed proper tie off protocol does not prevent him from recovering under Workers' Compensation.

In the instant case, Respondent meets the statutory definition requirement.

3. Injury

Injury is defined in NRS 616A.265 as a sudden and tangible happening of a traumatic nature producing an immediate or prompt result which is established by medical evidence."

Here, the medical records all demonstrate Respondent suffered an injury to his head, cervical,

thoracic, lumbar, abdominal and ribs. The initial physician who completed the Form C-4 diagnosed Respondent with a subdural hematoma (brain bleed) and related it as job incurred. Petitioners' Exhibit B at 1.

Petitioners bear the burden, because Respondent cannot prove a negative, under NRS 616C.175, that if it believes that Respondent has a prior condition, Petitioners, must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim.

Respondent must prove four (4) things; course and scope, accident, injury and notice, nothing more. Respondent suffered an injury causally related by the Form C-4 doctor related to being pushed off a roof by co-employee Jose Rosales. Even if there was a pre-existing condition, which Respondent contends there is not, the statutory requirement is met, and the burden would then shift to Petitioners to prove under NRS 616C.175, otherwise.

4. Notice

Pursuant to NRS 616C.015(1), an injured employee must provide written notice of a work-related injury as soon as practicable but within 7 days after the accident. In this case, Respondent has testified that he was taken from the job site to the hospital on the day of the accident. Petitioners do not dispute that the employer was reported on the same day of the accident. Therefore, this element has been met.

Pursuant to NRS 616C.020(1), an injured employee must file a claim for compensation with the insurer within 90 days of the industrial accident. Here, the industrial accident occurred on December 30, 2016 and Respondent completed the Form C-4 on the same day. Clearly, Respondent completed the claim for compensation within 90 days of the industrial accident. Therefore, this element has been met.

In the instant claim, Respondent meets the statutory notice requirements.

C. RESPONDENT WILL SUFFER MORE HARM THAN PETITIONERS

Based on NRS 616C.345, the Appellant's filing of an appeal does not automatically stay the enforcement of the decision of the hearings officer.

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NRS 616C.345(4) provides in part:

> Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal **does not** automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

(emphasis added).

In Kress v. Corey, the Nevada Supreme Court stated:

> As a rule a supersedeas or stay should be granted . . . whenever...it is reasonably necessary to protect appellant or **plaintiff** in error **from irreparable or serious injury** in the case of reversal, and it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury in case of affirmance.

Kress, 65 Nev. at 17, 189 P.2d at 360.

Furthermore, the Nevada Supreme Court has recognized that a stay should only be granted where it can be shown that the Appellant would suffer irreparable injury during the pendency of the appeal, if the stay were not granted. *See* White Pine Power v. Public Service Commission, 76 Nev. 263 (1960). Appellants cannot meet that burden.

Indeed, it is Respondent in this case, not Petitioners, who will sustain the greatest harm in the event that the instant stay is granted as it will serve its purpose of delaying medical treatment of a closed head injury with a 7mm subdermal hematoma, fractured rib, abdominal injury and injuries to the cervical, thoracic, and lumbar spine. The full extent of Respondent's injuries is unknown as Respondent has not been able to treat since the claim was denied. Petitioners argue that since Respondent has no scheduled medical treatment that he would not be harmed by a stayed. However, this argument is disingenuous as Petitioners has denied care and benefits since the day it issued claim denial on March 6, 2017. Petitioners has prevented Respondent from seeking care through the Workers' Compensation system and Respondent is financially unable to seek medical care outside of Workers' Compensation. Respondent has not been released from care by his treating physician, but rather has been prevented

from seeking additional care because of the claim denial by Petitioners and the Stay imposed by the Appeal Officer prior to the hearing of the appeal. It has been over a year since Respondent was allowed to treat for his injuries. Every day that Respondent is without treatment is a day Respondent is harmed.

Further, Respondent is entitled to Temporary Total Disability benefits that he has not received due to the claim denial and imposition of the Stay. Respondent has been without Workers' Compensation benefits for over a year. Petitioners' carelessly argue Respondent will receive those benefits if he prevails after the Appeal. Unfortunately, it is benefits Respondent who is without a steady income. It is Respondent who needs the benefits for his well-being and his family's well-being. Respondent cannot continue to put his life on hold and wait for this appeal to be heard to receive the benefits his entitled to.

There is nothing more crippling and harmful than denying medical attention and care. There can be nothing more harmful and irreparable than the loss of one's own wellbeing.

Here, it is Petitioners who bears the burden to this court to prove **both** elements, success on appeal and that it will suffer more harm than Respondent. Respondent met his burden at the hearing and again at the appeal with all the same evidence being presented to this very court.

Employer has the burden of meeting established guidelines for it to be successful on its motion for stay. Comparing the harm that will allegedly be suffered by Employer and Administrator to the harm being suffered by Respondent right now does not meet the standard of review set forth in Kress v. Corey, 65 Nev. 1, 189 P. 2d 352 (1948).

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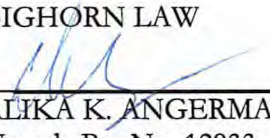
III.

CONCLUSION

Based upon the foregoing, the Appeals Officer cannot properly, and in the interest of justice, grant Insurer's Motion for Stay. Wherefore, Respondent, respectfully requests that the Appeals Officer provide the following relief.

Dated this 15th day of June, 2018.

BIGHORN LAW



ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BIGHORN LAW, and that on this date of June 15, 2018, I duly deposited for mailing at Las Vegas, Nevada, a true copy of the within and foregoing Respondent's Opposition to Petitioners' Motion for Stay, addressed to the following:

Daniel Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara Suite 300, Box 28
Las Vegas, NV 89102

Focus Framing/Plumbing
C/O Sun City Electric
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102

An Employee of Bighorn Law

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal **COURT MINUTES** **June 19, 2018**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

June 19, 2018 **09:30 AM** **Petitioners' Motion for Stay Pending Appeal and Request for Order Shortening Time**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Kearney, Madalyn

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Joel Reeves **Attorney for Petitioner**

JOURNAL ENTRIES

Alika Angerman, Esq., present on behalf of Respondent.

Upon Court's inquiry, Mr. Angerman advised Morris Anderson is now Bighorn Law. Based on that representation, Court noted no Opposition had been filed. Colloquy regarding the Opposition being filed. COURT ORDERED, matter CONTINUED for the Court to review the Opposition. Court confirmed the temporary stay is to remain in place until the Motion is heard.

CONTINUED TO: 6/26/18 9:30 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal | **COURT MINUTES** | **June 26, 2018**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

June 26, 2018 **9:30 AM** **Petitioners Focus Framing and Sun City Electric's Motion for Stay Pending Appeal and Request for Order Shortening Time**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: April Watkins

RECORDER: Victoria Boyd

PARTIES PRESENT:
Angerman, Alika K. Attorney for Respondent
Reeves, Joel Attorney for Petitioner

JOURNAL ENTRIES

- Colloquy regarding medical treatment Respondent will need. Mr. Angerman advised on December 30, 2016, Respondent suffered injuries. Further, within first thirty days insurance company has to issue determination, Respondent was allowed to treat under workers compensation system and then claim was denied in March. At that time, Respondent was allowed to treat outside workers compensation system. However, Respondent was not working, no insurance, no money and no actual means to treat. Mr. Reeves argued no evidence he needs medical treatment. Further, without some sort of evidence he will be irreparably harmed, no evidence to support as to irreparable harm. As to counsel's client, client will have to potentially issue retroactive wage replacement benefits that cannot be given back. Additionally, Mr. Reeves argued if Respondent is successful, he will get his benefits, his wage replacement benefits if he is entitled to them at the end of the appeal process and there is no irreparable harm. Mr. Angerman argued Respondent has already been irreparably harmed. Further, there is a C-4 document indicating Respondent needs additional care. In addition to that, physician took Respondent off work for about a week and after that Respondent was placed on work restrictions from preventing him suffering another head injury. Additional argument by Mr. Reeves. COURT ORDERED, motion GRANTED.

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Steven D. Grierson
CLERK OF THE COURT

NEOJ
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

NOTICE OF ENTRY OF ORDER

YOU, AND EACH OF YOU, please take notice than an **ORDER GRANTING MOTION FOR STAY** was entered on July 16, 2018 and is attached hereto and made a part hereof.

DATED this 17 day of July, 2018.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 5125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorneys for Petitioners

4814-8595-9277.1 / 33947-19

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 17 day of July, 2018, service of the attached **NOTICE OF ENTRY OF ORDER** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Morris Anderson Law
Jacob Leavitt, Esq.
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

An Employee of Lewis Brisbois Bisgaard & Smith, LLP

4814-8595-9277.1 / 33947-19

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Steven D. Grierson
CLERK OF THE COURT

ORDR
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

ORDER GRANTING MOTION FOR STAY

After careful review and consideration of Petitioners' Motion for Stay, Respondent's Opposition, the oral argument of the parties, and good cause appearing:

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4835-5864-7660.1 / 33947-19

THE COURT FINDS that in weighing the equities associated with the instant request for a stay, the greater burden of harm rests on Petitioners should they be required to comply with the Appeals Officer's Decision. As such, the Petitioners' request for stay shall be GRANTED.

IT IS HEREBY ORDERED that Petitioner's Motion for Stay of the Appeals Officer's May 3, 2018 Decision and Order which ordered this claim accepted, is GRANTED.

Therefore, it is ordered that the Motion for Stay is Granted pending a Decision on the merits of Petitioners' Petition for Judicial Review.

DATED this 13 day of July, 2018.

DISTRICT COURT JUDGE
TIERRA JONES

Submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

Approved as to form and content:

BIGHORN LAW

By: -Unable to obtain signature-
ALIKA ANGERMAN, ESQ.
Nevada Bar No. 012933
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorneys for Respondent

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Steven D. Grierson
CLERK OF THE COURT

BRF
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

PETITIONERS' OPENING BRIEF

DANIEL L. SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Petitioners
Focus Framing and
Sun City Electric

ALIKA ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorney for Respondent
Martin Duran Perez

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COME NOW, Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC (hereinafter collectively referred to as "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ., of LEWIS BRISBOIS BISGAARD & SMITH LLP, and, and file their Opening Brief in the above-referenced matter.

DATED this 4 day of September, 2018.

Respectfully submitted.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____
DANIEL L. SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH, LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102
Attorneys for Petitioners

I.

STATEMENT OF THE CASE

This is a workers' compensation case. On December 30, 2016, the Respondent, MARTIN DURAN PEREZ (hereinafter referred to as "Respondent") arrived to work and was upset about an allegedly short paycheck for a period where he was working under a supervisor named Pedro. Respondent's Safety Manager, Nicholas Pao, informed Respondent that the proper way to resolve his paycheck issue was to speak with payroll at the end of the day and they would help him. Despite Mr. Pao's instruction, Respondent left his job site and walked to another job site where Pedro was working. Respondent then scaled a house frame, failed to attach any protective gear, and then proceeded to argue with Pedro about the check for approximately ten (10) minutes. Then, unfortunately, Pedro's son got involved in the argument and pushed Respondent off the house frame, causing injury to Respondent. A Criminal Complaint was issued against Pedro's son, Jose Rosales.

On March 6, 2017, Petitioners denied Respondent's claim for worker's compensation benefits based on the fact that Respondent's injuries were unrelated to his employment. Respondent appealed

On June 1, 2017, following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order reversing the March 6, 2017 determination denying the claim. Petitioners filed a timely appeal. In addition, the Petitioners filed a Motion for a Stay of the Hearing Officer's decision, which was granted.

On February 9, 2018, this case came on for hearing before the Appeals Officer. The testimonies of four separate witnesses were taken: Respondent; Respondent's brother-in-law; and two safety directors for Employer (Nicholas Pao and Kevin Mendoza).

On May 3, 2018, the Appeals Officer issued the subject Decision and Order reversing claim denial. Of note, the Decision and Order makes no mention whatsoever of any of the testimony given. Nor does it comment on the credibility of any witness.

Petitioners filed the instant Petition for Judicial Review contesting the May 3, 2018 Appeals Officer's Decision and Order and this Court granted a request for a stay.

II.

STATEMENT OF THE ISSUES

1. Whether substantial rights of Petitioners have been prejudiced as set forth in NRS 233B.135(3) because the Appeals Officer's Decision and Order filed on May 3, 2018 was:

(a) in violation of constitutional or statutory provisions;

(b) in excess of statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion; and

2. Whether the Appeals Officer's Decision and Order was based upon substantial evidence as required by NRS 233B.125.

III.

STATEMENT OF FACTS

On December 30, 2016, a C-4 form was completed which alleged that the Respondent, MARTIN DURAN PEREZ (hereinafter referred to as "Respondent"), was injured when he was pushed off of a roof. The Respondent was treated at UMC Trauma for subdural hematoma on the date of the incident. The Respondent was taken off of work. (Record on Appeal p. 125)(hereinafter "ROA p. ___")

A Supervisor Accident Investigation Report notes that the Respondent went to the second floor with no fall protection and was involved in work place violence. (ROA p. 126)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (ROA pp. 127-128)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the Respondent was mad due to an alleged pay check shortage while working on Pedro's crew. The Respondent climbed an 8 foot ladder to get to where Pedro was working on a second floor. Pedro was tied off with safety gear but Respondent was not. The discussion with the two got "elevated."

Pedro's son came up from the first floor to aid his father, and when Pedro's son asked the Respondent to stop, the Respondent allegedly started yelling at him and the son put his hands on the Respondent and pushed him away and the Respondent eventually fell off of the roof. (ROA pp. 129-133)

Pedro Rosales also gave a statement and alleged that the Respondent came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the Respondent to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (ROA pp. 134-135)

Pedro's son, Jose Rosales gave his version of what happened, as well. (ROA pp. 136-137)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the Respondent who fell off of roof after a discussion between the parties. (ROA pp. 138-141)

A statement from the Respondent indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (ROA p. 142)

An Industrial Injury or Illness form in Spanish was also executed by the Respondent. (ROA pp. 143-144)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (ROA p. 145)

The Respondent was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The Respondent was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (ROA pp. 147-180)

A claim denial determination was issued on March 6, 2017. (ROA pp. 181-183)

On March 21, 2017, the Respondent appealed the claim denial determination. (ROA p. 184)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (ROA pp. 185-186)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (ROA pp. 187-189.) Insurer filed a timely appeal. (ROA p. 190.) ***In addition, the Insurer filed a Motion for a Stay of the Hearing Officer's decision, which was granted.*** (ROA p. 192.)

On February 9, 2018, this case came on for hearing before the Appeals Officer. The testimonies of four separate witnesses were taken: Respondent; Respondent's brother-in-law; and two safety directors for Employer (Nicholas Pao and Kevin Mendoza). Of note, Respondent testified that, on the day in question, he was working on a house under the supervision of a crew leader named Francisco. On that day, Respondent received a check for the work he had done the previous week when he was working for a different crew leader, Pedro. (ROA pp. 9-10; 13-15) Respondent believed that his paycheck was low and testified that he went to Pedro to discuss his paycheck. ***Respondent testified that he did not speak with Mr. Pao on that day.*** Respondent testified that he left the job site that he was working on, walked three houses down to where Pedro was, climbed a ladder to get to Pedro, did not attach any sort of safety measures to himself, and spent at least ten (10) minutes talking to Pedro on the second floor of a house frame. Respondent also testified that no one that house frame was wearing safety measures. After about ten (10) minutes of discussion, Pedro's son climbed the ladder and pushed Respondent off the house.

The brother-in-law (Eduardo Leon) was also working on the job site but his testimony did not add anything worth noting to this case.

...

...

...

Mr. Pao, a safety director for Employer, testified that, on the day in question, he was on the job site prior to the incident and testified that he and Mr. Mendoza (the other safety director) spoke with Respondent about his check. Mr. Pao testified as follows:

> NICHOLAS PAO: Yeah, [Respondent] brought it to our attention that there was a discrepancy on his paycheck from Pedro. We had basically told him, at the end of the day, take it to the office and Lucy would get that corrected.
>
> DANIEL SCHWARTZ: At that point in time, when you were having this conversation with him, would Pedro have had any ability to do anything with that paycheck?
>
> NICHOLAS PAO: No. He couldn't have done nothing. He could've maybe made a phone call and told Lucy to get the check corrected, but as far as him cutting a check for him, no.
>
> DANIEL SCHWARTZ: So, your—your—I don't want to say advice, but what you told Mr. Duran-Perez, concerning the paych10eck was to go to the office.
>
> NICHOLAS PAO: Go to the office at the end of the day. Yeah.
>
> DANIEL SCHWARTZ: And then did you leave the jobsite?
>
> NICHOLAS PAO: Yeah.

(ROA p. 35:6-24)

Mr. Pao also testified that, contrary to Respondent's testimony, Pedro was in fact wearing a safety harness. (ROA p. 37; 38-39) Further, Mr. Pao explained the check payment process. Crew leaders (like Pedro and Francisco) keep track of their subordinate's hours and turn those hours into a foreman and the foreman turns the hours into payroll and payroll issues checks. (ROA p. 39) He reiterated that a foreman would not be able to do anything with a check after it was cut.

Mr. Mendoza corroborated Mr. Pao's testimony as he helped translate for Mr. Pao on that day.

On May 3, 2018, the Appeals Officer issued the subject Decision and Order reversing claim denial. Of note, the Decision and Order makes no mention whatsoever of any of the testimony given. Nor does it comment on the credibility of any witness. (ROA pp. 65-71)

Petitioners timely filed the instant Petition for Judicial Review and this Court granted a stay.

POINTS AND AUTHORITIES

IV.

JURISDICTION

Petitioners have timely petitioned for Judicial Review of the Appeals Officer's Decision dated May 3, 2018.

A. STANDARD OF REVIEW

Judicial review of a final decision of an agency is governed by NRS 233B.135.

> **NRS 233B.135 Judicial review: Manner of conducting; burden of; standard for review.**
>
> 1. Judicial review of a final decision of an agency must be:
>
> (a) Conducted by the court without a jury; and
>
> (b) Confined to the record.
>
> In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.
>
> 2. 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. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.
>
> 3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
>
> (a) In violation of constitutional or statutory provisions;
>
> (b) In excess of the statutory authority of the agency;
>
> (c) Made upon unlawful procedure;
>
> (d) Affected by other error of law;
>
> (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
>
> (f) Arbitrary or capricious or characterized by abuse of discretion.

...

The standard of review is whether there is substantial evidence to support the underlying decision. The reviewing court should limit its review of administrative decisions to determine if they are based upon substantial evidence. North Las Vegas v. Public Service Comm'n., 83 Nev. 278, 291, 429 P.2d 66 (1967); McCracken v. Fancy, 98 Nev. 30, 639 P.2d 552 (1982). Substantial evidence is that quantity and quality of evidence which a reasonable man would accept as adequate to support a conclusion. See, Maxwell v. SIIS, 109 Nev. 327, 331, 849 P.2d 267, 270 (1993); and Horne v. SIIS, 113 Nev. 532, 537, 936 P.2d 839 (1997).

When reviewing administrative court decisions, the Court has held that, on factual determinations, the findings and ultimate decisions of an appeals officer are not to be disturbed unless they are clearly erroneous or otherwise amount to an abuse of discretion. Nevada Industrial Comm'n. v. Reese, 93 Nev. 115, 560 P.2d 1352 (1977). An administrative determination regarding a question of fact will not be set aside unless it is against the manifest weight of the evidence. Nevada Indus. Comm'n. v. Hildebrand, 100 Nev. 47, 51, 675 P.2d 401 (1984). A decision by an appeals officer that is based upon the credibility of Respondent and other witnesses is "not open to appellate review." Brocas v. Mirage Hotel & Casino, 109 Nev. 579, 585, 854 P.2d 862, 867 (1993).

B. THIS COURT CAN SET ASIDE A CLEARLY ERRONEOUS DECISION THAT CONSTITUTES AN ERROR OF LAW OR IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

A court may set aside, in whole or in part, a final decision of an administrative agency where substantial rights of the Petitioners have been prejudiced because the final decision is in violation of statutory provisions, affected by other error of law, clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, or arbitrary, capricious or characterized by abuse of discretion. NRS 233B.135(3).

1. This Court Can Set Aside a Decision That is Based on Incorrect Conclusions of Law and is Free to Address Purely Legal Questions Without Deference to the Appeals Officer's Decision.

The Nevada Supreme Court has acknowledged and applied these statutory principles holding, for example, that a reviewing court may set aside an agency decision if the decision was based upon an incorrect conclusion of law or otherwise affected by an error of law. State Indus.

Ins. Sys. v. Giles, 110 Nev. 216, 871 P.2d 920 (1994); Jessop v. State Indus. Ins. Sys., 107 Nev. 888, 822 P.2d 116 (1991); see, also, NRS 233B.135(3)(d). Further, the Nevada Supreme Court stated that **appellate review on questions of law is de novo**, and that the reviewing court is free to address purely legal questions without deference to the agency's decision. Giles, supra; Mirage v. State, Dep't of Admin., 110 Nev. 257, 871 P.2d 317 (1994); American Int'l Vacations v. MacBride, 99 Nev. 324, 326, 661 P.2d 1301, 1302 (1983); see, also, State Dep't of Motor Vehicles v. Torres, 105 Nev. 558, 560, 799 P.2d 959, 960-961 (1989). (Emphasis added.)

2. This Court Can Set Aside a Decision That is Not Supported by Substantial Evidence.

In determining whether an administrative decision is supported by substantial evidence, the methodology of the District Court is also well-defined. First, for each issue appealed, the pertinent rule of law is identified. Thereafter, the Record on Appeal is reviewed to determine whether the agency's decision on each issue is supported by substantial factual evidence. State Dep't of Motor Vehicles v. Torres, *supra*. If the decision of the administrative agency on the appealed issue is supported by substantial factual evidence in the Record on Appeal, the District Court must affirm the decision of the agency as to that issue. On the other hand, a decision by an administrative agency that lacks support in the form of substantial evidence is arbitrary or capricious and, thus, an abuse of discretion that warrants reversal. NRS 233B.135(3); Titanium Metals Corp. v. Clark County, 99 Nev. 397, 399, 663 P.2d 355, 357 (1983).

Substantial evidence has been defined as that quantity and quality of evidence which a reasonable man could accept as adequate to support a conclusion. State Emp't Sec. Dep't v. Hilton Hotels Corp., 102 Nev. 606, 608 at n.1, 729 P.2d 497 (1986). Additionally, substantial evidence is not to be considered in isolation from opposing evidence, but evidence that survives whatever in the record fairly detracts from its weight. Universal Camera Corp. v. NLRB, 340 U.S. 474, 477, 488 (1951); Container Stevedoring Co. v. Director, OWCP, 935 F.2d 1544, 1546 (9th Cir. 1991). This latter point is clearly the significance of the requirement in NRS 233B.135(3)(e) which states that the reviewing court consider the whole record.

Furthermore, a decision that is affected by error of law cannot be found to be supported by substantial evidence. A decision that lacks support in the form of substantial evidence is arbitrary or capricious and, thus, an abuse of discretion that warrants reversal. Titanium Metals, *supra*. In this case, the Appeals Officer's decision is based on errors of law and not supported by substantial evidence. Although it is anticipated that Respondent's counsel will argue that these are questions of fact, and that the Appeals Officer has the right to weigh the evidence, the Appeals Officer's Decision and Order was clearly erroneous in view of the reliable, probative and substantial evidence in the record.

NRS 616A.010(2) and (4) are clear that Nevada no longer has liberal construction. Issues must be decided on their merits, and not according to the common law principle that requires statutes governing workers' compensation to be liberally construed. That means workers' compensation statutes must not be interpreted or construed broadly or liberally in favor of any party.

V.

LEGAL ARGUMENT

A. THE APPEALS OFFICER ERRED AS A MATTER OF LAW

It is the Respondent (claimant), not Petitioners (Employer/Administrator), who has the burden of proving his case, and that is by a preponderance of all the evidence. State Industrial Insurance System v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Holley v. State ex rel. Wyoming Worker's Compensation Div., 798 P.2d 323 (1990); Hagler v. Micron Technology, Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove his case, Respondent (claimant) has the burden of going beyond speculation and conjecture. That means that the claimant must establish the work connection of his injuries, the causal relationship between the work-related injury and his disability, the extent of his disability, and all facets of the claim by a preponderance of all of the evidence. To prevail, a claimant must present and prove more evidence than an amount which would make his case and his opponent's "evenly balanced." Maxwell, Id.; SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218

(1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, The Law of Workmen's Compensation, § 80.33(a).

NRS 616A.010(2)makes it clear that:

> A claim for compensation filed pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS must be decided on its merit and not according to the principle of common law that requires statutes governing worker's compensation to be liberally construed because they are remedial in nature.

Here, the issue is whether the Appeals Officer erred in ordering this claim denial reversed. Most importantly, Petitioners want to bring this Court's attention to the fact that the Appeals Officer's Decision does not even mention the copious amount of testimony taken in this case. Instead, the Appeals Officer relies exclusively on the paper evidence filed by the parties, i.e. the exact same evidence which convinced the Appeals Officer that the Hearing Officer's Decision to reverse claim denial should be stayed. Petitioners would submit that the decision to completely ignore the testimony or even comment on the credibility of the witnesses is reversible error in and of itself.

Moreover, by excluding reference to the testimony, the Appeals Officer also excluded all evidence of how Respondent's paycheck process works and how the paycheck dispute resolution process was explained to Respondent. It was legal error to find this claim compensable when Respondent was explicitly informed by Mr. Pao and Mr. Mendoza that his prior crew leader (Pedro) had no control over paycheck dispute resolution. As will be shown below, though certain types of work place violence can be compensable when the violence is begat by an argument over work related issues, if the parties to the violence have no authority over the argument subject, any injuries which result are not compensable because the argument was not related to the parties' job performance.

Under NRS 616C.150(1), the Respondent has the burden of proof to show that the injury arose out of and in the course and scope of his employment. The Respondent must satisfy this burden by a preponderance of the factual and medical evidence. Further, NRS 616B.612 mandates that an employee is only entitled to compensation if he is injured in the course and scope of his employment.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a **causal connection between the injury and the employee's work** ... the injured party must establish a link between **the workplace conditions and how those conditions caused the injury** ... a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997). (emphasis added)

The same Court further stated that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers/employers absolutely liable for injuries suffered by employees who are on the job." (Id.)

Further, the Nevada Supreme Court held in Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005):

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury. Further, a Respondent must demonstrate that the origin of the injury is related to some risk involved within the scope of employment. However, if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the Respondent's employment. Finally, resolving whether an injury arose out of employment is examined by a totality of the circumstances.

With respect to the subject issue of assaults, Nevada decisions are sparse. However, the Court did endorse the general rule that "injuries resulting from assaults by fellow workmen when the attack results from personal animosity unconnected with the employment, are not compensable." Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969)(Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956)). The salient portion of the rule above is the holding that injuries unconnected to employment are not compensable. This is the guiding principle in determining compensability of workers' compensation claims.

Professor Larson's treatise on workers' compensation expounds on this subject and explains that claim denial has been upheld when workplace fights concern a subject which the employee had no control over. See 1 Larson's Workers' Compensation Law § 8.01[4] (2018). For example, claim denial was affirmed where a worker was killed by another worker over a dispute

as to the contents of a coal car when neither party had any ability to control what was in the car. That Court held that "[t]he interests of the employer were not being aided, protected or advanced in any manner by what [the claimant] did, and the quarrel and consequent injury had no reasonable connection with any work then being done for the plaintiff in error." Marion Cty. Coal Co. v. Indus. Com., 292 Ill. 463, 466, 127 N.E. 84, 85 (1920).

In another case, a claimant was injured while protecting his employer's property from teamsters who were in a dispute with the employer. The Court upheld claim denial under the theory that "[h]ad Respondent remained at his work he would not have been injured. His presence at the place of fighting was in pursuance of no demand of his employment." Clark v. Clark, 189 Mich. 652, 655, 155 N.W. 507, 508 (1915).[1]

Finally, in a more recent decision, two years prior to the controversy therein, a claimant had used her own personal money to buy a drink machine for the office. On the subject day, a drink truck was parked in the parking lot to refill the machine. A police officer wrote the truck driver a parking ticket and the claimant came out to contest the ticket. The claimant was eventually arrested for disorderly conduct and sustained injury during the arrest. Court upheld claim denial as there was "no testimony from plaintiff, her superior or any other witness that states that plaintiff had any supervisory authority over the parking lot as a result of her employment and was thus involved with duties created by her job at the time she was injured... We are of the opinion that the trial court could properly find that ***any injuries suffered by plaintiff did not occur while the employee was rendering service which she was hired to do by her employer and, therefore, was not in the course of the employment.***" Legions v. Liberty Mut. Ins. Co., 703 S.W.2d 620, 623 (Tenn. 1986)(emphasis added)

Here, just as in the cases cited above, neither Respondent, Pedro, nor Pedro's son had any authority over the subject of the dispute, i.e. Respondent's paycheck. Respondent was even informed by Mr. Pao and Mr. Mendoza on the very day of the incident that if he desired to contest

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[1] See Also Libraro v. Ocean Casket Co., 60 A.D.2d 736, 401 N.Y.S.2d 304 (App. Div. 1977) where claim denial was affirmed when an employee left his employment to assist a co-employee who was being assaulted and was then himself shot.

his paycheck, the proper way to do so was to contact payroll at the end of the day. Instead of doing that, Respondent left his job site, walked over to Pedro's job site, climbed to the second story of a house frame, did not attach any safety equipment, and engaged in a ten (10) minute long argument about the paycheck before Pedro's son unfortunately pushed him off the frame. Though Respondent's injuries are unfortunate, in no way was Respondent performing his job at the time of his injuries.

Indeed, Respondent left his job duties to discuss a subject with Pedro that he knew Pedro had no authority over. By virtue of the fact that Pedro had no authority over Respondent's paycheck dispute and compounded by the fact Respondent had just that day been informed as to the proper way to dispute his paycheck, Respondent left the course and scope of his employment when he walked off his job site to engage Pedro. Put simply, the argument with Pedro was not related to Respondent's employment because Respondent had just been informed the proper way to dispute his paycheck and he knew that Pedro had no authority to adjust his pay.

The Appeals Officer was apprised of the state of this law at the hearing on this matter. By not even mentioning the testimony of any witness and therefore failing to take into account the fact that the subject altercation was *not* related to Respondent's employment, the Appeals Officer committed reversible error. This Court should grant the Petition for Judicial Review, reverse the Appeals Officer, and affirm the Petitioner's determination to deny this claim.

...

...

...

VI.

CONCLUSION

Based upon the foregoing, Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC respectfully asks this Honorable Court to grant Petitioners' Petition for Judicial Review.

Dated this 4 day of September, 2018.

Respectfully submitted,

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

DANIEL L. SCHWARTZ, ESQ.
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorney for Petitioners

CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this appellate brief and, to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate procedure.

Dated this 4 of September, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By _____

DANIEL L. SCHWARTZ, ESQ. (005125)
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorneys for Petitioners

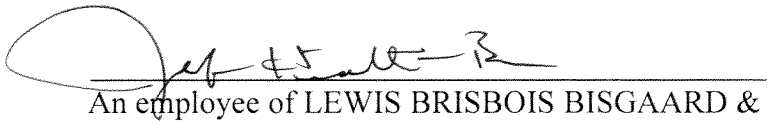
CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 4th day of September 2018, service of the attached **PETITIONERS' OPENING BRIEF** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102



An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

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10/8/2018 4:01 PM
Steven D. Grierson
CLERK OF THE COURT

ANSB
BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
alika@bighornlaw.com
Attorneys for Respondent
Martin Duran Perez

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO: A-18-774772-J DEPT. NO.: X

RESPONDENT'S ANSWERING BRIEF

DANIEL L SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28.
Las Vegas, NV 89102
Attorneys for Petitioner
Focus Framing and Sun City Electric

ALIKA K. ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorneys For Respondent
Martin Duran Perez

COMES NOW the Respondent, MARTIN DURAN PEREZ ("Respondent"), by and through his attorney, ALIKA K. ANGERMAN, ESQ., of the law firm of BIGHORN LAW, and hereby submits his Answering Brief concerning the above referenced matter. This pleading is filed pursuant to NRS 233B.153. This Answering Brief is based on the papers and pleadings on file herein, the attached Points and Authorities and any oral argument at the time of the hearing on the Petition.

Dated this 8th day of October, 2018.

Respectfully submitted,
BIGHORN LAW

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

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I.

STATEMENT OF THE CASE

This is a workers' compensation claim that has been appealed by Petitioner regarding the Appeals Officer's Decision and Order issued on May 3, 2018. On December 30, 2016, Respondent suffered an injury while in the course and scope of his employment as a laborer with Employer. Respondent was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. Respondent went to ask Mr. Pedro Rosales about his check. Respondent climbed to the roof of the house where Mr. Rosales was working. Respondent was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Respondent off of the roof. Respondent fell to the ground where he landed sustaining serious injuries.

On March 6, 2017, Employer issued a determination denying Respondent's claim.

On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination.

On February 9, 2018, the matter was heard before Appeals Officer York.

On May 3, 2018, the Appeals Officer issued a Decision and Order reversing claim denial. Appeals Officer York found that Respondent was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead the Appeals Officer to conclude the claim is compensable. Appeals Officer York found it was not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. The Appeals Officer found Respondent to have credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. There is a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident.

Petitioners filed the instant Petition for Judicial Review with this Court alleging shortcomings and legal inconsistencies in the Appeals Officer's Decision and Order that are mere criticisms of the Appeals Officer's weighing of the evidence in this case. The Appeals Officer in this case has produced findings of

fact and conclusions of law which are well reasoned and firmly rooted in the substantial evidence. Respondent files the instant Answering Brief addressing the arguments made by the Petitioners in their Opening Brief filed on September 4, 2018.

II.

STATEMENT OF ISSUES

The issue in this Appeal is whether the Appeals Officer's Decision and Order reversing Petitioners' determination regarding claim denial was proper in this case because Respondent met the evidentiary requirements as required under Nevada law.

III.

STATEMENT OF FACTS

On December 30, 2016, Respondent suffered an injury while in the course and scope of his employment as a laborer with Employer. Record on Appeal p. 125(hereinafter "ROA p. ___"). Respondent was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. On December 30, 2016, Respondent went to ask Mr. Pedro Rosales about his check. Respondent climbed to the roof of the house where Mr. Rosales was working. Respondent was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Respondent off of the roof. ROA p. 142. Respondent fell to the ground where he landed sustaining serious injuries to include, but not limited to "1) traumatic fall 2) Closed head injury 3) Subdural hematoma 4) Possible right 8th rib fracture" as the hospital diagnosis. Id. at 40. Although not working on Pedro Rosales' crew on December 30, 2016, Respondent credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. ROA pp. 147-180.

A Criminal Complaint was issued against Pedro's son, Jose Rosales regarding the incident. ROA p. 145.

On March 6, 2017, Employer issued a determination denying Respondent's claim. ROA p. 181-183.

On March 21, 2017, Respondent appealed Employer's claim denial determination. ROA p. 184.

On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination. ROA p. 190.

On February 9, 2018, the matter was heard before Appeals Officer York. The testimonies of four separate witnesses were taken: Respondent; Eduardo Leon; Nicholas Pao and Kevin Mendoza. Of note, Nicholas Pao and Kevin Mendoza were safety officers for the employer who did not witness the incident. Both Mr. Pao and Mr. Mendoza testified they arrived after the incident. Respondent testified that on the day of the incident he received a check for work he had done the week prior when Pedro Rosales was his crew leader. ROA pp. 9-10; 13-15. Respondent testified that he believed his paycheck was low and went to Pedro to discuss his issue with the paycheck. Respondent testified that he walked to the house Pedro was working at and went upstairs to Pedro. Respondent also stated that no one was wearing safety measures. Respondent testified that at some point Pedro's son, Jose Rosales, climbed the ladder and pushed Respondent off the house.

Appeals Officer York found that Respondent was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead the Appeals Officer to conclude the claim is compensable. Appeals Officer York found it was not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. The Appeals Officer found Respondent to have credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. There is a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)]. ROA pp. 65-71.

IV.

STANDARD OF REVIEW

The Nevada Administrative Procedure Act, as contained in NRS 233B, outlines the standard for review to be used when conducting a judicial review of a final decision of an agency. NRS 233B.135 states, in relevant part, the following:

1. Judicial review of a final decision of an agency must be:
(a) Conducted by the court without a jury; and
(b) Confined to the record.
In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.

2. 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. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
(a) In violation of constitutional or statutory provisions;
(b) In excess of the statutory authority of the agency;
(c) Made upon unlawful procedure;
(d) Affected by other error of law;
(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
(f) Arbitrary or capricious or characterized by abuse of discretion.

4. As used in this section, "substantial evidence" means evidence which a reasonable mind might accept as adequate to support a conclusion.

NRS 233B.135 (2015).

In reviewing a petition of relief from an administrative decision, the District Court may not disturb the decision of an Appeals Officer unless the decision was clearly erroneous or constituted an abuse of discretion. See Nevada Indus. Comm'n v. Reese, 93 Nev. 155, 560 P.2d 1352 (1977). With regard to factual determinations, the decision of the Appeals Officer, as trier of fact, are conclusive so long as they are supported by evidence which a reasonable mind would consider to be sufficient to support the Appeals Officer's conclusion. See Nevada Indus. Comm'n v. Williams, 91 Nev. 686, 541 P.2d 905 (1975). The court may not substitute its own judgment as to the weight of evidence but is limited to determining whether the Appeals Officer's determination was arbitrary or capricious. See McCracken v. Fancy, 98 Nev. 30 (1982).

Most issues are not purely questions of law, but rather are issues involving the finding of facts and the application of those facts to law. Deference is given by the reviewing court to conclusions of law made by the appeals officer. See Jones v. Rosner, 102 Nev. 215, 719 P.2d 805 (1986).

Regarding issues of law, it is appropriate for the reviewing court to make an independent judgment,

rather than use a more deferential standard of review. See Maxwell v. State Indus. Ins. Sys., 109 Nev. 327, 849 P.2d 267 (1993). Issues of purely legal questions are reviewed de novo; the appeals officer's fact-based conclusions of law are entitled to deference when supported by substantial evidence. See Law Offices of Barry Levinson v. Milko, 124, Nev. 355, 362, 184 P.3d 378, 383 (2008). A "pure legal question" is a question that is not dependent upon and must necessarily be resolved without reference to any fact in the case before the court. See Beavers v. State Dept. of Motor Vehicles & Pub. Safety, 109 Nev. 435, 851 P.2d 432 (1993).

In the present matter, the decision of Appeals Officer York is entitled to deference because it involves a question of fact. The Appeals Officer considered medical reporting and testimony of four people, two of which were actual eyewitnesses to the incident along with written and oral arguments of counsel for the parties and rendered his decision. As argued herein, this opinion was based on substantial evidence and does not constitute an abuse of discretion or misapplication of law as alleged by Petitioners in their Opening Brief.

V.

LEGAL ARGUMENT

A. The Appeals Officer Correctly Analyzed the Issues Pursuant to Nevada Law and The Resultant Decision and Order Is Neither Erroneous Nor An Abuse of Discretion.

The Petitioners attempt to convince this Court that Appeals Officer York, in all his years of experience, cannot properly analyze facts, testimony, and medical reporting under Nevada Law. In doing so, Petitioners attempt to relitigate the factual findings of the Appeals Officer.

Here, Petitioners contend that the Appeals Officer does not mention the "copious" amount of testimony taken in this matter and allege the Appeals Officer's decision to "completely ignore" or comment on the credibility of the witnesses is reversible error. However, Petitioners have no proof that the Appeals Officer ignored any testimony. In reality, only four people testified. Of the four people that testified, only two had personal knowledge of the incident. The entire appeal lasted approximately one hour. This includes the testimony of all four witnesses, the arguments by counsel for both sides, entering

evidence into the record as well as other housekeeping matters. Further, Mr. Leon testified briefly, and his recollection of events closely mirrored the testimony of Respondent. In fact, Petitioners stated in their Brief that Mr. Leon's testimony "did not add anything worth noting to this case." See Petitioners' Opening Brief at 4. With regards to Mr. Mendoza, he did not offer any testimony that differed greatly from Mr. Pao. Mr. Mendoza stated what his job title was and a brief explanation of his job duties. Of note, Mr. Mendoza's description of his job duties was limited to those a safety officer. Mr. Mendoza did not mention any duties which involved payroll and benefits. Mr. Mendoza did contend that he and Mr. Pao spoke with Respondent prior to the industrial incident but admitted that he was not present when the incident occurred.

Mr. Pao, a safety director for Employer, testified that he spoke to Respondent on the day of the incident, but was not present prior to the incident. Mr. Pao testified that he discussed Respondent's issue with his check. However, Respondent denied speaking to Mr. Pao on the day of incident regarding his check. Further, Mr. Pao admitted that he needs help when people are speaking "real fast" as there is "somewhat of a language barrier." ROA p. 34-35. Clearly, Mr. Pao cannot state with a certainty what he discussed in his alleged conversation with Respondent as he needed to translate the conversation. Petitioner relies on Mr. Pao's investigation but fails to recognize that Mr. Pao's investigation relied heavily upon his interview of Pedro Rosales. Obviously, Pedro Rosales had an interest in protecting himself and his son from legal trouble and his testimony cannot be relied upon. Further, Mr. Pao attempts to single Respondent out as the only person without safety gear, then later corrects himself and admits Jose Rosales was not wearing the proper safety gear as well. With regards to the actual incident, Mr. Pao's testimony cannot be relied upon as he has no personal knowledge of the incident and is only reciting what Pedro Rosales relayed to him. The only person the Appeals Officer could rely upon regarding the events of the incident was Respondent and that is exactly what the Appeals Officer did. Further, the Appeals Officer specifically commented on Respondent's credibility in the subject Decision and Order. This is clearly a factual issue and Petitioners have failed to show how the Decision was not supported by evidence which

a reasonable mind would consider to be sufficient to support the Appeals Officer's conclusion. Petitioners are attempting to have this Court substitute its own judgment as to the weight of evidence without showing that the Appeals Officer's determination was arbitrary or capricious.

1. The Appeals Officer Did Not Exclude Evidence to the Paycheck Process

Petitioners allege that because the Appeals Officer did not reference the testimony that all evidence was excluded of how the paycheck process works. This is simply not true and a poor attempt by Petitioners to relitigate the facts. Mr. Pao did explain the process that goes into documenting the hours worked by employees as well as verifying those hours which were used to create the paycheck. However, Mr. Pao was a safety officer and called to testify regarding his duties as a safety officer as well as his investigation and not a payroll and benefits specialist. In addition, Mr. Pao was not designated as the person most knowledgeable regarding payroll and benefits for his employer. The Appeals Officer did consider the testimony of the witnesses and despite Mr. Pao alleging he told Respondent to go to the office to correct his check, the Appeals Officer found that Respondent credibly testified that if there was a problem with the check that he needed to talk to Pedro Rosales.

There was not a "copious" amount of testimony to consider. It is interesting to note that Petitioners do not cite the "copious" amounts of testimony the Appeals Officer allegedly failed to consider. Petitioners simply contend that since the Appeals Officer did not comment on the credibility of the witnesses and that it is reversible error. No attempt is made to explain how commenting on the credibility of the witnesses would change the outcome of the Appeals Officer's Decision. In addition, Petitioners fail to explain why they did not raise these issues when they received the Proposed Decision and Order. The non-prevailing party has five days from the date the Proposed Decision and Order is sent to review it and issue any objections or proposed changes. In this case, the Proposed Decision and Order was filed on April 16, 2018. ROA p. 72. Petitioners were silent and made no attempts whatsoever to bring this issue to the Appeals Officer's attention during the five-day period. On May 3, 2018, the Appeals Officer signed the Proposed Decision and Order. Pursuant to NRS 233B.130(4) a petition for rehearing or

reconsideration must be filed within 15 days after the date of service of the final decision. Here, Petitioners were silent and made no attempts to file a Motion for Reconsideration or Rehearing. Petitioners simply waited until the thirty-day appeal deadline approached then filed their Petition for Judicial review as well as Motion for Stay.

2. The Appeals Officer Properly Found the Injuries Arising from the Subject Incident was Compensable

Petitioners cite a series of cases from other jurisdictions and even a treatise in attempt to argue the subject assault was outside the course and scope of Respondent's employment. In short, all the cases cited save one do not apply to this particular case. Not only are the cases and treatise cited not binding, all the facts are dissimilar to the subject incident. Petitioners again attempt to have this Court reweigh the facts that the Appeals Officer properly weighed.

In Nevada, the general rule is that "injuries resulting from assaults by fellow workmen when the attack results from personal animosity unconnected with the employment, are not compensable." Cummings v. United Resort, Inc., 85 Nev. 23 (1969) (Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956)). In other words, injuries unconnected to employment are not compensable. Petitioners acknowledge that this is the guiding principle in determining compensability of workers' compensation claims. In this case, the Appeals Officer specifically found this was not a situation where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. Further, the Appeals Officer found there was a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident. ROA pp. 65-71.

Petitioners cite Larson's Workers' Compensation Law and attempts to adopt an authority or power requirement to assault workers' compensation claims. First, the treatise and the subsequent cases are not binding. Second, even if the Court adopted an authority or power requirement to course and scope, this additional requirement would be met. Petitioners' argument relies heavily upon the contention that Pedro

Rosales had no power or authority to correct the issue Respondent had and therefore the incident was taken outside of the course and scope of employment.

Petitioners contend it was legal error to find the claim compensable when Respondent was explicitly informed by Mr. Pao and Mr. Mendoza that Pedro had no control over paycheck dispute resolution. However, Respondent testified he did not speak with Mr. Pao and Mr. Mendoza prior to the industrial incident. Next, Mr. Pao and Mr. Mendoza were not payroll and benefits representatives and were there to testify regarding their capacity as safety officers. It does not make sense that Respondent would approach the safety officers regarding a paycheck dispute. If anyone did **NOT** have power or authority over the issue of a paycheck dispute it would be the safety officers, Mr. Pao and Mr. Mendoza. Interestingly, Mr. Pao testified that Pedro could not "cut" Respondent a check, but **Pedro could** make a phone call and tell Lucy to get the check **corrected**. ROA p. 35:6-24. Clearly, Pedro did have the power to correct the paycheck issue and resolve the situation. Further, Mr. Pao knew that Pedro could call and correct the issue. Therefore, this additional element would be met and the incident falls within the course and scope of Respondent's employment.

Petitioners fail to recognize the Appeals Officer did comment on the credibility of Respondent's testimony. The Appeals Officer specifically found Respondent credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. The Appeals Officer found there was a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident. Therefore, the Appeals Officer properly found the claim to be compensable. ROA pp. 65-71.

B. LEGAL STANDARD OF PROOF OF A COMPENSABLE CLAIM, RESPONDENT MEETS THE REQUIREMENTS

NRS 616C.150 only requires an injured worker to demonstrate that he was injured within the course and scope of his employment by preponderance of the evidence, nothing greater. To make the point on preponderance, McClanahan v. Raley's, Inc., the Nevada Supreme Court states "NRS 616C.150 does not require an injured worker to offer a greater number of expert witnesses who express opinions in

his favor to establish that an injury arose. . .[r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence.". 34 P.3d 573, 576 (2001).

Workers' Compensation is statutorily driven and defined. Respondent must prove, by preponderance that he was in the course and scope when an accident occurred. NRS 616A.265 defines injury as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence.

NRS 616C.030 defines the term accident as an "unexpected or unforeseen event happening suddenly and violently, with or without human fault."

Case law, Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010). Such as we have here, Pedro Rosales has intimate knowledge that his son, Jose Rosales, has violent tendencies and a violent history placing Respondent and others directly in harm's way.

1. Course And Scope

a. Course and Scope

The threshold requirement in an industrial injury is that Respondent's injury must have occurred within the course and scope of employment. Phillips, at 5.

Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. Here, Respondent was working at an assigned time and scheduled to be in the same construction housing complex. Respondent went to the house his prior foreman, Pedro Rosales, was working to inquire as to why his hours were not properly reflected in his check. Pedro Rosales was the foreman in charge for the period of hours on the subject check. ROA pp. 10; 13-15. Respondent's pay and hours are indeed work related. The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of employment. Respondent was on the job when this incident occurred, and the injuries resulted by the assault due to work-related issues (short paycheck). Nicholas Pao, a safety manager for the employer,

testified that Pedro Rosales could have made a phone call to Lucy at payroll to get the check corrected. ROA p. 35:6-24. The witness for Petitioners freely admits Pedro Rosales could have corrected the hours on Respondent's check which is the exact reason Respondent went to speak with Pedro Rosales to begin with. Mr. Pao further states that the crew leaders submit the times employees worked to the foreman who verify the work was done and send the paperwork to the office. ROA p. 40-41. Pedro Rosales was the person to verify the hours and send them to the office to generate a check. Pedro Rosales was the same person to correct any errors. Pedro Rosales had the authority to change the hours on the check. Pedro Rosales had control over the issue at dispute. The office is not going to take the word of a worker without the foreman to corroborate the claim.

2. Accident

Accident is statutorily defined in NRS 616A.030 as "'Accident' means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury."

Clearly, Respondent did not anticipate being pushed off of a second floor of a house. Respondent wanted clarification for his hours from his foreman that he worked with as his pay is how he supports himself and family and was pushed off by someone who was not part of the conversation. Petitioners focus on Respondent allegedly not being tied off as if that negates Respondent's ability to have a compensable claim. NRS 616A.030 clearly states "Accident" means with or without human fault. The fact that Respondent may have not followed proper tie off protocol does not prevent him from recovering under Workers' Compensation.

In the instant case, Respondent meets the statutory definition requirement.

3. Injury

Injury is defined in NRS 616A.265 as a sudden and tangible happening of a traumatic nature producing an immediate or prompt result which is established by medical evidence."

Here, the medical records all demonstrate Respondent suffered an injury to his head, cervical,

thoracic, lumbar, abdominal and ribs. The initial physician who completed the Form C-4 diagnosed Respondent with a subdural hematoma (brain bleed) and related it as job incurred. ROA p. 125.

Petitioners bear the burden, because Respondent cannot prove a negative, under NRS 616C.175, that if it believes that Respondent has a prior condition, Petitioners, must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim.

Respondent must prove four (4) things; course and scope, accident, injury and notice, nothing more. Respondent suffered an injury causally related by the Form C-4 doctor related to being pushed off a roof by co-employee Jose Rosales. Even if there was a pre-existing condition, which Respondent contends there is not, the statutory requirement is met, and the burden would then shift to Petitioners to prove under NRS 616C.175, otherwise.

4. Notice

Pursuant to NRS 616C.015(1), an injured employee must provide written notice of a work-related injury as soon as practicable but within 7 days after the accident. In this case, Respondent has testified that he was taken from the job site to the hospital on the day of the accident. Petitioners do not dispute that the employer was reported on the same day of the accident. Therefore, this element has been met.

Pursuant to NRS 616C.020(1), an injured employee must file a claim for compensation with the insurer within 90 days of the industrial accident. Here, the industrial accident occurred on December 30, 2016 and Respondent completed the Form C-4 on the same day. ROA p. 125. Clearly, Respondent completed the claim for compensation within 90 days of the industrial accident. Therefore, this element has been met.

In the instant claim, Respondent meets the statutory notice requirements.

VI.

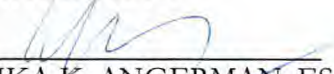
CONCLUSION

The Petitioners' Petition for Judicial Review lacks any basis and should be dismissed. As demonstrated herein, the Appeals Officer applied the facts to the applicable legal standards and rendered

a Decision which is clearly supported by substantial evidence in the records and is not erroneous or an abuse of discretion. The Decision of the Appeals Officer is entitled to deference, and no issues brought forward within the Petitioner's Opening Brief amount to reversible error. For the reasons set forth herein, Respondent respectfully requests that this honorable Court DISMISS the instant Petition for Judicial Review or that the Appeals Officer's Decision and Order dated May 3, 2018 be AFFIRMED.

Dated this 8th day of October, 2018.

BIGHORN LAW



ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this appellate brief and, to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the records to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate procedure.

Dated this 8th day of October, 2018.

BIGHORN LAW

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BIGHORN LAW, and that on this date of October 8, 2018, service of the attached **RESPONDENT'S ANSWERING BRIEF** was made this date by depositing a true copy of the same for mailing addressed to the following:

Daniel Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara Suite 300, Box 28
Las Vegas, NV 89102

Focus Framing/Plumbing
C/O Sun City Electric
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102

/s/ Eva G. Dhimi_____
An Employee of BIGHORN LAW

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Steven D. Grierson
CLERK OF THE COURT

RPLY
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

PETITIONERS' REPLY BRIEF

DANIEL L. SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Petitioners
Focus Framing and
Sun City Electric

ALIKA ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, NV 89107
Attorney for Respondent
Martin Duran Perez

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COME NOW, Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC (hereinafter collectively referred to as "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ., of LEWIS BRISBOIS BISGAARD & SMITH LLP, and, and file their Reply Brief in the above-referenced matter.

DATED this 7 day of November, 2018.

Respectfully submitted.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____
DANIEL L. SCHWARTZ, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH, LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102
Attorneys for Petitioners

I.

REPLY

1. Lack of Reference to Testimony in the Decision

There was no evidence produced or any finding in the Appeals Officer's Order to establish that Respondent's prior foreman, Pedro, had any ability to correct Respondent's issue with his check. The only thing that Respondent testified to was that Pedro was the person who gave him his check. (ROA pp. 9-10) Without some evidence to show that Pedro actually had authority to correct the paycheck issue, the fact that Respondent chose to confront Pedro about the paycheck establishes that this unfortunate injury occurred outside the course of and did not arise out of Respondent's employment.

Respondent spends most of his Answering Brief recounting the testimony that was had before the Appeals Officer. Why does Respondent need to do this? Because the only reference to testimony in the entire decision is a one line finding that Respondent testified that he needed to talk to Pedro if he had an issue with his check. Not only does this finding conflict with the actual evidence, there is no reference to any other testimony in the entire Decision. Had the Appeals Officer referenced the other testimony, there would be no need for Respondent to spend so much time recounting what happened at the actual hearing on this matter.

Further, while Respondent does attempt to buttress the Decision with his comments on the testimony of the various parties, the fact is that said testimony is not even mentioned in the Decision. Respondent takes Petitioners to task for claiming that there was "copious" testimony when only four people testified and that the hearing took only one hour. Whether the testimony of four witnesses over the course of an hour can be defined as "copious" is the topic for a linguistic debate and is not an issue for this Honorable Court. What is not up for debate is that there were indeed four witnesses who gave testimony and an Appeals Officer's Decision and Order which references none of it. On its face the Decision is arbitrary and capricious. NRS 616C.135.

Notwithstanding Respondent's dissatisfaction with Petitioners' word choice, Respondent does nothing to show that there is any reference in the Decision that the proper course of action for Respondent to dispute his paycheck would have been to contact payroll. Respondent even goes to

far as to claim that it was essentially a harmless error to exclude the testimony of Mr. Pao and Mr. Mendoza because they were safety officers and safety officers have no power or authority over a paycheck dispute. However, Mr. Pao explicitly testified that the correct procedure for contesting a check so was to contact payroll and that Pedro "couldn't have done nothing" about Respondent's check grievance. (ROA p. 35-6-24) There was no evidence to dispute that testimony.

2. Embarking on Tasks Outside the Course of Employment Indeed Remove the Employee from the Course of Employment

Respondent argues that Petitioners' citations to out-of-state law and to Larson's treatise should be disregarded because they are not binding. Though it is true that these sources are not binding, Petitioners never argued that they were binding. Rather, they are instructive on the point that injuries which are unrelated to a claimant's employment are not compensable through industrial insurance. (See Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997) "a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment;" Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005) "if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the claimant's employment.")

Here, Respondent attempted to get his paycheck corrected by speaking with his former foreman, Pedro. However, there was no evidence to show that Pedro could have actually resolved Respondent's issue. By leaving his jobsite and embarking on a task which neither party had any authority over, it was legal error for the Appeals Officer to conclude that this claim is compensable. Respondent's job title with Employer was a primer; Pedro's job title with Employer was foreman. Neither a primer nor a foreman has any authority to issue a new check or correct alleged errors with a check. That task is relegated to payroll.

There is no interpretation of the facts in the instant case which would render this claim compensable. Neither Respondent nor Pedro's job duties involved issuing or correcting checks. As such, Respondent was not performing a task related to his employment when he left his job site and accosted Pedro about his allegedly short check.

II.

CONCLUSION

Based upon the foregoing, Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC respectfully asks this Honorable Court to grant Petitioners' Petition for Judicial Review.

Dated this 7 day of November, 2018.

Respectfully submitted,

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

DANIEL L. SCHWARTZ, ESQ.
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorney for Petitioners

CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this appellate brief and, to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate procedure.

Dated this 7 of November, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By _____

DANIEL L. SCHWARTZ, ESQ. (005125)
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorneys for Petitioners

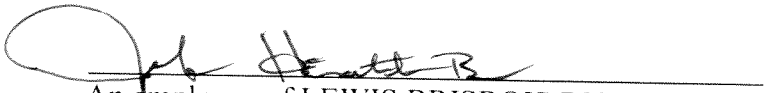
CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 7th day of November 2018, service of the attached **PETITIONERS' OPENING BRIEF** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102



An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

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12/10/2018 8:49 AM
Steven D. Grierson
CLERK OF THE COURT

REQT
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

REQUEST FOR HEARING ON PETITIONER'S PETITION FOR JUDICIAL REVIEW

On or about May 18, 2018, the Petitioners filed a Petition for Judicial Review with this this Honorable Court, contesting a workers' compensation Appeals Officer's Decision and Order.

On September 4, 2018, Petitioners filed their Opening Brief. On October 8, 2018, Respondent filed his Answering Brief. On November 7, 2018, Petitioners filed their Reply Brief.

...

...

...

Pursuant to NRS 233B.133(4), Petitioners hereby respectfully request a hearing on the above captioned matter.

DATED this 10 day of Decmeber, 2018.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorneys for Petitioners
Focus Framing and
Sun City Electric

NOTICE OF HEARING

PLEASE TAKE NOTICE that Petitioners' Petition for Judicial Review shall be brought on for hearing on the 15 day of January, 2019, at 9:30 a.m./~~p.m.~~ in Department X of this Court, or as soon thereafter as counsel may be heard.

Dated this 10 day of December, 2018.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Attorneys for Petitioners
Focus Framing and
Sun City Electric

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the **REQUEST FOR HEARING ON PETITIONERS' PETITION FOR JUDICIAL REVIEW** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed follows:

Alika Angerman, Esq.
Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

DATED this 10th day of December, 2018.

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal | **COURT MINUTES** | **January 15, 2019**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

January 15, 2019 **9:30 AM** **Petition for Judicial Review**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Court noted not parties present, however, Mr. Lavery signed in. Matter trailed. Later matter recalled. Mr. Lavery still not present. COURT ORDERED, matter CONTINUED to the date given. Later matter recalled, following this Court's calendar. Mr. Lavery present, late, on behalf of Petitioner, advising he sent a text to opposing counsel, and counsel advised this wasn't on calendar today. Court noted it is prepared to rule on the pleadings today. Mr. Lavery requested to pass the matter for opposing counsel's presence. Court so noted and ORDERED, matter CONTINUED for counsel's presence.

01/22/19 9:30 A.M. PETITION FOR JUDICIAL REVIEW

Clerk's Note: A copy of these minutes emailed to Ms.. Angerman Esq., at alika@bighornlaw.com /tb

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal	COURT MINUTES	January 22, 2019

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

January 22, 2019	9:30 AM	Petition for Judicial Review	Request for Hearing on Petitioner's Petition for Judicial Review

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Phyllis Irby

RECORDER: Victoria Boyd

REPORTER:

PARTIES PRESENT: Angerman, Alika K Attorney for the Respondent

JOURNAL ENTRIES

- Mr. Angerman informed the Court opposing counsel is in another court. MATTER TRAILED.

MATTER RECALLED. The Court noted opposing counsel has not made an appearance. COURT ORDERED, MATTER CONTINUED.

1-29-18 9:30 AM PETITIONER'S PETITION FOR JUDICIAL REVIEW

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING AND SUN CITY ELECTRIC,	)	CASE#: A-18-7743772-J
Petitioners,	)	DEPT. X
vs.	)	
MARTIN DURAN PEREZ, ET AL.,	)	
Defendants.	)	

BEFORE THE HONORABLE TIERRA JONES
DISTRICT COURT JUDGE
TUESDAY, JANUARY 29, 2019

RECORDER'S TRANSCRIPT OF PETITION FOR JUDICIAL REVIEW

APPEARANCES:

For the Petitioner: JOEL P. REEVES, ESQ.

For the Respondent: ALIKA K. ANGERMAN, ESQ.

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, January 29, 2019

2

3 [Case called at 10:05 a.m.]

4 MR. REEVES: Good morning, Your Honor.

5 THE COURT: Good morning, counsel.

6 MR. REEVES: Joel Reeves for Focus Framing. It's our

7 petition.

8 MR. ANGERMAN: Alika Angerman on behalf of Mr. Perez.

9 THE COURT: Okay. So this on for request for hearing on

10 petition for judicial review. I've read Petitioner's petition, Respondent's

11 answering brief, as well as the reply. Does Petitioner have anything you

12 would like to add?

13 MR. REEVES: Yes, just briefly.

14 THE COURT: Okay.

15 MR. REEVES: And first of all, I would like to thank Your

16 Honor for moving this hearing to today.

17 THE COURT: No problem.

18 MR. REEVES: This is a petition for judicial review. I won't

19 keep Your Honor too long. I know you've reviewed everything.

20 THE COURT: I have.

21 MR. REEVES: But I would like to say that it is unfortunate

22 what happened to this gentleman, as far as his injuries are concerned.

23 However, the fact that he was injured at work does not necessarily make

24 it work related. He's got to prove more than that. And it's our

25 contention in this case that the appeals officer was wrong and that

1 applying the causation standard under 616C.150, there's no connection
2 when – there's no connection to the workplace environment when a
3 fight breaks out between employees over a subject that the employees
4 cannot control.
5 So, for example, if the two employees in this case were
6 fighting about some sort of personal loan that they had, maybe they
7 loaned each other money outside of work, and they're fighting at work,
8 that's personal. If he's injured at work because of that fight, it's not
9 compensable under worker's compensation. However, if the fight is
10 about maybe the claimant's work performance, something he's done at
11 work, and they get into a fist fight about it, that's potentially work
12 related.
13 The problem with the appeals officer's decision in this case is
14 that the subject that they were fighting about, neither party could
15 control. There's no work-related connection to their fight. Some fights
16 are compensable under worker's compensation, this one is not.
17 The appeals officer committed legal error when he found that
18 it was related. It's an error under 616C.150, it's an error under the
19 *Gorski*, under *Mitchell*, under *Phillips*, any of the cases that talk about
20 causation and work relatedness it's error. And sitting as an appellate
21 court, Your Honor has de novo review over that issue. Based on the
22 evidence that's on file, there's no work-related connection. It was clear
23 legal error to find that this man's injuries are related to his employment.
24 This claimant, Mr. Duran Perez, showed up to work, left his
25 jobsite, went to a different jobsite, went to a different job site. He

1 stopped performing his job, went to a different jobsite, spoke with a man
2 about an issue that neither of them had any control over, and then was
3 injured while discussing that issue. This is not work related, Your Honor.
4 It was legal error for the appeals officer to find otherwise.
5 I'll entertain any questions that Your Honor may have or
6 respond to anything that the Respondent wishes to bring up, but --
7 THE COURT: Well, in your papers there was a lot of talk
8 about the testimony and that you didn't -- there wasn't -- it wasn't really
9 indicative that the appeals officer took into account the testimony or the
10 weighing credibility of these people and about what they testified to. I
11 mean that was a substantial portion of what was argued in the moving
12 papers and not really mentioned today. I mean, kinda, sort of in a
13 roundabout way, but in regards to that.
14 Because, I mean, the appeals officer took testimony on this
15 case.
16 MR. REEVES: Sure.
17 THE COURT: I mean, and basically -- what I got -- the gist of
18 a lot of what you were saying is that the appeals officer didn't even
19 consider the testimony of these witnesses when they applied it to the
20 actual standards, and they kind of didn't weigh the credibility of any of
21 these people or didn't do any of that.
22 MR. REEVES: And that's absolutely -- Your Honor, is on the
23 money. That's absolutely correct. The testimony that was not even
24 mentioned dealt with the check review process. And that testimony
25 shows that the proper procedure for dealing with a short check or having

1 an issue with your check at all, is dealt with by payroll. And we had
2 significant testimony on that and none of it is in the decision. And that
3 just goes to show that these two parties, the claimant and his prior
4 supervisor had no control over what they were arguing about.
5 So it was error -- legal error to misapply the causation
6 standard in finding that this claim is compensable even though they are
7 arguing about something they couldn't control. It's also error to not
8 include any of the evidence about those checkboxes, because it's
9 dispositive. It goes to show as to what they were actually arguing about,
10 and it doesn't appear like the appeals officer considered any of it.
11 So there's one line in the decision that comments on
12 testimony, and it's -- the appeals officer only says -- it's on page 2, lines
13 10 through 11, "Claimant credibly testified that there was an issue with
14 his check and that he needed to talk to Pedro Rosales." He testified
15 there's an issue with his check, and he felt like he needed to talk to
16 Pedro, but we have testimony on file saying that that doesn't actually
17 solve anything.
18 So, Your Honor is right. There's a lot of testimony in this
19 case that's nowhere and there's no -- there's nothing in this decision that
20 shows how he could have actually resolved his check process. Just
21 saying that he believed that that was something that -- or rather that he
22 needed to talk to Pedro, that's not good enough. That doesn't show
23 what the check process resolution was. And there's evidence of that in
24 the record, and it's not in the decision.
25 So if the evidence were actually applied to the law, there's a

1 legal error in establishing the causation. So, yes, it was an error to not
2 include that testimony.
3 THE COURT: Okay.
4 MR. REEVES: Thank you.
5 THE COURT: Counsel.
6 MR. ANGERMAN: Yes, Your Honor. I imagine the biggest
7 reason why the testimony argument wasn't first presented today is
8 because it undercuts the control argument that opposing counsel started
9 off with.
10 So what we have is the testimony from four people, two of
11 them were safety officers that weren't present at the time of the accident
12 and at some point there were safety officers, there weren't payroll, there
13 weren't benefits, there was no human resource managers, there no one
14 that was actually sent there to talk about the payroll system. And then
15 the other two witnesses were my client, who was the subject of the
16 assault, and then his co-worker/brother-in-law, Mr. Leon [phonetic].
17 And so, basically, all we have is one person's testimony of
18 the account of what happened that day. And that was -- if you look at the
19 decision and order from the appeal's officer, the entire decision and
20 order with regards to the factual evidence is dependent upon the only
21 witness that was actually there at the time of the accident, as well as
22 actually there to present and testify at the appeals level.
23 So we have two issues, one of them is the testimony not
24 being included, the other one is the control issue. The control issue does
25 come from a treatise, and if we do want to look at who has control, again

1 the reason why the testimony wasn't mentioned in the first -- beginning
2 of the argument is that Mr. Pao [phonetic], who was the safety manager
3 said that Mr. Pedro Rosales, who is the father, could not cut a check was
4 the testimony. He said he couldn't cut a check right there, but he could
5 correct the hours.
6 And that was the whole dispute between my client and
7 Pedro Rosales is that the hours were incorrect and that's why he went to
8 Pedro Rosales on the date of the accident because he received this check
9 for the week before and Pedro Rosales was the foreman for that week
10 before. So if anyone could correct those hours, it would be Pedro
11 Rosales.
12 Now they did mention something earlier about if you wanted
13 to get a new check you had to go to payroll but, at the end of the day,
14 payroll is not going to believe the worker. They're going to want to talk
15 to the foreman who approves the hours for that week and that's exactly
16 why my client went to talk to Pedro Rosales.
17 So with the argument that this has nothing to do with work, I
18 would say that it has everything to do with work. This only happened
19 because the claimant or the injured worker went to go talk to Pedro
20 Rosales regarding the dispute over the hours. And subsequent to that
21 conversation is when Pedro Rosales' son, Jose Rosales, went to the
22 second level of the building and then pushed my client off of that -- off
23 the top of the building.
24 So as far as control, we do have the control element
25 involved. Pedro Rosales could change the hours, could correct the

1 hours, and he's the only one that could actually confirm or deny that the
2 hours were correct.
3 And then with regards to testimony being so egregious that
4 they weren't discussed, the Petitioner had five days from the date of the
5 proposed decision was ordered -- or five days from when the proposed
6 decision was turned in to the judge, to dispute it, make any objections,
7 offer any amendments to the decision, nothing was done. There's
8 nothing in the evidence because there's no attempt, whatsoever, to try to
9 clarify the decision order.
10 And then within 15 days from the signed decision, they had
11 the ability to either file a motion for reconsideration or a motion for
12 rehearing, and at that time could have brought up any objections they
13 had with the final decision. None of this was made. Nothing was done
14 until the petition for judicial review was filed and then now, they're
15 saying that this decision was defective, and it should have been
16 considered this, A, B, and C.
17 So the testimony that has already been addressed and that
18 was already in the decision is proper, and that there was multiple
19 opportunities before we even got to this level to correct any alleged
20 defect with the decision order.
21 THE COURT: Okay. Thank you, counsel. Counsel. And,
22 counsel, I've got to tell, I mean, what is your response to there was other
23 opportunities to have clarified this. Because, I mean, right now we're in
24 a position where the argument is being made about what testimony the
25 hearing officer did and did not consider, and the actual order from the

1 hearing officer isn't very specific as to what testimony was considered
2 and what testimony wasn't. Kind of the basis of your argument as well
3 that they didn't mention it, so it's clear -- and based on them not
4 mentioning it and the actual decision that was made, it becomes clear
5 that they didn't consider it. So what options were taken in regards to
6 clarifying this or doing any sort of -- anything before this stage?
7 MR. REEVES: To file a petition for reconsideration you need
8 to show either that there's new evidence or that there is good cause for a
9 rehearing. And the decision as it stands, is the appeals officer's
10 decisions, so there's nothing to reconsider, there's no new evidence, just
11 the appeals officer's decision. So filing a motion for reconsideration is --
12 I would say it's not warranted in this case because there's nothing to
13 reconsider. It's the appeals officer's decision. Whether it's right or it's
14 wrong is for the appellate jurisdiction to take up --
15 THE COURT: Okay.
16 MR. REEVES: -- and there's no grounds for reconsideration
17 in this. It's either right or it's wrong, and we would argue that it's wrong
18 based on the failure to apply the correct causation standard.
19 Even if you disregard the evidence that's not in this decision,
20 if you look at the decision on its face, it is wrong legally because it does
21 not say what the proper way to handle the check resolutions -- resolving
22 the check issue. It doesn't say. All it says is that he was arguing about a
23 check and that that's work related, but it's not. So reconsideration is not
24 proper. This is wrong or it's not, and it's wrong.
25 As for the argument that the safety officers were not present

1 for the accident, that doesn't matter. They told the claimant what the
2 proper way to handle his check dispute was, he didn't follow it. They
3 don't need to be present for the accident, they told him not to do that.
4 They were absolutely confident to testify as to the check resolution
5 process. There's no evidence to show that they weren't. They weren't
6 impeached or anything like that. And there's no evidence to show that
7 the supervisor -- the foreman, Pedro, could have done anything. There's
8 no evidence to show what was even wrong with it. He just said -- the
9 claimant just says it was short -- his paycheck was short.
10 Who knows why it was wrong. Maybe it was a typo with
11 payroll. That's why the claimant needed to go to payroll first to discuss
12 his issue, and then maybe we do talk to Pedro after that, but that's not
13 the way that this issue should have been resolved. It's outside of his job
14 to start arguing with the prior supervisor who has no control over the
15 issuance of his check.
16 So even if you look at this decision on its face, it's wrong,
17 legal error, and based on the evidence that was submitted, it should
18 have gone the other way. This claim is not compensable. There's no
19 connection between this claimant's injuries and his employment.
20 THE COURT: Okay. Okay. Well, I need to review the
21 decision one more time, so I'm going to issue a written decision -- a
22 minute order on this on Thursday from chambers.
23 /////
24 /////
25 /////

MR. REEVES: Sounds good. Thank you, Your Honor.

THE COURT: Okay. Thank you.

[Proceedings concluded at 10:19 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.

Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal | **COURT MINUTES** | **January 29, 2019**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

January 29, 2019 **09:30 AM** **Request for Hearing on Petitioner's Petition for Judicial Review**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Alika K Angerman **Attorney for Respondent**

Joel Reeves **Attorney for Petitioner**

JOURNAL ENTRIES

Following arguments by counsel, COURT ORDERED matter CONTINUED to this Court's chamber's calendar for Decision, on the date given.

01/31/19 (CHAMBERS) DECISION PETITION FOR JUDICIAL REVIEW

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal **COURT MINUTES** **January 31, 2019**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

January 31, 2019 **03:00 AM** **Decision: Petition for Judicial Review**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Following review of the papers and pleadings on file herein, COURT ORDERED, the Appeals Officer s Decision and Order be AFFIRMED.

Electronically Filed
9/13/2019 11:57 AM
Steven D. Grierson
CLERK OF THE COURT

NEOJ
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Tel: (702) 333-1111
Email: Alika@BighornLaw.com
Attorneys for Respondent, Martin Duran Perez

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO: A-18-774772-J DEPT. NO:X

NOTICE OF ENTRY OF ORDER DENYING THE PETITION FOR JUDICIAL REVIEW

PLEASE TAKE NOTICE that an Order Denying Petition for Judicial Review was entered in favor of Respondents on April 16, 2019 by the above-entitled court.

/ / /

/ / /

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/ / /

/ / /

/ / /

A copy of said Order is attached hereto.

DATED this 13th day of September, 2019.

BIGHORN LAW

By: /s/ Alika K. Angerman
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of BIGHORN LAW, and on September 13, 2019, I served a copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING THE PETITION FOR JUDICIAL REVIEW** as follows:

☒ Electronic Service – By serving a copy thereof through the Court's electronic service system

☒ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below and in the confirmation sheet filed herewith. Consent to service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by facsimile transmission is made in writing and sent to the sender via facsimile within 24 hours of receipt of this Certificate of Service; and/or

LEWIS BRISBOIS BISGAARD & SMITH
JOEL REEVES, ESQ.
Nevada Bar No. 13231
2300 W. Sahara Ave. Suite 300, Box 28
Las Vegas, Nevada 89102
E-SERVICE
Attorneys for Petitioner

FOCUS FRAMING/PLUMBING
C/O Sun City Electric
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102
Via US Postal Mailing

By: ___/s/ Eva G. Dhimi_____
An employee of **BIGHORN LAW**

EXHIBIT 1

Electronically Filed
7/2/2019 12:28 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
716 S. Jones Blvd
Las Vegas, NV 89107
alika@bighornlaw.com
Phone: (702) 333-1111
Fax: (702) 507-0092
Attorneys for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

ORDER DENYING THE PETITION FOR JUDICIAL REVIEW

After careful review and consideration of the papers and pleadings on file herein:

THE COURT ORDERS the Appeals Officer Decision and Order be AFFIRMED and the Petition for Judicial review is DENIED.

DATED this 16 day of April 2019.

District Court Judge
Tierra Jones

Submitted by:

BIGHORN LAW

By: _____

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No.: 12933
716 S. Jones Blvd.
Las Vegas, NV 89107
Phone: 702-333-1111
Fax: 702-507-0092
Attorneys for Respondent

Approved as to form and content:

LEWIS BRISBOIS BISGAARD & SMITH

By: _____

JOEL REEVES, ESQ.
Nevada Bar No.: 13231
2300 W. Sahara Avenue, Ste. 300, Box 28
Las Vegas, NV 89102
Attorneys For Petitioner

Electronically Filed
10/8/2019 4:56 PM
Steven D. Grierson
CLERK OF THE COURT

MOT
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X **HEARING REQUESTED**

PETITIONERS' MOTION FOR STAY PENDING SUPREME COURT APPEAL AND REQUEST FOR ORDER SHORTENING TIME

COMES NOW the Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, (hereinafter referred to as the "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ., and JOEL P. REEVES, ESQ. of LEWIS, BRISBOIS, BISGAARD & SMITH, LLP, and applies to this Court for a Stay of the Appeals Officer's Order, filed on May 3, 2018, pending decision on the merits in the appeal by Petitioners to the Supreme Court. Further, Petitioners respectfully request an Order Shortening Time for this Motion to be heard.

This Motion and request for an Order Shortening Time is made and based upon the papers and pleading on file herein, the Affidavit of JOEL P. REEVES, ESQ., the attached Points and Authorities, and any argument of counsel on this matter.

DATED this 1 day of October, 2019.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

AFFIDAVIT IN SUPPORT OF ORDER SHORTENING TIME

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, JOEL P. REEVES, ESQ., do herby swear under penalty of perjury that the assertion of this affidavit are true, that:

1. Affiant is an attorney authorized and duly licensed to practice law in the State of Nevada and is one of the attorneys of record for Respondents.

2. This affidavit is made in support of an ex-parte order shortening time for this Motion for Stay to be heard.

3. Affiant has personal knowledge of all matters set forth herein, except those matters stated on information and belief, and is competent to testify thereto.

4. That NRAP Rule 8(a)(1) requires that Appellants move first in the District Court for a Stay of the underlying Order Granting Petition for Judicial Review, filed on July 2, 2019 with the Notice of Entry being filed on September 13, 2019.

5. The above-named Affiant has good cause to request this Court for an Order Shortening time. NRS 616C.375 mandates that an Appeals Officer's Decision and Order shall not be stayed unless the District Court issues an Order of Stay within thirty (30) days from the date of the Decision and Order. Further, NRAP 4(a)(1) requires that the subject Order be appealed within thirty (30) days from the date of the Order. Therefore, this Motion cannot be heard in the normal course.

6. The time for appeal in this matter expires on or about October 14, 2019.

7. In the absence of a stay, the Respondents will be required to comply with this Court's Order and therefore essentially render this appeal moot.

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8. This Motion and request for Order Shortening Time is made in good faith and not for the purpose of undue advantage.

Further Affiant sayeth naught.

DATED this 1 day of October, 2019.

JOEL P. REEVES, ESQ.

SUBSCRIBED AND SWORN to before me this 1st day of October, 2019.

JENNIFER BRYAN
Notary Public, State of Nevada
Appointment No. 98-42284-1
My Appt. Expires Nov 1, 2019

NOTARY PUBLIC in and for said County and State

ORDER SHORTENING TIME

GOOD CAUSE APPEARING THEREFOR,

IT IS HEREBY ORDERED that the time of hearing of the above-entitled matter be, and the same will be heard, on the 15th day of October 2019, at 9:30 A.M./P.M. in Dept. No. X.

DATED this 7th day of October, 2019.

DISTRICT COURT JUDGE

Respectfully submitted by:

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

STATEMENT OF THE FACTS

On December 30, 2016, a C-4 form was completed which alleged that the Respondent, MARTIN DURAN PEREZ (hereinafter referred to as "Respondent"), was injured when he was pushed off of a roof. The Respondent was treated at UMC Trauma for subdural hematoma on the date of the incident. The Respondent was taken off of work. (Record on Appeal p. 125)(hereinafter "ROA p. ___")

A Supervisor Accident Investigation Report notes that the Respondent went to the second floor with no fall protection and was involved in work place violence. (ROA p. 126)

Foreman Rafael Benitez noted that he did not witness the event but found Mr. Perez passed out on the ground and called 911 and checked vitals. (ROA pp. 127-128)

A Safety Report completed by Safety Manager Nicholas Pao, which noted that the Respondent was mad due to an alleged pay check shortage while working on Pedro's crew. The Respondent climbed an 8 foot ladder to get to where Pedro was working on a second floor. Pedro was tied off with safety gear but Respondent was not. The discussion with the two got "elevated." Pedro's son came up from the first floor to aid his father, and when Pedro's son asked the Respondent to stop, the Respondent allegedly started yelling at him and the son put his hands on the Respondent and pushed him away and the Respondent eventually fell off of the roof. (ROA pp. 129-133)

Pedro Rosales also gave a statement and alleged that the Respondent came up to the second floor where he was working and began to say bad words to him and tried to hit him. He told the Respondent to give him time and he would try and resolve the problem on January 2, 2017. His son heard the offensive comments and came up to defend him and other people also were involved verbally, including an unidentified person who also came up to the second floor and later left. (ROA pp. 134-135)

Pedro's son, Jose Rosales gave his version of what happened, as well. (ROA pp. 136-137)

Statements by Eduardo Leon and Elvis Herrera noted that the son of the man working on the second floor pushed the Respondent who fell off of roof after a discussion between the parties. (ROA pp. 138-141)

A statement from the Respondent indicated that he climbed to where Pedro was working and showed him his check and Pedro stated that houses do not make money. He then states that Pedro's son stated it wasn't good and that he was then grabbed and pushed off of the roof. (ROA p. 142)

An Industrial Injury or Illness form in Spanish was also executed by the Respondent. (ROA pp. 143-144)

A Criminal Complaint was issued against Pedro's son, Jose Rosales. (ROA p. 145)

The Respondent was treated at UMC on the date of the incident described as a 20 foot fall after being pushed off of a roof. The Respondent was transferred out of the Emergency Department after a subdural bleed was discovered along with a possible right 8th rib fracture. X-rays of the left shoulder revealed no acute osseous abnormality, and a CT scan of the brain revealed a subdural hematoma, and a MRI of the cervical spine was normal except for soft tissue swelling from T-1 through T-3. Other diagnostic testing was essentially normal. (ROA pp. 147-180)

A claim denial determination was issued on March 6, 2017. (ROA pp. 181-183)

On March 21, 2017, the Respondent appealed the claim denial determination. (ROA p. 184)

On March 30, 2017, the adjuster denied March 21, 2017, requests for 1) TTD beginning on December 30, 2016, to present and 2) request for transfer of care to Dr. Garber. (ROA pp. 185-186)

Following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order dated June 1, 2017, reversing the March 6, 2017 determination denying the claim. (ROA pp. 187-189.) Insurer filed a timely appeal. (ROA p. 190.) ***In addition, the Insurer filed a Motion for a Stay of the Hearing Officer's decision, which was granted.*** (ROA p. 192.)

On February 9, 2018, this case came on for hearing before the Appeals Officer. The testimonies of four separate witnesses were taken: Respondent; Respondent's brother-in-law; and two safety directors for Employer (Nicholas Pao and Kevin Mendoza). Of note, Respondent testified that, on the day in question, he was working on a house under the supervision of a crew

leader named Francisco. On that day, Respondent received a check for the work he had done the previous week when he was working for a different crew leader, Pedro. (ROA pp. 9-10; 13-15) Respondent believed that his paycheck was low and testified that he went to Pedro to discuss his paycheck. ***Respondent testified that he did not speak with Mr. Pao on that day.*** Respondent testified that he left the job site that he was working on, walked three houses down to where Pedro was, climbed a ladder to get to Pedro, did not attach any sort of safety measures to himself, and spent at least ten (10) minutes talking to Pedro on the second floor of a house frame. Respondent also testified that no one that house frame was wearing safety measures. After about ten (10) minutes of discussion, Pedro's son climbed the ladder and pushed Respondent off the house.

The brother-in-law (Eduardo Leon) was also working on the job site but his testimony did not add anything worth noting to this case.

Mr. Pao, a safety director for Employer, testified that, on the day in question, he was on the job site prior to the incident and testified that he and Mr. Mendoza (the other safety director) spoke with Respondent about his check. Mr. Pao testified as follows:

> NICHOLAS PAO: Yeah, [Respondent] brought it to our attention that there was a discrepancy on his paycheck from Pedro. We had basically told him, at the end of the day, take it to the office and Lucy would get that corrected.
>
> DANIEL SCHWARTZ: At that point in time, when you were having this conversation with him, would Pedro have had any ability to do anything with that paycheck?
>
> NICHOLAS PAO: No. He couldn't have done nothing. He could've maybe made a phone call and told Lucy to get the check corrected, but as far as him cutting a check for him, no.
>
> DANIEL SCHWARTZ: So, your—your—I don't want to say advice, but what you told Mr. Duran-Perez, concerning the paych10eck was to go to the office.
>
> NICHOLAS PAO: Go to the office at the end of the day. Yeah.
>
> DANIEL SCHWARTZ: And then did you leave the jobsite?
>
> NICHOLAS PAO: Yeah.

(ROA p. 35:6-24)

Mr. Pao also testified that, contrary to Respondent's testimony, Pedro was in fact wearing a safety harness. (ROA p. 37; 38-39) Further, Mr. Pao explained the check payment process. Crew leaders (like Pedro and Francisco) keep track of their subordinate's hours and turn those hours into a foreman and the foreman turns the hours into payroll and payroll issues checks. (ROA p. 39) He reiterated that a foreman would not be able to do anything with a check after it was cut.

Mr. Mendoza corroborated Mr. Pao's testimony as he helped translate for Mr. Pao on that day.

On May 3, 2018, the Appeals Officer issued the subject Decision and Order reversing claim denial. Of note, the Decision and Order makes no mention whatsoever of any of the testimony given. Nor does it comment on the credibility of any witness. (ROA pp. 65-71)

Petitioners timely filed the instant Petition for Judicial Review and this Court granted a stay.

On April 16, 2019, after reviewing briefing from both parties as well as hearing oral argument, Your Honor issued an Order affirming the Appeals Officer and denying this Petition for Judicial Review. The Notice of Entry of Order was filed on September 13, 2019

Petitioners will be filing an appeal to the Nevada Supreme Court but must seek a stay with this Honorable Court before invoking the jurisdiction on the higher court.

POINTS & AUTHORITIES

II.

JURISDICTION

NRAP 8(a)(1) provides this Court with authority to hear the instant Motion for Stay:

> A party must ordinarily move first in the district court for the following relief:
>
> (A) a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of a petition to the Supreme Court or Court of Appeals for an extraordinary writ;
>
> (B) approval of a supersedeas bond; or
>
> (C) an order suspending, modifying, restoring or granting an injunction while an appeal or original writ petition is pending

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NRS 233B.140 further provides that:

> 1. A petitioner who applies for a stay of the final decision in a contested case shall file and serve a written motion for the stay on the agency and all parties of record to the proceeding at the time of filing the petition for judicial review.
>
> 2. In determining whether to grant a stay, the court shall consider the same factors as are considered for a preliminary injunction under Rule 65 of the Nevada Rules of Civil Procedure.
>
> 3. In making a ruling, the court shall:
>
> > (a) Give deference to the trier of fact; and
> >
> > (b) Consider the risk to the public, if any, of staying the administrative decision.
>
> The petitioner must provide security before the court may issue a stay.

For reference, **NRCP Rule 65** provides in pertinent part as follows:

> (a) Preliminary injunction.
>
> > (1) Notice. No preliminary injunction shall be issued without notice to the adverse party.
> >
> > (2) Consolidation of hearing with trial on merits. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial. This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.
>
> (d) Form and scope of injunction or restraining order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

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III.

LEGAL ARGUMENT

A.

Standard of Review

The standard for granting a stay was enunciated in the case of Kress v. Corey, 65 Nev. 1, 16-17, 189 P.2d 352, 360 (1948) as follows:

> an order for a supersedeas or stay will only be granted on good cause shown and where a proper case for exercise of the court's discretion is made out. As a rule a supersedeas or stay should be granted, if the court has the power to grant it, [1] whenever it appears that without it the object of the appeal or writ of error may be defeated, or [2] that it is reasonably necessary to protect appellant or plaintiff in error from irreparable or serious injury in the case of reversal, and [3] it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury, in case of affirmance on the other hand, as a rule, a supersedeas or stay will not be granted unless it appears to be necessary to prevent irreparable injury or a miscarriage of justice. (citations removed)(numeration added)

A party requesting a stay must also prove a reasonable likelihood of success on the merits. Success on the merits for Petitions for Judicial review of a final decision of an agency is governed by NRS 233B.135 as follows:

> **NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.**
> 1. Judicial review of a final decision of an agency must be: (a) Conducted by the court without a jury; and (b) Confined to the record. In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.
> 2. 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. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.
> 3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
> (a) In violation of constitutional or statutory provisions;
> (b) In excess of the statutory authority of the agency;
> (c) Made upon unlawful procedure;
> (d) Affected by other error of law;
> (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.

The standard of review is whether there is substantial evidence to support the underlying decision. The reviewing court should limit its review of administrative decisions to determine if they are based upon substantial evidence. North Las Vegas v. Public Service Common, 83 Nev. 278, 291, 429 P.2d 66 (1967); McCracken v. Fancy, 98 Nev. 30, 639 P.2d 552 (1982). Substantial evidence is that quantity and quality of evidence which a reasonable man would accept as adequate to support a conclusion. See, Maxwell v. SIIS, 109 Nev. 327, 331, 849 P.2d 267, 270 (1993); and Horne v. State Indus. Ins. Sys., 113 Nev. 532, 537, 936 P.2d 839 (1997).

When reviewing administrative decisions, this Court has held that, on factual determinations, the findings and ultimate decisions of an agency are not to be disturbed unless they are clearly erroneous or otherwise amount to an abuse of discretion. Nevada Industrial Common v. Reese, 93 Nev. 115, 560 P.2d 1352 (1977).

An administrative determination regarding a question of fact will not be set aside unless it is against the manifest weight of the evidence. Nevada Indus. Common v. Hildebrand, 100 Nev. 47, 51, 675 P.2d 401 (1984).

B.

An Order Granting Stay is Appropriate Until this Appeal is Heard and Decided on its Merits

The Nevada Supreme Court has consistently held that a stay is appropriate under circumstances such as those that exist in the instant case. Kress, Id. In DIR v. Circus Circus, 101 Nev. 405, 411-12, 705 P.2d 645, 649 (1985), the Nevada Supreme Court stated that an insurer's proper procedure when aggrieved by a decision is to seek a stay. The Nevada Supreme Court has also recognized that a stay should be granted where it can be shown that the Appellant would suffer irreparable injury during the pendency of the appeal, if the stay is not granted. White Pine Power v. Public Service Commission, 76 Nev. 263, 252 P.2d 256 (1960).

The Nevada Supreme Court held, in Ransier v. SIIS, 104 Nev. 742, 766 P.2d 274 (1988), that an insurer may not seek recoupment of benefits paid to a claimant that were later found to be

unwarranted on appeal. However, it must be noted that NRS 616C.138 was recently modified to allow insurers to recover amounts paid during the pendency of an appeal "from a health or casualty insurer" if the insurer is found to be entitled to the same. However, if there is no health or casualty insurer, Ransier applies and insurers cannot recover anything at all. Here, just as in most cases, there is nothing to indicate whether Petitioner has health or casualty insurance. Furthermore, under no circumstances could an insurer recover any wage replacement benefits such as temporary partial disability or temporary total disability benefits.

In the instant case, an order granting a Stay of this Court's Order and the Appeals Officer's decision is appropriate for the reasons set forth herein. As will be discussed in detail below, the Appeals Officer's Decision and Order reversing claim denial was issued under color of a legal error. This Court, respectfully, has also erred by affirming the Appeals Officer's Decision. Furthermore, and more relevant to this Motion for Stay proceeding, there is no known pending medical treatment for the Respondent. The only affect that the subject Appeals Officer's Decision has is requiring Petitioners to issue retro-active benefits. Petitioners will submit to this Court that retro-active benefits can be issued at any time. However, once issued, they are unrecoverable.

This case is precisely the scenario in which a stay is appropriate. Petitioners have shown a substantial likelihood of prevailing on the instant appeal and Petitioners will be irreparably harmed if the instant motion is not granted. Accordingly, Petitioners contend that they have made the requisite showing for the granting of a stay of the Appeals Officer's decision until such time as a hearing can be conducted on the merits of its appeal.

C.

Respondent Will Not Be Harmed By the Granting of a Stay

In the instant case, Respondent will not be harmed by the granting of this stay. There are no pending medical procedures which a Stay would prevent. The only issue would be retro-active benefits that Petitioners cannot recover. However, should Respondent succeed on this appeal, he will absolutely receive all benefits which are due to him. The only real harm to Respondent is that he would have to wait.

The only potential for irreparable harm is to Petitioners. Accordingly, Petitioners have again made the requisite showing for the granting of a stay of the Appeals Officer's decision until such time as a hearing can be conducted on the merits of Petitioners' appeal.

D.

Standard Regarding Merits of Underlying Appeal

As for the merits of the underlying appeal, it was the Respondent, not Petitioners, who had the burden of proving his entitlement to any benefits under any accepted industrial insurance claim by a preponderance of all the evidence. State Industrial Insurance System v. Hicks, 100 Nev. 567, 688 P.2d 324 (1984); Johnson v. State ex rel. Wyoming Worker's Compensation Div., 798 P.2d 323 (1990); Hagler v. Micron Technology, Inc., 118 Idaho 596, 798 P.2d 55 (1990).

In attempting to prove his case, the Respondent has the burden of going beyond speculation and conjecture. That means that the Respondent must establish all facets of the claim by a preponderance of all the evidence. To prevail, a Respondent must present and prove more evidence than an amount which would make his case and his opponent's "evenly balanced." Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993); SIIS v. Khweiss, 108 Nev. 123, 825 P.2d 218 (1992); SIIS v. Kelly, 99 Nev. 774, 671 P.2d 29 (1983); 3, A. Larson, the Law of Workmen's Compensation, § 80.33(a).

NRS 616A.010(2)makes it clear that:

> A claim for compensation filed pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS must be decided on its merit and not according to the principle of common law that requires statutes governing workers' compensation to be liberally construed because they are remedial in nature.

E.

The Determination to Deny This Claim is Proper

Here, the issue is whether the Appeals Officer erred in ordering this claim denial reversed. Most importantly, Petitioners want to bring this Court's attention to the fact that the Appeals Officer's Decision does not even mention the copious amount of testimony taken in this case. Instead, the Appeals Officer relies exclusively on the paper evidence filed by the parties, i.e. the

exact same evidence which convinced the Appeals Officer that the Hearing Officer's Decision to reverse claim denial should be stayed. Petitioners would submit that the decision to completely ignore the testimony or even comment on the credibility of the witnesses is reversible error in and of itself.

Moreover, by excluding reference to the testimony, the Appeals Officer also excluded all evidence of how Respondent's paycheck process works and how the paycheck dispute resolution process was explained to Respondent. It was legal error to find this claim compensable when Respondent was explicitly informed by Mr. Pao and Mr. Mendoza that his prior crew leader (Pedro) had no control over paycheck dispute resolution. As will be shown below, though certain types of work place violence can be compensable when the violence is begat by an argument over work related issues, if the parties to the violence have no authority over the argument subject, any injuries which result are not compensable because the argument was not related to the parties' job performance.

Under NRS 616C.150(1), the Respondent has the burden of proof to show that the injury arose out of and in the course and scope of his employment. The Respondent must satisfy this burden by a preponderance of the factual and medical evidence. Further, NRS 616B.612 mandates that an employee is only entitled to compensation if he is injured in the course and scope of his employment.

The Nevada Supreme Court has held that:

> An accident or injury is said to arise out of employment when there is a **causal connection between the injury and the employee's work** ... the injured party must establish a link between **the workplace conditions and how those conditions caused the injury** ... a claimant must demonstrate that the origin of the injury is related to some risk involved within the scope of employment.

Rio Suite Hotel v. Gorsky, 113 Nev. 600, 939 P.2d 1043(1997). (emphasis added)

The same Court further stated that the "Nevada Industrial Insurance Act is not a mechanism which makes insurers/employers absolutely liable for injuries suffered by employees who are on the job." (Id.)

Further, the Nevada Supreme Court held in Mitchell v. Clark County School District, 121 Nev. 179, 111 P.3d 1104 (2005):

> An accident or injury is said to arise out of employment when there is a causal connection between the injury and the employee's work. In other words, the injured party must establish a link between the workplace conditions and how those conditions caused the injury. Further, a Respondent must demonstrate that the origin of the injury is related to some risk involved within the scope of employment. However, if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the Respondent's employment. Finally, resolving whether an injury arose out of employment is examined by a totality of the circumstances.

With respect to the subject issue of assaults, Nevada decisions are sparse. However, the Court did endorse the general rule that "injuries resulting from assaults by fellow workmen when the attack results from personal animosity unconnected with the employment, are not compensable." Cummings v. United Resort Hotels, Inc., 85 Nev. 23 (1969)(Citing Pacific Employers Ins. Co. v. Industrial Acc. Comm., 293 P.2d 502 (Cal. App. 1956)). The salient portion of the rule above is the holding that injuries unconnected to employment are not compensable. This is the guiding principle in determining compensability of workers' compensation claims.

Professor Larson's treatise on workers' compensation expounds on this subject and explains that claim denial has been upheld when workplace fights concern a subject which the employee had no control over. See 1 Larson's Workers' Compensation Law § 8.01[4] (2018). For example, claim denial was affirmed where a worker was killed by another worker over a dispute as to the contents of a coal car when neither party had any ability to control what was in the car. Court held that "[t]he interests of the employer were not being aided, protected or advanced in any manner by what [the claimant] did, and the quarrel and consequent injury had no reasonable connection with any work then being done for the plaintiff in error." Marion Cty. Coal Co. v. Indus. Com., 292 Ill. 463, 466, 127 N.E. 84, 85 (1920).

In another case, a claimant was injured while protecting his employer's property from teamsters who were in a dispute with the employer. The Court upheld claim denial under the theory that "[h]ad Respondent remained at his work he would not have been injured. His presence at the place of fighting was in pursuance of no demand of his employment." Clark v. Clark, 189

Mich. 652, 655, 155 N.W. 507, 508 (1915).[1]

Finally, in a more recent decision, two years prior to the controversy therein, a claimant had used her own personal money to buy a drink machine for the office. On the subject day, a drink truck was parked in the parking lot to refill the machine. A police officer wrote the truck driver a parking ticket and the claimant came out to contest the ticket. The claimant was eventually arrested for disorderly conduct and sustained injury during the arrest. Court upheld claim denial as there was "no testimony from plaintiff, her superior or any other witness that states that plaintiff had any supervisory authority over the parking lot as a result of her employment and was thus involved with duties created by her job at the time she was injured... We are of the opinion that the trial court could properly find that ***any injuries suffered by plaintiff did not occur while the employee was rendering service which she was hired to do to her employer and, therefore, was not in the course of the employment.***" Legions v. Liberty Mut. Ins. Co., 703 S.W.2d 620, 623 (Tenn. 1986)(emphasis added)

Here, just as in the cases cited above, neither Respondent, Pedro, nor Pedro's son had any authority over the subject of the dispute, i.e. Respondent's paycheck. Respondent was even informed by Mr. Pao and Mr. Mendoza on the very day of the incident that if he desired to contest his paycheck, the proper way to do so was to contact payroll at the end of the day. Instead of doing that, Respondent left his job site, walked over to Pedro's job site, climbed to the second story of a house frame, did not attach any safety equipment, and engaged in a ten (10) minute long argument about the paycheck before Pedro's son unfortunately pushed him off the frame. Though Respondent's injuries are unfortunate, in no way was Respondent performing his job at the time of his injuries.

Indeed, Respondent left his job duties to discuss a subject with Pedro that he knew Pedro had no authority over. By virtue of the fact that Pedro had no authority over Respondent's paycheck dispute and compounded by the fact Respondent had just that day been informed as to the proper way to dispute his paycheck, Respondent left the course and scope of his employment

[1] See Also Libraro v. Ocean Casket Co., 60 A.D.2d 736, 401 N.Y.S.2d 304 (App. Div. 1977) where claim denial was affirmed when an employee left his employment to assist a co-employee who was being assaulted and was then himself shot.

when he walked off his job site to engage Pedro. Put simply, the argument with Pedro was not related to Respondent's employment because Respondent had just been informed the proper way to dispute his paycheck and he knew that Pedro had no authority to adjust his pay.

The Appeals Officer was apprised of the state of this law at the hearing on this matter. By not even mentioning the testimony of any witness and therefore failing to take into account the fact that the subject altercation was *not* related to Respondent's employment, the Appeals Officer committed reversible error. A stay is warranted until this matter can be adjudicated by the Supreme Court.

IV.

CONCLUSION

Based upon all of the above, it is the belief of Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, that they have reason in good faith to ask for a stay of this Court's July 2, 2019 Order which affirmed the Appeals Officer's decision, dated May 3, 2018, particularly in light of the clear errors of law and abuse of discretion which has been established above.

This is not an appeal based solely on a disagreement over the facts. Rather, we are faced with an Appeals Officer's Decision which violates clear and specific legal precedent and statutory schemes. The Appeals Officer's improper application of the law will likely result in irreparable harm to these Petitioners if the instant stay is not granted. Respondent, on the other hand, will suffer no harm if this stay is granted. This clear error of law is exactly the situation in which a stay is proper.

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WHEREFORE, Petitioners FOCUS FRAMING and SUN CITY ELECTRIC, respectfully requests that this Court grant its Motion for Stay Pending Appeal of the matter at the time of hearing.

DATED this 1 day of October, 2019.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 8 day of October, 2019, service of the attached **PETITIONERS' MOTION FOR STAY PENDING SUPREME COURT APPEAL AND REQUEST FOR ORDER SHORTENING TIME** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Morris Anderson Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

Electronically Filed
10/11/2019 4:57 PM
Steven D. Grierson
CLERK OF THE COURT

OPP
BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Phone: (702) 333-1111
Fax: (702) 507-0092
Alika@bighornlaw.com
Attorneys for Respondent

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO: A-18-774772-J DEPT. NO.: X

RESPONDENT'S OPPOSITION TO PETITIONERS' MOTION FOR STAY PENDING SUPREME COURT APPEAL

Respondent, MARTIN DURAN PEREZ (hereinafter "Respondent"), by and through his attorney ALIKA K. ANGERMAN, ESQ., submits his Opposition to Petitioners, FOCUS PLUMBING and SUN CITY ELECTRIC's (hereinafter referred to as "Petitioners"), Motion for Stay Pending Supreme Court Appeal signed by the attorney on October 1, 2019.

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I.

STATEMENT OF FACTS

On December 30, 2016, Respondent suffered an injury while in the course and scope of his employment as a laborer with Employer. Record on Appeal p. 125(hereinafter "ROA p. ___"). Respondent was upset because he believed his paycheck was short from the work conducted a week earlier while he was a member of Pedro Rosale's crew. On December 30, 2016, Respondent went to ask Mr. Pedro Rosales about his check. Respondent climbed to the roof of the house where Mr. Rosales was working. Respondent was talking to Mr. Rosales when Mr. Rosales' son intervened and pushed Respondent off of the roof. ROA p. 142. Respondent fell to the ground where he landed sustaining serious injuries to include, but not limited to "1) traumatic fall 2) Closed head injury 3) Subdural hematoma 4) Possible right 8th rib fracture" as the hospital diagnosis. Id. at 40. Although not working on Pedro Rosales' crew on December 30, 2016, Respondent credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. ROA pp. 147-180.

On March 6, 2017, Employer issued a determination denying Respondent's claim. ROA p. 181-183.

On March 21, 2017, Respondent appealed Employer's claim denial determination. ROA p. 184.

On June 1, 2017, Hearing Officer Megan Trenkler issued her Decision and Order which REVERSED/REMANDED Employer's March 6, 2017 claim denial determination. ROA p. 185-186.

On June 30, 2017, Employer appealed Hearing Officer Trenkler's Decision and Order and filed a Motion for Stay Pending Appeal. ROA p. 190.

On July 17, 2017, Respondent filed an Opposition to Motion For Stay Pending Appeal.

On August 2, 2017, Employer's Motion for Stay was granted. ROA p. 192.

On February 9, 2018, the matter was heard before Appeals Officer York. The testimonies of four separate witnesses were taken: Respondent; Eduardo Leon; Nicholas Pao and Kevin Mendoza. Of note, Nicholas Pao and Kevin Mendoza were safety officers for the employer who did not witness the incident. Both Mr. Pao and Mr. Mendoza testified they arrived after the incident. Respondent testified that on the

day of the incident he received a check for work he had done the week prior when Pedro Rosales was his crew leader. ROA pp. 9-10; 13-15. Respondent testified that he believed his paycheck was low and went to Pedro to discuss his issue with the paycheck. Respondent testified that he walked to the house Pedro was working at and went upstairs to Pedro. Respondent also stated that no one was wearing safety measures. Respondent testified that at some point Pedro's son, Jose Rosales, climbed the ladder and pushed Respondent off the house.

Appeals Officer York found that Respondent was employed by Focus when, on December 30, 2016, he was assaulted and pushed off a roof of a house under construction. The circumstances of this assault lead the Appeals Officer to conclude the claim is compensable. Appeals Officer York found it was not a case where the assault and injuries were sustained through animosity and ill feelings arising from some cause entirely unrelated with the employee's company. The Appeals Officer found Respondent to have credibly testified that if there was an issue with his check that he needed to talk to Pedro Rosales. There is a clear indication that the work issue of a paycheck dispute was the catalyst which led to this unfortunate incident. [Wood v. Safeway, Inc., 121 NEV 724 121 P.3d 1026 (2005)]. ROA pp. 65-71.

On May 3, 2018, the Appeals Officer issued the subject Decision and Order. Id.

Petitioners filed a Petition for Judicial Review and this Court granted the stay.

On April 16, 2019, after reviewing briefing from both parties as well as hearing oral argument, Your Honor issued an Order affirming the Appeals Officer and denying the Petition for Judicial Review. The Notice of Entry of Order was filed on September 13, 2019.

II.

ARGUMENT

A. PETITIONERS BEAR THE BURDEN TO PROVE THAT THEY ENJOY A LIKELIHOOD OF SUCCESS ON APPEAL AND THAT APPEALS OFFICER'S DECISION IS AN ABUSE OF DISCRETION—RESPONDENT WILL MORE LIKELY SUCCEED ON THE MERITS

Petitioners' Motion for Stay is entirely devoid of law or fact, which would provide a reasonable

basis for staying the Appeals Officer's Decision and Order and said Motion should be DENIED. It is simple, the claim should be accepted on the actual injury and diagnosis.

There are two (2) main factors to consider when presented with a motion for stay: (1) the likelihood of prevailing on the merits on the appeal; and (2) whether the appellant will suffer irreparable harm if the stay is denied. Kress v. Corey, 65 Nev. 1, 17, 189 P.2d 352, 360 (1948); Christensen v. Chromalloy American Corp., 99 Nev. 34, 656 P.2d 844 (1983); Hansen v. Eighth Judicial Dist. Ct. Ex el County of Clark, 116 Nev. 650, 657, 6 P.3d 982, 986-87 (2000).

The right to appeal does not carry with it the automatic right to a stay, as the moving party solely bears the burden to prove a likelihood of success and also show that the decision of the lower agency hearing is fundamentally flawed factually or is an abuse of discretion. State ex. Rel. PS v. District Court, 94 Nev. 42, 574 P.2d 272 (1978).

Here, Petitioners are unable to meet the requirements of either the controlling statutes or the applicable case law, in essence, they cannot meet their burden. Petitioners rely upon unsworn statements, that are not percipient witnesses, other than Pedro Rosales whose statement is clearly biased towards protecting his son, Jose Rosales, the assailant in the industrial incident. At the hearing, the only person to testify for both direct and cross-examination was Respondent. Hearing Officer Trenkler heard testimony, reviewed the witness statements and found Respondent to be credible.

At the appeal hearing, Pedro Rosales and Jose Rosales failed to appear to testify. Petitioners again relied upon unsworn and unverified statements. In addition, Petitioners presented witnesses at the appeal that had no personal knowledge of the industrial incident. Petitioners' witnesses were safety officers that were not present at the time of the assault and simply interviewed Pedro Rosales after the incident. The witnesses for Petitioners allege they spoke with Respondent on the day of the incident, but Respondent **denies** that allegation. Mr. Pao, a witness for Petitioners, alleged he had a conversation with Respondent regarding the subject check and the appropriate procedure to follow, however, Mr. Pao admitted he needed interpreter to have the conversation, so he is unable to verify that what he allegedly said was

translated to Respondent. In addition, Mr. Pao does not provide a sufficient response as to why a worker would approach the safety manager to ask about an issue with the check.

The only witnesses that had personal knowledge of the incident and was present at the appeal was Respondent, Martin Duran Perez, and co-worker Eduardo Leon. Appeals Officer York found Respondent credible testified that that if there was an issue with his check that Respondent needed to talk to Pedro Rosales. Based off the testimony, arguments of counsel for both parties, and the evidence submitted Appeals Officer York affirmed the decision of Hearing Officer Trenkler.

B. LEGAL STANDARD OF PROOF OF A COMPENSABLE CLAIM, RESPONDENT MEETS THE REQUIREMENTS

NRS 616C.150 only requires an injured worker to demonstrate that he was injured within the course and scope of his employment by preponderance of the evidence, nothing greater. To make the point on preponderance, McClanahan v. Raley's, Inc., the Nevada Supreme Court states "NRS 616C.150 does not require an injured worker to offer a greater number of expert witnesses who express opinions in his favor to establish that an injury arose. . .[r]ather 'preponderance of the evidence' merely refers to the greater weight of the evidence.". 34 P.3d 573, 576 (2001).

Workers' Compensation is statutorily driven and defined. Respondent must prove, by preponderance that he was in the course and scope when an accident occurred. NRS 616A.265 defines injury as a "sudden and tangible happening" that produces an "immediate or prompt result" which is established by medical evidence.

NRS 616C.030 defines the term accident as an "unexpected or unforeseen event happening suddenly and violently, with or without human fault."

Case law, Rio All Suite Hotel & Casino v. Phillips, states that generally, "injuries caused by employment related risks are deemed to arise out of employment and are compensable." 240 P.3d 2, 5 (2010). Such as we have here, Pedro Rosales has intimate knowledge that his son, Jose Rosales, has violent tendencies and a violent history placing Respondent and others directly in harm's way.

1. **Course And Scope**

a. **Course and Scope**

The threshold requirement in an industrial injury is that Respondent's injury must have occurred within the course and scope of employment. Phillips, at 5.

Course and Scope simply means that the injured worker was at work, and scheduled to be there, when the accident occurred. Here, Respondent was working at an assigned time and scheduled to be in the same construction housing complex. Respondent went to the house across the street to inquire with the foreman, Pedro Rosales, that he worked with the week prior as to why his hours were not properly reflected. Respondent's pay and hours are indeed work related. The fact that this claim was filed because of the intentional tort of Jose Rosales (Pedro's son) does not change compensability. These injuries arose out of and in the course of employment. Respondent was on the job when this incident occurred, and the injuries resulted by the assault due to work-related issues (short paycheck). Nicholas Pao, a safety manager for the employer, testified that Pedro Rosales could have made a phone call to Lucy at payroll to get the check corrected. ROA p. 35:6-24. The witness for Petitioners freely admitted Pedro Rosales could have corrected the hours on Respondent's check which is the exact reason Respondent went to speak with Pedro Rosales to begin with. Mr. Pao further stated that the crew leaders submit the times employees worked to the foreman who verify the work was done and send the paperwork to the office. ROA p. 39. Pedro Rosales was the person to verify the hours and send them to the office to generate a check. Pedro Rosales was the same person to correct any errors. Pedro Rosales had the authority to change the hours on the check. Pedro Rosales had control over the issue at dispute. The office is not going to take the word of a worker without the foreman to corroborate the claim.

2. **Accident**

Accident is statutorily defined in NRS 616A.030 as "'Accident' means an unexpected or unforeseen event happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury."

Clearly, Respondent did not anticipate being pushed off of a second floor of a house. Respondent wanted clarification for his hours from his foreman that he worked with as his pay is how he supports himself and family and was pushed off by someone who was not part of the conversation. Petitioners focus on Respondent allegedly not being tied off as if that negates Respondent's ability to have a compensable claim. NRS 616A.030 clearly states "Accident" means with or without human fault. The fact that Respondent may have not followed proper tie off protocol does not prevent him from recovering under Workers' Compensation.

In the instant case, Respondent meets the statutory definition requirement.

3. Injury

Injury is defined in NRS 616A.265 as a sudden and tangible happening of a traumatic nature producing an immediate or prompt result which is established by medical evidence."

Here, the medical records all demonstrate Respondent suffered an injury to his head, cervical, thoracic, lumbar, abdominal and ribs. The initial physician who completed the Form C-4 diagnosed Respondent with a subdural hematoma (brain bleed) and related it as job incurred. ROA p. 125.

Petitioners bear the burden, because Respondent cannot prove a negative, under NRS 616C.175, that if it believes that Respondent has a prior condition, Petitioners, must prove that the alleged prior condition is the substantial cause for the work injury, if not, then it is a compensable claim.

Respondent must prove four (4) things: course and scope, accident, injury and notice, nothing more. Respondent suffered an injury causally related by the Form C-4 doctor related to being pushed off a roof by co-employee Jose Rosales. Even if there was a pre-existing condition, which Respondent contends there is not, the statutory requirement is met, and the burden would then shift to Petitioners to prove under NRS 616C.175, otherwise.

4. Notice

Pursuant to NRS 616C.015(1), an injured employee must provide written notice of a work-related injury as soon as practicable but within 7 days after the accident. In this case, Respondent has testified

that he was taken from the job site to the hospital on the day of the accident. Petitioners do not dispute that the employer was reported on the same day of the accident. Therefore, this element has been met.

Pursuant to NRS 616C.020(1), an injured employee must file a claim for compensation with the insurer within 90 days of the industrial accident. Here, the industrial accident occurred on December 30, 2016 and Respondent completed the Form C-4 on the same day. Clearly, Respondent completed the claim for compensation within 90 days of the industrial accident. Therefore, this element has been met.

In the instant claim, Respondent meets the statutory notice requirements.

C. RESPONDENT WILL SUFFER MORE HARM THAN PETITIONERS

Based on NRS 616C.345, the Appellant's filing of an appeal does not automatically stay the enforcement of the decision of the hearings officer.

NRS 616C.345(4) provides in part:

> Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal **does not** automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

(emphasis added).

In Kress v. Corey, the Nevada Supreme Court stated:

> As a rule a supersedeas or stay should be granted . . . whenever…it is reasonably necessary to protect appellant or **plaintiff** in error **from irreparable or serious injury** in the case of reversal, and it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury in case of affirmance.

Kress, 65 Nev. at 17, 189 P.2d at 360.

Furthermore, the Nevada Supreme Court has recognized that a stay should only be granted where it can be shown that the Appellant would suffer irreparable injury during the pendency of the appeal, if the stay were not granted. *See* White Pine Power v. Public Service Commission, 76 Nev. 263 (1960). Appellants cannot meet that burden.

Indeed, it is Respondent in this case, not Petitioners, who will sustain the greatest harm in the

event that the instant stay is granted as it will serve its purpose of delaying medical treatment of a closed head injury with a 7mm subdermal hematoma, fractured rib, abdominal injury and injuries to the cervical, thoracic, and lumbar spine. The full extent of Respondent's injuries is unknown as Respondent has not been able to treat since the claim was denied. Petitioners argue that since Respondent has no scheduled medical treatment that he would not be harmed by a stayed. However, this argument is disingenuous as Petitioners has denied care and benefits since the day it issued claim denial on March 6, 2017. Petitioners has prevented Respondent from seeking care through the Workers' Compensation system and Respondent is financially unable to seek medical care outside of Workers' Compensation. Respondent has not been released from care by his treating physician, but rather has been prevented from seeking additional care because of the claim denial by Petitioners and the Stay imposed by the Appeal Officer prior to the hearing of the appeal and the District Court judge prior to the hearing of the Petition for Judicial Review. It has been two years since Respondent was allowed to treat for his injuries. Every day that Respondent is without treatment is a day Respondent is harmed.

Petitioners intentionally misleading the Court when it states that the only harm Respondent will suffer is retroactive benefits when in reality Respondents health has been neglected due to the denial of care by Petitioners and denial of financial benefits by Petitioners which prevent Respondent from seeking care on his own. Further, Respondent has met his burden and proven he has a compensable claim several times over. The Hearing Officer and Appeals Officer found Respondent had a compensable claim. In addition, the District Court denied Petitioners' Petition for Judicial Review. Respondent has prevailed at every level and it is still being denied workers' compensation benefits. While Respondent cannot prevent Petitioners from filing an appeal, Respondent can pray that this Court denies Petitioners' Motion for Stay and allow Respondent to receive the treatment and benefits he has proven time and time again that he is entitled to receive.

Respondent is entitled to Temporary Total Disability benefits that he has not received due to the claim denial and imposition of the Stays. Respondent has been without Workers' Compensation benefits

for over two years. Petitioners' carelessly argue Respondent will receive those benefits if he prevails after the Appeal. However, that is exactly what Petitioners' argued when it filed its Motion for Stay for Pending the Petition for Judicial Review. As the Court is well aware, the Court granted the Stay and later denied the Petition for Judicial Review. Unfortunately, Respondent did not receive the benefits despite prevailing. Instead, Petitioners filed another appeal and another Motion making the same insincere argument. Meanwhile, it is Respondent who is without a steady income during the pendency of the litigation. It is Respondent who needs the benefits for his well-being and his family's well-being. Respondent cannot continue to put his life on hold and wait for this appeal to be heard to receive the benefits he has proven he is entitled to receive.

There is nothing more crippling and harmful than denying medical attention and care. There can be nothing more harmful and irreparable than the loss of one's own wellbeing.

Here, it is Petitioners who bear the burden to this Court to prove **both** elements, success on appeal and that it will suffer more harm than Respondent. Respondent met his burden at the hearing and again at the appeal and most recently at District Court.

Petitioners have the burden of meeting established guidelines for it to be successful on its motion for stay. Comparing the harm that will allegedly be suffered by Petitioners to the harm being suffered by Respondent right now does not meet the standard of review set forth in Kress v. Corey, 65 Nev. 1, 189 P. 2d 352 (1948).

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III.

CONCLUSION

Based upon the foregoing, this Court cannot properly, and in the interest of justice, grant Petitioner's Motion for Stay. Wherefore, Respondent, respectfully requests that this Court deny the Stay.

Dated this 11th day of October, 2019.

BIGHORN LAW

/s/Alikea K. Angerman

ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent
Phone: (702) 333-1111
Fax: (702) 507-0092
Attorneys for Respondent

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BIGHORN LAW, and that on this date of October 11, 2019, I duly deposited for mailing at Las Vegas, Nevada, a true copy of the within and foregoing Respondent's Opposition to Petitioners' Motion for Stay Pending Supreme Court Appeal, addressed to the following:

Daniel Schwartz, Esq.
Lewis Brisbois Bisgaard & Smith LLP
2300 W. Sahara Suite 300, Box 28
Las Vegas, NV 89102

Focus Framing/Plumbing
C/O Sun City Electric
1220 S. Commerce Street Suite 120
Las Vegas, Nevada 89102

/s/Nilly Shama

An Employee of Bighorn Law

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10/14/2019 4:34 PM
Steven D. Grierson
CLERK OF THE COURT

NOAS
DANIEL J. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

NOTICE OF APPEAL

TO: MARTIN DURAN PEREZ

TO: ALIKA ANGERMAN

NOTICE IS HEREBY GIVEN that Petitioners FOCUS FRAMING and SUN CITY ELECTRIC, (hereinafter referred to as the "Petitioners"), in the above-entitled action, hereby appeal to the Supreme Court of the State of Nevada from the attached "Order" entered in this

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4811-3180-1769.1 /
33947-19

action on or about July 3, 2019 which denied Petitioners' Petition for Judicial Review and the "Notice o `Entry of Order" filed on or about September 13, 2019.

DATED this 14 day of October, 2019.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Phone: 702-893-3383
Fax: 702-366-9689
Attorneys for Petitioners

DISTRICT COURT
CLARK COUNTY, NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

NOTICE OF APPEAL

filed in case number: A-18-774772-J

☒ Document does not contain the Social Security number of any person.

- OR -

☐ Document contains the Social Security number of a person as required by:

☐ A specific state or federal law, to wit:

_____

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

- or -

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 10/14/19

(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)

LEWIS BRISBOIS BISGAARD & SMITH LLP
ATTORNEYS AT LAW

4819-3311-9401.1 / 33947-19

LIST OF EXHIBITS

EXHIBIT I: Notice of Entry of Order, dated 09/13/19

EXHIBIT I

Electronically Filed
9/13/2019 11:57 AM
Steven D. Grierson
CLERK OF THE COURT

NEOJ
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Tel: (702) 333-1111
Email: Alika@BighornLaw.com
Attorneys for Respondent, Martin Duran Perez

DISTRICT COURT

CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO: A-18-774772-J DEPT. NO:X

NOTICE OF ENTRY OF ORDER DENYING THE PETITION FOR JUDICIAL REVIEW

PLEASE TAKE NOTICE that an Order Denying Petition for Judicial Review was entered in favor of Respondents on April 16, 2019 by the above-entitled court.

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A copy of said Order is attached hereto.

DATED this 13th day of September, 2019.

BIGHORN LAW

By: /s/ Alika K. Angerman
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No. 12933
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of BIGHORN LAW, and on September 13, 2019, I served a copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING THE PETITION FOR JUDICIAL REVIEW** as follows:

☒ Electronic Service – By serving a copy thereof through the Court's electronic service system

☒ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below and in the confirmation sheet filed herewith. Consent to service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by facsimile transmission is made in writing and sent to the sender via facsimile within 24 hours of receipt of this Certificate of Service; and/or

LEWIS BRISBOIS BISGAARD & SMITH
JOEL REEVES, ESQ.
Nevada Bar No. 13231
2300 W. Sahara Ave. Suite 300, Box 28
Las Vegas, Nevada 89102
E-SERVICE
Attorneys for Petitioner

FOCUS FRAMING/PLUMBING
C/O Sun City Electric
1220 S Commerce Street Suite 120
Las Vegas, Nevada 89102
Via US Postal Mailing

By: /s/ Eva G. Dhimi
An employee of **BIGHORN LAW**

EXHIBIT 1

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7/2/2019 12:28 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
BIGHORN LAW
ALIKA K. ANGERMAN, ESQ.
716 S. Jones Blvd
Las Vegas, NV 89107
alika@bighornlaw.com
Phone: (702) 333-1111
Fax: (702) 507-0092
Attorneys for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ, and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

ORDER DENYING THE PETITION FOR JUDICIAL REVIEW

After careful review and consideration of the papers and pleadings on file herein:

THE COURT ORDERS the Appeals Officer Decision and Order be AFFIRMED and the Petition for Judicial review is DENIED.

DATED this 16 day of April 2019.

District Court Judge
Tierra Jones

Submitted by:

BIGHORN LAW

By: _____
ALIKA K. ANGERMAN, ESQ.
Nevada Bar No.: 12933
716 S. Jones Blvd.
Las Vegas, NV 89107
Phone: 702-333-1111
Fax 702-507-0092
Attorneys for Respondent

Approved as to form and content:

LEWIS BRISBOIS BISGAARD & SMITH

By: _____
JOEL REEVES, ESQ.
Nevada Bar No.: 13231
2300 W. Sahara Avenue, Ste. 300, Box 28
Las Vegas, NV 89102
Attorneys For Petitioner

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 14T day of October, 2019, service of the foregoing **NOTICE OF APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

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10/14/2019 4:36 PM
Steven D. Grierson
CLERK OF THE COURT

ASTA
DANIEL J. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT
CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents..	CASE NO.: A-18-774772-J DEPT. NO.: X

CASE APPEAL STATEMENT

1. Name of Petitioners filing this case appeal statement:

Focus Framing and Sun City Electric

2. Identify the Judge issuing the decision, judgment, or order appealed from:

Hon. Tierra Jones, District Court Judge

3. Identify all parties to the proceedings in the district court (the use of et al. to denote parties is prohibited):

Focus Framing, Sun City Electric, and Martin Duran Perez

...

...

...

4. Identify all parties involved in this appeal (the use of et al. to denote parties is prohibited):

Focus Framing, Sun City Electric, and Martin Duran Perez

5. Set forth the name, law firm, address, and telephone number of all counsel on appeal and identify the party or parties whom they represent:

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102-4375
Attorneys for Petitioners
Focus Framing and
Sun City Electric

ALIKA K. ANGERMAN, ESQ.
BIGHORN LAW
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorney for Respondent
Martin Duran Perez

6. Indicate whether Petitioners were represented by appointed or retained counsel in the district court:

Petitioners were represented by retained counsel in the District Court.

7. Indicate whether Respondent was represented by appointed or retained counsel in the district court:

Respondent was represented by retained counsel in the District Court.

8. Indicate whether Petitioners are represented by appointed or retained counsel on appeal:

Petitioners are represented by retained counsel on appeal.

9. Indicate whether Respondent is represented by appointed or retained counsel on appeal:

Respondent is represented by retained counsel on appeal.

10. Indicate whether Petitioners were granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

Petitioners were not granted leave to proceed in forma pauperis.

11. Indicate whether Respondent was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

Respondent was not granted leave to proceed in forma pauperis.

12. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

The Petition for Judicial Review of the Appeals Officer's Decision of May 3, 2018 was filed on May 18, 2018.

13. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

This is a workers' compensation case. On December 30, 2016, the Respondent, MARTIN DURAN PEREZ (hereinafter referred to as "Respondent") arrived to work and was upset about an allegedly short paycheck for a period where he was working under a supervisor named Pedro. Respondent's Safety Manager, Nicholas Pao, informed Respondent that the proper way to resolve his paycheck issue was to speak with payroll at the end of the day and they would help him. Despite Mr. Pao's instruction, Respondent left his job site and walked to another job site where Pedro was working. Respondent then scaled a house frame, failed to attach any protective gear, and then proceeded to argue with Pedro about the check for approximately ten (10) minutes. Then, unfortunately, Pedro's son got involved in the argument and pushed Respondent off the house frame, causing injury to Respondent. A Criminal Complaint was issued against Pedro's son, Jose Rosales.

On March 6, 2017, Petitioners denied Respondent's claim for worker's compensation benefits based on the fact that Respondent's injuries were unrelated to his employment. Respondent appealed

On June 1, 2017, following Hearing No. 1710955-MT, the Hearing Officer issued a Decision and Order reversing the March 6, 2017 determination denying the claim. Petitioners filed a timely appeal. In addition, the Petitioners filed a Motion for a Stay of the Hearing Officer's decision, which was granted.

On February 9, 2018, this case came on for hearing before the Appeals Officer. The testimonies of four separate witnesses were taken: Respondent; Respondent's brother-in-law; and two safety directors for Employer (Nicholas Pao and Kevin Mendoza).

On May 3, 2018, the Appeals Officer issued the subject Decision and Order reversing claim denial. Of note, the Decision and Order makes no mention whatsoever of any of the testimony given. Nor does it comment on the credibility of any witness.

Petitioners filed the instant Petition for Judicial Review contesting the May 3, 2018 Appeals Officer's Decision and Order and the District Court granted a request for a stay. On July 2, 2019, the District Court issued an Order Denying the Petition for Judicial Review. The Notice of Entry of Order was filed on September 13, 2019.

14. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

No.

15. Indicate whether this appeal involves child custody or visitation:

No.

...

16. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

No.

DATED this 14 day of October, 2019.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: _____

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH, LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102
Attorneys for Petitioners

DISTRICT COURT
CLARK COUNTY, NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

CASE APPEAL STATEMENT

filed in case number: A-18-774772-J:

☐ Document does not contain the Social Security number of any person.

- OR -

☐ Document contains the Social Security number of a person as required by:

☐ A specific state or federal law, to wit:

_____

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

- or -

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 10/14/19

(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)

Electronically Filed
10/16/2019 3:51 PM
Steven D. Grierson
CLERK OF THE COURT

NOCB
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
Focus Framing and
Sun City Electric

DISTRICT COURT
CLARK COUNTY, NEVADA

FOCUS FRAMING and SUN CITY ELECTRIC, Petitioners, v. MARTIN DURAN PEREZ. and THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE, an Agency of the State of Nevada, Respondents.	CASE NO.: A-18-774772-J DEPT. NO.: X

NOTICE OF FILING BOND

NOTICE IS HEREBY GIVEN that Petitioners, FOCUS FRAMING and SUN CITY ELECTRIC, by and through their attorneys, DANIEL L. SCHWARTZ, ESQ. of LEWIS BRISBOIS BISGAARD & SMITH LLP, deposited with the Clerk of this Court, in

...

...

...

compliance with the NRAP Rule 7, a check in the amount of $500.00 for security, which was hand delivered to the Eight Judicial District Court.

DATED this 15 day of October, 2019.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:_____

DANIEL L. SCHWARTZ, ESQ.
JOEL P. REEVES, ESQ.
LEWIS BRISBOIS BISGAARD & SMITH, LLP
2300 West Sahara Avenue, Suite 300, Box 28
Las Vegas, Nevada 89102
Attorneys for Petitioners

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 16th day of October, 2019, service of the foregoing **NOTICE OF FILING BOND** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Bighorn Law
716 S. Jones Blvd.
Las Vegas, NV 89107

Focus Framing
C/O Sun City Electric

Focus Framing
C/O Sun City Electric
ATTN: Patty Pizano
1220 S. Commerce St., #120
Las Vegas, NV 89102

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

REPRINTED RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Lewis Brisbois Bisgaard & Smith LLP

Receipt No.
2019-62754-CCCLK

Transaction Date
10/15/2019

Description	Amount Paid
On Behalf Of Focus Framing A-18-774772-J Focus Framing, Petitioner(s) vs. Martin Duran Perez, Respondent(s) Appeal Bond	
Appeal Bond	500.00
SUBTOTAL	**500.00**
PAYMENT TOTAL	**500.00**
Check (Ref #14279) Tendered	500.00
Total Tendered	**500.00**
Change	0.00

10/15/2019 12:28 PM	Cashier Station AIKO	Audit 37225686

REPRINTED RECEIPT

DISTRICT COURT
CLARK COUNTY, NEVADA

Worker's Compensation Appeal | **COURT MINUTES** | **October 17, 2019**

A-18-774772-J Focus Framing, Petitioner(s)
vs.
Martin Duran Perez, Respondent(s)

October 17, 2019 09:30 AM **Petitioners' Motion for Stay Pending Supreme Court Appeal and Request for Order Shortening Time**

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Thomas, Kathy

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Alika K Angerman **Attorney for Respondent**

Joel Reeves **Attorney for Petitioner**

JOURNAL ENTRIES

Court noted the Motion for Stay and the responses had been reviewed. Mr. Reeves submitted on the pleadings and referred to the equities of change. Colloquy regarding not being able to receive medical treatment of the issues. Mr. Angerman noted it had been three years since his clients injury and not received medical because of this case. Further arguments by Counsel. Court finds there is no showing on the likelihood of prevailing on the merits on the appeal and ORDERED, Motion for Stay, DENIED.